

July 2009

INTERNATIONAL TRADE

Four Free Trade
Agreements GAO
Reviewed Have
Resulted in
Commercial Benefits,
but Challenges on
Labor and
Environment Remain



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-09-439](#), a report to the Chairman, Committee on Finance, U.S. Senate

Why GAO Did This Study

Since 2001, Congress has approved free trade agreements (FTA) with 14 countries. Most were negotiated under Trade Promotion Authority (TPA), which aims to lower trade barriers while strengthening the capacity of trading partners to promote respect for workers' rights and to protect the environment. The Office of the United States Trade Representative (USTR) is responsible for overseeing implementation of the FTAs, and the Departments of Labor (Labor) and State (State) have responsibilities for implementing and managing FTA cooperation projects. GAO was asked to assess progress through FTAs in (1) advancing U.S. economic and commercial interests, (2) strengthening labor laws and enforcement in partner nations, and (3) strengthening partners' capacity to improve and enforce their environmental laws. GAO focused on Jordan, Chile, Singapore, and Morocco, chosen because of their economic, social, and geographic diversity and relatively older FTAs. GAO analyzed relevant trade laws and trends, met with U.S. agencies and foreign government officials, conducted fieldwork in the four countries, and solicited input from the private sector.

What GAO Recommends

GAO recommends that agencies update plans for implementing and overseeing FTAs to make the FTAs more effective in producing results. Agencies intend to do so but saw important progress.

View [GAO-09-439](#) or [key components](#). For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

INTERNATIONAL TRADE

Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain

What GAO Found

The four selected FTAs have largely accomplished the U.S. objectives of achieving better access to markets and strengthening trade rules, and have resulted in increased trade, as summarized in the table. While varying in details, the FTAs have all eliminated import taxes, lowered obstacles to U.S. services such as banking, increased protection of U.S. intellectual property rights abroad, and strengthened rules to ensure government fairness and transparency. Overall merchandise trade between the United States and partner countries has substantially grown, with increases ranging from 42 percent to 259 percent. Services trade, foreign direct investment, and U.S. affiliate sales in the largest partners also rose.

FTA negotiations spurred some labor reforms in each of the selected partners, according to U.S. and partner officials, but progress has been uneven and U.S. engagement minimal. An example cited was Morocco's enactment of a long-stalled overhaul of its labor code. However, partners reported that enforcement of labor laws continues to be a challenge, and some significant labor abuses have emerged. In the FTAs we examined, Labor provided minimal oversight and did not use information it had on partner weaknesses to establish remedial plans or work with partners on improvement.

The selected partners have improved their environmental laws and made other progress, such as establishment of an environmental ministry and a 400-strong environmental law enforcement force in Jordan, according to U.S. and foreign officials. However, partner officials report that enforcement remains a challenge, and U.S. assistance has been limited. Elements needed for assuring partner progress remain absent. Notably, USTR's lack of compliance plans and sporadic monitoring, State's lax management of environmental projects, and U.S. agencies' inaction to translate environmental commitments into reliable funding all limited efforts to promote progress.

FTA Commercial, Labor, and Environment Results, and U.S. Agencies' Oversight

	Commercial	Labor	Environment
Partner country results as reported to GAO			
Jordan	U.S. and partner gains evident	Some progress after serious problems	Considerable progress
Singapore	U.S. and partner gains evident	Progress	Progress
Chile	U.S. and partner gains evident	Some problems persist despite progress	Problems persist despite progress
Morocco	U.S. and some partner gains evident	Problems persist despite progress	Problems persist despite progress
Oversight status			
U.S. agencies' oversight	Generally adequate	Lack cooperation plans, sufficient funding, oversight	Lack monitoring plans, sufficient funding

Source: GAO.

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Abbreviations

AFBF	American Farm Bureau Federation
AmCham	American Chamber of Commerce
APHIS	Animal and Plant Health Inspection Service
ASEAN	Association of Southeast Asian Nations
AVA	Agri-Food and Veterinary Authority
BEA	Bureau of Economic Analysis
CAFTA-DR	Central America–Dominican Republic Free Trade Agreement
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLDP	Commercial Loan Development Program
CONAMA	National Commission for Environmental Cooperation
DRL	Democracy, Human Rights, and Labor Bureau
EAC	Environmental Affairs Council

EPA	Environmental Protection Agency
EU	European Union
FDI	foreign direct investment
FTA	free trade agreement
GDP	gross domestic product
GNI	gross national income
GSP	Generalized System of Preferences
ILAB	Bureau of International Labor Affairs
ILO	International Labor Organization
IMF	International Monetary Fund
IPR	intellectual property rights
ITC	International Trade Commission
ITUC	International Trade Union Confederation
MAT	marine, aviation and transport insurance
MEFTA	Middle East Free Trade Agreement
MFN	Most-Favored Nation
MNC	multinational corporation
MOFA	majority-owned foreign affiliate
NAFTA	North American Free Trade Agreement
NGO	nongovernmental organization
OECD	Organisation for Economic Co-operation and Development
OES	Oceans and International Environmental and Scientific Affairs Bureau
OMB	Office of Management and Budget
PhRMA	Pharmaceutical Research and Manufacturers of America
PPP	purchasing power parity
QIZ	Qualifying Industrial Zone
SPS	sanitary and phytosanitary
TEPAC	Trade and Environment Policy Advisory Committee
TPA	Trade Promotion Authority
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
USAID	U.S. Agency for International Development
USDA	Department of Agriculture
USTR	Office of the United States Trade Representative
WTO	World Trade Organization

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United States Government Accountability Office
Washington, DC 20548

July 10, 2009

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate

Dear Mr. Chairman:

Free trade agreements (FTA) have been a major feature of recent U.S. trade policy. Their growth was spurred by Congress' 2002 renewal of presidential Trade Promotion Authority (TPA),¹ which had the goal of promoting U.S. and foreign economic growth and lowering barriers to (liberalizing) trade through FTAs with specific partners, while strengthening protection of workers' rights and the environment. Beginning in 2001, Congress approved FTAs with 14 countries, and all of these are now in effect, including 4 with the countries highlighted in this report—Jordan, Singapore, Chile, and Morocco.

The current Congress faces several FTA-related questions hinging in part on confidence that trade agreements do indeed benefit U.S. citizens and that TPA's goals, as set forth in Sections 2102(a) (b) and (c) of that statute, and official expectations created by the President under Sections 2105 (a), are being achieved. Bills to strengthen monitoring and enforcement of FTAs and other trade agreements to better assure effective implementation have been introduced. President Obama may decide to seek congressional approval of the FTAs with Colombia, Panama, and Korea that President Bush finalized. Congress may also need to decide whether to provide the President a new grant of trade agreement negotiating authority, which lapsed in July 2007. Certain members of Congress have said a "time out" on FTAs is in order, questioning whether existing agreements are having the positive commercial, labor, and environmental effects that were claimed, and some suggest more rigorous conditions should be considered for future agreements. Others are anxious to press on with trade accords, saying they offer American workers benefits and level the playing field at a time of economic uncertainty.

¹Trade Act of 2002, Pub. L. No. 107-210, Title XXI, 116 Stat. 933, 993.

The Office of the United States Trade Representative (USTR) is responsible for overseeing implementation of the FTAs as part of its overall responsibilities for monitoring and enforcing trade agreements. The Departments of Labor (Labor) and State (State) have key responsibilities for ongoing cooperation with FTA partners on labor and the environment.

To inform these debates and address the concerns that have been raised as to whether the FTAs are achieving Congress' objectives and meeting expectations established by Congress and the President for U.S. agencies, you asked us to provide an assessment of the progress that has been made through FTAs in (1) advancing U.S. economic and commercial interests, (2) strengthening labor laws and enforcement in partner nations, and (3) strengthening partners' capacity to improve and enforce their environmental laws. This work builds on GAO's past reports on monitoring and enforcement of trade agreements, factors influencing FTA partner selection, and the overall commercial significance of FTAs pursued under TPA and the effectiveness of TPA-related mechanisms calling for active and meaningful consultations with Congress and the private sector on trade negotiations.²

To address these objectives and associated U.S. agency responsibilities and performance in a concrete manner, we have focused on pre- versus post-FTA progress related to four FTAs enacted since 2001 with Jordan, Chile, Singapore, and Morocco. These four nations are economically, socially, and geographically diverse, and their FTAs are among those in force longest. We analyzed the text (agreements and associated annexes) of the U.S.-Jordan, U.S.-Chile, U.S.-Singapore, and U.S.-Morocco FTAs; related but separate agreements between the United States and each of the

²See GAO, *International Trade: Further Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements*, [GAO-05-537](#) (June 30, 2005); GAO, *International Trade: Strategy Needed to Better Monitor and Enforce Trade Agreements*, [GAO/NSIAD-00-76](#) (Mar. 14, 2000); GAO, *International Trade: Intensifying Free Trade Negotiating Agenda Calls for Better Allocation of Staff and Resources*, [GAO-04-233](#) (Jan. 12, 2004); and GAO, *International Trade: An Analysis of Free Trade Agreements and Private Sector Consultations under Trade Promotion Authority*, [GAO-08-59](#) (Nov. 7, 2007).

four countries on environmental cooperation;³ and reports or subsequent officially agreed proclamations or plans by the United States and these FTA partners associated with the FTAs and cooperative mechanisms, such as work plans or plans of action; TPA and other relevant laws, regulations, executive orders, Federal Register notices, and congressional guidance; and reports submitted to Congress in response to TPA requirements, including those submitted in conjunction with FTA implementing legislation. From testimonial evidence from officials and experts and from secondary sources, we identified and reported on partner laws that were passed or changed in connection with or after each FTA's entry into force, and relied on characterizations of those changes, the partner's enforcement, and remaining challenges from officials and experts. Thus, the information on foreign law in this report does not reflect our independent legal analysis. We used official U.S. and partner data to analyze trends in U.S., international, and national trade and investment data with selected partners; and reviewed pertinent academic literature and authoritative reports. We met with U.S. agencies and foreign government officials and conducted fieldwork in the four selected FTA partner nations, and solicited input on experience with FTAs from members of the private sector and intergovernmental advisory committees that are charged with advising USTR, the President, and Congress on trade policy. We also interviewed selected experts, as well as several umbrella organizations of business, labor, and environmental groups. The fieldwork to partner nations included interviews with in-country U.S. and foreign government officials, business groups such as chambers of commerce and industry, officials of international organizations such as the International Labor Organization (ILO), economists, and trade union and environmental groups. Finally, where possible missed opportunities for progress or material gaps in agency documentation and internal controls became evident in the course of GAO's efforts to establish and evaluate FTA-related progress, consistent with generally accepted government auditing standards, we also report on these deficiencies.

³For the purposes of this report, we use the term "environmental cooperation agreements" to refer to the U.S.-Jordan Joint Statement on Environmental Technical Cooperation, Washington, Oct. 24, 2000; the Environmental Cooperation Agreement between the Government of the United States of America and the Government of Chile, Santiago, June 17, 2003; the Memorandum of Intent between the Republic of Singapore and the United States of America on Cooperation in Environmental Matters, Washington, June 13, 2003; Morocco's Joint Statement on Environmental Cooperation, Rabat, June 28, 2004; and the Memorandum of Intent between the Republic of Singapore and the United States of America on Cooperation in Environmental Matters.

Key limitations of our work are that the findings are largely limited to the partners, private sector representatives, time period, and information reviewed. While we considered data on trends after FTA implementation and opinions on FTA-induced effects, we did not seek to quantitatively isolate FTA-induced effects. We did not independently assess partners' laws. Although we gathered information through December 2008, the data and foreign interviews do not generally capture the full impact of the deterioration in trade that ensued as a result of the global financial crisis and economic downturn occurring during 2008-2009. Moreover, while our overall goal is to shed light on whether FTAs are living up to their official goals, this report was not designed to assess legal compliance by the United States or its partners with FTAs or other requirements. We conducted this performance audit from April 2008 to June 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For a fuller description of our objectives, scope, and methodology, see appendix I.

Results in Brief

The four selected FTAs have largely accomplished U.S. commercial objectives. While varying in some details, these FTAs have all eliminated import taxes (tariffs) on goods, lowered obstacles to services such as banking, increased protection of U.S. intellectual property rights (IPR) abroad, and strengthened rules to ensure fairness and transparency in government regulation and procurement. Overall merchandise trade between the United States and partner countries has substantially increased, generally exceeding what was experienced prior to FTA implementation. Since FTA implementation, two-way trade with the partners has shown actual increases ranging from 42 percent to 259 percent. Moreover, growth in U.S. exports of many leading agricultural goods—such as grains, corn, and almonds—and manufactured goods has accelerated, resulting in U.S. suppliers securing a larger share of partner country purchases from abroad. Agriculture and machinery in particular have seen widespread increases and improvements in U.S. market share. In two partner countries, Singapore and Chile, trade in services increased, as did the stock of foreign direct investment and the sales of foreign affiliates of U.S.-based companies. Representatives of a broad range of U.S. industries generally expressed satisfaction with FTA results. For example, industry representatives in the agricultural sector reported that they have seen benefits in a variety of products. In the services and IPR-

related industries, gains in sales, market share, or legal treatment due to the agreements were reported by U.S. express delivery, financial services, information services, telecommunications services, and pharmaceutical firms. However, disappointments (such as with Chile's IPR implementation) and potential import disruptions were also noted in several sectors in the United States (such as fruits and vegetables and cotton), prompting calls for U.S. agencies to continue to work with partner governments to pursue further improvements.

During and after the FTA negotiations, all of the four countries we reviewed enacted improvements to their labor laws. For example, according to a Labor report on Morocco's labor rights, Morocco enacted a long-stalled overhaul of its labor code, bringing it into closer alignment with international norms and TPA goals. Nevertheless, significant labor abuses were confirmed by Jordan's government in its export garment industry several years after FTA implementation, related to poor enforcement of labor laws and an ongoing failure to provide full labor rights for migrant workers; Jordan has since begun to correct these problems. Other FTA partner countries also reported enforcement challenges in key export sectors. U.S. labor rights reviews, conducted before the FTAs were implemented, provided information on some of these problems, but U.S. agencies did not translate them into remedial plans or work with partners on labor improvements. Labor's appropriations for technical cooperation on labor issues (excluding those related to the elimination of child labor) were mostly eliminated just as the FTAs with Chile and Singapore entered into effect in 2004. Consequently, U.S. assistance to strengthen country capacity to enforce labor laws has since been ad hoc and very limited. In addition, U.S. agencies have provided minimal oversight and engagement on labor commitments under the FTAs, despite expressed interest by or known problems in some partner countries.

The selected trade partners have made several improvements to environmental laws since their FTAs were signed, according to U.S. and partner government officials. Although most changes were not made in direct response to requirements in the FTA, partner officials stressed that having environmental obligations in FTAs had brought attention to environmental protection and heightened the urgency of taking action. Nevertheless, officials in most of the selected trade partner countries reported that enforcement of environmental laws remains a challenge, and that some environmental concerns—such as the impact of apparel production on Jordan's water and pollution from salmon farming and other resource-intensive exports in Chile—have grown. Our fieldwork

revealed examples of environmental progress, such as establishment of an environmental ministry and a 400-strong environmental law enforcement force in Jordan, partly due to U.S. assistance. However, some experts said that without more U.S. resources, commitment, and oversight, environmental provisions in FTAs and the accompanying cooperation agreements will do little to help strengthen environmental protections in partner countries. USTR's sporadic monitoring of partner implementation of FTA environmental provisions, State's lack of a systematic means to monitor FTA environmental projects, and U.S. agencies' collective failure to translate FTA environmental commitments into reliable funding have also undercut efforts to promote partner progress in strengthening environmental capacity. For example, in Chile, expected U.S. follow-up to the initial pilot projects did not occur and, in Morocco, just 8 of the 24 planned cooperative activities were completed.

To build and improve upon the mixed record of FTA progress in these areas, GAO recommends that agencies review and update their plans for implementing and overseeing FTAs with a view to making the plans more effective in producing expected results such as labor and environmental progress.

USTR, State, and Labor indicated that they intend to improve monitoring and enforcement of FTAs. However, State urged GAO to give partner governments and U.S. agencies more credit for post-FTA improvements in partners' structural and institutional capacity to protect the environment and labor rights. State and USTR also took issue with the basis and balance for some of GAO's findings and provided technical corrections. GAO made several adjustments in response, but continues to believe more a robust approach to FTA implementation is needed to address the remaining challenges three of the four partners' face in assuring labor and environmental protection.

Background

FTAs Are a Major Component of Recent U.S. Trade Policy

Expanding trade by lowering tariffs and other less tangible barriers to trade offers Americans potential benefits such as enhanced efficiency, lower prices, and greater choice. But such trade liberalization can involve costs and has often proved controversial. Export growth was one of the few bright spots in U.S. economic performance in 2008, and the importance of trade to the U.S. economy has grown markedly over the past decade. Yet, polls show growing U.S. public skepticism of trade's

benefit amidst concerns over manufacturing job losses and rising income inequality.

FTAs—which phase out barriers to trade in goods with particular countries or groups of countries and contain rules designed to improve access for U.S. services, investment, and IPR—have been a major component of U.S. trade policy in recent years. After an 8-year gap that began shortly after the North American Free Trade Agreement (NAFTA) entered into effect in 1994, TPA for the President was restored by the Trade Act of 2002 and extended through July 1, 2007.⁴ FTAs were aggressively pursued as part of a three-pronged U.S. strategy to liberalize trade and level the playing field abroad for U.S. producers and workers: multilaterally at the World Trade Organization (WTO), regionally, and bilaterally. President Clinton began the endeavor shortly before leaving office in early 2001, finishing negotiations with Jordan and announcing the start of negotiations with Singapore and Chile. President Bush finalized these and other accords and secured their passage by Congress. Meanwhile, global negotiations at the WTO have been slow and regional negotiations such as toward a Free Trade Area of the Americas have foundered. FTAs are thus one of the major results of U.S. trade liberalization efforts over the past decade, along with negotiating WTO accessions by China, Vietnam, and others.

⁴Pub. L. No. 107-210. TPA is authority periodically given by Congress to the President. It establishes conditions and procedures under which the President can submit legislation approving and implementing trade agreements such as FTAs that Congress can approve or disapprove but cannot amend or filibuster. Previously known as “fast track” negotiating authority, it was in effect from 1975 to 1994 and is considered critical to congressional passage of FTAs and global trade agreements. For a further discussion of Congress’ decision to launch a reciprocal trade agreements program in 1934 and to enact “fast track” in 1974 and periodically thereafter, despite its fundamental authority under the Constitution for regulating international trade, see Committee on Ways and Means, U.S. House of Representatives, *Overview and Compilation of U.S. Trade Statutes*, iv-v.

Numerous FTAs Containing Labor and Environmental Provisions Are Now in Effect

FTAs with 14 countries have entered into effect since 2001,⁵ bringing the total number of countries with FTAs in effect to 17. Three more await a decision by President Obama on whether to seek congressional action on legislation approving and implementing these FTAs.⁶ While most are individually small, collectively they account for a significant share of U.S. trade and foreign direct investment—31 percent in 2008 and 25 percent in 2007, respectively.

Controversy over labor and the environment was a major factor in Congress' allowing the President's TPA negotiating authority (sometimes called "fast track" authority) to lapse during the 1994–2002 period. The inclusion of worker protection language had been a part of congressional trade policy goals for decades. But passage in 1993 of NAFTA and its accompanying agreements on labor and the environment did not assuage critics concerned that competition with developing Mexico would result in a "race to the bottom" for U.S. workers and producers. Passed in August 2002, TPA represents the deal struck by Congress to balance U.S. commercial interests with other U.S. goals and values, such as protecting the environment and workers.

FTAs Selected for This Report Reflect Diverse Range of U.S. FTA Partners

The countries with which FTAs have been concluded vary considerably. In a November 2007 report,⁷ we noted that the FTA partners were selected by the President and USTR for a variety of geopolitical and commercial reasons and represent a diverse mix. Some partners, such as Australia, are both high income and highly developed, according to widely reported indicators such as the United Nations' Human Development Index. However, many of the agreements are with developing nations with much lower income and human development levels. FTA partner governments' records of economic and political freedom also range widely. Many were chosen in part due to their embrace of market-oriented reform and willingness to lead regionally and globally on key U.S. interests such as

⁵According to USTR, the United States had the following FTAs in effect in 2008: Israel, Canada, Mexico, Jordan, Chile, Singapore, Australia, Morocco, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Bahrain. Three of these entered into force prior to 2001 (Israel, Canada, and Mexico). President Bush proclaimed the entry into force of FTAs with Costa Rica, Peru, and Oman effective February 1, 2009, in the closing months of his administration.

⁶Those with Colombia, Panama, and Korea.

⁷See [GAO-08-59](#).

fostering peace, countering terrorism, and liberalizing trade. Indeed, several already had or have since concluded FTAs with key U.S. competitors such as the European Union (EU), Canada, or Japan.

The four partners on which we chose to focus—Jordan, Singapore, Chile, and Morocco—were selected after considering variables such as development status and dates for entry into force, and reflect a cross section of the larger group’s country characteristics and the regional dispersion of U.S. FTAs across Asia, Latin America, and the Middle East. Yet each has unique characteristics, including the following:

- Singapore, a diverse city-state and trading hub with a highly developed economy where trade in services plays a very significant role, is the United States’ twelfth largest export market, with a positive U.S. trade balance in 2008.
- Chile, is a resource-rich, middle-income economy with a transparent and liberal trade and investment regime that has made impressive inroads in reducing poverty. Chile represents our twenty-fourth largest export market in 2008 and has a strong complementary trading relationship with the United States, notably in agriculture.
- Morocco, a lower middle income developing country that represented only about 0.1 percent of U.S. exports in 2008, has typically been a closer trading partner with the EU due to cultural, language, transportation, and social ties, especially to France.
- Jordan, a resource-poor small developing country with which the United States now has a trade deficit, acceded to the WTO in 2000, and was the first Arab country associated with the Middle East peace process to sign an FTA with the United States. This FTA is less comprehensive in scope than post-TPA agreements.

Such country differences, as well as the length of time FTAs have been in force, likely affect FTA results. Jordan’s FTA has been in effect longest (since December 2001). Chile and Singapore’s FTAs entered into effect on January 1, 2004. Morocco’s FTA has been in effect since January 1, 2006.

FTA Provisions Vary but Reflect TPA Commercial, Environmental, and Labor Goals

TPA sets a series of economic/commercial, environmental, and labor negotiating objectives, as well as procedures for action of legislation approving and implementing trade agreements. These range in specificity from broad to highly detailed. The objectives provide guidelines the

administration is to consider in negotiating FTAs and have generally been reflected in the FTAs we reviewed. They also provide perspective for evaluating how progress through FTAs compares with established congressional expectations for the FTAs and the U.S. agencies that administer them.

Generally, TPA's commercial objectives call for lowering barriers to U.S. exports, securing a more level playing field abroad for U.S. exporters, and strengthening trade rules through actions such as by improving protection abroad of U.S. intellectual property rights and investment. The Jordan FTA predates TPA. Though just 19 pages long, it eliminates tariffs on most goods, liberalizes services, and strengthens IPR. It was also the first agreement to include labor and environmental provisions in the body of the FTA; these provisions were a partial basis for TPA and subsequent FTAs. The FTAs negotiated since then generally reflect TPA guidance and tend to follow a similar format. For example, in the 200-plus page body of the Singapore FTA, 16 chapters address trade, investment, and other commercial issues; 3 chapters cover general transparency, administration, and dispute settlement; and 1 chapter each addresses labor and the environment. Following the economic and commercial goals of TPA since 2002, FTAs contain similar elements of market liberalization, including eliminating barriers on trade in goods and services, opening trade to agricultural products, protecting investments, strengthening IPR and enforcement, and increasing regulatory and administrative transparency, in many cases immediately. They also provide for rules of origin and dispute settlement. The labor and environment provisions of the FTAs generally are less prescriptive and more aspirational than some of the commercial provisions.⁸ Notably, nearly all of the more extensive commercial commitments are subject to dispute settlement and possible trade measures for failure to comply, versus one commitment in the post-TPA FTAs' environment and labor chapters—that a party shall not fail to effectively enforce its labor/environmental laws, through a sustained or

⁸A bipartisan trade deal reached between Congress and the executive branch in May 2007 resulted in a new trade policy template that created a more detailed delineation (beyond TPA) of FTA provisions on labor and the environment, as well as clarifications intended to assure proper balance between commercial and other societal goals in the areas of intellectual property, investment, government procurement, and port services. For example, FTA partners are to maintain in their law and practice five basic internationally recognized labor principles, and the FTAs incorporate specified multilateral environmental agreements. FTA obligations on labor and environment also became fully enforceable on par with commercial provisions. This new guidance was applied to the Peru, Colombia, Panama, and Korea FTAs; Peru has since been approved and has entered into effect.

recurring course of action or inaction, in a manner affecting trade between the parties. To address the rest of the commitments in the environment and labor chapters, TPA calls for and the FTAs establish consultative or diplomatic means to strengthen partners' capacity to respect labor rights and protect the environment over time.

Consistent with TPA priorities and FTA requirements, cooperation mechanisms were developed with each partner on labor and environmental matters. Among other things, these were to exchange information, establish priorities, develop specific activities or projects, and generally promote implementation of goals agreed in discussions under the mechanism on labor and the environment. The form of these mechanisms varies. For example, after all four FTAs were concluded, separate agreements on environmental cooperation were reached with these FTA partners.⁹ However, for Chile, Singapore, and Morocco, the environmental cooperative agreements state that the realization of cooperation activities is contingent on the availability of necessary resources.

The President must submit reports explaining how the FTAs make progress toward TPA objectives when he submits FTAs to Congress for approval. In each instance, the President attested that the FTAs advanced TPA's U.S. commercial objectives and helped assure labor and environment protection. For example, in a June 2005 report he explained that each FTA negotiated under TPA includes labor and environmental chapters with obligations aimed at ensuring that FTA partners meet the

⁹After the parties entered into the U.S.-Jordan FTA, the parties entered into the United States-Jordan Joint Statement on Environmental Technical Cooperation which created a Joint Forum on Environmental Technical Cooperation to broaden and deepen effective cooperation on technical environmental issues. After the parties entered into the U.S.-Chile FTA, the parties entered into the Agreement Between the Government of the United States of America and the Government of the Republic of Chile on Environmental Cooperation to establish a framework for cooperation between the Parties to promote the conservation and protection of the environment, the prevention of pollution and degradation of natural resources and ecosystems, and the rational use of natural resources, in support of sustainable development. After the parties entered into the U.S.-Singapore FTA, the parties entered into the Memorandum of Intent between the Republic of Singapore and the United States of America on Cooperation in Environmental Matters to identify environmental issues of mutual interest to the two governments, and to establish a mechanism through which the two governments can pursue cooperative efforts in those areas. After the parties entered into the U.S.-Morocco FTA, the parties entered into the U.S.-Morocco Joint Statement on Environmental Cooperation which established a Working Group on Environmental Cooperation to broaden and deepen effective cooperation on environmental issues.

labor and environmental objectives of TPA. He further stated that mechanisms for ongoing labor and environmental cooperation were negotiated and that all of these FTAs call for cooperative projects to support environmental protection. The formal advisory committees on trade policy and negotiation generally concurred with this assessment, with some caveats or objections. Notably, the Labor Advisory Committee consistently raised concerns that the labor chapters in post-TPA FTAs did not meet TPA objectives, in part due to their limited enforceability, and several concerns were raised by certain environmental, industry, and intergovernmental advisors. TPA does not generally require subsequent reports,¹⁰ although a one-time report was required as a condition of the extension of TPA through June 2007 requested by the President. USTR nonetheless has an ongoing requirement to provide reports to the President and Congress on the operation of trade agreements.

Several U.S. Agencies Are Responsible for FTA Implementation and Monitoring

Several U.S. agencies play key roles in FTA implementation and monitoring. The United States Trade Representative is the President's principal adviser and spokesperson on trade and has lead responsibility for negotiating trade agreements, including FTAs, as well as developing and coordinating U.S. trade policy and issuing policy guidance related to international trade functions. It is responsible to the President and Congress for the administration of trade agreements.¹¹ USTR coordinates the administration's monitoring of foreign government compliance with trade agreements and pursues enforcement actions with the aim of ensuring that these agreements yield the maximum benefits for Americans and create a fair, open, and predictable trading environment. According to USTR, this includes asserting U.S. rights, vigorously monitoring and enforcing bilateral agreements, providing technical assistance to trading partners, and promoting U.S. interests under FTAs, including labor and environmental interests.

¹⁰Ongoing reporting on the Dominican Republic-Central America Free Trade Agreement was required as part of its implementing legislation. See Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, Pub. L. No. 109-53, §403, 119 Stat. 462, 496 (2005).

¹¹Generally, the trade agreements program includes all activities consisting of, or related to, the negotiation or administration of international agreements that primarily concern trade and that are concluded pursuant to the authority vested in the President by the Constitution, 19 U.S.C. 1351, the Trade Expansion Act of 1962, and the Trade Act of 1974, as amended.

In earlier reports on USTR's monitoring and enforcement efforts, GAO noted that experts and officials agree U.S. government monitoring and enforcement efforts should attain three broad goals: ensuring foreign compliance, providing credible deterrence, and inspiring confidence. Specifically, they agreed that vigorous U.S. efforts are necessary to ensure foreign partners fulfill trade agreement obligations and that U.S. firms fully realize the improvements in market access these agreements offer. Credible deterrent efforts improve the likelihood foreign partners will fully implement their commitments. A reliable, well-functioning monitoring and enforcement effort helps sustain congressional and public confidence in the President's trade strategy and fosters support for continued trade liberalization. Indeed, as the USTR General Counsel testified before the Senate Committee on Finance, "Without enforcement, a trade agreement is just a piece of paper."¹² Though he went on to assure the committee that USTR is "committed to using every tool in the U.S. trade arsenal to ensure a level playing field for American workers, farmers, and entrepreneurs," our past GAO reports found both signs of, and room for, improvement in U.S. monitoring and enforcement efforts. We further identified several key steps in monitoring and enforcing trade agreements, notably (1) identifying problems, (2) setting priorities, (3) gathering and analyzing information, (4) developing responses, and (5) taking enforcement action.¹³ While the agencies' goal is to identify important trade agreement compliance problems (rather than monitor all aspects of every agreement), both reactive and proactive efforts are used. The trade principles at stake are often considered equally or more important than the amount of trade involved.

USTR is designated as the principal contact point under each FTA agreement. Among other things, USTR plans and conducts meetings, with partners, of general FTA oversight mechanisms. USTR is also the contact point for FTA environmental provisions. Many of the specific functions and requirements established in TPA were delegated by the President to USTR. One specific requirement to provide a report to Congress on plans for implementing and enforcing FTAs was delegated to USTR and then

¹²Statement of Warren Maruyama, General Counsel, Office of the United States Trade Representative before the Senate Finance Committee, May 22, 2008.

¹³See, for example, [GAO-05-537](#), [GAO/NSIAD-00-76](#), especially 15-16 and appendix II, and GAO, *International Trade: Improvements Needed to Track and Archive Trade Agreements*, GAO [NSIAD-00-24](#) (Dec. 14, 1999).

redelegated to the Director of the Office of Management and Budget.¹⁴ Among other things, these plans were to identify the resources necessary to implement the accords.

Other agencies, notably the Departments of Commerce (Commerce), Labor, and State, play important roles in FTA oversight and implementation, including the following:

- Commerce is responsible for monitoring compliance with economic and commercial aspects of the agreements. Commerce's Market Access and Compliance unit, for example, prepared the prevote reports analyzing how FTAs advance U.S. commercial objectives and has detailed matrixes of FTA commercial requirements and the status of implementation. It also issues intermittent analysis of trade trends with FTA partners. Commerce's Foreign Commercial Service advocates on behalf of U.S. business and works with other parts of the agency and foreign counterparts to assist firms facing FTA implementation difficulties and promote U.S. exports abroad.
- Labor has the lead on FTA labor matters, except in the case of Jordan. Labor's Bureau of International Labor Affairs (ILAB) is designated as the point of contact for implementation of the labor provisions of all but the Jordan FTA, as well as for the labor cooperation mechanisms.¹⁵ Prior to implementation, Labor's responsibilities include preparing reports (in consultation with USTR and State) on FTA partners' labor rights protections, the potential employment impact of agreements on U.S. workers, and FTA partners' child labor laws. After FTAs enter into force, Labor's responsibilities as contact point include receiving, reviewing, and acting upon any concerns raised about partner compliance with FTA labor obligations and assisting partners seeking to strengthen their capacity to promote respect for core labor standards. Under TPA Labor has an ongoing responsibility for planning, developing, and pursuing cooperation with partners on labor matters. Labor does not have an in-country presence overseas, instead relying on periodic staff travel, as well as outreach and reporting by State personnel.

¹⁴See 19 U.S.C. § 3808 and Notice of Redefinition of Authority and Further Assignment of Functions, 67 *Fed. Reg.* 71,606 (Dec. 2, 2002).

¹⁵Among other things, the office serves as a point of contact with agencies of the U.S. government, other FTA parties, the public, governmental groups, business representatives, labor organizations, and other nongovernmental organizations.

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- Several bureaus at State play roles in FTAs. State's Democracy, Human Rights, and Labor Bureau (DRL) coordinates State's in-country labor officers, who carry out regular monitoring and reporting and day-to-day interaction with foreign governments on labor matters. With USTR and Labor, DRL is a member of the interagency team that negotiates the labor chapters of FTAs, contributes critical input to the research and analysis of labor reports produced by Labor, as required under TPA, and provides technical assistance funding to strengthen some countries' labor capacity. State's Oceans and International Environmental and Scientific Affairs Bureau (OES) has the responsibility to lead on international environmental and scientific agreements generally and on ongoing cooperative mechanisms, as well as overseeing and facilitating U.S. efforts with FTA partners to strengthen environmental capacity. It is supported by agencies with line environmental responsibilities, such as the Environmental Protection Agency (EPA) and the Department of Interior, as well as the U.S. Agency for International Development (USAID), which execute and sometimes fund capacity-building projects. State's Economics Bureau and regional desks and economics officers are also involved in the commercial aspects of FTAs.

FTA Results Vary among Partner Countries, but Reveal Positive Economic and Commercial Outcomes Consistent with TPA Goals

Merchandise Trade between the United States and FTA Partner Countries Increased

U.S. merchandise (goods) trade with the four FTA partners increased substantially following the FTAs' entry into force. Total two-way trade, U.S. exports, and partner country exports for the four selected FTAs all rose. Annual average rates of merchandise trade growth increased substantially for the United States and three of the four FTA partner countries in the period since the FTAs came into force, compared with rates for a similar period prior to the agreements. We also observed higher annual average rates of growth for top product categories for both U.S. exports and partner country imports. In some cases, these also translated into U.S. gains in its share of partner country markets relative to the share

of other competitors. (More detailed commercial/economic results for the four FTAs are examined in apps. II through V.)

In the four FTAs we reviewed, consistent with the TPA objectives, a large percentage of goods became duty-free immediately. For example, in the Morocco FTA, duties on more than 95 percent of all consumer and industrial products were eliminated immediately. In the Chile FTA, the agreement allowed for immediate duty-free market access into Chile for about 85 percent of all U.S. consumer and industrial goods, with about 75 percent of all agricultural products entering duty-free. The remaining goods represent sensitive products of which barriers were removed using staged or scheduled tariff elimination categories over a period of years. The Jordan FTA, although in force before TPA, is like its post-TPA counterparts we are examining and is consistent with the TPA goals of liberalizing and expanding trade.¹⁶

Prior to the agreements, U.S. trade barriers were lower on average compared with FTA partner countries. For example, prior to the Jordan FTA, the United States had a mean unweighted tariff rate of 6 percent, while Jordan had a mean unweighted tariff rate of 16 percent.¹⁷ Many partner country imports already entered the United States duty free, including over 90 percent of imports from Singapore and 70 percent of imports from Chile,¹⁸ in part because the United States had granted them benefits under one-way preferential trade programs such as the U.S. Generalized System of Preferences (GSP).

Overall Trade Increased with Four FTA Partner Countries

Total two-way trade (U.S. imports plus U.S. exports), U.S. exports, and U.S. imports each increased substantially after implementation of the four FTA agreements we examined.¹⁹ As shown in table 1, growth in two-way

¹⁶Unlike post TPA agreements, however, the Jordan FTA does not include an investment chapter due to the preexistence of a Bilateral Investment Treaty with Jordan.

¹⁷This tariff rate represents the Permanent Normal Trade Relations rate (referred to as the Most-Favored Nation [MFN] rate in other countries) to all countries at that time and does not include any preferences programs.

¹⁸For example, for products entering the United States from Chile, the only significant duties were on agricultural products and food; most manufacturing products had tariffs that averaged below 2 percent.

¹⁹Given the number of factors that affected trade between the United States and these nations, we did not attempt to isolate the effects of FTAs. Instead, we analyzed trends in descriptive trade and investment data and provided statistical and graphic summaries of the changes in trade before and after the FTAs.

trade since implementation ranged from 42 percent for the Singapore FTA (from 2003 to 2008) to 259 percent for the Jordan FTA (from 2001 to 2008). Increases in U.S. exports ranged from 72 percent for Singapore to 365 percent for Chile since implementation. U.S. import increases ranged from 10 percent for Singapore to 397 percent for Jordan. These post-FTA increases do not isolate the effects of the FTAs from other trade factors and are based on the total changes in actual trade volumes subsequent to implementation. As a result, they are not directly analogous to the statutorily required studies prepared by the International Trade Commission (ITC) prior to their implementation, which predicted generally positive but small effects on the U.S. economy and trade overall from these FTAs.²⁰ The ITC models did seek to isolate the effects of the FTAs on trade, but they could neither measure certain difficult to quantify factors, such as nontariff barriers, nor estimate the effects of certain ex post factors such as the beneficial impacts of new products being traded due to the agreements.²¹

Table 1: Amount of Two-Way Trade, Percent Increase in Two-Way Trade, and Percentage Increase in U.S. Exports and Imports, from Year Prior to FTAs to 2008

Dollars in millions

Partner country and year prior to FTA implementation	Two-way trade		Increase in two-way trade	Increase in U.S. exports	Increase in U.S. imports
	Year prior to FTA	2008			
Jordan (2001)	\$568	\$2,043	259%	167%	397%
Morocco (2005)	988	2,387	141	190	87
Chile (2003)	6,422	19,549	204	365	106
Singapore (2003)	\$29,181	\$41,374	42%	72%	10%

Sources: GAO analysis using data from Commerce and ITC.

²⁰Studies referenced are: ITC, *U.S.-Morocco Free Trade Agreement: Potential Economywide and Selected Sectoral Effects* (Washington, D.C.: ITC Pub. No. 3704, June 2004); ITC, *U.S.-Chile Free Trade Agreement: Potential Economywide and Selected Sectoral Effects* (Washington, D.C.: ITC Pub. No. 3605, June 2003); *U.S.-Singapore Free Trade Agreement: Potential Economywide and Selected Sectoral Effects* (Washington, D.C.: ITC Pub. No. 3603, June 2003); ITC, *Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement* (Washington, D.C.: ITC Pub. No. 3340, September 2000).

²¹For a discussion of how different studies on trade agreement effects compare and differ, see ITC, "The Effects of Fast-Track Trade Agreements on the U.S. Economy," *USITC International Economic Review*, USITC Pub. 3638, September/October 2003.

Note: Changes in two-way trade are measured from the dates just prior to implementation of the agreement to 2008. For Jordan, since implementation was in December 2001, we measured growth in two-way trade from 2001 to 2008.

Moreover, across partner countries, we found that post-FTA average annual growth rates for U.S. exports were all higher than pre-FTA annual average growth rates and, in some instances, average growth went from negative to positive.²² For example, the post-FTA average annual U.S. export growth rate for Chile was 32.6 percent, compared with the pre-FTA growth rate, which was -9.1 percent. For U.S. imports, we found that average annual growth rates were higher or less negative in three out of the four partner countries in the post-FTA period, with Jordan having a higher rate of pre-FTA growth. (For a more detailed explanation of this analysis, see app. VI.)

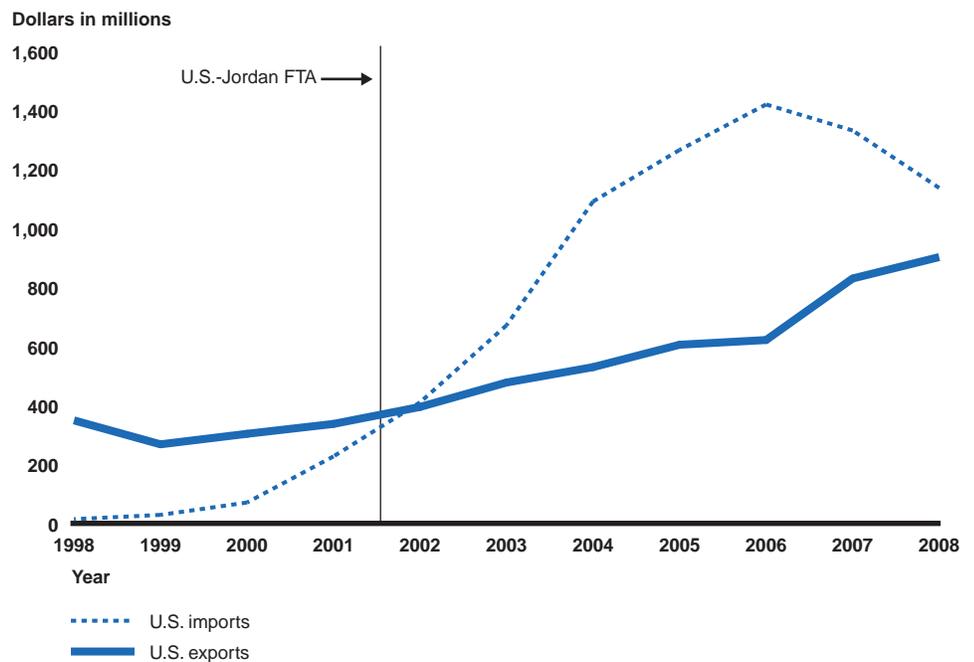
Figure 1 shows the dramatic increase in U.S. imports since 2000 from Jordan, as well as the increase in U.S. exports. Of the four FTAs, U.S. imports from Jordan have experienced the largest increase, from \$229 million in 2001 to over \$1.139 billion in 2008, while U.S. exports increased from \$339 million prior to the FTA to about \$904 million in 2008. Between 2002 and 2008, an average of 87 percent of U.S. imports from Jordan were textiles and apparel, with much of these imports originating from the preexisting U.S. Qualifying Industrial Zone (QIZ) program, although exports under the FTA are increasing.²³ The EU remains the dominant

²²For example, since the Singapore FTA was implemented in 2004, we calculated an average growth rate of bilateral trade for a pre-FTA period of 5 years before and 5 years after implementation. For comparison, we also calculated the average annual growth rate of U.S. trade with the world for the same periods—5 years before 2004 and 5 years after. We calculated the same periods for the Chile FTA; for the Morocco FTA, 3 years before and 3 years after; and 7 years before and 7 after for the Jordan FTA.

²³19 U.S.C. § 2112 note. Under the United States-Israel Free Trade Area Implementation Act of 1985, a qualifying industrial zone is an area that “(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone.” In relation to the QIZs, for an article to receive an elimination or modification of duties it must be: (1) wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone; (2) imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and (3) the sum of the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

overall foreign supplier in Jordan's market, and the U.S. market share has decreased somewhat since the FTA.

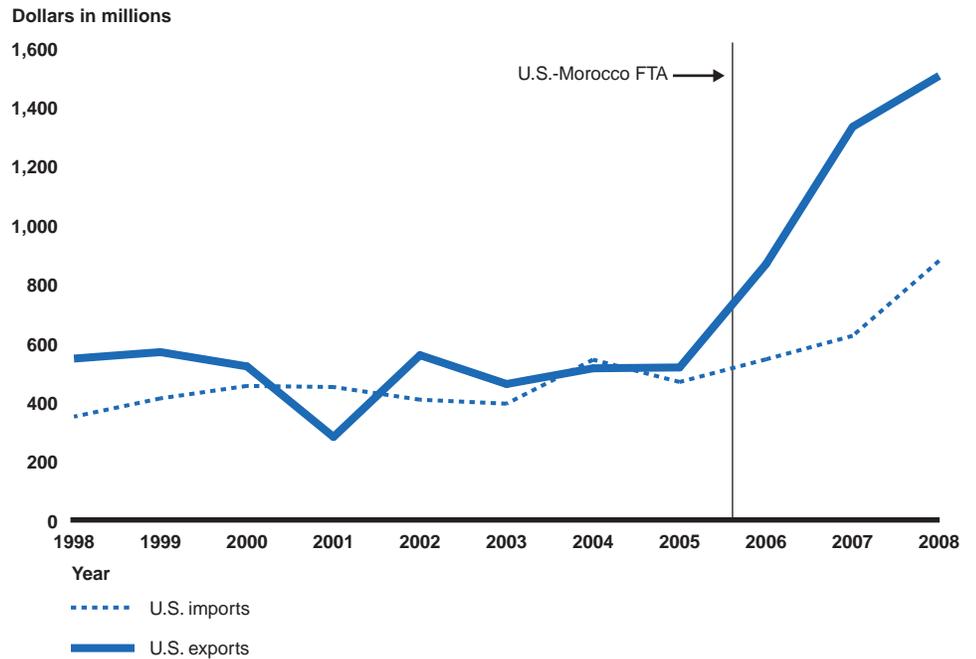
Figure 1: U.S. Bilateral Trade with Jordan, 1998–2008



Sources: GAO analysis using data from Commerce and ITC.

As figure 2 shows, from 2005 through 2008, U.S. exports to Morocco grew 190 percent, from \$519 million to over \$1.5 billion, while imports from Morocco grew by 87 percent, from \$470 million to about \$880 million. The EU still has the largest overall share in this market, at 63 percent in 2008. The U.S. market share increased marginally since before the FTA went into force, from 3 percent in 2005 to 5 percent in 2008. However, in several important agricultural products/sectors, such as cereals and soybean oil cake, the U.S. increased market share grew substantially during this period. In addition to the effects of the FTA, several factors led to higher U.S. gains in the value of exports to Morocco during this period compared with Moroccan exports to the United States. These factors included the drought in Morocco in 2007, which caused its government to lift tariff-rate quotas on its own, higher worldwide commodity prices, and an exchange rate favorable to the United States.

Figure 2: U.S. Bilateral Trade with Morocco, 1998–2008



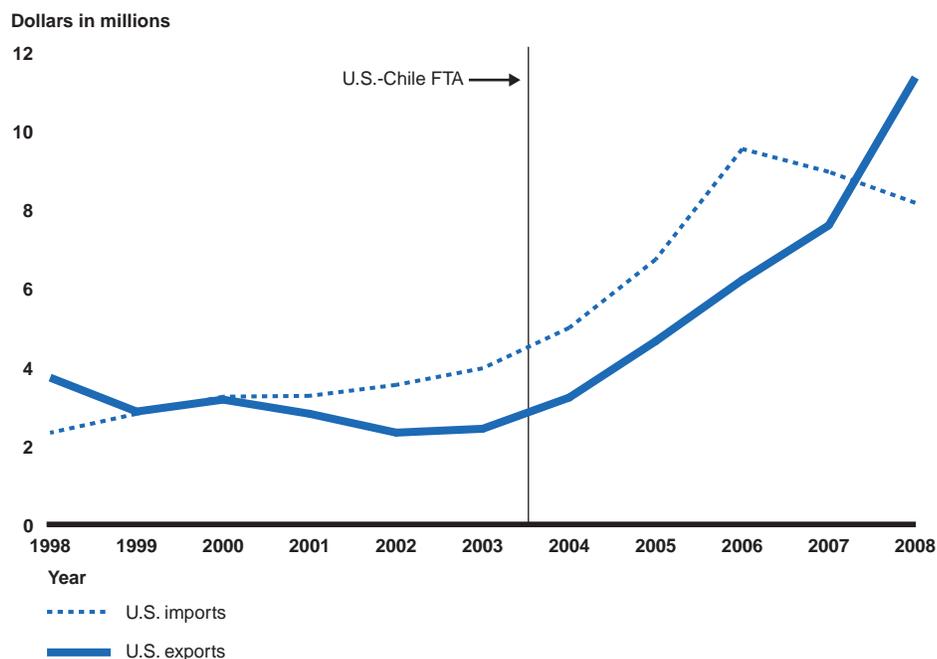
Sources: GAO analysis using data from the Commerce and ITC.

Figure 3 shows that both U.S. exports and imports from Chile increased following the Chile FTA. Specifically, total U.S. exports to Chile increased by 365 percent, from \$2.4 billion to \$11.4 billion from 2003 to 2008, and Chile’s exports to the United States rose from \$4 billion to \$8.2 billion, or by 106 percent. U.S. agricultural exports increased tenfold and U.S. exports to Chile of intermediate or capital goods exports rose markedly. After the agreement came into force, the United States steadily regained its overall market share in the Chilean market that it had lost prior to the FTA. Other trading partners had secured FTAs there first, notably countries in the Mercosur regional trade agreement, as well as Canada and the EU.²⁴ In 2008, the U.S. share of Chile’s market finally reached the pre-FTA levels that it had in 2001. U.S. imports from Chile dropped somewhat in 2007 and 2008, due to increased exports of copper to China, with which Chile signed an FTA that entered into force in 2006, as well as the global

²⁴The countries that make up the Mercosur regional trade agreement include Brazil, Argentina, Uruguay, Paraguay, and Venezuela; Chile, Bolivia, Columbia, Ecuador, and Peru are associate members.

economic downturn in 2008. While Chilean officials noted that they were looking to see increases in manufacturing goods exports following the FTA, most Chilean exports to the United States have consisted of natural resource exports such as those from mining, fisheries, and agriculture.

Figure 3: U.S. Bilateral Trade with Chile, 1998–2008

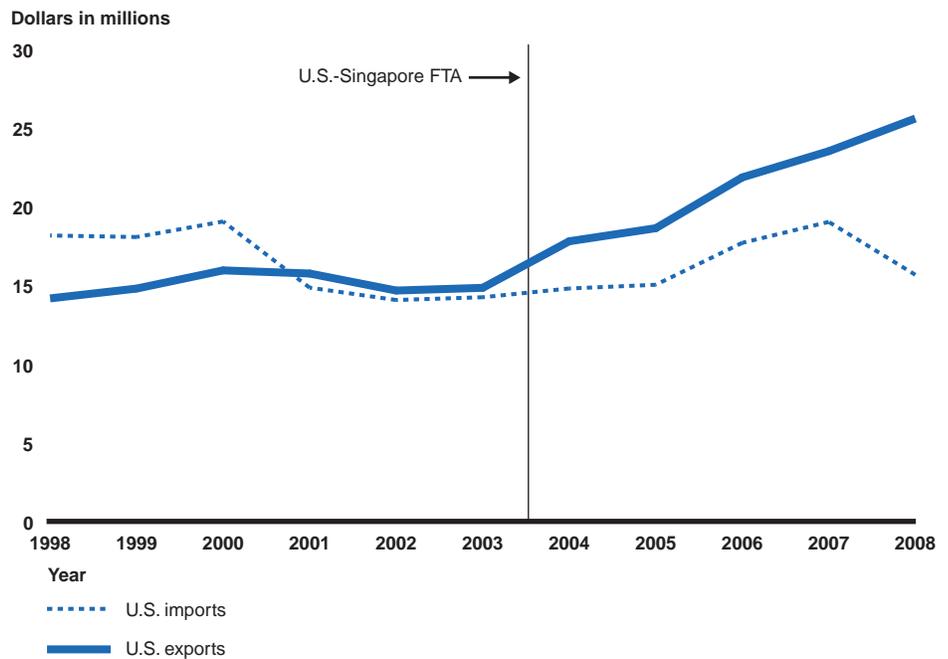


Sources: GAO analysis using data from the ITC's Interactive Tariff and Trade DataWeb.

Figure 4 displays bilateral trade with Singapore before and after the FTA. Since the FTA, U.S. exports to Singapore have grown by 72 percent, from \$14.9 billion in 2003 to \$25.7 billion in 2008, while imports from Singapore have grown by 10 percent, from \$14.3 billion to \$15.7 billion. Although total U.S. market share in Singapore has declined slightly, from 13 to 12 percent from 2003 to 2008, the United States has remained a major competitor despite several other trade agreements by Singapore with key trading partners, such as China, Malaysia, and Japan. The top valued, higher growth U.S. exports to Singapore in 2008 included electrical machinery such as semiconductors and related devices, as well as other industrial machinery, such as excavating, paving, and construction machinery. While total U.S. imports from Singapore have grown overall since 2003, they have faced intensified competition from Asian suppliers such as China and India. Moreover, in 2008, the global financial downturn

especially impacted U.S. imports from Singapore, which is highly dependent on exports of finished goods.

Figure 4: U.S. Bilateral Trade with Singapore, 1998–2008



Sources: GAO analysis using data from Commerce and ITC.

Majority of Leading Product Categories Experienced Increased Growth Rates

To examine how the United States and partner countries benefited from the FTAs at the product category/sector level, we analyzed (1) the pre- and post-FTA growth rates at the product category level for trade with each partner, (2) market share data for trade among countries in the FTA markets, and (3) product/sector data obtained from our partner-country visits where available. We found that for trade with the four selected FTA partner countries, from 60 to 100 percent of the top 25 U.S. export product categories by value experienced increased rates of annual average growth after the FTAs were in force.²⁵ Specifically, average annual growth rates increased in the post-FTA time period for 100 percent of the top 25 export

²⁵Using ITC data for the top 25 export and import product categories by value of the United States and the partner countries, we subtracted annual average pre-FTA growth rates from post-FTA growth rates for the same number of years before and after the agreements. We then ranked the differences in growth between the pre and post-FTA periods in descending order to determine which categories grew the most since the FTAs came into force.

categories to Chile, 92 percent of the top export categories to Singapore, 64 percent of these categories to Jordan, and 60 percent to Morocco. For U.S. import categories, two out of the four selected FTA partner countries, Chile and Singapore, experienced increased rates of growth for a majority of their product categories after the agreements came into force.²⁶ (For a more detailed examination of these product categories, see apps. II through V.) Moreover, several broader sectors of the U.S. economy, including agriculture and manufacturing, made substantial gains in market share versus other suppliers following implementation of the FTAs.

Among sectors, we found that U.S. agricultural exports, such as wheat, corn, rice, edible fruits and nuts, and dairy products, grew substantially post-FTA in several partner countries, with U.S. market share gaining against major trading partners. For example, U.S. exports to Chile of agricultural, horticultural products, and livestock, grew tenfold, from \$25 million in 2004 to \$256 million in 2007. The United States' share of Chile's total agricultural imports rose significantly, from 6 percent in 2004 to 26 percent in 2007. In the dairy sector for instance, the U.S. Dairy Export Council explained that, because of reductions in tariffs and adjustments to their inspection system for dairy products under the Chilean FTA, U.S. exports had increased by tenfold. In the Jordanian corn market, U.S. market share grew from just 3 percent in 2001 to 77 percent in 2007 after the 5 percent tariff on grains being removed by the FTA. There were also increases in U.S. sales of almonds to Jordan, from \$3 million to almost \$12 million in 2007, after duties were lowered.

Numerous U.S. manufacturing sectors—such as construction equipment to Morocco, automobiles to Jordan and Chile, and machinery, gas turbines, and optical/medical equipment to Singapore—also showed significant gains in U.S. exports to FTA partners and increases in U.S. market share. For example, U.S. exports of machinery increased from about \$4.8 billion in 2003 to over \$9 billion in 2007 following the FTA with Singapore in 2004. Sales of gas turbines to Singapore increased threefold, from about \$650 million before the FTA came into force, to almost \$1.8 billion in 2007. The elimination of Chile's luxury tax on imported cars, along with tariff reductions, also spurred greater U.S. automobile exports.

²⁶In this analysis, U.S. import product categories from both Jordan and Morocco had greater post-FTA growth rates in 40 percent of their top 25 product categories. For Singapore and Chile, 64 and 52 percent of product categories, respectively, had higher annual average rates of growth after the FTAs came into force.

In some instances, reduced trade barriers led to circular flows of trade that benefited both parties of an agreement. We were told by the American Forest and Paper Association that increased amounts of kraft liner that go into the production of corrugated boxes were exported to Chile to accommodate increases in Chilean agricultural exports to the United States, both of which received reductions in duties after the Chile FTA. According to U.S. and Singapore officials we spoke with, the greater IPR protection and enforcement resulting from the FTA were factors encouraging more investment by U.S. pharmaceutical firms in Singapore. These firms import pharmaceutical manufacturing equipment and drug components for the manufacture of pharmaceuticals that are exported in bulk back to the United States, where they are then marketed to the United States and the world.

Trade in Services Increases

Singapore

For the FTAs we studied, Singapore has the highest level of bilateral services trade, with the United States exporting over \$7 billion, and importing almost \$4 billion, for a services trade surplus of over \$3 billion in 2007. U.S. service exports to Singapore grew 24 percent from the average level of the pre-FTA 3-year period 2001–2003 to 2007, while, U.S. service imports from Singapore grew by 90 percent. For both exports and imports, substantial gains have taken place in the broad category “other private services,” within which the subcategory “business, professional and technical services” has shown very high growth. These exports to Singapore grew over 800 percent, and imports to the United States grew over 1,200 percent. The “royalties and license fees” category also had a sizable increase. Some of the export growth of these categories is likely associated with the improved market access and IPR environment resulting from the FTA.

Chile

Services trade with Chile during the period since FTA implementation has also shown substantial growth. In 2007, U.S. services exports to Chile were \$1.76 billion, and U.S. imports were \$868 million, for a trade surplus of \$888 million. U.S. exports to Chile grew 47 percent compared with the pre-FTA period, while imports grew just 19 percent. Exports in the “other private services” category grew 100 percent, and “business, professional and technical services” grew by 168 percent. Also, royalties and licensure fees” grew 140 percent.

Jordan and Morocco

For Jordan and Morocco, the Bureau of Economic Analysis (BEA) does not provide separate data on services trade, and this hampers our ability to

assess the U.S. role in these countries. United Nations' data do show, however, that both of these countries have experienced substantial growth in their worldwide services trade. Since 2001, Jordan has experienced growth of 96 percent in its service exports, to a level of \$2.9 billion in 2007. For the same period, Jordan's imports of services grew 78 percent, to a level of \$3.1 billion. As for Morocco, since 2001, service exports grew over 230 percent, to a level of \$13.4 billion. Morocco's service imports grew 181 percent, to a level of almost \$6 billion. While the United States no doubt shared in some of this overall services trade growth by Jordan and Morocco, we cannot assess U.S. performance.

As the data on services trade show, worldwide growth during the 2000s and the periods of FTA implementation mean that the overall U.S. share of worldwide services trade has experienced a declining trend. Yet, the United States experienced substantial services trade growth in both Singapore and Chile. Moreover, strong growth was apparent in service sector categories that are associated with provisions of the FTAs.

Foreign Direct Investment and Affiliate Sales Increase

Singapore

The data on foreign direct investment (FDI) suggest that the post-FTA period has seen bilateral growth with Singapore and greater economic integration between the partners. In 2007, the U.S. stock of FDI in Singapore (outward FDI) reached over \$82 billion. This is 73 percent higher than that during 2001–2003, prior to the FTA. Singapore's share of overall U.S. FDI has remained stable at about 3 percent.²⁷

The level of FDI in the United States by Singapore firms (inward FDI) has also grown. In 2007, inward FDI from Singapore had grown over 370 percent compared with 2003, the year prior to FTA implementation. Singapore government data suggest that its FDI in the United States is concentrated in financial services and manufacturing.

An indicator of greater economic integration is the growth in sales by majority-owned foreign affiliates (MOFA) of U.S. multinational

²⁷ Recently revised BEA data show that 62 percent of the total U.S. stock of FDI in Singapore is in holding companies, and total financial-related FDI (including banking and finance) is about 70 percent. About 17 percent of U.S. FDI is in manufacturing, and computers and electronics constitute 60 percent of manufacturing.

corporations (MNC). These sales can be viewed as a complement to FDI in so far as the investment in foreign affiliates leads to greater access to the domestic market. In fact, sales by foreign affiliates can exceed the amount of cross-border trade in goods and services. BEA data show that, in 2006, U.S. MOFAs in Singapore had sales of \$193 billion. Compared with the 3-year period prior to the FTA (2001–2003), total U.S. affiliate sales grew over 117 percent.²⁸

Chile

The Chile FTA sought to consolidate Chile as a secure location for foreign investment and improve the IPR environment, according to Commerce. The United States was already one of the major foreign investors in Chile prior to the FTA, even though FDI in Chile has generally been less than 1 percent of total U.S. FDI. BEA data show that in 2007 the U.S. stock of FDI in Chile totaled \$12.6 billion. This level represents growth of 33 percent compared with the average level of the 3-year period prior to the FTA, 2001-03. While no one sector strongly dominates as a target for U.S. FDI in Chile, the financial sectors and manufacturing garner substantial shares, with chemicals playing a strong role within the manufacturing sector. The stock of FDI by Chilean entities in the United States is small and has not shown much growth in the post-FTA period.

Sales by MOFAs of U.S. multinationals in Chile totaled about \$14.8 billion in 2006, based on preliminary BEA data. Compared with the 3-year average prior to the FTA, total U.S. affiliate sales in Chile grew 72 percent, with sales of goods growing faster than sales of services.

Jordan and Morocco²⁹

U.S. FDI in Jordan and Morocco also grew following FTA implementation, but by less than FDI from other nations. Recent BEA data show that U.S. FDI in Jordan was \$119 million in 2007, up from \$39 million in 2006. U.S. FDI in Morocco was \$238 million in 2007, a substantial increase over the \$130 million level attained in 2006, the first year of the Morocco FTA. However, this 2007 level is still lower than the stock of U.S. FDI in the period 2001-2003.

²⁸Of the \$193 billion in U.S. affiliate sales, \$182 billion was in goods, and over \$9.3 billion was in services. Compared with the pre-FTA period, sales of goods grew 123 percent, and services grew almost 48 percent.

²⁹BEA data on sales by MOFAs of U.S. multinational corporations is not available for Jordan and Morocco.

Both Jordan and Morocco experienced even stronger growth in total inward FDI from the world during the 2000s, according to data from the United Nations Conference on Trade and Development (UNCTAD). In Jordan, inward FDI holdings more than tripled from \$4 billion in 2002 to over \$14.5 billion in 2007.³⁰ In Morocco, between 2000 and 2007, worldwide inward FDI grew at an annual rate of over 50 percent, attaining a level of \$32.5 billion in 2007. Comparing these figures with the U.S. totals from BEA gives some indication that the United States has yet to play a significant role in FDI in these countries.

U.S. Industry and In-Country Officials Expressed General Satisfaction with FTA Results, While Indicating Several Outstanding Concerns

Information we obtained from a cross section of agriculture, manufacturing, services, and IP-related industry representatives on committees that advise the U.S. government generally suggest that, to date, FTAs have provided direct and indirect commercial benefits to U.S. businesses across a range of sectors. While acknowledging that other industry and macroeconomic factors are also at work, most business groups that we contacted reported FTAs had played a role in these favorable trade and investment trends. Among the more significant beneficial provisions of the FTAs identified by the private sector were tariff cuts, strengthened IPR, and improved regulatory frameworks as follows:

- Agricultural interests that advise the U.S. government were generally enthusiastic about their experience with FTAs, reporting improved market access in a variety of product areas, such as processed food, dairy, grains, almonds, tree fruits, and, to a certain extent, meat. Sectors that are highly protected, such as sugar, reported that these FTAs would not affect them since all of these countries are net sugar importers. Other product areas, such as certain U.S. beef and chicken meat products, still face certain nontariff barriers to trade and do not have full access to these FTA markets.
- Manufacturing FTA-related gains were reported by industries such as U.S. construction equipment, industrial equipment, and electrical machinery, while some others, such as textiles and apparel, and the chemicals industry, reported mixed to no impact. For instance, the Industrial

³⁰While Jordan does not maintain official detailed statistics of FDI, aggregate inflows of registered capital tracked by the Central Bank indicate that the main source countries for foreign investment are Middle Eastern (Iraq, Kuwait, United Arab Emirates, Saudi Arabia, Egypt, and Bahrain) or European (Denmark, Belgium, and the United Kingdom).

Equipment Manufacturers, an association representing 800 manufacturers of industrial equipment used in the construction, agriculture, mining, forestry, and utility sectors, report that their members have seen sharp increases in exports to Chile, Singapore, and Morocco after the FTAs went into effect. Officials of the chemicals industry, on the other hand, reported that while FTAs had some impact on increases in exports, they believed that this was more due to overall growth in demand and other factors.

- Many services trade and intellectual property-related industries reported gains due to FTA market-opening provisions in services, improved investor protections, strengthened IPR, procurement liberalization, and regulatory transparency. These industries included express delivery, financial services, pharmaceuticals, business software, and information services.

In addition, evidence we gathered on fieldwork in partner countries, including the views of the United States and partner country officials and a range of market participants, reveals a generally positive view of the impact and results of the FTAs.

Continued Focus on
Outstanding Trade Concerns
Urged by Private Sector, United
States, and Partner Country
Officials

Despite the overall positive tenor of views about the FTAs' commercial results, some outstanding concerns remain among U.S. private sector groups, as well as among U.S. and partner governments. As a result, continued efforts to resolve outstanding issues were urged, specifically the following:

- In a few U.S. industries, concerns were expressed about actual or potential displacement (cotton, fruit, and vegetable producers). Others said that the FTAs haven't achieved their full potential and may involve some costs due to varying rules of origin and cumbersome paperwork (for example, businesses in the express delivery sector said they benefit from innovative market access and treatment provisions, but they find FTA-related paperwork and packing requirements can counter their strengths in global supply chain support and "hub and spoke" redistribution systems).
- From a U.S. government perspective, IPR-related issues in Chile have not been adequately addressed and have since been elevated by USTR to the

Special 301 Priority Watch list in 2006 and 2007.³¹ U.S. officials and the private sector remain frustrated by Chile's slow and incomplete implementation of its FTA IPR obligations, particularly since this was billed as being a major benefit of the FTA for the United States. The United States and Chile have previously conducted a review of Chile's implementation of several of its IPR obligations under the FTA and plan continued engagement on these issues in 2009.

- In Chile, some concern and disappointment was expressed by officials with the level of trade in services and U.S. investment since the FTA was implemented. In addition, Chilean officials said that Chile's FTAs with other partners (such as Mexico) were more flexible and contain cumulation provisions that allow inputs from other countries.³²
- Regarding Jordan, a representative of U.S. fabric producers suggested FTAs as a whole have been quite helpful and important to the industry's survival by creating export markets for U.S. fabric. However, he also expressed concern that imports from Jordan and other suppliers with preferential access to the United States without requirements to use U.S. fabric were undermining apparel producers under NAFTA and the Central America–Dominican Republic Free Trade Agreement (CAFTA-DR) that do use U.S. inputs and, in turn, their producers. While in Jordan, complaints from officials included that, especially in agriculture, Jordanian products could not meet U.S. regulatory standards and that U.S. customs paperwork and regulations were complex. Broader concerns were also expressed by Jordanian officials about the level of trade in services and investment from the United States after the FTA.

³¹"Special 301" (as added by Section 1303 of Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, to the Trade Act of 1974 (19 U.S.C. §2242) is designed to enhance the United States' ability to negotiate improvements in foreign intellectual property regimes. USTR is required to conduct an annual review to identify foreign countries that deny "adequate and effective" protection of IPR or "fair and equitable market access" to U.S. persons relying upon IPR protection. Countries may be placed on "priority watch" or "watch" lists if their intellectual property laws or enforcement practices are of major concern to the United States.

³²Cumulation provisions are provisions within a trade agreement that allow for the import of inputs from "third countries" in other regions or trade agreements to count toward a country's content rule of its rules of origin. Trade agreements with cumulation provisions are considered to be more flexible than those without them because a country can potentially source inputs from multiple countries. See, Paul Brenton, "Rules of Origin in Free Trade Agreements" (Washington, D.C.: The World Bank Group, International Trade Department, *Trade Note* 4, May 29, 2003).

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- U.S. officials we met with in Morocco and Moroccan officials shared a concern that Morocco had undertaken liberalization and seen sharp increases in imports from the United States but had yet to see much in terms of gains in sales to the United States. Meetings with Moroccan government representatives revealed their general dissatisfaction with their trade results so far, which they believed did not reflect “the objectives and potential of the FTA.” They listed several factors that they felt contributed to this situation including: (1) discrepancies between Moroccan and U.S. trade statistics; (2) problems relating to the inability to meet U.S. regulatory standards, in particular sanitary and phytosanitary standards; (3) specific difficulties of Moroccan exporters pertaining to U.S. Customs; and (4) long phaseout periods of U.S. tariffs on some Moroccan products.³³
 - Ongoing U.S. concerns in Singapore pertain to frustration with some opaque or cumbersome regulatory practices that are undermining U.S. firms’ access to Singapore’s telecommunications and domestic pharmaceutical procurement markets. In addition, some animal, plant, or human-health related bans or restrictions remain, posing hurdles for U.S. exporters of some meat and other agricultural products. Despite a very positive view of the FTA by Singaporean officials, there were calls from some exporters for more flexible rules of origin, such as in the case of optical disc producers who cannot meet the value-added requirement. Some disappointment was expressed with the results of the

³³Concerning the issue with the Moroccan trade statistical discrepancies, the two countries are having ongoing consultations among participants from the U.S. Census and USTR, and the Moroccan Office des Changes (Foreign Exchange Office) to resolve these issues. U.S. officials explained that, after an examination of this issue by both countries, it was found that Moroccan statistics had failed to fully account for exports sent to the United States via third countries which resulted in U.S. import statistics showing a higher volume of imports from Morocco than Moroccan statistics show as being exported to the United States. Concerning partner countries meeting U.S. standards, including sanitary and phytosanitary standards, U.S. officials commented that it often takes many years for the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, to certify products. For Moroccan tomatoes, we were told that APHIS has published a draft regulation, which is the first step in the process.

congressionally modified “integrated sourcing initiative”³⁴ compared with the expectations during FTA negotiations. Also, concern was expressed about the ease of obtaining visas for Singaporean business persons in some countries, including the United States.

While GAO did not do a comprehensive examination of agency efforts in this area, it appeared that active monitoring and ongoing engagement were already under way in most of these areas. For example, U.S. officials were able to give a detailed scorecard of Chile’s IPR implementation efforts, as well as provide a timeline documenting extensive bilateral contacts. Similarly, in Singapore, U.S. officials were able to provide extensive information regarding IPR developments and services market access concerns. Nevertheless, USTR, Commerce, and Department of Agriculture (USDA) officials told us that evaluation of FTAs in terms of trade results is infrequent and done on an ad hoc basis. For example, agencies produced a one-time report required for TPA in 2005 and Commerce produced charts on particular FTAs in 2008.

³⁴During the negotiations for the U.S.–Singapore FTA, USTR announced an “integrated sourcing initiative” in which information technology products, manufactured on two Indonesian islands off the Singapore coast and by a number of other Association of Southeast Asian Nations countries in the region and shipped from Singapore, would be considered to be of Singapore origin. The initiative was limited to information technology products (100 or more types), which do not involve a sensitive sector in the U.S. and would receive tariff-free treatment. This initiative was expected to be a boon to the economy, as electronics is a major industrial output sector for Singapore. Subsequently, during congressional deliberations over the FTA, provisions of the integrated sourcing initiative were modified.

FTAs Contribute to Labor Improvements in Partners, but U.S. Follow-up on FTA Labor Commitments Has Been Minimal

FTAs Spurred Some Labor Law Reforms, but Most Partners Face Enforcement Challenges

Jordan, Chile, Singapore, and Morocco have all made efforts to meet their commitment in the FTAs to strive to ensure that their domestic labor laws provide for agreed labor standards consistent with the internationally recognized labor rights and strive to make improvements. (See boxed text, which describes some of the most important labor commitments in the FTAs.) U.S. and partner officials said the FTA negotiations stimulated labor law reforms and improvements in enforcement of the laws in all four partner countries, either during the FTA negotiations or later. However, Jordan, Chile, and Morocco all have documented difficulties ensuring respect for core labor rights and face enforcement challenges. U.S. agencies missed opportunities to promote partner capacity because they have provided little sustained engagement or assistance.

TPA and FTA Provisions Related to Labor

TPA Goals

TPA's overall negotiating objectives on labor include promoting respect for workers' rights and the rights of children consistent with core labor standards of the ILO, as defined in TPA. Principal negotiating objectives include strengthening the capacity of U.S. trading partners to promote respect for core labor standards. The President is directed to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards as enumerated in TPA.

FTA Commitments

All of the primary provisions of the pre-TPA Jordan FTA labor article are echoed in the Chile, Singapore, and Morocco FTAs. In each of the agreements, the parties commit to:

- not fail to effectively enforce their own labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties;
- strive to ensure that their domestic labor laws provide for labor standards consistent with the internationally recognized labor rights set forth in the labor article, while recognizing the right of each party to establish its own domestic labor standards, and strive to improve those standards;

- strive to ensure that they do not waive or derogate from, or offer to waive or derogate from, domestic labor laws as encouragement for trade with the other party; and
- strive to ensure that the labor principles and internationally recognized labor rights set forth in the labor article are recognized and protected by domestic law.

The Singapore, Chile, and Morocco FTAs also contain provisions on labor consultations, commitments to labor cooperation in order to advance common labor commitments, public awareness, and domestic procedural guarantees. For example, parties are required to ensure that their proceedings for the enforcement of their labor laws are fair, equitable, and transparent.

Internationally Recognized Labor Rights

The internationally recognized labor rights defined in TPA and the FTAs are:

- the right of association,
- the right to organize and bargain collectively,
- a prohibition on the use of any form of forced or compulsory labor,
- a minimum age for employment of children, and
- acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

^a Consistent with TPA guidance, prohibition and elimination of the worst forms of child labor is also included in the Singapore, Chile, and Morocco FTAs but not the Jordan FTA. The Singapore and Chile FTAs also refer to "labor protections for children and young people," including the elements specified here.

The following sections describe progress and challenges in labor law reforms and enforcement in each partner country.

Jordan

Jordan has made some improvements to its labor laws and enforcement in recent years, according to USTR and Labor officials, but ongoing weaknesses in its labor protections contributed to abuses of workers that occurred in factories in the U.S.-designated QIZs. Despite U.S. awareness of such weaknesses going into the agreement, little was done by the United States or Jordan to address them between 2002 and mid-2006, the first 5 years of the FTA. Jordan's actions since then are generally seen as serious responses intended to correct labor abuses and have resulted in recognized improvements. Although some labor problems persist in the QIZs, the U.S. government recently decided to widen Jordan's duty-free access to the U.S. apparel market.

A former U.S. official involved in the labor negotiations for the Jordan FTA told us that, during the negotiations, Jordan's labor laws had been found wanting in some respects, but the United States did not require changes as part of the FTA. State's human rights reports have for years noted limitations in Jordan's labor protections, which were particularly weak for foreign workers and workers in the informal sector. According to USTR,

Jordan's labor laws were amended by Jordan in 2008 to cover some previously excluded workers, including agricultural workers.

Until 2006, the International Trade Union Confederation's Annual Survey of Violations of Trade Union Rights routinely noted that Jordan's labor inspection service was ineffective and labor laws were not always enforced. In addition, State's human rights reports have noted a lack of government training for labor inspectors on the country's child labor laws and the inspectors' failure to enforce these laws over the past decade. However, they also described the government's efforts during this period to establish a new child labor unit in the Ministry of Labor and to oversee recruitment and employment of certain foreign workers.

A serious failure in both Jordan's laws and its enforcement—which Jordan, with the help of U.S. agencies, independently verified and has now taken some steps to address—was publicized in a May 2006 report by the National Labor Committee, a U.S. labor advocacy organization. It described widespread abuses of foreign workers in garment factories operating in Jordan's QIZs, whose duty-free exports to the United States have grown dramatically under the FTA. The majority of workers in Jordan's QIZs are not Jordanian; they are brought to Jordan under contract from several east and southeast Asian nations. While many of the investors are from China, Taiwan, India, and Pakistan, some U.S. brands and stores source goods for export from Jordan. The National Labor Committee report detailed problems such as workers' passports being confiscated by factory managers, regular work shifts of 12 to 20 hours and occasional shifts of 48 or more hours, withholding of wages for up to 6 months, nonpayment of full wages with overtime, threats and incidents of deportation, overcrowded and unsanitary living quarters provided by employers, and incidents of physical and sexual abuse.

According to U.S. officials, the government of Jordan reacted immediately to the 2006 public report. Jordan initiated its own investigation and requested U.S. funding for an independent assessment of working conditions in the QIZs, conducted by a contractor specializing in labor compliance monitoring, which confirmed numerous violations of Jordan's labor laws and international labor standards.³⁵ The assessment found some problems were pervasive in the QIZ factories, while others were limited to

³⁵The assessment involved visits to 70 of 111 garment factories operating in the QIZs at that time; of these, 63 employed migrant workers.

a few cases or a few factories. According to the assessment, the widespread violations of Jordanian laws included non-voluntary and routine overtime of 2 or more hours daily and incorrect wage payments including pay below the minimum wage.

Jordan's Ministry of Labor took steps to improve workers' conditions and compliance with labor laws, with assistance from USAID and other donors, including closing some factories, transferring workers to factories with better working conditions, developing a voluntary code of conduct for factories, creating a hotline for complaints from migrant workers, hiring new inspectors, and instituting new training programs for labor inspectors. Jordan agreed with the ILO to start a "Decent Work" program to create quality jobs and reduce unemployment nationally, as well as a "Better Work" program to implement a monitoring system in the garment sector, combined with needs assessment, remediation, and training at the enterprise level. However, the National Labor Committee has reported recurrences of some problems in the QIZs over the past 2 years, and a Ministry of Labor report indicates that at least one case was so egregious that it closed the factory. The ministry said it also accelerated an ongoing effort to revise the national labor law through a process involving the government, employers, and workers. U.S. officials, trade union officials, and others told us that a comprehensive reform package was developed in late 2006, but the ministry delayed in submitting it to parliament until June 2008. According to U.S. officials, Parliament enacted a set of labor reforms but did not enact some elements of the proposed revisions, including providing legal rights to foreign workers to organize and join unions, despite the government's repeated assurances to U.S. officials over a period of years that this particular reform would be made "soon."

Chile

According to Chilean officials, Chile has continued to strengthen its labor laws since its FTA went into effect in 2004, but they also told us about ongoing difficulties with ensuring respect for labor rights by employers and with its enforcement regime. Chile began a process of labor reform in the 1990s that has continued up to and since passage of the 2004 FTA. As a result, its labor enforcement regime is considered among the best in Latin America, according to ILO officials. According to the FTA labor rights report for Chile submitted to Congress, reform legislation that was enacted in 2001 significantly improved workers' rights to organize. It also reduced the official work week from 48 to 45 hours, tightened overtime pay regulations, and improved safety standards, among other changes. In addition, according to Ministry of Labor officials, a 2007 law established a legal responsibility for employers to protect the health and safety of subcontracted workers, guarantee their pay, and clarify their contracting

status.³⁶ However, comments from individuals in the Chilean government and nongovernmental organizations during GAO's fieldwork indicated this reform was seen as fixing some problems but creating others. Both ministry and trade union officials noted some continuing problems with workers' rights, including inequality in pay for subcontractors and legal limitations on workers' ability to organize and bargain collectively across enterprises.

The State Department's 2007 Report on Human Rights Practices indicates that Chile's Ministry of Labor effectively enforced its laws and regulations on minimum wages, work hours, and safety and health standards and devoted considerable resources to oversight of child labor policies. Chilean labor ministry officials we met said enforcement has improved since the FTA went into effect, but Chile still faces some of the same challenges in enforcement that existed at the time the FTA entered into effect. They said the ministry has increased the number of labor inspectors, raised inspectors' salaries, and introduced unannounced inspection visits. In addition, they said labor court procedures have been modified to address labor disputes in a more timely way. Spurred by its FTA commitments to the United States, Chile's Ministry of Labor proactively undertook a self-study, with initial cooperation from the private sector, of two of Chile's leading export sectors, salmon and forestry products. It identified some labor rights problems with the aim of convincing companies that improving labor practices would be good for business. Chilean labor ministry officials also acknowledged that enforcement is weaker than they would like. Fines for violations remain low, and labor inspectors' pay is still among the lowest for government inspectors in Chile.

When asked about post-FTA developments and effects, labor groups we met in Chile generally agreed with the government's assessment that there had been some progress but continued to be problems with Chile's labor laws and enforcement. They added that workers' jobs, pay, benefits, and protections in Chile, particularly in manufacturing, had been under pressure as a result of near-continual import liberalization by Chile most recently through conclusion of an FTA with China. While the U.S-Chile FTA was not seen as the sole or even primary cause of these downward

³⁶Ministry officials said subcontracting is a widespread practice in Chile that enables firms to employ workers through temporary contracts, often for substantially lower wages and with less safety protection than direct employees who work alongside them.

pressures on Chilean working conditions, the FTA also was not seen as a powerful or well-used tool for betterment.

Singapore

Singapore generally had strong protections for workers going into the FTA and has since improved them. As a high-income economy, Singapore provides good working conditions and a broad range of social benefits for most of its workers, and U.S. officials involved in the negotiations said changes in Singapore's labor laws were not needed to conclude the FTA. The International Trade Union Confederation (ITUC) reports that there are some restrictions on unions in Singapore's labor laws, but many of the restrictions are not applied in practice. U.S. FTA negotiators were initially concerned by Singapore's lack of a minimum wage law, but these concerns were allayed by an understanding of Singapore's unique system for determining wage increases through the annual recommendations of a National Wages Council that is composed of government, trade union, and employer representatives. U.S. embassy officials said Singapore has made changes in its laws to improve worker protections since the FTA took force. The embassy officials stated that, for example, a workplace safety and health act was enacted to provide safety protections to a broader range of workers.

State's 2008 human rights report indicates that Singapore's Ministry of Manpower effectively enforced its laws and regulations on working conditions, safety and health standards, and child labor.

Morocco

Morocco has strengthened its labor laws in connection with the FTA, but its enforcement is often poor, and child labor and suppression of strikes remain problems, according to U.S. government reports and officials. USTR and Labor officials indicated that Morocco achieved significant labor reforms and progress in employer-worker relations with reform legislation that took effect in 2004. Although these reforms had been under discussion for over 20 years, U.S. officials said the FTA negotiations provided an external push that was helpful in gaining agreement among workers, employers, and the government on outstanding issues. Moroccan government officials told us that the number of labor disputes has decreased 50 percent since 2004, and trade union officials agreed that the environment for labor dialogue has improved as a result of the new labor code. In 2004, Morocco's legislature also passed reforms to the family code and the penal code, which strengthened labor protections and other rights for women and children, according to State's human rights reports. Despite the progress, trade union officials and labor experts told us that labor protections should be further expanded to cover workers in Morocco's large informal economy.

State's human rights reports note that enforcement of all of these laws has often been poor, particularly within Morocco's informal work sector, due partly to limited government resources. For example, in April 2008, approximately 55 deaths caused by a mattress factory fire in Casablanca reportedly occurred after inspections had identified safety violations that were not corrected. During our fieldwork, an ILO official also told us that Moroccan labor inspectors are reluctant to cite employers for labor violations because an inspector was sentenced to prison for issuing a citation several years ago. The Morocco FTA labor rights report states that Morocco has experienced repeated incidents of violent repression of worker strikes, and a 2007 confederation report indicated at least one of these involved a U.S.-affiliated export manufacturer. Furthermore, according to State's human rights, Labor's child labor, and Human Rights Watch reports, Morocco has a relatively high rate of child labor, especially in rural areas. Moroccan labor experts have attributed this to poverty, poor quality education and poor access to education (particularly for girls), broken families, and wide social acceptance of child labor. The Moroccan government has ongoing programs aimed at eliminating child labor through education for child workers and other efforts, which have been developed with support from the ILO and Labor.

U.S. Agencies Did Not Develop Labor Cooperation Plans and Had Limited Resources to Strengthen Partner Capacity

In addition to their responsibilities described in the boxed text, pursuant to TPA reporting requirements, U.S. agencies created fairly comprehensive baseline assessments of these FTA partners' labor rights regimes. TPA does not require that U.S. agencies use the assessments to systematically plan or set priorities with partners, and U.S. agencies did not do so. However, because U.S. agencies were disengaged and provided little assistance to partners, agencies may have missed opportunities to cooperate with partners in promoting capacity.

Reports Required by TPA
Provided a Comprehensive
Baseline on Labor Rights

U.S. Agency Responsibilities for FTA Labor Matters

Labor is responsible for overseeing FTA labor commitments and cooperation and is the lead on all but the Jordan FTA, in coordination with State and USTR. In Federal Register notices for the Singapore, Chile, and Morocco FTAs, Labor's ILAB was designated as the point of contact for implementation of the labor provisions for the FTAs, as well as for the labor cooperation mechanisms established by the annexes to these FTAs. Under the labor cooperation mechanisms, the parties have broad authority to undertake cooperative activities on any labor matter, and the responsible agencies shall cooperate to establish priorities for cooperative activities. The Federal Register notices also outline ILAB's responsibilities in relation to the FTAs, which include implementing trade-related labor policy, coordinating international technical cooperation in support of the labor provisions in FTAs, and receiving, determining whether to accept for review, and reviewing submissions on another party's compliance with commitments and obligations arising under a labor chapter. ILAB is required to consult with State and USTR on these activities.

Before congressional review of a final trade agreement, TPA required U.S. agencies to prepare and submit to Congress a "meaningful labor rights report" for each partner country and a report describing the country's laws governing exploitative child labor.³⁷ USTR and Labor officials told us that, in general, at the start of discussions about each possible FTA, they consult with partner government officials, clarify U.S. FTA labor requirements for them, and seek information about the labor situation in the country. As the negotiations continue, they conduct an analysis of the country's labor laws and practices and visit the country to meet with government, union, and private sector officials. If labor concerns are serious, U.S. negotiators may request legislative changes to remedy them. Labor officials said they also work with partner government officials at this stage to identify weaknesses and needs for technical assistance concerning labor rights and enforcement, as required by TPA.³⁸ The information gathered contributes to the labor rights report prepared for Congress and also informs the negotiations and decisions about cooperation and assistance.

The TPA labor rights reports we reviewed for these FTA partners provided detailed descriptive information on and insight into the labor rights situation in these countries. They described each country's legal framework, the administration of labor law, labor institutions, and the labor justice system, as they pertained to the core labor standards defined in U.S trade legislation. Although the reports did not attempt to evaluate

³⁷ 19 U.S.C. § 3802(c)(8).

³⁸ 19 U.S.C. § 3802(c)(7).

the severity of labor problems, our comparison of them indicated that they portrayed more significant labor problems in Morocco, limited problems in Chile, and very few in Singapore. The reports did not include any analysis of the potential effects of expanded trade on the situation for workers in export sectors.

Because the Jordan FTA negotiations occurred before TPA was enacted, neither a meaningful labor rights report nor a report on laws governing exploitative child labor was required or prepared for Congress. Our document review indicated, however, that in response to a USTR request, in 2004, Labor identified various labor rights weaknesses, including the facts that the estimated 125,000 registered foreign workers in Jordan lacked the right to organize, bargain collectively, or join unions and that the recently increased minimum wage was set at poverty levels.

U.S. Agencies Did Not Establish a Process to Prioritize and Plan Cooperative Activities

The post-TPA FTAs establish labor cooperation mechanisms and explicitly recognize that bilateral cooperation provides enhanced opportunities to improve labor standards and advance common commitments. USTR and ILAB officials told us that when the four FTAs GAO focused on were negotiated, they foresaw greater cooperation between experts at Labor and partner countries' labor ministries than has occurred. U.S. agencies have not utilized the bilateral cooperation process laid out in the FTA annexes to set joint priorities and plans for cooperative activities with these FTA partners. Information from the labor rights reports identified partners' weaknesses, and Labor did use this information to develop its initial interactions with these partners. Labor and the agencies it must consult with concerning cooperation activities did not use the information as a basis for assessing and prioritizing needs and planning cooperative efforts with partner countries beyond these initial projects. However, as discussed below, Labor's direct funding for technical cooperation projects was essentially eliminated at the time the FTAs we examined began entering into force.

In contrast to the arrangements for environmental cooperation described later in this report, there is no process between the United States and its trade partners for developing work plans for labor cooperation that establish objectives and activities over a period of time. In the FTA labor cooperation annexes, the parties committed to establish priorities for cooperation and develop specific activities in line with the priorities. However, the annexes do not set a time frame in which these actions are to be completed. In practice, no cooperation priorities or multiproject work plans have been developed with any of these FTA partners, apart from plans for individual projects described below.

Labor Cooperation Efforts Have Been Limited and Driven by Type of Funding Available

The text of each of the three FTAs negotiated under TPA anticipates cooperation between the United States and its trade partner on labor matters. Each of these FTAs creates a labor cooperation mechanism and the respective associated annexes state that parties shall cooperate and the parties recognize that cooperation provides enhanced opportunities to improve labor standards and advance common commitments including the ILO Declaration. To promote these goals, in the Chile, Singapore, and Morocco FTAs, the “Cooperative Activities” and “Implementation of Cooperative Activities” provisions of the labor cooperation mechanism annexes identify areas of cooperation and types of cooperative activities that could be undertaken by the United States and the partner country, but does not require that these enumerated activities be undertaken.³⁹ The annexes identify activities such as exchanging information, organizing joint conferences, and undertaking joint research projects, on topics such as fundamental labor rights and their effective application, labor relations, and working conditions. None of these FTAs’ labor provisions and associated annexes specifies a time frame for completion of the activities. The Jordan FTA does not have a labor cooperation mechanism annex, but it provides an opportunity for labor cooperation by requiring that the Joint Committee established to implement the FTA consider any opportunity for cooperation identified by any of the parties to the agreement. In addition, the “Economic Cooperation and Technical Assistance” article in the Jordan FTA (which is not focused on labor) states that “in view of Jordan’s developing status, and the size of its economy and resources, the United States shall strive to furnish Jordan with economic technical assistance, as appropriate.”

However, none of the FTAs contains a specific commitment of financial assistance. Instead, Labor’s ILAB programs for non-FTA-related technical assistance have been the initial or primary source of funding for technical assistance projects on labor issues for these FTAs. ILAB technical assistance has typically supported improvements in labor law enforcement and labor relations, as well as programs to prevent and withdraw children from exploitative child labor. In addition, USAID has been a primary source for funding in Jordan recently, and State’s Middle East Partnership Initiative provided funds for Morocco.

³⁹See Chile FTA Annex 18.5, para. 4, Singapore FTA Annex 17A, para. 3, and Morocco FTA Annex 16-A, para. 4.

U.S. assistance to help partners build labor capacity was limited to partners or issues with preexisting program resources and was less than initially foreseen due to funding cuts. ILAB officials told us their budget for general bilateral and multilateral technical assistance that could be used for FTA partner countries was greatly reduced in 2004 (from \$37 million to \$2.5 million) and has been eliminated in every year since 2005. As a result, ILAB has not had a direct source of funding available to dedicate to new technical assistance for FTA partners, except for child labor projects. For some FTAs, ILAB has identified funding from other U.S. agencies to support labor assistance, including a large amount from USAID in Jordan and a very small amount from State in Morocco. Although cooperation could involve less costly technical or information exchanges, as well as assistance projects, ILAB officials said they do not have much funding for travel to meet with or provide in-house technical assistance to labor ministry officials. In addition, they said other Labor agencies that have technical expertise they would like to draw on, such as the Occupational Health and Safety Administration, are limited by their domestic missions in their ability to pay for sending staff overseas. ILAB officials said they are trying to explore less costly ways of participating in international meetings, such as through videoconferences. However, in response to an invitation by Chile to participate in a labor forum it organized in 2008, the officials told us ILAB did not have funds for travel. While not able to make alternative arrangements to participate, they provided materials and preparation so that a U.S. embassy employee could attend instead.

Following are descriptions of U.S. labor assistance that has been provided to each partner country and how it relates to labor enforcement capacity weaknesses cited in the FTA labor rights (or other U.S. government) reports and expectations for cooperation stemming from the existence of the labor cooperation annexes.

Jordan

U.S. support for capacity building to counter Jordan's weaknesses in labor law enforcement, including those noted in State's human rights reports, was originally provided through two ILAB-funded projects implemented by the ILO. Total funding for these projects, both initiated in 2002, was about \$2.4 million. One project was designed to form a committee of workers, employers, and government officials for ongoing "social dialogue" on national labor issues; develop a proposal for labor law reforms; support collective bargaining; and strengthen the labor inspectorate. The other project supported development of a national

program to eliminate child labor. In 2008, ILAB committed an additional \$4 million to a 4-year child labor/education project. After labor rights and enforcement problems in the QIZs became publicly known in 2006, USAID, which has a large assistance program in Jordan, committed \$4.186 million to address these problems. This has included \$442,000 for an assessment of labor problems in the QIZs in 2006, \$1.044 million for advisory services for the Ministry of Labor and its labor inspectorate since 2007, and \$2.7 million in 2008 to support the launch of a 5-year “Better Work Jordan” program, designed by the ILO and the International Finance Corporation and co-funded by Jordan’s Ministry of Labor, to improve labor standards and overall competitiveness in the export garment industry. According to documents we reviewed, the U.S. embassy and USAID did not commit the bulk of this assistance until they were asked to do so by USTR in mid-2007, more than a year after the problems were publicly reported and at least 3 years after the U.S. government itself was apparently aware of them. State explained that the ILO first proposed the Better Work Jordan program to donors in November 2006 and then made two project scoping visits, but was reluctant to move forward until certain labor law reforms had been made by Jordan. The ILO formally requested USAID funding for the program in March/April 2007, and the grant for the program was signed in February 2008.

Chile

One largely unsuccessful U.S. assistance project with Chile was started near the time of the FTA’s entry into force. The FTA labor rights report for Chile described a functioning labor enforcement system that, nevertheless, had overburdened labor courts and some enforcement weaknesses. Chile had graduated from USAID assistance by this time and did not have a significant child labor problem, which limited the available sources of U.S. funding for capacity building. In response to the interests of Chilean labor officials, ILAB provided \$1.4 million for a project to improve labor law compliance. The project was initiated in 2003 and focused on training labor inspectors and improving the efficiency of labor courts. However, according to the midterm project evaluation, the project was overly ambitious, given its resources, and faced a number of obstacles. A final evaluation was not available, but ILAB officials told us project funding and activities were subsequently reduced in 2005 due to budget cuts in their international technical assistance.

According to State and ILAB officials, lack of funding has consistently stymied efforts to provide Chile FTA-related technical assistance and cooperation. Chilean labor officials told us they were eager to have

technical exchanges with the United States on labor issues—similar to exchanges Chile has had with other FTA partners, such as Canada and the EU—but have had few opportunities to do so. In addition, little technical cooperation or assistance has been directed toward some of the nonmandatory elements listed in the labor cooperation annex that are unique to this FTA, such as promoting the collection of comparable labor data and addressing labor issues related to small and medium enterprises. The annex also provides for periodic labor cooperation reviews at the request of either party, but neither party has requested such reviews.

ILAB officials described a few recent cooperative efforts with Chile, including an information request from Chile concerning innovative job training programs and meetings between U.S. and Chilean labor officials at multilateral labor meetings. A joint U.S.-Chilean proposal to send Chilean labor inspectors to the United States to learn about labor hotlines was recently selected for funding from the Organization of American States. The embassy is also organizing a series of digital video conferences; the first one took place in May 2009.

Singapore

No U.S. activity or assistance on labor has been provided since the FTA went into effect, according to ILAB officials. Singapore has high labor standards and relatively few labor problems, as indicated in the FTA labor rights report. U.S. officials told us that because Singapore's labor laws and enforcement systems were good, they did not see a need for extensive cooperation and, furthermore, Singapore had not requested it. No U.S. financial assistance for labor activities has been provided. Despite the provisions in the labor cooperation annex and the expectations of negotiators in both countries, neither U.S. nor Singapore government officials were aware of any technical cooperation activities concerning labor since the FTA was implemented. However, Singaporean officials told us they were cooperating on labor issues with other trade partners, such as the Trans-Pacific Strategic Economic Partnership that also includes Chile, New Zealand, and Brunei Darussalam.

Morocco

About \$11 million in U.S. assistance has been provided to help Morocco bolster enforcement and stem child labor abuses. The FTA labor rights report noted that Morocco had numerous labor enforcement weaknesses, including a lack of resources and training for labor inspectors and pervasive child labor violations. Although the labor cooperation annex for

the Morocco FTA is largely similar to the others we examined, one of its unique elements is a focus on promoting compliance with the ILO convention concerning the worst forms of child labor. In response to these concerns, the United States has provided a relatively large amount of labor assistance to Morocco, with most of the funding focused on child labor prevention and elimination. ILAB provided \$8.351 million for three child labor projects and \$3.072 million for one project to strengthen labor relations and capacity to implement and enforce its new labor laws,⁴⁰ in response to a request from the Ministry of Labor. Three of the projects started in 2003, during the FTA negotiations, while the fourth, a child labor project, started in 2007.

Minimal U.S. Oversight and Dialogue on Labor Issues May Have Resulted in Missed Problems and Opportunities

A reliable, well-functioning monitoring and enforcement effort helps sustain congressional and public confidence in the President's trade strategy and fosters support for continued trade liberalization. The key steps we have identified in monitoring and enforcing trade agreements include identifying problems, setting priorities, gathering and analyzing information, developing responses, and taking enforcement action. However, according to officials at ILAB, State, and USTR, U.S. agencies are not required to proactively monitor and report on FTA partners' labor commitments after the agreements enter into force. FTAs rely on passive monitoring structures, through which outside parties can raise concerns that the U.S. government can or must react to. U.S. agencies may have missed labor problems and overlooked opportunities in these partners because they did not use the structures established by the FTAs as a vehicle for ongoing engagement on labor matters. Agencies cited a lack of funding and the staff levels necessary for increased labor cooperation. The FTAs provide a framework for bilateral oversight and dialogue on FTA commitments, including labor. However, bilateral mechanisms for dialogue on labor issues between the FTA trade partners have largely been inactive, and labor-related discussions have been minimal. In addition, U.S. agencies have not actively monitored FTA partners' compliance with labor commitments, and U.S. interaction with partners on labor issues after the FTAs entered force has been very limited in most cases—except in Jordan, where external parties pushed labor problems into the spotlight. U.S. and Jordanian officials did not seriously address Jordan's migrant labor rights violations until those problems were taken up in the

⁴⁰Of the \$3.072 million, State's Middle East Partnership Initiative provided nearly \$100,000 to add a gender equity component to ILAB's labor relations project.

international news media, and U.S. officials have missed other opportunities to work constructively with FTA partner countries on labor issues of common interest.

For some of these FTAs, labor issues have rarely or never been discussed in the FTA's Joint Committee, which is the main forum for bilateral dialogue on FTA implementation for each FTA, or in one of its subcommittees.⁴¹ However, the provisions of the FTAs reviewed do not prescribe the agenda or discussion points for meetings of the Joint Committee. The Joint Committee, which is required to meet annually,⁴² is chaired by cabinet-level trade officials from both countries. Its duties include supervising implementation of the agreement and reviewing the trade relationship between the parties; therefore, it may address a broad range of issues. USTR has the U.S. lead in organizing such meetings. Under three of the FTAs we reviewed, the committee is required or allowed to establish a labor affairs subcommittee or similar entity.⁴³ Under the Chile FTA, the Labor Affairs Council was required to meet within the first year after the FTA's entry into force and thereafter as it considered necessary. The council met once in December 2004 and has not met again. Under the Singapore and Morocco FTAs, the Joint Committees have not exercised their prerogative to convene labor affairs subcommittees, and our review of available Joint Committee meeting agendas and summaries indicated that labor issues have not been discussed in Joint Committee meetings for these FTAs.⁴⁴ The Jordan FTA did not call for a labor affairs subcommittee, but the two partners established a labor affairs working group in 2006. Labor issues were discussed by the Joint Committee in 2004, 2006, and 2008, according to a USTR official, and our file review showed gaps in U.S. engagement before 2006, despite Jordan's labor abuses.

ILAB has not used its role as the lead agency and designated point of contact on labor issues and cooperation for the Singapore, Morocco, and

⁴¹Under the Chile FTA, this body is called the Free Trade Commission.

⁴²Under the Singapore and Morocco FTAs, the Joint Committee is required to meet annually unless the parties agree otherwise.

⁴³The Chile FTA required the establishment of a similar entity, the Labor Affairs Council. Under the Singapore and Morocco FTAs, the Joint Committees could choose to establish labor affairs subcommittees. The Jordan FTA did not mention such an entity.

⁴⁴However, as the most recently implemented FTA among these four, Morocco has only had one Joint Committee meeting, in March 2008.

Chile FTAs to proactively monitor partners' progress or problems or to promote cooperative efforts. Labor and State have not updated ongoing reports to ensure substantive coverage of partners' conformity with FTA labor commitments, and the number and expertise of in-country U.S. labor officers has fallen. (However, as stated previously, according to officials at ILAB, State, and USTR, U.S. agencies are not required to proactively monitor and report on FTA partners' labor commitments after the agreements enter into force.)

Labor made progress in developing its mechanism for reviewing FTA-related labor concerns, but this mechanism is not available for Jordan because USTR handles labor concerns under that FTA. A process for public submissions concerning FTA labor provisions is built into the functioning of the FTAs that were enacted under TPA, and this provides a venue for nongovernmental organizations and others to raise complaints about labor violations in FTA countries. In December 2006, ILAB revised and clarified its procedures for receiving and reviewing public submissions, including those related to an FTA partner's labor commitments. It also established that Labor could self-initiate a review of any matter related to the labor provisions. The new procedures identified the type of information a submission should include, the timeline for ILAB review, and the criteria ILAB uses in deciding how to handle the submission; however, ILAB retains discretion about whether to accept a submission for further review. Ultimately, Labor has the authority to recommend whether the U.S. government should seek formal consultations with the FTA partner government, request a bilateral labor committee be convened to review the matter, or pursue other dispute resolution measures.

To date, ILAB officials have received only one public submission for any of the FTAs negotiated under TPA—a 2008 complaint about labor problems under CAFTA-DR.⁴⁵ A 2006 complaint about Jordan was filed with USTR because Labor is not the lead for that agreement. While it was not formally considered for investigation, USTR pledged to continue to engage

⁴⁵The revised public submission process faced its first test through this submission—a complaint filed by the AFL-CIO and six Guatemalan labor unions in April 2008 concerning alleged FTA labor violations in Guatemala, including the murders of two union leaders. ILAB reviewed the submission and issued its findings and recommendations in January 2009, in which it confirmed a number of violations but declined to recommend consultations, stating that the Guatemalan government had cooperated with ILAB's review and made efforts to address some of the issues raised. ILAB recommended a series of corrective actions by Guatemala and committed to reassess the situation within 6 months.

senior Jordanian officials, the private sector, the ILO, labor unions, and other interested groups in order to help improve working conditions in Jordan and stated, "We will keep open all options available under the FTA should the issues not be adequately addressed." According to USTR, the United States has not pursued formal consultations or dispute resolution on a labor matter—or any other matter—under the FTAs we reviewed.

Assessing partner progress enables agencies to take key steps in monitoring, such as identifying problems, setting priorities, and gathering and analyzing information. Regarding the FTAs we examined, the provisions of TPA and/or the FTAs do not require that U.S. agencies actively use existing reports on labor issues to assess partners' compliance with FTA labor commitments or update the content or approach of the reports to enable them to be used to assess progress over time, and U.S. agencies have not done so. Although proactive monitoring of FTA labor commitments does not routinely occur, State and Labor do regularly monitor and report on certain labor issues overseas, as part of other duties. However, agency officials told us no effort has been made to modify the pertinent reports to include information or assessments concerning FTA compliance or progress on FTA commitments. State and Labor compile country-specific information that is published in three annual reports—State's country reports on human rights, State's report on trafficking in persons, and Labor's Findings on the Worst Forms of Child Labor. State's human rights reports contain a section on workers' rights, organized with reference to the list of internationally recognized workers' rights contained in U.S. trade legislation. State's trafficking in persons report sometimes reports on FTA-related labor issues, such as concerns that QIZ violations in Jordan involved human trafficking. Labor's report provides information on the child labor aspect of workers' rights for all countries that are beneficiaries of U.S. trade preference programs, including FTA partners that were formerly preference program beneficiaries. These annual reports—particularly the human rights reports—include some detailed information related to the internationally recognized labor rights referred to in U.S. trade legislation and FTAs, but none of them contains information or analysis focused on whether a country is meeting its FTA commitments. For example, they do not indicate whether a country has weakened or reduced the protections in its labor laws in order to encourage trade or investment, or whether a country promotes public awareness of its labor laws—commitments made in the FTA labor chapters. Moreover, we were told the reports are not necessarily comparable from year-to-year, making them unreliable for use in gauging whether partners are making forward progress. Finally, while Labor periodically updates its comprehensive Foreign Labor Trends report

series, no reports on these FTA partners have been issued since the FTAs went into effect.

State and, to a lesser extent, Labor have staff assigned to monitor labor issues overseas. (This staffing is not addressed by TPA or FTA provisions.) State and Labor officials and advocacy group representatives told us that the number and expertise of State labor officers charged with such monitoring has declined since the mid-1990s. Some officials pointed out that this decline in personnel responsible for labor reporting occurred despite the fact that the United States has now entered into FTAs containing labor obligations with more than a dozen nations. Although State told us that efforts are made to ensure labor issues are adequately covered when a country has an FTA, most embassy labor officers are economic or political officers who take on the added duty of reporting on labor issues. Only 45 are currently “designated” labor officers who were selected for the post and received specialized training, according to State officials. They said that in the mid-1990s the number of designated labor officers was higher—reaching a peak of 60—when there was an exchange program that allowed Labor employees to serve in these positions. Labor advocacy group representatives also told us that the quality of training for labor officers has generally declined in recent years, and only basic information about labor rights is presented. Among the four FTA countries we reviewed, only Morocco has a designated labor officer.

Following are our observations on how U.S. officials have engaged with these four countries concerning FTA labor issues.

Jordan

U.S. engagement with Jordan on labor has episodically intensified and waned. According to a former State official involved in the FTA negotiations, the labor rights abuses faced by migrant workers in Jordan’s QIZs were not anticipated by U.S. officials during the negotiations, although the deficiencies in Jordan’s labor laws with respect to foreign workers’ rights were known. In our review of USTR and State files concerning labor issues in Jordan, certain U.S. officials were aware of potential labor problems in the QIZs as early as 2001 and, in 2004, interagency discussions reflected serious concerns. However, these records indicated there were no further discussions of the problems for almost 2 years, until shortly before the National Labor Committee’s report was issued in mid-2006.

Throughout the rest of 2006, intensive interagency and bilateral activity occurred as U.S. and Jordanian officials sought to document and address the problems. According to an ILAB official, an ad hoc interagency team

met regularly during this period to focus on Jordan's labor issues. USTR and State officials told us high-level exchanges occurred, and USTR eventually recommended that USAID provide funding to support the ILO's Better Work project in Jordan. After public reports about QIZ abuses again surfaced in September 2008, USTR told us more focused interagency and bilateral discussions about Jordan's labor progress would be resumed in 2009.

U.S. agency responsibilities under the Jordan FTA are less clear than under the later FTAs. No agency is designated responsible, leaving USTR as lead. In subsequent FTAs, Labor is designated as having lead responsibility for labor matters. ILAB's procedures for public submissions on labor issues concerning the FTAs negotiated under TPA, which are public (described above), also do not pertain to the Jordan FTA.

Chile

While the labor chapter of the FTA only requires that members of the Labor Affairs Council⁴⁶ (representatives of the parties) meet within the first year after the date of entry into force of the FTA, Chilean government officials were disappointed at the minimal level of cooperation and dialogue with the United States on labor issues after the FTA took effect. The officials said they had expected more cooperation and dialogue. Labor Ministry officials told us their government had taken the FTA labor provisions seriously and had funded a study of labor compliance issues under the FTA in two key export industries—forestry and salmon fisheries. The ministry had hoped to use the FTA as leverage to promote better labor standards and practices in those industries.⁴⁷ The study found that the growing use of subcontractors in these multinational industries created labor rights problems, including high accident rates and antiunion practices. They said that, when the study was initiated in 2005, firms were concerned about complying with commitments in the FTA labor chapter; however, by the time the study ended, their interest had dissipated because they discerned U.S. agencies were not monitoring or enforcing

⁴⁶The labor chapter of the U.S.-Chile FTA details the establishment of a Labor Affairs Council to oversee implementation of and review progress under the labor chapter. The council is required to meet within the first year after the date of entry into force of the FTA and thereafter as the Council considers necessary. Chile FTA, Art. 18.4.

⁴⁷Government of Chile, Direccion del Trabajo, Division de Estudios, "Los Derechos Laborales del Tratado de Libre Comercio Chile-Estados Unidos en la Industria Forestal y en la Industria del Salmón," Cuadernos de Investigacion 32, December 2007. <http://www.dt.gob.cl/documentacion/1612/article-95495.html>, accessed on Jan. 27, 2009. GAO had informal translations of key sections of the report done for this engagement.

the FTA labor provisions. U.S. agencies told GAO that Chile did not approach embassy or other U.S. officials with the results of the study, nor did they ask for assistance in these areas. Labor and USTR officials we spoke with were not aware of this study and had not discussed these issues with Chilean officials.

Chilean officials also told us they were frustrated at not being able to schedule high-level meetings with U.S. labor officials. Under the labor chapter of the FTA, after the first meeting, it is up to the Labor Affairs Council to determine, by mutual consent, if and when it will meet. Relatively few high-level meetings have taken place between U.S. and Chilean labor officials, and ILAB officials acknowledged problems on both sides in scheduling meetings between Chilean officials and the U.S. Secretary of Labor. ILAB and USTR officials acknowledged the low level of cooperation and dialogue relative to the original expectations.

Singapore

In Singapore, government officials said they had had no discussions with U.S. officials about labor issues since the FTA negotiations took place. Joint Committee⁴⁸ meeting agendas that we reviewed did not cover labor topics, and U.S. and Singaporean officials told us the subcommittee on labor affairs had never been convened, as meetings are not required.

Morocco

Although the Moroccan government has had fairly extensive cooperation and interaction with Labor through several technical assistance projects, U.S. and Moroccan officials told us the subcommittee on labor affairs had never been convened. Meetings are not required, and Labor has not sought to convene one. Moroccan Ministry of Labor officials with whom we met were not aware that such a body could be formed.

U.S. Efforts to Monitor FTA Labor Compliance Have Been Limited

How a country implements and enforces its labor laws is as critical to improving labor conditions as having labor laws that incorporate international labor standards, according to U.S. officials, labor experts, advocates with whom we spoke. They said many countries have passed good labor laws and ratified numerous ILO conventions, but fewer countries are willing or able to enforce their laws adequately. Nevertheless, most of these experts believed that including labor provisions in the FTAs is valuable because it can result in improvements in

⁴⁸Under the U.S.-Singapore FTA, the Joint Committee is required to meet annually unless the parties agree otherwise.

a partner country's labor laws. During the period of FTA negotiations, several of the experts and U.S. officials said, is when the United States has the greatest leverage to influence reforms in the partner country—as we observed in Morocco.

As mentioned earlier, key steps in monitoring and enforcing trade agreements include identifying problems, setting priorities, developing responses, and taking enforcement action. With respect to the labor obligations in these FTAs, the responsible U.S. agencies have made little or no effort, or a belated effort, to identify labor compliance concerns after FTA enactment, and engagement with these partners on labor issues has been a low priority most of the time. In Jordan, the U.S. agencies responded quickly to problems, once they were revealed publicly, but the overall U.S. response has been reactive rather than proactive. Agencies have had some success, through diplomatic efforts and assistance, in encouraging Jordan to improve its labor conditions and standards, but at a cost of diminished public confidence in agencies' decisions, to date, not to take formal enforcement action with any FTA partners. While admittedly lacking in funding to assist partners, agencies also have not taken full advantage of the information and expertise available to set priorities and pursue partner improvements.

FTA Partners Have Improved Environmental Laws, but the Lack of Systematic U.S. Monitoring and Other Factors Impede Assessment of Their Impact

FTA Partners Have Made Several Changes to Environmental Laws, but Despite Some Progress, Enforcement Remains a Challenge for Most

As described in the boxed text, the FTAs include provisions in which partner countries commit to strive to improve the level of environmental protection under their laws, and our work revealed that Jordan, Chile, Singapore, and Morocco have taken steps consistent with their commitments in the respective FTAs to strive to improve the level of environmental protection under their laws. While we did not conduct a comprehensive review of all the changes made in environmental laws in the four countries, we were told that, in all of them, laws to provide additional protections to the environment have been passed since the FTAs were negotiated. While government officials in all four countries said the changes made to their laws were not in direct response to the commitments made under the FTAs, but rather in response to internally recognized environmental issues, they said the fact that international commitments were made to provide improved environmental protection was taken into consideration in passing the laws.

TPA and FTA Provisions Related to the Environment

TPA Goals

TPA's overall negotiating objectives on environment include: to assure that trade and environmental policies are mutually supportive and to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources. Principal trade objectives include strengthening the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development. The President is directed to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science.

FTA Commitments

- In each of these agreements, the parties commit to
- not fail to effectively enforce their environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties;
- ensure (or strive to ensure, in the case of Jordan) that their laws provide for high levels of environmental protection, and strive to continue to improve these laws while recognizing the right of each party to establish its own levels of domestic environmental protection and to adopt or modify accordingly its environmental laws;
- strive to ensure that they do not waive or otherwise derogate from, or offer to waive or otherwise derogate from, domestic environmental laws in a manner that weakens or reduces the protections afforded in those laws as an encouragement for trade or investment with the other party (except for the Jordan FTA, in which parties strive to ensure that they will not waive or otherwise derogate from, or offer to waive or derogate from environmental laws to encourage trade with the other party).

The post-TPA Chile, Singapore, and Morocco FTAs contain provisions on environmental

cooperation, opportunities for public participation, and environmental consultations, among others, that are absent from the Jordan FTA.

FTA-Related Environmental Cooperation Commitments

After all four of these FTAs were concluded, the partners reached separate agreements on environmental cooperation.

Some of the partners have demonstrated significant progress in improving the environment since the FTAs were signed. For example, Singapore reports that, since 2002, air quality has surpassed the “good” range under the pollutant standards indexed, recycling rates improved from 45 percent in 2002 to 49 percent in 2005, and penalties for illegal trafficking of endangered species increased from \$5,000 and/or a 1-year jail term to \$50,000 and/or a 2-year term.

Nevertheless, three of the four FTA partners reported ongoing challenges to enforcing environmental laws. In each of these four agreements, each party commits to not “fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties.” As will be discussed later in this section, it is difficult to assess the level of partner’s compliance with this commitment because of lack of U.S. monitoring and the absence of a reliable baseline. However, officials at the Ministry of the Environment in Jordan, Chile’s National Commission for Environmental Cooperation (CONAMA), and the Ministry of Energy, Mines, Water, and Environment in Morocco said the implementation of environmental laws in their respective countries continues to be a challenge. Some of the challenges described were common across these partners, such as weaknesses in their government institutions in implementing environmental laws and regulations. Singaporean officials at the Ministry of the Environment, on the other hand, said Singapore has historically had a strong environmental legal system and enforcement of these laws has been strict, even before the FTA was signed; environmental nongovernmental organizations that we spoke with agreed that this was the case.

Examples of laws passed and enforcement challenges are discussed in the following sections:

Jordan

According to an EPA report, in Jordan, the Environmental Protection Law of 2003 created the Ministry of the Environment, which is responsible for environmental protection and is the central body for all environmental protection matters in Jordan. In addition, Jordan established the Royal Rangers (formerly known as the Environmental Rangers) to enforce

environmental laws and regulations in the areas of pollution and natural resources.

However, Jordan still faces enforcement challenges, according to the partner officials we interviewed. Officials at the Ministry of Environment said the ministry has only been established for about 5 years and is still working to build its capacity to enforce environmental laws. Among the challenges Jordan faces in implementing environmental laws is that it has only 25 inspectors in the country, who are responsible for agricultural, construction, and industrial sectors throughout the 34,400 square miles of national territory. Another challenge that the ministry is working to correct is the limited experience and training of judges in adjudicating environmental cases. Ministry officials said that judges often adjudicate environmental cases under laws that are less strict in guarding the environment, such as agricultural laws. In response, the government of Jordan has trained some judges in cooperation with U.S. agencies.

Chile

U.S. and Chilean officials told us that Chile also made some improvements in its environmental laws. According to CONAMA officials, in March 2007, a law was passed to create the position of the Minister of the Environment, which initiates the process of elevating CONAMA to a ministry status with new enforcement authorities. Additionally, it has made progress encouraging public participation in environmental decision-making.

The pre-FTA USTR environmental review reported that environmental concerns in Chile relate to major natural resource and extractive industries that are central to Chile's economy, including mining, fishing, forestry, and agriculture and environmental law enforcement. The environment chapter of the FTA does not prescribe the work plan for the Joint Commission on Cooperation⁴⁹ and the Commission's biannual work plans do not include any of these natural resource sectors as areas of priority for cooperation. The areas of cooperation do include, however, strengthening effective implementation and enforcement of environmental practices and technologies, promoting sustainable development and

⁴⁹Under the U.S.-Chile FTA, the parties established an Environmental Affairs Council to discuss the implementation of, and progress under, the environment chapter. The parties also agreed to undertake cooperative environmental activities including by negotiating a United States-Chile Environmental Cooperation Agreement (ECA). Under the ECA, the parties established a Joint Commission for Environmental Cooperation to establish and develop programs of work resulting from the ECA which takes into account the views and recommendations of the Environment Affairs Council established by the FTA.

management of environmental resources, including wild fauna and flora and protected wild areas, and facilitating civil society participation in the environmental decision-making process. Of the eight projects outlined in the Environmental Cooperation Annex of the environment chapter of the FTA, two relate to issues in Chile's major export industries, reducing mining pollution and improving agricultural practices. On mining, the United States committed to assist Chile in reducing contamination and pollution resulting from past mining practices by working together to identify sources of pollution and explore cost-effective remediation methods. In agriculture, the parties agreed to adapt and implement a training program for Chilean farmers and other workers to promote appropriate handling of chemical pesticides and fertilizers, and promote sustainable agricultural practices to help reduce pollution from agricultural practices. Under the Environmental Cooperation Annex, the parties recognized that the funding, scope, and duration of the eight projects would be undertaken in accordance with the parties' personnel and financial resources. However, after initial implementation workshops and information sessions, little has been done in these areas.

One of the major problems in implementing environmental laws reported to us in Chile is that CONAMA does not have enforcement authority. According to a CONAMA official, the committee must coordinate with 13 ministries to address environmental issues. CONAMA officials expected that the creation of a Ministry of Environment will resolve many of these challenges.

Singapore

Singapore continues to strengthen its environmental laws. According to officials at the Ministry of Environment and a nongovernmental organization (NGO) following changes to environmental law, in January 2006, the Singapore Endangered Species (Import and Export) Act was amended. This is Singapore's national legislation that gives effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to control import and export of endangered species in Singapore. The reform implemented more severe penalties for violations and was deemed a positive step by environmental spokespersons of two environmental NGOs we met with there. Moreover, the NGO spokespersons said U.S. encouragement appears to have played some role in its passage.

The USTR review reported that most environmental issues of concern relate to Singapore's role as a significant transit center for environmentally sensitive trade: wildlife and wildlife products, including endangered species; ozone depleting substances; timber and wood products; and live

fish for consumption and aquarium. Based on the areas of possible cooperation listed in the U.S.-Singapore memorandum of intent on environmental cooperation, the biannual plan of action set three main goals: (1) further improving capacity to implement and enforce environmental law, including further enhancing efforts of countries in the region to combat illegal trade in environmentally sensitive goods (e.g., wildlife, ozone-depleting substances, and forest products) through bilateral and regional cooperative activities; (2) encouraging the bilateral and regional use of innovative and climate friendly environmental technology and pollution management techniques; (3) participating in regional initiatives on environmentally sustainable cities and sustainable management and trade in sustainable managed resources, such as fisheries and forests. The plan of action also states that implementation of project ideas described therein is subject to the availability of funds. According to U.S. embassy staff in Singapore, with the exception of two workshops and other informative activities, most of the projects on the work plan have not materialized. Efforts and communication on these and other issues continue.

Morocco

Morocco passed environmental laws in anticipation of the FTA, and additional reforms were passed after the agreement was enacted. According to documentation provided by the U.S. embassy in Morocco, in January 2003, the Moroccan parliament approved three important environmental laws: a general framework law on environmental protection, a law requiring environmental impact assessments, and an air pollution law. Also, a bill concerning waste management and disposal practices was published and implemented in December 2006. According to an embassy report, there are also a number of additional laws just passed or under development within the Ministry of Environment, including laws concerning management of coastal zones. Even though some of these changes in Morocco were initiated before the FTA was enacted, they are largely perceived by the United States as a reflection of the commitment made to improve environmental protection in the FTA.

Officials from the Ministry of Environment said inconsistency on how environmental laws are enforced creates several challenges. They explained that enforcement of laws is left to the local and regional governments and that, at the national level, jurisdiction for environmental laws lies across several agencies or law enforcement entities. The officials said that there is no consistency on how local governments or law enforcement agencies implement the laws.

FTA Environmental Provisions and Associated U.S. Processes Lack Some Elements that Would Facilitate U.S. Agency Monitoring, Oversight, and Measurement of Progress

Monitoring and oversight of the environmental provisions and cooperation mechanisms by U.S. agencies is complicated by the lack of certain elements in these four FTAs. U.S. government officials, FTA partner government officials, and other experts we interviewed agreed that the environmental provisions in the four FTAs are general and broad in nature. The general principles of these agreements include the commitment that partners must ensure, or strive to ensure, that their laws provide high levels of environmental protection and strive to improve those levels. The Chile, Singapore, and Morocco agreements contain cooperation provisions that reflect the TPA goals of strengthening partner's capacity to protect the environment and partners agree to cooperate to do so. NGO representatives and an academic we interviewed said the inclusion of the environmental provisions and cooperation mechanisms has had little direct impact in providing higher levels of environmental protection, strengthening the capacity of trading partners to protect the environment, or addressing environmental problems targeted in cooperation mechanisms. Some foreign government officials agreed, but most FTA partner government officials told us they understood the nature and principles of the environmental provisions and cooperation agreements and did not expect that the United States would resolve their environmental problems.

U.S. government officials responsible for the implementation of the agreements and cooperation mechanisms indicated that the absence of several elements in the four selected FTAs or associated U.S. processes (some of which are included in more recent trade agreements, such as CAFTA-DR or the Peru Trade Promotion Agreement) affects their approach to monitoring and overseeing partners' progress under FTA environmental provisions and cooperation agreements. Moreover, in GAO's experience, the lack of these elements in these FTAs impedes assessing what impact environmental steps (whether taken by partners alone or through cooperation projects) have had in assuring FTA and FTA commitments and goals are met and identifying areas for improvement.

Some of the elements mentioned include the following:

- An internationally recognized baseline for assessment does not exist. In each of these agreements, partners commit to ensure, or strive to ensure, that their laws provide for high levels of environmental protection and

strive to improve those levels.⁵⁰ However, unlike with labor provisions in which commitments are made to “strive to ensure” that the labor principles and internationally recognized labor rights as enumerated in the respective FTAs are recognized in domestic legislation, no similar agreed international benchmarks were set or identified for FTA partners’ environmental laws in these four FTAs.⁵¹

- An environmental assessment that serves as a base and road map to evaluate the impact of cooperation in trade partner countries does not exist. TPA requires an environmental review of future trade and investment agreements consistent with Executive Order 13141. Under Executive Order 13141, “the focus of environmental reviews will be impacts in the United States.” However, Executive Order 13141 also states that “as appropriate and prudent, reviews may also examine global and transboundary impacts.” USTR environmental reviews provide limited information on trade partner environmental conditions and, as a result, cannot serve as a base from which to measure or monitor partners’ environmental progress. Even though USTR conducted an environmental review of these four agreements, as required,⁵² the reviews focused on the environmental impacts that the FTAs would have on the United States and, as appropriate, focused on global and transboundary impacts.⁵³ As a result, U.S. agencies did not conduct an assessment of the adequacy and effectiveness of partners’ environmental laws and enforcement and are not required to do so under the TPA. Although not required, some relevant information is gathered by USTR and experts within environmental agencies. USTR and State officials told us the environmental reviews do include information on trade-related environmental concerns that is directly relevant to and has helped guide U.S. cooperation with our FTA partners. However, the environmental reviews we examined for these FTAs do not provide in-depth or comprehensive descriptions of the myriad environmental challenges faced by FTA partners. For example, whereas

⁵⁰Jordan FTA, Article 5.2; Singapore FTA, Article 18.1; Chile FTA, Article 19.1; Morocco FTA, Article 17.1.

⁵¹Jordan FTA, Article 5.2; Singapore FTA, Article 18.1; Chile FTA, Article 19.1; Morocco FTA, Article 17.1.

⁵²The environmental review of the Jordan FTA was required under Executive Order 13141, and the environmental reviews of the Singapore, Chile, and Morocco FTAs were required by TPA section 2102(c)(4).

⁵³TPA section 2102(c)(4), codified at 19 U.S.C. § 3802(c)(4), specifies that the required environmental reviews are to be consistent with Executive Order 13141 and its relevant guidelines.

the final environmental review for the Chile FTA acknowledges receiving public comments of concern related to mining, fishing, forestry, and agriculture, there is little discussion of what these were specifically and the conditions and extent of environmental issues in these industries.

- Funding for project implementation and oversight was not allocated by Congress for these agreements, as in the case of CAFTA-DR. State's OES officials explained that part of the funding allocated for environmental projects in CAFTA-DR has been used to contract with the Organization of American States to monitor and evaluate environmental projects. State indicated that since a similar source of funding is absent from these four agreements, such oversight has not occurred.

Officials of USTR and State's OES explained that the FTA provisions and cooperation mechanisms are directional and "aspirational" commitments. As a result, several of these U.S. officials told us that they seek to do no harm and possibly do some good. They explained that the environmental challenges facing FTA partners are enormous and that they are often systemic, long-term, and evolving in nature. In all four countries, a number of the environmental problems identified during the FTA negotiations remain a concern and, according to NGOs, in some cases, have intensified since the agreement was enacted. For example, in Chile, aquaculture was identified as an environmental area of concern during the negotiations, and in the summer of 2008, NGOs and the media brought attention to increased contamination from increased salmon farming for export. In Jordan, one of the main environmental concerns during the negotiations was shortage of water, as the country is considered the fourth most dry in the world. NGOs expressed concern that an industry that has grown the most since the FTA was enacted is the manufacturing of certain garments, such as blue jeans, which is very water-intensive and further depletes the much-needed resource. Nevertheless, U.S. officials pointed to visible signs of improvement in certain FTA partners and said that they perceive FTA related environmental cooperation as having a positive impact. They stressed it is important to consider that some of the partners are coming from situation with nascent environmental regimes and limited experience in seeking public input to having more laws, institutions, and outreach efforts. While there have been limited resources in most cases, cooperation activities have forged relationships, provided expertise and underwritten projects that have been helpful. For example, in Chile, the U.S. EPA provided technical and financial support to design a proposal to create a Pollutant Release and Transfer Register for potentially hazardous chemicals.

Agencies Did Not Create Systematic Mechanisms for Monitoring and Management

A reliable, well-functioning monitoring and enforcement effort helps sustain congressional and public confidence in the President's trade strategy and fosters support for continued trade liberalization. In addition to the absence of certain elements in the FTAs, we found that U.S. agencies responsible for the implementation of the environmental provisions and cooperation mechanisms lacked key steps in monitoring and enforcing trade agreements (1) identifying problems, (2) setting priorities, (3) gathering and analyzing information, (4) developing responses, and (5) taking enforcement action. USTR is the agency responsible for overseeing the overall implementation of FTAs, and State's OES is responsible for negotiating the environmental side agreements under the FTAs and implementing cooperative environmental projects. We found that USTR does not proactively monitor the implementation of environmental provisions and that OES lacks a structure to manage and monitor implementation of environmental projects. As summarized in the boxed text on FTA commitments above, all four FTAs contain commitments by parties to strive to ensure or to ensure that their domestic environmental laws provide for high levels of environmental protection. Furthermore, the parties committed to not fail to effectively enforce its laws through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties. Moreover, reports by the Trade and Environment Policy Advisory Committee (TEPAC, the official advisory committee to USTR on trade and environmental policy) for the Chile, Singapore, and Morocco FTAs suggest a need for ongoing monitoring. The reports indicate the majority of TEPAC members believe that, while trade agreements can create opportunities to enhance environmental protection by increasing wealth and creating political will in favor of such protection, trade can create and amplify adverse environmental externalities that require enhanced regulatory oversight. This was one reason the TEPAC Chairman emphasized to us the importance of a commitment by U.S. agencies to monitor partner's implementation of the FTA core commitments.

USTR indicated that they have yearly meetings with FTA partners and that, unlike labor, implementation of the FTA's environment chapter is regularly on the agenda of those meetings. In addition, where an FTA establishes an Environmental Cooperation Committee or Environmental Affairs Council, the council meets annually to review implementation of the chapter. These meetings are led by State, but USTR is part of the meetings and often reports on implementation matters, as do officials from trade partner governments. Finally, USTR told us that they sometimes obtain input about environmental concerns in FTA partners through official environmental advisors or environmental NGOs. However,

we did not see further evidence that proactive monitoring of the environmental commitments occurs through this process. For example, only a handful of reporting cables on environment were produced in response to our document requests. Moreover, in the context of providing their perspective on progress, USTR officials told us absent baselines and better information and analytic tools, it does not know how it realistically could assess if FTA partner countries are complying with general commitments to maintain strong protections or are implementing their own laws, as agreed upon in the FTAs.⁵⁴

U.S. Agency Responsibilities on FTA Environmental Commitments

USTR has responsibility for the implementation of the FTAs and is the designated contact point for FTA environmental provisions. State leads the negotiation and implementation of FTA environmental cooperation mechanisms, which usually take the form of environmental cooperation agreements or memoranda of understanding or joint statements on the environment. State is also responsible for overseeing ongoing cooperation with FTA partners, notably developing work plans and conducting periodic meetings to discuss progress. Under TPA, the Secretary of State, in consultation with USTR and other relevant agencies, is responsible for seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. More generally, by statute, State has primary responsibility for coordination and oversight of all major U.S. science and technology agreements with foreign nations, including those on the environment. Other agencies are encouraged to support State in this function, "where consistent with the foreign policy of the United States, [to] lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

^aThese agreements are: United States-Jordan Joint Statement on Environmental Technical Cooperation, The Agreement Between the Government of the United States of America and the Government of the Republic of Chile on Environmental Cooperation, Memorandum of Intent between the Republic of Singapore and the United States of America on Cooperation in Environmental Matters, and United States-Morocco Joint Statement on Environmental Cooperation.

TPA requires that, when the President submits a trade agreement to Congress, the President must concurrently submit a plan for implementing

⁵⁴GAO's understanding is that in practice, the TPA required environmental review is based, in part, on economic models that predict trade-agreement impacts, versus oriented towards how non-FTA induced trade growth generally might influence production and potentially affect the environment. Yet, in Jordan's case, it had a very small apparel sector at the time the FTA was modeled by the ITC. Situations such as salmon with Chile show that post-FTA trade growth has occurred in sectors with relatively low pre-FTA barriers. Ongoing monitoring of such trade is not routine.

and enforcing the agreement.⁵⁵ The plan must include agency staffing requirements that contain a description of additional personnel required by federal agencies responsible for monitoring and implementing the trade agreement, including USTR and other agencies as may be necessary.⁵⁶ Under the plans submitted by the Office of Management and Budget (OMB) to implement and enforce the FTAs with Chile, Singapore, and Morocco, additional personnel to monitor and implement these trade agreements was not requested.

While State has worked with partners to identify priorities, develop detailed work plans, and pursue project funding and implementation by U.S. agencies, OES does not have mechanisms in place that allow it to assess the effectiveness or efficiency of these projects, provide reliable and complete financial reporting, or assure compliance with applicable commitments, laws, and regulations. OES staff said that Environmental Cooperation Commission meetings and other activities are organized on an ad hoc basis, with no formal mechanism. Furthermore, there is no formal mechanism to monitor or evaluate the projects or to track funding. For example, while OES was able to provide information on several environmental projects implemented in Jordan, Chile, Singapore, and Morocco, the information was compiled at our request, and a comprehensive list was not provided. OES did not have information on funding for the projects or a clear understanding of the activities implemented by partner agencies. For instance, in many cases, OES was not able to provide documentation on description of activities, the agency implementing and funding the projects, number of participants in projects, outcomes, or other steps taken. Often this information lay with the implementing agency or was not collected at all. Evaluations or impact assessments are not conducted for many of these projects; therefore, it is not possible to know with assurance whether they have improved the capacity of FTA partners to protect the environment. Nevertheless, in some cooperation mechanisms and subsequent work plans, such as the recently concluded one with Jordan, parties agreed to strive to identify performance indicators and benchmarks to measure appropriately the progress made in accomplishing or otherwise furthering the goals and objectives of such programs, projects, and activities and to facilitate public reporting of that progress.

⁵⁵19 U.S.C. § 3808. USTR re delegated this function to OMB. *67 Fed. Reg.* 71,606 (Dec. 2, 2002).

⁵⁶19 U.S.C. § 3808.

U.S. Agencies Did Not Effectively Translate Environmental Commitments into Priorities for U.S. Funding

The FTAs that we reviewed do not require and agencies did not seek new funding to implement FTA environmental cooperation commitments. Moreover, little funding has been made available through existing sources.⁵⁷ OES negotiated environmental cooperation agreements in all four of these agreements, which included the implementation of cooperation projects and, with the exception of Jordan, contained the parties' agreement that the cooperative activities would be subject to the availability of funds; however, OES was not required to and did not make systematic requests for funding through the appropriations process for their implementation. Furthermore, as the agency responsible for preparing the President's plan for implementation and enforcement of the agreements negotiated under TPA, OMB was not required⁵⁸ and did not identify resources needed to implement environmental cooperation projects made in the Chile, Singapore, and Morocco environmental cooperation agreements. OMB did not take advantage of the opportunity to inform Congress of the funding needed to adequately implement environmental cooperation agreements associated with these FTAs. The U.S.-Chile environmental cooperation agreement, the U.S.-Singapore Memorandum of Intent on Environment Cooperation, and the U.S.-Morocco Statement of Environmental Cooperation state that all cooperative activities agreed upon in the respective documents are subject to the availability of funds and to the applicable laws and regulations in their respective country.

USTR officials said that, while there is no commitment under the agreements that the United States should provide funding for environmental projects, that is the underlying expectation of several FTA partners and of some in the United States. USTR officials said that this can create complications, since funding is not always available. For example,

⁵⁷OES made a request for the first time to obtain funds to implement cooperation activities in fiscal year 2009.

⁵⁸Under 19 U.S.C. § 3808, an implementation and enforcement plan is required to be submitted for each FTA when it is submitted to Congress for approval. The plan shall include: (1) border personnel requirements – a description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors, (2) agency staffing requirements – a description of additional personnel required by federal agencies responsible for monitoring and implementing the trade agreement, (3) customs infrastructure requirements – a description of additional equipment and facilities needed by the United States Customs Service, (4) impact on state and local governments – a description of the impact the trade agreement will have on state and local governments as a result of increases in trade, and (5) cost analysis – an analysis of the costs associated with each of the items listed in (1)-(4).

in Morocco, government officials said it was their understanding that funding would be provided by U.S. agencies to implement activities. In Chile and Jordan, even though specific funding was not allocated to implement any of the projects or activities under the environmental cooperation mechanisms, almost all of the funding for these projects has been provided by U.S. agencies, out of their regular budgets.

Instead of asking Congress to appropriate funds for the implementation of environmental cooperation projects, State's OES has attempted to obtain funding through an interagency coordination process. OES works with other U.S. government agencies such as the EPA, the USAID, and the Departments of Interior, Agriculture, Commerce, Justice, and Health and Human Services, among others. The agencies discuss cooperation projects and attempt to cover some of the projects with funds under their regular budgets. In 2004, USTR, in coordination with State undertook a review of FTA negotiating experience. During this review the agencies agreed that these cooperation mechanisms should serve two primary purposes: strengthen existing capacity building efforts on environmental matters and identify new priorities while marshalling new resources for these expanded efforts. A high priority was to improve interagency coordination on funding for these mechanisms, particularly given high expectations that their implementation would lead to increased funding for environmental capacity building. USTR requested that all other relevant agencies, particularly USAID, coordinate closely with State in the implementation of these cooperation mechanisms. Despite this joint USTR-State effort to encourage agencies to coordinate, in the fall of 2008, OES officials described its process for coordinating with agencies on funding as a labor-intensive, frustrating one of "shaking the trees." In practice, they said it has been very difficult to obtain adequate resources to implement all of the projects outlined under the commitments made under the environmental cooperation agreements and associated work plans. Meanwhile, officials at key environmental agencies suggested that State could do more to involve them in FTA work.

Environmental Projects
Essential to Meet FTA
Environmental Objectives

Lack of funding is seen by many experts as the greatest challenge to implementing cooperation projects and in turn to achieving the general principles on environment under the FTAs.

In the environmental cooperation agreements, the parties agreed that the activities outlined therein are subject to the availability of funds. Overall, in Jordan and Chile, activities for most projects outlined in the work plans have been implemented, while in Singapore and Morocco only a few activities have been completed from those agreed upon. Jordan has

received some funding for environmental projects from USAID, but Chile, Singapore, and Morocco have received very little assistance. The largest aid recipient, Jordan, was both satisfied with the assistance U.S. agencies provided and able to point to concrete results. U.S. and Chilean officials agreed cooperative activities had been of some benefit, but some believe that the limited amount of funding narrowed the impact of environmental projects. In part, the extent of assistance provided by U.S. agencies is influenced by the level of development in the country. For example, Singapore is a developed country with little need for assistance. On the other hand, Morocco is a developing country and has identified the need for assistance. A brief overview follows:

Jordan

In Jordan, USAID assistance has contributed to the implementation of multiple environmental areas listed under the United States-Jordan Joint Statement on Environmental Cooperation. USAID officials in Jordan explained that USAID has had a presence in the country for over 50 years and that environmental issues have been a part of its portfolio since before the FTA was passed. Jordan is one of the largest recipients of USAID assistance, receiving an annual average of \$250 million since 1996. They explained that the areas of cooperation under the U.S.-Jordan Joint Statement on Environmental Technical Cooperation are areas that USAID already covered; therefore, they have been able to work to address most of the issues in these cooperation mechanisms. Even though USAID does not plan its projects based on the commitments under the joint statement, they said the agreement provided a platform for additional cooperation on the environment in Jordan. Overall, USAID has earmarked or spent over \$30 million for environmental projects in Jordan since 2004. Among other things, USAID said they have helped Jordan establish a Ministry of Environment, create a 400-person strong Environmental Police Department, known as the Rangers, enact an environmental law and by-laws, improve biodiversity conservation, and take initial steps to improve wastewater treatment and disposal in light of the significant impact of export-related apparel production on Jordan's scarce water resources. In addition, EPA reported a \$600,000 allocation for 2008-2009 for environmental projects. State indicated that EPA has hosted a study tour of the United States for Jordanian environmental officials and is now training the Rangers to conduct investigations of environmental crimes.

Interior is also working with key partners to strengthen Jordan's ability to meet its CITES obligations.⁵⁹

Chile

In Chile, multiple environmental projects have been implemented, but lack of funding has limited their impact, and major environmental problems have not been addressed. The Chile FTA is the only one that includes environmental projects in the associated annex to the text of the environmental chapter and that established an Environmental Affairs Council (EAC). There are eight projects outlined in the environmental cooperation annex, and activities have been implemented in each of these areas. Several relate to issues in Chile's major export industries, namely those related to reducing mining pollution and improving agricultural practices. However, according to EPA officials, the projects' impact has been limited by the lack of funding to continue the cooperation. They explained that the eight projects were expected to work as a "launching pad" for additional projects and cooperation. These projects consisted mostly of high level information exchange and workshops and guidance for pilot projects, and little was done after these initial steps were taken. The EAC's Joint Commission for Environmental Cooperation has developed two biannual work plans for 2005-2006 and 2007-2008. These contain five areas of priorities, and OES provided summaries of activities implemented in each of these areas for the 2005-2006 work plan. OES estimates that \$1.165 million has been provided to fund these projects.

Singapore

In Singapore, environmental assistance under the FTA has been limited because Singapore has a strong environmental record according to government officials, and little need for assistance. However, the United States and Singapore signed a memorandum of intent to cooperate on environmental matters, under which two biannual work plans were developed for 2005-2007 and 2008-2010. U.S. officials did not assess the cost of these activities, as they were done as part of normal bilateral cooperation. According to State's officials, the two countries have conducted three workshops and a study tour since the FTA was signed. Included have been a binational workshop in Singapore to train regional port inspectors and customs authorities to identify ramin wood, a training workshop on wildlife trade regulation, a workshop on terrain decontamination sponsored by EPA, and consultations by the Singapore Agri-Food and Veterinary Authority, with the U.S. Fish and Wildlife Service

⁵⁹CITES stands for the Convention on International Trade in Endangered Species of Wild Flora and Fauna, a multilateral environmental agreement.

and various other U.S. agencies to exchange information on law enforcement methods and CITES implementation practices and systems.

Morocco

Environmental cooperation under the Morocco FTA did not meet the expectations of the government of Morocco because few projects have been funded. While there was no commitment to fund environmental projects by the United States, Moroccan government officials said that their expectation was that projects would be financed by U.S. government agencies. Moroccan government officials from the Ministry of Foreign Affairs said that the level of cooperation on environmental projects under the U.S.-Morocco Joint Statement of Environmental Cooperation has not been satisfactory. Moroccan government officials said that, out of the 24 projects in the work plan, only 8 have been implemented. They said that the projects consisted mostly of workshops and training sessions that were informative but have had limited impact in achieving the objectives in the work plan.

Officials at State, however, assessed collaboration with Morocco on environmental issues differently. They pointed out that in addition to EPA's involvement in the delivery of 8 trainings, various other U.S. agencies including USAID, The Department of the Interior, the U.S. Trade and Development Agency, and The National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service had all engaged with Morocco in efforts to help it preserve and protect the environment since the 2006 entry-into-force of the FTA.

Nevertheless, officials at State said that environmental assistance to Morocco amounted to only \$350,000 funded from the Middle East Partnership Initiative program, which is administered by EPA, and about \$50,000 from Interior. While USAID has a presence in Morocco, unlike Jordan, they have not chosen to fund environmental projects developed under the FTA. USAID officials explained that in Morocco there is a great need to help small- and medium-sized businesses become better prepared to export; therefore, much of agency funding related to the FTA has been used for that purpose.

Conclusions

Success in achieving U.S. goals among the four FTAs we examined has been mixed. For the most part, commercial results have been very positive, as expansion of trade in goods and services since the agreements took effect rose sharply since the period immediately prior to the agreements. Total two-way trade, U.S. exports, and partner country exports for the four selected FTAs all rose, ranging from 42 percent for the

FTA with Singapore to 259 percent for the FTA with Jordan. We also observed higher annual average rates of growth for top product categories in the period directly following each FTA for both U.S. exports and partner country imports than in a similar period prior to the agreements. In addition, and consistent with TPA objectives, a large percentage of goods became duty-free immediately after FTA implementation. This was a significant gain for the United States, as prior to FTA implementation, partner countries had enjoyed practically duty-free access to the United States, while U.S. exports faced high tariffs that in some cases were as high as 70 and 90 percent. Overall, increases in U.S. exports ranged from 72 percent (for Singapore) to 365 percent (for Chile) since implementation. In two partner countries, Singapore and Chile, trade in services increased as did the stocks of FDI and the sales of foreign affiliates of U.S.-based companies. Representatives of a broad range of U.S. industries generally expressed satisfaction with FTA results.

Some important progress on strengthening partners' laws and institutions on labor the environment has also been attained as a result of these FTAs. Our review showed that each of the four partners had taken steps consistent with their commitments in FTAs to "strive to improve their laws" and enforcement thereof. Moreover, some helpful progress appears to be been achieved as a result or with the assistance of FTA-related cooperative projects. Nevertheless, the President delegated to USTR and USTR redelegated to OMB the responsibility to submit a plan to implement and enforce the agreements. Given the broad nature of the labor and environmental obligations, significant and sometimes worsening systemic deficiencies in certain partner nations, and limited U.S. resources, a plan that clearly indicated the executive branch's analytic approach and likely priorities would have been especially useful. In practice, the oversight USTR and other agencies put in place—whether in response to statutory requirements or at agencies' discretion—has been ad hoc and lacks key elements critical to long-term success. For example, U.S. agencies have yet to update and bolster their original 2 page plans for implementing and monitoring these agreements, despite acknowledging that present approaches, baseline information, staff levels and expertise, and financial resources do not enable them to assure meaningful or lasting results. Agencies did not seek requisite funding until 2009, and in several cases funding was eliminated. Regarding the labor agreements, the United States and partner countries lost opportunities to pursue issues of interest as mechanisms created in the FTAs for cooperation were not utilized by Labor. Finally, the agreements established a number of environmental cooperation mechanisms and projects, yet key elements such as State's ability to marshal funding and leverage other agencies' expertise, gather

information on the actual activities by implementing agencies, or provide oversight of these projects' effectiveness, cost, and compliance were lacking. Little information was available to Congress and other stakeholders regarding these cooperative activities and the extent to which they improve partner capacity or otherwise advance FTA objectives. As a result, a more robust U.S. approach is needed to assure Congress that FTA partners' can provide and enforce strong protections.

Recommendations for Executive Action

To reflect the evolving U.S. experience with FTAs and better ensure progress in achieving stated U.S. objectives related to labor and the environment, we recommend that USTR, in cooperation with other agencies, as appropriate, prepare updated plans to implement, enforce, monitor, and report on compliance with and progress under the FTAs' labor and environmental provisions. To facilitate oversight and input, these plans should reflect ongoing trade developments, be provided to Congress, and summarized in USTR's annual trade agreements report.

We recommend that the Secretary of Labor direct ILAB, in consultation with other agencies as appropriate, take the following action:

- Reinvigorate its implementation and cooperation responsibilities under the FTAs by initiating regular contact with all FTA partners' ministries of labor to review implementation of FTA labor provisions and to develop ongoing priorities and plans for technical cooperation on labor matters, as guided by the labor cooperation annexes and the partners' common interests and needs. The Department of Labor should consider, identify, and if necessary request appropriate resources such as new funding to undertake such contact and cooperation, including by coordinating with other agencies that can facilitate or assist these efforts.

We recommend that the Secretary of State take the following two actions:

- Direct OES to work with other agencies to develop a more structured approach to manage and monitor the implementation of environmental cooperation mechanisms and projects. This should enable State to more readily track progress and include information such as number and nature of activities, source and amount of funding, and, to the extent practical, performance indicators and benchmarks to measure appropriately the progress made in accomplishing or otherwise furthering the goals and objectives of such programs, projects, and activities and public reporting of that progress.

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- Direct OES to use this information to publicly report to Congress on cooperative activities and projects with FTA partners and their outcomes, as well as their role in furthering U.S. trade policy goals and FTA and FTA-related cooperation objectives.

Agency Comments and Our Evaluation

The three agencies to which GAO directed recommendations said they planned to pursue them. Labor concurred with our report and its recommendation, indicating that the lack of priority given to assuring that workers share in the benefits of trade was a source of concern it intended to redress. State and USTR indicated that they would improve monitoring and enforcement of the labor and environmental aspects of FTAs, but sought greater precision in GAO's recommendation that agencies revisit and strengthen implementation plans for FTA-related labor and environmental cooperation. Nevertheless, State and USTR took issue with the basis and balance of some of our findings. GAO has made some adjustments in response, but continues to believe more robust plans are needed to assure progress in meeting the important challenges to labor and environmental protection that remain.

State said GAO had not given partner governments and U.S. agencies sufficient credit for the progress made through the FTAs in improving structural and institutional capacity to protect the environment and labor rights. State highlighted several examples of partner progress as particularly meaningful achievements. Nevertheless, State acknowledged that it has been severely hampered in undertaking FTA-related labor and environmental cooperation work with partner governments by a lack of human and financial resources. GAO recognizes that some important progress in strengthening partner capacity to protect workers and the environment has been achieved through FTAs. We recognize FTAs have resulted in or supported some important progress in these areas, notably in Jordan, the country whose FTA has been in effect longest and with the most sizeable U.S. foreign assistance. We reviewed and revised the report to ensure this progress is captured.

However, GAO believes more progress was likely possible and remains desirable, given rapid growth in two-way trade and partners' acknowledged difficulties in enforcement. As GAO already notes in this report, the few human and financial resources available for FTA cooperation limited progress toward meeting agreed cooperation plans. Yet GAO also shows U.S. agencies did not utilize the opportunity that existed in TPA or in ensuing budgets to make the case that more resources were necessary to assure progress. Our work also showed agencies may

not be taking full advantage of the resources already expended. Specifically, the report notes that U.S. agencies missed opportunities to use the general FTA or specific FTA mechanisms they created on labor to engage with FTA partners and encourage improvement. GAO also shows agencies did not optimize their current monitoring efforts, such as by updating ongoing reports on human rights to address partners' compliance with FTA commitments.

USTR said that in some instances GAO had portrayed an inaccurate and potentially misleading picture of U.S. agency responsibilities, partners' actions, and outstanding challenges. In response, GAO made several technical corrections and ensured the criteria we used were cited. In the revisions we made, we also sought to make clearer distinctions between requirements for U.S. agencies under TPA, FTA chapters, and associated cooperation mechanism agreements, versus more general expectations for U.S. agencies based on USTR's overall responsibilities for the operation of the U.S. trade agreements program, leading and guiding U.S. trade policy, and monitoring and enforcing trade agreements. We acknowledge that evaluation of the progress attained was based, in part, on interviews with responsible foreign and U.S. government officials and selected private sector interests and experts. USTR also indicated that GAO should have given more prominence to the FTA commitment that an FTA partner not fail to enforce its environmental and labor laws through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties (USTR's underlining for emphasis retained). GAO already distinguishes between this binding FTA obligation and other, more "aspirational" commitments, such as to strive to strengthen environmental laws. Weaknesses in laws and enforcement we report involve key and rapidly-growing sectors of trade, such as apparel from Jordan, and forestry and fishery products from Chile. GAO was struck by U.S. agencies' inattention or inaction on abuses in QIZs during a time when Jordan's apparel exports to the U.S. rose from \$43 million to \$1.253 billion.

However, we believe that by definition all of the FTA commitments on labor and the environment are trade-related, because they are contained in a trade agreement, and thus appropriate for inclusion within the scope of our review of progress attained as result or since the entry into force of these FTAs. Moreover, some FTA commitments and FTA cooperative goals are broad or generally applicable, rather than being limited to traded sectors. Nevertheless, we did review the report to remove any inappropriate references to non-traded sectors.

Labor, USTR, State, and EPA also provided several technical comments, which we incorporated or addressed as appropriate. For example, State termed our statement that agencies did not commit the bulk of funding for the Better Work Jordan project until more than a year after problems in the QIZs were publicly exposed as an “unfortunate oversimplification,” and provided details on the steps that were undertaken in the intervening year. GAO included this new information. However, GAO believes the time State shows was required for diagnosing, designing, and delivering cooperative assistance to such FTA partners only underlines the importance of U.S. agencies having up-to-date plans and more reliable oversight, evaluation, and reporting mechanisms.

As agreed with your office, unless you publicly announce the content of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the U.S. Trade Representative; and the Secretaries of Commerce, Labor, and State, as well as the Administrator of EPA, and other interested parties. The report also will be available at no extra charge on the GAO Web site at <http://www.gao.gov>.

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

Sincerely yours,



Loren Yager
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

In this report, we assess the progress that has been made through free trade agreements (FTA) in (1) advancing U.S. economic and commercial interests, (2) strengthening labor laws and enforcement in partner nations, and (3) strengthening partners' capacity to strengthen and enforce their environmental laws. We focused on pre-FTA versus post-FTA progress. For the purposes of this report, we chose to concentrate on four FTA partners so that we could examine the unique set of circumstances for each country with some specificity. The four partners on which we chose to focus—Jordan, Singapore, Chile, and Morocco—represent a cross section of FTA partners' country characteristics, have FTAs in force the longest, and the represent regional dispersion of U.S. FTAs across Asia, Latin America, and the Middle East. In addition, we examined U.S. agency responsibilities and performance associated with the FTAs.

In gathering information for all the above objectives, we engaged in three types of activities: (1) obtaining information and analysis from legal and secondary literature sources, (2) obtaining information and perspectives of U.S. government and private sector officials and experts, (3) obtaining information through partner country visits. In addition, for the analysis of the commercial and economic results of the FTAs, we gathered and analyzed data on international and bilateral trade and investment. We conducted this performance audit work from April 2008 to June 2009 in accordance with generally accepted government auditing standards.

We obtained, reviewed, and analyzed documents from a variety of sources including the four FTAs and their associated annexes, Trade Promotion Authority (TPA) and other relevant laws, regulations, orders, Federal Register notices, and congressional guidance setting forth requirements or expectations for U.S. agencies related to the FTAs, the operation of the U.S. trade agreements program, and international environmental cooperation. We also reviewed reports submitted to Congress in response to TPA requirements, including those submitted in conjunction with FTA implementing legislation, such as Presidential statements on how the FTAs advance U.S. commercial interests, and applicable TPA goals and Statements of Administrative Action. We also reviewed pertinent academic literature and authoritative reports from government and private sector sources. The information on foreign law in this report does not reflect our independent legal analysis, but it is based on interviews and secondary sources. This report was not designed to assess legal compliance by the United States or its partners with FTAs or other requirements.

We also interviewed U.S. officials responsible for international trade policy at the Office of the Office of the U.S. Trade Representative (USTR);

the Departments of State, Commerce, and Labor; the Environmental Protection Agency, as well as officials of the Department of Homeland Security—Bureau of Customs and Border Protection. We also obtained comment and perspective from a range of subject matter experts and economists.

To assess the extent of progress in each area, we analyzed available data and documents on post-FTA developments and testimonial characterizations of progress in the post-FTA period compared to what was known or reported about the pre-FTA period. We also compared the progress to official expectations, including officially agreed expectations as set forth in the FTAs and FTA cooperative agreements and associated action or work plans, official reports about FTA effects, U.S. TPA objectives, and the expectations of cognizant officials in the United States and partner governments. Where perspectives on progress differ, the various views and their basis are reported. Finally, where material gaps in agency documentation and internal controls became evident in the course of GAO's efforts to establish and evaluate FTA-related progress, consistent with generally accepted government auditing standards, we report on these deficiencies. Key limitations of our work are that the findings are largely limited to the partners, private sector representatives, time period, and information reviewed. While we considered data on trends after FTA implementation and opinions on FTA-induced effects, we did not seek to quantitatively isolate FTA-induced effects. Although we gathered information through December 2008, the data and foreign interviews do not generally capture the full impact of the deterioration in trade that ensued as a result of the global financial crisis and economic downturn occurring during 2008-2009.

During the 1-week trips to each of the four trade partner countries we focused on, we included meetings with in-country U.S. officials, foreign government officials responsible for specific areas of the FTA and its implementation, umbrella groups of business groups, such as chambers of commerce and industry, officials of international organizations such as the ILO, as well as trade union and environmental groups, academics, and other subject matter experts.

Given the complex interactions of the trade agreements themselves and data requirements, we did not empirically isolate the exact effects of the trade agreements themselves on exports or imports. Instead, we used a more indirect, but indicative method to examine the commercial/economic effects of the selected FTAs. As a first approximation, we used trade data for the United States and the selected FTA countries to examine the trends

in trade, at the country level and at a more disaggregate, sectoral level, both before and after implementation of the Agreements. As a complement to the data analyses on the commercial impacts, we also gathered anecdotal evidence (views) about the four selected FTAs effects through the fieldwork described above, from U.S. and partner officials, and from private sector groups.

We solicited views from stakeholders including various members of the U.S. Trade Advisory Committee System¹ and obtained responses from about 30 associations and representatives in response. Notably, we heard from the Chairman of the Advisory Committee on Trade Policy and Negotiations (ACTPN) and several ACTPN members, the chairman and several members of the Intergovernmental Policy Advisory Committee (IGPAC), the chairman and several liaisons of the Trade and Environment Policy Advisory Committee (TEPAC), several liaisons to the Labor Advisory Committee, and a variety of members of the agriculture and industry committees, many on behalf of trade associations. Specifically, executive branch agencies arranged for GAO to send a letter to all members of the system seeking concrete evidence from the U.S. private sector about their experiences to date with the FTAs that have entered into force since 2001. Topics explored included:

- FTAs in force of most significance to your sector
- Trade and investment changes and causes; role of FTAs vs. other factors
- Nature of FTA Effects on Industry or Product Sector
- Examples of FTA Effects on Industry or Product Sector
- Satisfaction with FTA Economic/Commercial Results to Date

¹In 1974, Congress mandated creation of a private sector advisory system to ensure that representatives from private business and other groups with a stake in trade policy could provide input as negotiations unfolded. See Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 1996, codified at 19 U.S.C. § 2155. A three-tier structure of committees advises the President on overall U.S. trade policy, general policy areas, and technical aspects of trade agreements. GAO reviewed this structure in 2002, see GAO, *International Trade: Advisory Committee System Should Be Updated to Better Serve U.S. Policy Needs*. [GAO-02-876](#) (Washington, D.C.: Sept. 24, 2002). Note that in obtaining comment and perspective, members were asked to do so in their individual capacity, rather than in their capacity as advisors. The views GAO obtained may not necessarily reflect the views of either other participants in the committee system, or of those outside the system.

- Areas for Improvement

Upon receiving responses from a cross-section of members, GAO initiated contact and conducted interviews with certain industry groups or firms (e.g., the American Chemistry Council, and AdvaMed and the National Council of Textile Organizations) in situations where trade had expanded and we had not received a response or where we had been told of specific benefits (e.g., Lucas Films) or concerns (e.g., regarding public health and access to medicines). We acknowledge that this input may not be comprehensive or reflective of the U.S. economy as a whole. GAO did not independently verify the views and information provided.

To examine the commercial and economic results of the four selected FTAs, our analysis focused on data for three broad trade-related elements: merchandise trade, trade in services, and foreign direct investment. Within these elements, we also focused on determining results and trends in bilateral trade for key industry sectors. We analyzed data for the time period before the FTA was implemented and compared results with the period after FTA implementation.

For merchandise trade, we used data from the U.S. International Trade Commission's (ITC) Interactive Tariff and Trade Database from 1994 to 2008 in order to calculate two-way trade, bilateral trade, and overall and product category level growth rates between the United States and our trade partners.² Using this data, we first calculated the total growth in exports and imports from the year just prior to the implementation of each FTA up to 2008. To calculate average yearly growth rates overall and for product categories, we also calculated the annual average rate of growth in U.S. exports and imports with each partner country for several years prior to and after the implementation of the FTAs to ascertain the differences between the periods. For Jordan, we selected the pre- and post-FTA periods, from 1996 to 2001, and from 2002 to 2008, respectively.³

²See the U.S. ITC Interactive Tariff and Trade DataWeb. <http://dataweb.usitc.gov/>.

³For Jordan, in both the overall and the product category analysis, we did not consider the year 2001 as "post-FTA" period, as the Jordan FTA came into force in December of 2001. Also, for Jordan, for the "overall" comparison of growth rates, we used data from 1994/1995 to 2000/2001 for the pre-FTA period and 2001/2002 to 2007/2008 for the post-period or 7 years for each period. For the product category comparison, since this was more data intensive and we used a different methodology, we drew only the "current" data from the ITC data web which starts in 1996. Therefore, for this analysis, for the pre-FTA categories for Jordan, we used data from 1996 through 2001 (6 years) and 2002 through 2008 (7 years) for the post-FTA period.

For Chile and Singapore, we selected the 5-year pre-FTA period from 1999 to 2003 and the 5-year post-FTA period from 2004 to 2008. For Morocco, we selected the 2003 to 2005 pre-FTA period and 2006 to 2008 post-FTA period. Second, for the product category analysis, we obtained end use data at the 5-digit aggregation from the ITC's Interactive Tariff and Trade Dataweb. We selected the top 25 U.S. exports and imports by value with each partner country to ascertain that these categories were of significance in the country's total trade.⁴ Third, we adjusted these series for inflation using the Gross Domestic Product's Implicit Price Deflator from the Bureau of Economic Analysis (BEA). Fourth, for our product category data analysis, we calculated average annual growth rates for each partner-country series by fitting a logarithmic trend line through the inflation-adjusted data for each pre- and post-FTA period. We did not use the average of annual growth rates for the category data because the averages can be skewed by occasional large changes in trade. Fifth, we then subtracted the pre-FTA average annual growth rate from the post-FTA growth rate and sorted these differences in descending order for each product category.⁵ For our overall growth rate analysis by country, we took the annual average growth rates for total U.S. domestic imports for consumption and total U.S. domestic exports with each selected FTA country using U.S. ITC Interactive Tariff and Trade Dataweb data and compared these growth rates with U.S. growth rates of trade for similar time periods with the world (see app. VI). For our market share analysis by country, we used data from the Global Trade Atlas and World Trade Atlas as well as the International Monetary Fund's Direction of Trade statistics to determine how market share changed for the United States and top exporters in partner-country markets.

For trade in services and foreign direct investment (FDI), we relied mostly on data from the BEA, which publishes data on these elements in the Survey of Current Business and on its Web site.⁶ We also reviewed data on

⁴For U.S. exports to these FTA partners, the top 25 end use categories represented 75 percent for Jordan, 80 percent for Chile, 83 percent for Singapore, and 84 percent for Morocco of the total value of U.S. exports to these partner countries in 2008. For U.S. imports from these partner countries, the top 25 product categories accounted for 99.5 percent for Jordan, 97 percent for Chile, 94 percent for Singapore, and 97 percent for Morocco of the total value of imports in 2008.

⁵The results of the growth rate analysis by product category for each FTA partner country are in appendixes II through V.

⁶www.bea.gov

services, published by the United Nations (UN),⁷ and FDI, published by the United Nations Conference on Trade and Development, mainly to gain insight into worldwide and partner country trends. We also obtained and reviewed data from partner countries.

For trade in services, we analyzed bilateral imports and exports from the partner countries and reviewed data for service sector categories. Data on services trade by country were not available for Jordan and Morocco and, in a few cases, complete data by service industry sector were not available due to limitations on the disclosure of proprietary information. For foreign direct investment, we focused on the stock of foreign direct investment for partner countries, which represents the book value of holdings. We also examined data by sector where available, and some of this data were also limited for disclosure purposes. In examining the pre- and post-FTA results, we generally compared the most recent available data (usually 2007) with the average of the 3-year period prior to the implementation of the respective FTA. In keeping with the methodology employed in prior work,⁸ FDI stocks and services data are reported in nominal dollars.

For each of the data sets we used for U.S. and partner-country trade and investment, we assessed their relative strengths and limitations through interviews with cognizant parties, reviews of the available documentation, and performing basic logic checks and found them sufficiently reliable for the purposes of this report. We did not assess the reliability of data that we obtained directly from partner countries, as these data are used only to provide supplementary background and context for our analysis.

To document and assess labor progress under FTAs, we examined FTA provisions in the labor chapters and their annexes for the FTAs with Jordan, Chile, Singapore, and Morocco. These FTAs include both “best effort” commitments, as well as commitments subject to dispute settlement procedures that could lead to the imposition of trade measures. For example, the FTA partners commit to “strive to ensure” that their domestic laws provide for labor standards consistent with internationally recognized labor rights set forth in their respective labor chapters⁹ are

⁷<http://unstats.un.org/unsd/servicetrade/default.aspx>

⁸GAO-08-59.

⁹ The Jordan FTA states this commitment as “strive to ensure that such labor principles and the internationally recognized labor rights set forth in paragraph 6 are recognized and protected by domestic law.”

recognized and protected by domestic law (a “best effort” or aspirational commitment) as well as to “not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties” (a commitment subject to dispute settlement procedures). GAO considered all the FTA labor provisions to be trade-related commitments, even though only some of them specifically mention trade and others are more general in nature.

We looked for evidence that partners were making efforts to meet these FTA obligations, such as passing or amending laws or taking steps to improve enforcement of laws. Principal sources of information included U.S. government reports submitted in connection with TPA and the FTAs and U.S. government reports on human rights, child labor, and human trafficking, which are not specifically designed to assess compliance with the FTAs but do include analysis on the extent to which partners provide the five internationally recognized labor rights that are cited in U.S. FTAs. In addition, GAO obtained information and analysis on labor law from U.S. embassies, partner governments, and international organizations such as the International Labor Organization (ILO), the Organization for Economic Cooperation and Development, and the International Trade Union Confederation. We relied on these sources for the description of legal changes and ongoing challenges and did not independently assess them.

GAO also sought perspectives on the extent of labor progress during fieldwork to the FTA partners, where we typically met with U.S. embassy labor officers, partner government labor officials, local labor union representatives, and international organizations such as the ILO. Regarding labor cooperation, we asked U.S. and partner government officials for documentation and oral reports about bilateral contacts, joint planning and prioritization, and cooperative work on labor matters after the FTAs’ entry into force. Where the partner government reported that they had had no contact or were disappointed with the level of engagement, we report this information but also sought and report reaction from U.S. agencies. Although we did not learn of any overall joint plans for labor cooperation, we sought information from U.S. government agencies and FTA partners about any cooperative activities or capacity building projects on labor conducted with the partners since the FTAs’ entry into force. We compiled this information and analyzed how it compared to U.S. descriptions of labor rights weaknesses in the partner, such as the U.S. government’s pre-FTA reports on labor rights. GAO considers these efforts to represent labor progress even if they did not occur because of the FTA. GAO also consulted with selected experts and interest groups in the United States, notably several academics or experts

who had written about efforts to tie labor standards to trade programs or agreements, members and liaisons of the Labor Advisory Committee (an official advisory body to USTR and Labor on trade agreements), representatives of the AFL-CIO and Unite Here, the Solidarity Center, the International Labor Rights Forum, and the National Labor Committee, the nongovernmental organization that exposed problems in Jordan's QIZs.

To assess U.S. agency performance on labor matters, we analyzed agency responsibilities based on TPA, the FTAs, U.S. trade laws, associated Executive Orders and Federal Register notices, and other agency guidelines. We also compared what happened after FTA implementation with what appeared to be officially expected or enabled in the FTAs (i.e., FTAs negotiated after TPA created a labor cooperation mechanism), and with key steps for monitoring and enforcement of trade agreements, which GAO has established in prior reports.

To document and assess environmental progress under FTAs, we examined FTA provisions, as well as those in environmental cooperation agreements and mechanisms. We also analyzed associated U.S.-FTA partner agreed documents, such as plans of action and work plans, and press releases and other reports on joint meetings and workshops. We relied on secondary sources that identified changes in environmental laws and enforcement capacity made by partner governments and sought authoritative summaries of these. We did not conduct an independent analysis of these laws, but relied instead on solicited views and analyses of these changes from partner government and U.S. agency officials, as well as selected academics and other experts and environmental groups. We requested documentation and other information from U.S. agencies on each partner country's environmental regimes, trade-related environmental challenges and how they had changed since the FTA's entry into effect, and trade-related cooperative activities, those done both in connection with agreed work plans and in connection with U.S. foreign assistance or environmental cooperation generally. We solicited views on the extent of progress associated with the FTA, FTA cooperative mechanisms and cooperative projects, and other activities, including foreign and U.S. officials' satisfaction with and assessments of the results to date of their impact. To establish and assess U.S. agency roles, responsibilities, and management of FTA-related functions, we relied on FTAs and FTA cooperative agreements, TPA, other laws, executive orders, and associated notices or reports, and informal oral or written agency descriptions by USTR and the Department of State. We compiled data and other information about cooperative projects and compared what was done relative to agreed plans or expectations. We also solicited

assessments of significance from U.S. and partner government officials, as well as selected experts such as international environmental officials and experts at the United Nations Environment Programme and the North American Agreement on Environmental Cooperation, George Washington University Law School, and TEPAC members in their individual capacity.

Appendix II: Commercial/Economic Results of the Jordan FTA

The Jordan FTA entered into force on December 17, 2001. Jordan is a lower-middle income country, and was the first Arab country to sign an FTA with the United States. Following the implementation of the Jordan FTA and the designation of Qualifying Industrial Zones (QIZ) and Jordan's accession to the World Trade Organization (WTO) in 2000, Jordanian merchandise goods and services exports increased markedly. Moreover, the FTA and other previous investment agreements between Jordan and the United States provided a framework for greater investment activity in Jordan.

Jordan's Economy and International Trade

Jordan's gross domestic product (GDP) in 2008 was estimated at \$30.8 billion (purchasing power parity, PPP) and per capita GDP is estimated at \$5,000 (PPP). Jordan's official unemployment rate for 2008 was estimated to be 12.9 percent, although unofficial estimates range up to 30 percent. While about 86.3 percent of Jordan's GDP is from the services sector, such as tourism, 3.6 percent is from agriculture, and about 10.1 percent is from other industries including apparel and clothing, phosphate mining, fertilizers, and pharmaceuticals.

The World Bank's 2009 *Doing Business* report shows that Jordan ranked 101 out of 181 countries in the overall ranking of ease of doing business. The American Chamber of Commerce (AmCham) in Jordan noted that, according to the World Economic Forum's Global Competitiveness Report for 2007-2008, businesses in Jordan face challenges due to tax regulations, inefficient government bureaucracy, and tax rates. At the same time, the 2009 *Doing Business in the Arab World* report shows that it has improved in certain areas in terms of regulatory reform, notably in regard to starting a business and trading across borders.

In addition to its signing the FTA with the United States and its acceding to the WTO in 2000, Jordan is becoming increasingly open to international trade, having signed several other bilateral and regional trade agreements. These include the Greater Arab Free Trade Area, the Jordan-European Union (EU) Association Agreement, the Jordan-European Free Trade Agreement, the Jordan-Singapore Agreement, and the Agadir Agreement. QIZs are created by their designation as such by the United States under authority established by the United States-Israel Free Trade Area Implementation Act.¹ The QIZ program provides duty-free, quota-free

¹19 U.S.C. 2112 note.

access to the U.S. market for certain goods imported directly from or wholly created in areas designated by the Jordanian and Israeli authorities and approved by the U.S. government.² Currently, there are 13 QIZs in Jordan with over 50 factories that produce mainly apparel.

Jordan is one of the U.S.'s smaller trading partners, ranked 84th overall in 2008. In that year, Jordan had an overall trade deficit with the rest of the world of about \$9.1 billion, with total exports of \$6.5 billion and total imports of \$15.7 billion. Jordan's major export destination in 2007 was the United States, with 22 percent of exports, with other export partners consisting of Iraq, India, the United Arab Emirates, Saudi Arabia, and Syria. Similarly, Jordan's major import partners that year were from the EU (25 percent), Saudi Arabia (21 percent), China (9.8 percent), the United States (4.7 percent), and Egypt (4.4 percent). While Jordan has proximity and cultural ties with Europe and the Middle East, it is adept at doing business in English, which is its second language after its official language, Arabic. Export commodities include apparel; fertilizers; potash, phosphates, pharmaceutical products, and vegetables; imports consist of crude oil, machinery, transport equipment, iron, and cereals.

Key Market Access and Other Commercial and Regulatory Issues

The U.S.–Jordan FTA was aimed at supporting the economic reform efforts of a key regional partner for U.S. efforts in the Middle East peace process. The agreement provided for significant and extensive liberalization across a wide spectrum of trade issues, such as in eliminating all tariffs on industrial and agricultural goods within 10 years, and in areas related to trade in services and foreign investment.

²19 U.S.C. 2112 note. Under the United States-Israel Free Trade Area Implementation Act of 1985, a qualifying industrial zone is an area that “(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone.” In relation to the QIZs, for an article to receive an elimination or modification of duties it must be: (1) wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone; (2) imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and (3) the sum of the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

Prior to the FTA, the United States had a mean unweighted tariff rate of 6 percent, while Jordan had a mean unweighted tariff rate of 16 percent.³ The agreement provides for a scheduled elimination of import tariffs: a 10-year transitional period over which nearly all trade barriers in goods and services will be phased out using staged tariff elimination categories. Under these categories, initial tariffs of less than 5 percent would be phased out in 2 years, those between 5 and 10 percent eliminated in 4 years, those between 10 and 20 percent eliminated within 5 years, and those above 20 percent eliminated within 10 years. There are some exceptions to these categories on both sides due to tariff elimination pursuant to WTO commitments, those covered by the Generalized System of Preferences, and some goods that are sensitive for both parties. By 2005, almost 96 percent of all tariff elimination was implemented from the U.S. side, and over 60 percent of tariffs were eliminated from the Jordanian side. For U.S. imports, the remaining 4 percent of goods include apparel, footwear, and agricultural products. Tobacco and tobacco products are excluded from the agreement, while alcoholic beverages are subject to tariff reduction arrangements. One study estimates that, in 2006, after 6 years of the agreement, the United States' average unweighted tariff rate for Jordan's exports was 0.2 percent. By 2010, goods will be virtually duty free in almost all consumer and industrial products between the two countries.

Because a number of Jordanian goods are subject to tariff-rate quotas when exported to the U.S. market, such as certain dairy products, sugar, and chocolate products, the United States will provide increasingly larger quantities of these goods over the 10-year period. At the end of 10 years, the quota will be eliminated altogether.

Jordan has provided for similar liberalization in the services sector to encourage greater U.S. investment in sectors such as finance, business and engineering, tourism, telecommunications, and distribution services. The agreement also includes provisions to enhance protection of intellectual property rights, particularly in relation to trademarks, patents, unfair competition, and trade secrets. In addition, it includes provisions on electronic commerce that seek to avoid imposing customs duties on electronic transmissions.

³This tariff rate represents the Most-Favored Nation (MFN) rate to all countries at that time and does not include any preferences programs.

Observed Results of the FTA in Merchandise Trade, Services, and FDI

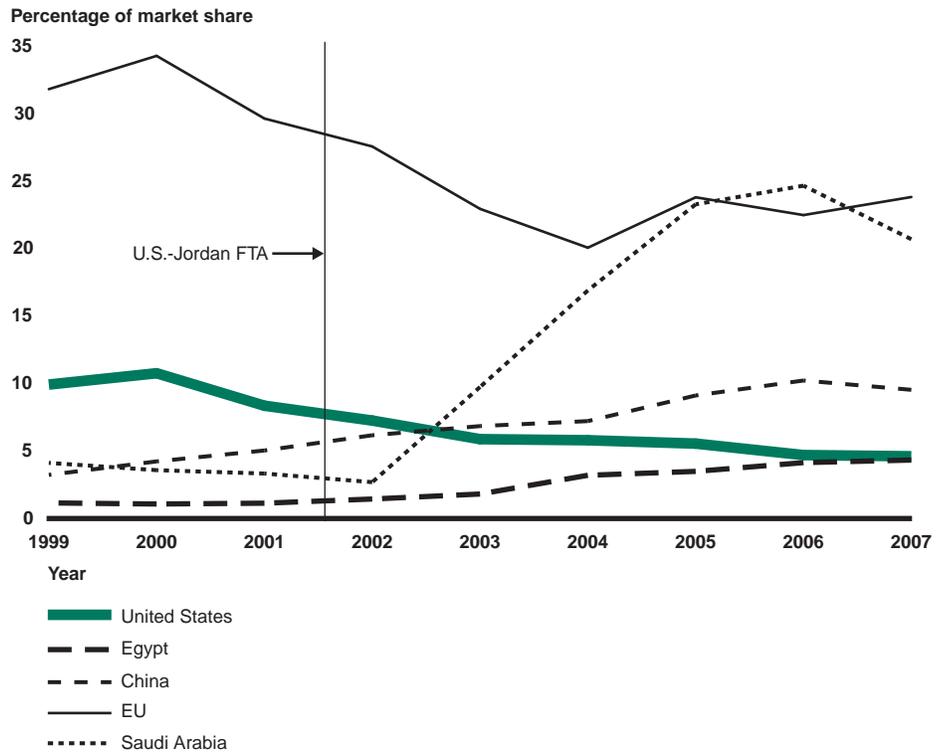
Merchandise Trade

Since the FTA was implemented, the trade balance for the United States went from a trade surplus of \$110 million in 2001 to a trade deficit of \$234 million in 2008. Two-way trade between the two countries went from \$568 million in 2001 to \$2 billion in 2008, a 259 percent increase in total trade. While U.S. exports increased by 167 percent from 2001 to 2008, total imports from Jordan after the agreement shot up by 397 percent.

In 2008, the highest U.S. export end use categories by value were passenger cars, new and used; parts and special category; rice and other food grains; parts, special category; other oilseeds and food oils; and aluminum and alumina. Top valued U.S. import categories from Jordan in 2008 included apparel and household goods-cotton; apparel and household goods-other textiles; jewelry; apparel and household goods-wool; sporting and camping apparel; and medicinal, dental, and pharmaceutical preparations.

Overall U.S. market share in the Jordanian market since implementation of the FTA has decreased somewhat and, because of their proximity and trade agreements, the EU was the principal exporter into this market in 2007 (see fig. 5). Overall, in 2007 the United States had a market share of about 5 percent in Jordan, while the EU had a market share of 24 percent. Also, the second largest exporter to this market, Saudi Arabia, had a market share of about 21 percent in 2007. China has doubled its market share, going from 5 percent in 2001 to 10 percent in 2007. However, U.S. market share has increased in several important products/sectors, such as in agriculture products of corn, wheat, rice, and edible fruits and nuts, as well as manufactured goods such as automobiles. For example, the U.S. market share of Jordan's corn imports grew from 3 percent in 2001, when a 5 percent import tariff on feed grains was removed, to 77 percent in 2007.

Figure 5: Market Share of the Top Five Exporting Countries to Jordan, 1999-2007



Source: GAO analysis using data from the International Monetary Fund's (IMF) Direction of Trade (DOT).

Across product categories, we also calculated the differences between pre- and post-FTA average annual growth rates for the top 25 U.S. exports and imports in value with Jordan. Tables 2 and 3 display the top 25 end use categories for U.S. export and import categories for Jordan including their description ranked by growth rate, their dollar value, their rank by dollar value, their pre-FTA and post-FTA average annual growth rates, and change in growth between the two periods. About 64 percent or 16 out of the top 25 leading U.S. export product categories saw higher post-FTA export growth over the pre-FTA period (see table 2). For the top 25 U.S. imports from Jordan, table 3 shows that 40 percent had a higher rate of growth after the FTA was implemented (for a more detailed discussion of the methodology of this analysis, see app. I).

**Appendix II: Commercial/Economic Results of
the Jordan FTA**

Table 2: U.S. Exports to Jordan: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 1996-2001	Post-FTA growth rate 2002-2008	Change in growth rates
Parts; special category goods, not elsewhere classified	\$41,582	3	-54%	53%	107%
Aluminum and alumina	20,602	6	-18	88	105
Rice and other food grains	58,367	2	-36	55	92
Passenger cars, new and used	215,262	1	-16	70	86
Materials handling equipment	18,453	9	-38	41	80
Laboratory testing and control instruments	9,597	21	-10	42	52
Excavating, paving, and construction machinery	18,624	8	-24	27	51
Miscellaneous domestic exports and special transactions	27,387	4	-28	19	47
Meat, poultry, and other edible animals	12,911	17	-17	24	41
Other industrial machinery	15,216	16	-7	12	20
Minimum value shipments	16,575	12	-5	11	17
Paper base stocks-pulpwood and woodpulp	15,801	14	4	13	9
Other-manufactured and unmanufactured	9,001	23	3	10	7
Electric apparatus and parts, not elsewhere classified	9,044	22	-7	-1	6
Medicinal, dental, and pharmaceutical preparations, including vitamins	20,075	7	16	22	6
Other oilseeds and food oils	22,332	5	-11	-9	3
Household and kitchen appliances	8,984	24	9	9	0
Other foods (lard, soft beverages, spices, etc.)	10,326	18	12	6	-6
Other scientific, hospital, and medical equipment	15,633	15	2	-6	-7
Measuring, testing, and control instruments	8,593	25	30	19	-11
Tanks, artillery, missiles, rockets, guns, and ammunition	18,369	10	5	-12	-16
Telecommunications equipment	17,863	11	11	-7	-17
Parts for civilian aircraft	16,113	13	15	-8	-23
Industrial organic chemicals	9,973	20	28	4	-24
Nuts and preparations	\$10,225	19	42%	18%	-24%

Sources: GAO analysis using end use data from the U.S. Department of Commerce (Commerce) and ITC.

**Appendix II: Commercial/Economic Results of
the Jordan FTA**

Table 3: U.S. Imports from Jordan: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2007	Pre-FTA growth rate 1996-2001	Post-FTA growth rate 2002-2008	Change in growth rates
Industrial inorganic chemicals	\$3,516	9	-7%	227%	234%
Bauxite and aluminum	1,311	18	-27	103	130
Furniture, household items, baskets	567	25	14	88	74
Finished textile industrial supplies (labels, braids, buttons, etc.)	1,407	16	-30	35	65
Machine tools, metal working, molding, and rolling mill machinery	617	24	17	73	57
U.S. goods returned and reimports	48,915	4	-6	38	44
Other industrial machinery	1,504	14	-30	8	39
Other (boxes, belting, glass, abrasives, etc.)	2,885	11	12	29	17
Vegetables and preparations	1,551	13	54	70	16
Other precious metals	1,379	17	32	37	6
Jewelry (watches, rings, etc.)	73,704	3	33	26	-7
Other (soft beverages, processed coffee, etc.)	1,297	19	20	12	-8
Stone, sand, cement, and lime	1,196	21	32	23	-10
Minimum value shipments	3,170	10	33	23	-10
Household and kitchen appliances	5,681	8	48	36	-12
Books, magazines, and other printed matter	1,968	12	51	14	-37
Other products (notions, writing and art supplies, tobacco products, etc.)	1,467	15	78	31	-47
Sporting and camping apparel, footwear, and gear	6,284	6	71	6	-64
Apparel and household goods-cotton	525,907	1	74	9	-65
Medicinal, dental, and pharmaceutical preparations, including vitamins	6,046	7	101	31	-69
Toiletries and cosmetics	670	23	68	-8	-76
Apparel and household goods-other textiles	412,280	2	106	25	-81
Apparel and household goods-wool	28,015	5	90	7	-83
Artwork, antiques, stamps, and other collectibles	1,200	20	102	11	-91
Other parts and accessories	\$727	22	165%	2%	-162%

Sources: GAO analysis using end use data from Commerce and ITC.

In contrast with the Chile and Singapore FTAs, the Jordan FTA's entry into force did not coincide with an increase in growth rates in most of its leading product categories. However, this finding is very sensitive to our use of 2002 as the start of the post-FTA period. (The FTA entered into

effect in December 2001.) In fact, if this year (2001) is placed in the post-FTA period, a majority of the product categories, or 60 percent, have a higher average annual growth in this period. The findings are also driven by the textiles and apparel category, which dominates the leading U.S. import categories from Jordan and averaged about 87 percent of total imports from 2002 to 2008. Apparel experienced extremely high annual average rates of growth with the advent of the QIZ program in 1996. Nevertheless, the year-to-year value of Jordanian exports in the apparel categories after the FTA was in the hundreds of millions of dollars, compared with the pre-FTA period when the yearly value was in the tens of millions of dollars.⁴

Trade in Services

Commerce notes that the Jordan FTA opened up trade in services, giving American service providers opportunities in Jordan's financial, education, audio-visual, courier and other services. Unfortunately, data on U.S. bilateral trade in services with Jordan are not available from BEA, and other data are limited, but the UN does provide sufficient data to gain some picture of Jordan's services trade with the world by service sector category.

For 2007, the UN estimates that total (world) service exports by Jordan reached a level of \$2.9 billion in current dollars. This represents growth of 96 percent compared with the 2001 level. An industry breakdown, based on 2006 data, shows that 66 percent of service exports were in the travel sector and 21 percent were in the transport sector. The remaining 13 percent of service exports were in "other services," and within the "other services" category, "other business services" was the dominant category."

The UN estimates that, in 2007, Jordan's service imports (world) totaled almost \$3.1 billion. This level represents growth of over 78 percent between 2001 and 2007. An industry breakdown, based on 2006 data, shows that almost 55 percent of service imports were in the transport sector, and 23 percent were in the travel sector. The remaining 22 percent

⁴We also performed a similar analysis grouping apparel and nonapparel categories separately using the same pre- and post-FTA time periods. Here we found that the "apparel" results all had greater annual average rates of growth in the pre-FTA period, while a majority of the "nonapparel" categories, 52 percent, had greater growth rates in the post-FTA period. We believe that this result is due to the influence of the QIZs, which came about in the pre-FTA period and affected mostly the apparel industries. Unlike the apparel categories, the textile category, however, had greater growth in the post-FTA period.

of service imports were in “other services,” notably, insurance, “other business services,” and government services.⁵

FDI

The United States has a bilateral investment treaty with Jordan and, as a result, the U.S.-Jordan FTA did not include an investment chapter. The available data from BEA for U.S. FDI with Jordan is rather sparse, while some aggregate data is available from the United Nations Conference on Trade and Development (UNCTAD).⁶

The most recent BEA figures show that, as of 2007, U.S. outward FDI in Jordan was only \$119 million. This figure is up from \$39 million in 2006. The 2007 level of FDI represents a minuscule share of total U.S. outward FDI (at 0.004 percent). Data for most other years are suppressed to prevent disclosure of individual company information. As a result, it is not possible to review pre- and post-FTA results using BEA data. Regarding inward investment in the U.S. by Jordanian entities, BEA data is mostly suppressed for disclosure purposes. The last entry is for 2001 (the last year before the FTA) and totaled only \$9 million.

Some UNCTAD FDI data is available for Jordan, which helps put U.S. FDI in perspective. Total inward FDI from all countries (including the United States) reached \$14.5 billion in 2007—a substantial sum. Inward FDI has been growing steadily since the mid-1990s, and from 2002 to 2007 grew from about \$4 billion to over \$14.5 billion, or more than tripling. This period has coincided with the FTA being in force. However, comparing the level of inward FDI from the UNCTAD data to the level of U.S. FDI from the BEA data suggests that U.S. FDI has not played a substantial role in the growth of FDI in Jordan.

U.S. and Jordanian
Perspectives on Issues
Relating to the FTA

AmCham in Jordan noted that they have seen increased levels of imports coming from the United States, and it believed there would be more exports from the United States in the future, especially with the weaker dollar. At the present, many businesses pay no customs duty on various products such as in the automotive or spare parts industries, so they believe that there are some really big advantages since the FTA. According

⁵Note that the available data do not tell us the U.S. share of these service exports and imports.

⁶Note that BEA data on sales by affiliates of U.S. multinational corporations (MNC) (majority-owned funding affiliates, MOFA) is not available for Jordan.

to an AmCham official, Jordanian importers are flocking to the United States and with the FTA, they will witness greater imports. The U.S. textiles and apparel sector noted that the Jordan FTA was one of the most important FTAs to their industry, although their views were divided on the issue. The apparel manufacturers and importers were more in favor of the Jordan FTA, since they favored the Jordanian FTA's less burdensome rules of origin, while the textile manufacturers explained that the increased imports cause them production, jobs, and exports.

From a Jordanian perspective, some officials and business people have expressed concerns including: (1) difficulty in meeting export standards, especially SPS standards for agricultural products and only one Animal and Plant Health Inspection Service person in Middle East and North Africa; (2) complex customs procedures; (3) lack of knowledge on technical labeling issues that affect exports; (4) a firm's need for an agent, especially in the food sector, in the United States; (5) a tendency to believe that the FTA is only for large firms to export under; and (6) a lack of knowledge of logistics in the United States and of handling and transportation fees.

As far as IPR, the majority of Jordanian pharmaceutical businesses manufacture generic medicines, and there are concerns that the IPR provisions of the FTA are hurting the generic industry. One pharmaceutical business person in Jordan, whose company specializes primarily in generic medicines, noted some frustration that there were issues with IPR related to data exclusivity that dealt with a lack of transparency in rights and obligations. According to a 2007 study by Oxfam on Jordan's pharmaceutical industry, because of the "TRIPS plus" provisions of the WTO and the Jordan FTA, many Jordanian pharmaceutical firm's generic medicines are precluded from the market through an acceptance procedure called "data exclusivity." Through data exclusivity, drug regulatory agencies are prevented for a period of 5 years from using the clinical trial data developed by the originator company to establish the safety and efficacy of the medicine for market approval of a generic drug that had already been shown to be equivalent to the original one. These delays, according to Oxfam, impede or prevent generic competition and can lead to higher prices than would otherwise be the case.⁷ In contrast, the U.S. pharmaceutical industry, represented by the

⁷Oxfam, "All Costs, No Benefits: How TRIPS-Plus Intellectual Property Rules in the US-Jordan FTA Affect Access to Medicines," Oxfam Briefing Paper, March 2007.

Pharmaceutical Research and Manufacturers of America (PhRMA), noted that Jordan is using FTA-related enhancements in IPR to help them attract investment in pharmaceutical production.^{8, 9}

There are some USAID commercial/economic programs that led up to and currently support the FTA. For example, the Tijara Initiative, funded by USAID, is a private-public sector partnership to strengthen two-way trade between Jordan and the United States, promote inward investment, raise public awareness about the U.S.-Jordan FTA and communicate opportunities, and enhance public-private cooperation to create a business environment conducive to trade. Also, an initiative called Tatweer, an economic development project funded by USAID and managed by the Jordan Business Development Center, has conducted workshops for small and medium-sized businesses on how to export under the FTA.

⁸For evidence of this, PhRMA cites a paper by Michael Ryan, "Intellectual Property Reforms, Pharmaceuticals, and the Health Competitiveness in Jordan: Misunderstanding and Misinformation from Oxfam International," Creative & Innovative Economy Center, George Washington University Law Center (Washington, D.C.: 2007).

⁹For more information on IPR and international trade policy and public health policy, see GAO, *Intellectual Property: U.S. Trade Policy Guidance on WTO Declaration on Access to Medicines May Need Clarification*, [GAO-07-1198](#) (Sept. 28, 2007).

Appendix III: Commercial/Economic Results of the Singapore FTA

The Singapore FTA, which entered into force on January 1, 2004, represented an agreement with an already well-established U.S. trading partner and an economically advanced nation. While it is a geographically small island city-state, Singapore is a high-income country that is one of the most open and competitive in the world in terms of international trade and foreign investment. The FTA appears to have helped increase bilateral merchandise trade, as well as improved the market access for services and the climate for foreign direct investment. Enhanced intellectual property rights protections also appear to have had a positive impact on commerce and investment and are providing a model for other agreements.

Singapore's Economy and International Trade

Openness to trade has long been a hallmark of Singapore's economy. Recently, total trade in goods and services has accounted for about four times the GDP. Singapore has historically maintained very few trade barriers, and according to World Trade Indicators the country ranks first in the world in trade openness, ease of doing business, and trade facilitation. At the same time, as a small nation, Singapore is subject to external market fluctuations and, as a result, strives to maintain its competitiveness by implementing policies that develop and diversify its economy. Since recovering from recession in the early 2000s, Singapore has shown strong GDP growth through 2008. Its per capita gross national income (GNI) places it on a par with other high-income countries; on a purchasing power basis, its rank is equivalent to that of the United States. It has maintained strong economic fundamentals and prudent macroeconomic policies that have kept unemployment and inflation low, although current worldwide economic conditions are presenting challenges. In addition to the FTA with the United States, Singapore has been aggressive in signing FTAs with a number of countries including the Association of Southeast Asian Nations (ASEAN), New Zealand, Japan, Europe, Australia, India, and most recently, China.

The United States has been an important bilateral partner for Singapore. While regional partners have come to encompass a greater share of trade, as of 2005, the United States was still Singapore's second largest export market, and the United States remains Singapore's second ranked source of imports, behind Malaysia and just ahead of China. In 2008, Singapore was the United States' 12th largest export market and the 27th largest importer to the United States.

Key Market Access and Other Commercial and Regulatory Issues

As Singapore¹ was already an open economy for U.S. products (99 percent duty-free), the FTA removed the few remaining tariffs on U.S. exports—on products such as alcoholic beverages. Meanwhile, the United States agreed to remove tariffs on most (about 92 percent) Singapore goods. The remaining U.S. tariffs are to be phased out over 3-10 years. A provision extending preferences to a limited amount of textile and apparel imports made without U.S. or Singapore yarn, for a limited time, was also included.

With trade in goods already open, a key focus of the Singapore FTA was providing greater access in the market for services and an even more favorable investment climate. Substantial access was provided across a wide spectrum of services, using a “negative list” approach,² and this process was to be facilitated by commitments on nondiscriminatory treatment and regulatory transparency. Market access commitments in services span a range of sectors. Some of the more significant service sectors benefiting from the FTA include the following:

- *banking*, with lifting the ban on new banking licenses, expansion of locations, and access to ATM networks;
- *insurance*, with the ability to establish a market presence, offer marine, aviation and transport insurance (MAT), and expand the provision of insurance services in many lines;

¹For more detailed description of the Singapore FTA and other information see: *The United States-Singapore Free Trade Agreement: Message from the President of the United States transmitting a draft of proposed legislation and supporting documents to implement the United States-Singapore Free Trade Agreement (FTA), pursuant to 19 U.S.C. 3805(a)(1)(A) and (B)* 108th Congress, 1st Session, House Document 108-100, July 16, 2003; Dick K. Nanto, *The U.S.-Singapore Free Trade Agreement: Effects After Three Years* (Washington, D.C.: Congressional Research Service, RL34315, Jan. 7, 2008); Dick K. Nanto, *The U.S.-Singapore Free Trade Agreement* (Washington, D.C.: Congressional Research Service, RL31789, June 15, 2004).

²The comprehensive inclusion of *all* service sectors, unless otherwise specified in the list of reservations, under the specific disciplines of the services chapter and the general disciplines of the trade agreement. A “negative list” approach requires that discriminatory measures affecting *all* included sectors be liberalized unless specific measures are set out in the list of reservations. This contrasts with the “positive list” approach, which involves the voluntary inclusion of a designated number of sectors in a national schedule indicating what type of access and what type of treatment for each sector and for each mode of supply a country is prepared to contractually offer service suppliers from other countries. (http://www.sice.oas.org/Dictionary/SV_e.asp)

- *securities and related financial services*, with the ability to establish a market presence and offer expanded pension and portfolio management services;
- *express delivery services*;
- *professional services* in a number of areas; and
- *telecommunications*, with the ability to compete on nondiscriminatory basis in access to networks and providing services, along with improved regulatory transparency.

According to USTR, the FTA contained cutting-edge provisions on electronic commerce. The parties agreed not to discriminate on digital products delivered electronically (via Internet) and not to charge customs duties on such products. These commitments apply as well to services, such as financial services, provided electronically.

With the United States already a large investor in Singapore, the FTA has provisions to improve the investment climate and provide further protections. The agreement assures legal protections for all forms of investment in Singapore, and national treatment, except for those sectors specifically exempted via a “negative list” approach. Also, a transparent dispute settlement process is provided.

In submitting the agreement to Congress, the President noted that the FTA provided for a very high level of IPR protection including state-of-the-art protections for trademarks and digital copyrights, as well as expanded protection of patents and proprietary information. The agreement also provides for strong enforcement and tough penalties, including the establishment of actual damages for violations.

The FTA contains a number of provisions in other areas such as competition policy, government procurement, customs procedures, regulatory transparency, visas for professionals, labor and environmental provisions, and dispute settlement. These provisions are noteworthy in part due to the relatively large role played by the state and state-linked corporations in Singapore.

Observed Results of the
FTA in Merchandise Trade,
Services, and Foreign
Direct Investment

Merchandise Trade

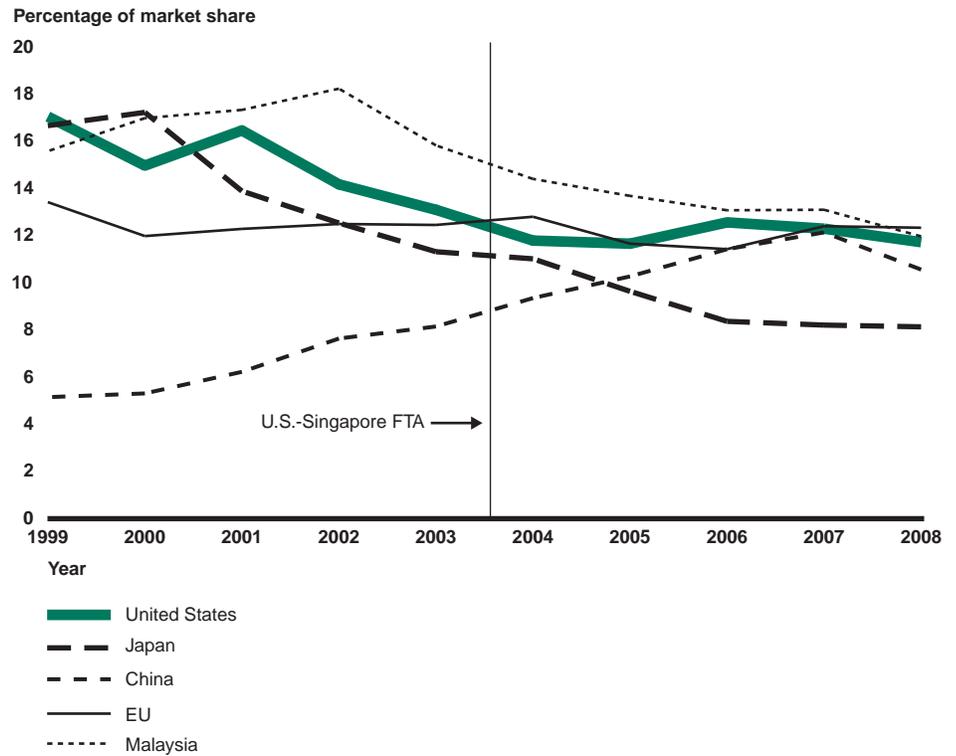
While many factors affect the commercial and economic results in the post-FTA period (2004-2008), observed results show greater overall trade and investment, and growth in trade in a number of sectors following the implementation of the FTA.

Overall two-way trade (import plus exports) between the United States and Singapore was \$41.4 billion in 2008, an increase of 42 percent over 2003, the year prior to FTA implementation. U.S. trade with Singapore prior to the FTA was in deficit or close balance, but after the FTA, U.S. exports to Singapore grew more than U.S. imports, leading to a positive net trade balance.

The U.S. trade surplus with Singapore increased about five times during the first year of FTA implementation, reaching \$3 billion in 2004, \$3.6 billion in 2005, \$4.2 billion in 2006, 4.5 billion in 2007, and \$9.9 billion in 2008. The level of U.S. exports increased to \$25.7 billion in 2008, an increase 9 percent over 2007, and a 72 percent increase over 2003. U.S. imports from Singapore grew to a level of \$15.7 billion in 2008, an increase of 10 percent over 2003, but a decrease of almost 18 percent since 2007. This dramatic decline in Singapore's trade reflects the global financial downturn and the substantial role of trade in Singapore's economy.

As figure 6 shows, the U.S. share of total world exports to Singapore has declined since 1999, from 17 to 12 percent, as the trend has continued into the post-FTA period. However, this trend has also characterized some of Singapore's other major trading partners, such as Malaysia and Japan. China's exports to Singapore, however, have grown since 1999, from 5 to 12 percent in 2007, dropping to 11 percent in 2008.

Figure 6: Market Share of the Top Five Exporting Countries to Singapore, 1999-2008



Sources: GAO analysis using data from the World Trade Atlas, Global Trade Information Service (GTIS), in cooperation with the Economic Research Service, U.S. Department of Agriculture (USDA).

Despite the overall decline in share of exports going into Singapore, the United States remains a strong presence, despite several other major trade agreements by Singapore with key trading partners, such as China, Malaysia, and Japan.

By value for 2008, the top U.S. exports to Singapore were semiconductors and related devices; fuel oil; civilian aircraft; other industrial machinery; and drilling and oil field equipment. Top valued U.S. imports from Singapore in 2008 included computer accessories; medicinal, dental, and pharmaceutical preparations; semiconductors and related devices; industrial organic chemicals; and other scientific, medical, and hospital equipment.

Across product categories, we also calculated the differences between pre- and post-FTA average annual growth rates for the top 25 U.S. exports and imports in value with Singapore. Tables 4 and 5 display the top 25 end use categories for U.S. export and import categories with Singapore: their

description ranked by growth rate, their dollar value, their rank by dollar value, their pre-FTA growth rate, post-FTA growth rate, and change in growth between the two periods. As table 4 shows, we found that 23 out of the top 25 export categories by value, or 92 percent, had grown faster after the FTA came into force. For U.S. imports from Singapore, table 5 shows that 64 percent of the top product categories experienced higher annual average growth after the FTA came into force (for a more detailed discussion of the methodology of this analysis, see app. I).

Table 4: U.S. Exports to Singapore: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth Rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Drilling and oil field equipment includes rigs and platforms	\$1,448,294	5	7%	37%	30%
Generators, transformers, and accessories	305,038	20	-4	21	25
Fuel oil	1,986,344	2	15	35	20
Semiconductors and related devices	2,434,835	1	-17	3	20
Industrial engines, pumps, compressors, and generators	623,417	14	1	19	18
Industrial organic chemicals	887,873	9	-2	14	16
Other industrial machinery	1,590,274	4	-10	6	16
Excavating, paving and construction machinery	267,728	22	-4	11	15
Laboratory testing and control instruments	248,713	24	5	20	15
Plastic materials	822,127	10	-1	14	14
Minimum value shipments	672,591	12	-5	8	14
Other-manufactured and unmanufactured	430,149	18	-3	9	12
Parts for civilian aircraft	987,122	8	1	11	10
Other chemicals (coloring agents, photographic chemicals, printing inks, paint)	656,976	13	1	11	10
Materials handling equipment	252,546	23	-3	7	10
Electric apparatus and parts, n.e.c.	619,950	15	-10	-4	5
Finished metal shapes and advanced metal mfgs, incl. advanced steel	275,503	21	11	16	5
Measuring, testing, and control instruments	801,269	11	-5	-1	4
Miscellaneous domestic exports and special transactions	215,543	25	4	8	4
Other scientific, hospital and medical equipment	361,593	19	-1	3	4
Telecommunications equipment	570,442	17	-2	1	4
Engines for civilian aircraft	1,398,740	6	7	8	1
Computer accessories, peripherals and parts	1,052,448	7	-8	-8	0

**Appendix III: Commercial/Economic Results
of the Singapore FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth Rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Other petroleum products	595,732	16	11	9	-3
Civilian aircraft, complete-all types	\$1,916,489	3	34%	6%	-28%

Sources: GAO analysis using end use data from Commerce and ITC.

Table 5: U.S. Imports from Singapore: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2007	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Woodworking, glass working, and plastic and rubber molding machinery	\$139,798	16	-18%	111%	129%
Industrial organic chemicals	1,017,728	5	12	105	93
Other chemicals (coloring agents, photographic chemicals, printing inks, paint)	73,873	25	-13	68	81
Other parts and accessories	240,198	11	-14	27	41
Computers	160,647	15	-33	-11	22
Household and kitchen appliances	111,544	20	-9	12	21
Photo and service industry machinery and trade tools	281,030	10	-6	15	21
Laboratory testing and control instruments	122,878	19	10	29	19
Semiconductors and related devices	1,361,468	3	-19	-2	17
Telecommunications equipment	544,550	7	1	13	12
Parts for civilian aircraft	110,859	21	1	12	11
U.S. goods returned, and reimports	1,342,962	4	-5	5	10
Electric apparatus and parts	323,875	9	-8	1	9
Minimum value shipments	96,407	23	-8	0	8
Engines for civilian aircraft	229,404	12	25	28	4
Other scientific, medical and hospital equipment	574,365	6	5	7	3
Computer accessories, peripherals and parts	4,276,149	1	-12	-12	0
Other (clocks, portable typewriters, other household goods)	526,541	8	8	7	-1
Books, magazines, and other printed matter	132,821	18	-1	-3	-2
Measuring, testing, and control instruments	183,510	13	1	-5	-6
Radios, phonographs, tape decks, and other stereo equipment and parts	101,451	22	-9	-16	-7
Other industrial machinery	137,826	17	5	-3	-8
Other (boxes, belting, glass, abrasives, etc.)	90,738	24	12	0	-12

**Appendix III: Commercial/Economic Results
of the Singapore FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2007	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Medicinal, dental and pharmaceutical preparations, including vitamins	2,391,790	2	27	15	-12
Plastic materials	\$178,816	14	51%	9%	-43%

Sources: GAO analysis using end use data from Commerce and IYC.

Factors other than the FTA were important in trade between the United States and Singapore during this period including other bilateral and regional trade, for instance the fact that Singapore is a market platform for many countries, competition by other Asian suppliers in the U.S. market, and growth, among other market dynamics. For example, Singapore is part of many Asian regional trade agreements such as the ASEAN Free Trade Area, which could affect the level of trade with other more distant trading partners such as the United States.³ Also however, the United States and Singapore have similar degrees of openness prior to the U.S.-Singapore FTA, which could suggest an even greater amount of trade between the countries following the agreement.

Trade in Services

The United States traditionally has maintained a positive trade balance in services, both overall and with Singapore specifically. Furthermore, the United States has experienced strong growth in its overall services trade since 2004, a period that happens to coincide with the implementation of the Singapore FTA. To assess the growth of services trade overall, and in the context of the FTA, we took an average of the levels in 2001 through 2003, the 3 years prior to the FTA, and compared it with 2007 levels. The total (all countries) U.S. exports of services are almost 71 percent higher, and U.S. imports of services have grown 61 percent. The overall U.S. trade surplus in services in 2007 was nearly \$139 billion.

U.S. exports of services to Singapore have grown in the post-FTA period and were about 24 percent higher in 2007 compared with the pre-FTA period (2001-03). This represents a decline, however, in the share of total

³The Association of Southeast Asian Nations or ASEAN was established in 1967 in Bangkok by the five original member countries, Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined on 1984, Vietnam on 1995, Lao PDR and Myanmar on 1997, and Cambodia on 1999. Launched in 1992, the ASEAN Free Trade Area aims to promote the region's competitive advantage as a single production unit. The elimination of tariff and nontariff barriers among member countries is expected to promote greater economic efficiency, productivity, and competitiveness.

U.S. exports going to Singapore, as overall U.S. service export growth has been more rapid than that with Singapore. However, most major service sectors (categories) of exports to Singapore have shown strong growth in the post-FTA period. In particular, the “other private services” category has almost quadrupled, and within this group, “business, professional and technical services” is up over 800 percent. Royalties and license fees had exhibited strong growth through 2006, although 2007 has shown a decline from the 2006 level.

U.S. imports of services from Singapore, in contrast with exports, have grown significantly in the post-FTA period, up 90 percent in 2007 compared with the pre-FTA period level. This represents an increase in Singapore’s share of all U.S. service imports, although its share in 2007 was still a modest 1.1 percent. All the major categories of services imports from Singapore have grown; in particular, “other private services” are up almost 800 percent and, within that category, “business, professional and technical services” are over 12 times higher in the post-FTA period. The “royalties and licensure fees” category was almost 140 percent higher.

FDI

Overall, total (all countries) U.S. FDI (both outward and inward) has shown strong growth in the period since 2004. Total outward U.S. FDI stocks reached a level of almost \$2.8 trillion in 2007. Comparing this 2007 level with the average of the 3-year period 2001-2003 shows that U.S. outward FDI was 73 percent higher. As for FDI in the United States (inward), in 2007, it reached a level of almost \$2.1 trillion. Comparing 2007 to the average of the 2001-2003 period, FDI in the United States is 54 percent higher.

In 2007, the U.S. stock of FDI in Singapore (outward) reached a level of over \$82 billion. Compared with the period prior to the FTA (2001-2003), this level is 73 percent higher. Since this growth rate corresponds to that of overall U.S. FDI, it implies that Singapore’s share of U.S. FDI has remained stable at about 3 percent of total. U.S. FDI in Singapore is concentrated in financial services and manufacturing. Recently released data from BEA show that, in 2007, over 62 percent of the total U.S. stock of FDI in Singapore was in holding companies.⁴ This figure may reflect the role of Singapore as a base for investment, not only in Singapore, but throughout the region. Including banking and finance with the holding

⁴A holding company is a corporation that limits its business to the ownership of stock in and the supervision of management of other corporations.

company figure, the total financial sector-related U.S. FDI constitutes about 70 percent of the U.S. total in Singapore. About 17 percent of U.S. FDI in Singapore is in the manufacturing sector. Breaking down the manufacturing U.S. FDI category, the computer and electronics category constitutes 60 percent of total manufacturing FDI; transportation equipment, chemicals, and machinery each constitute about 10 percent of total FDI.

While Singapore's share of foreign investment in the United States (inward FDI) was less than 0.5 percent in 2007, the level of FDI in the United States by Singaporean firms has grown over 370 percent since 2003 (the year before the FTA was implemented). While BEA sector data do not provide a complete breakdown (disclosure limited), Singapore government data suggest that their FDI in the United States is concentrated in financial and insurance services, and also in manufacturing.

A useful indicator of greater economic integration is the growth in sales by majority-owned foreign affiliates (MOFA) of U.S. multinational corporations (MNC). These sales can be viewed as a complement to FDI in so far as the investment in foreign affiliates leads to greater access to the domestic market. In fact, sales by foreign affiliates can exceed the amount of cross-border trade in goods and services. Data for sales by U.S. MOFAs in Singapore in 2006 totaled over \$193 billion, of which \$182 billion was in goods and over \$9.3 billion was in services. Compared with the 3-year average prior to the FTA (2001-2003), total U.S. affiliate sales grew 117 percent, with sales of goods growing 123 percent, and services, growing 48 percent.

U.S. and Singaporean Perspectives on FTA Results

Overall, U.S. and Singaporean officials, market participants, and experts are very positive about the trade and commercial results of the Singapore FTA. Singaporean trade officials cited export increases associated with lowering of U.S. tariffs, and U.S. government officials and private sector market participants have noted the sizable U.S. export increases to Singapore.

Officials of both governments also noted substantial market openings in services trade and foreign direct investment resulting from the FTA. For example, a significant market opening has taken place in the financial services area, where Citibank has been able to substantially expand its operations by building a retail banking network. In addition, U.S. mutual fund and securities firms have expanded their asset management services in the Singapore market. In the FDI area, some increases in investment in

manufacturing have occurred, but notable effects have been associated with a more favorable investment climate and enhancements in intellectual property rights (IPR) protection. These changes, in particular in IPR, appear to have had an impact across the board in merchandise trade, services and FDI. For example, the expanded IPR protection has been a factor for Lucas Films in making an investment in Singapore, where they are doing postproduction film work and conducting business development activities. Microsoft established a new software development center in Singapore. The pharmaceutical industry is also an excellent example of the interaction of a number of factors. IPR protection makes direct investment in Singapore more attractive for U.S. pharmaceutical firms. The incentives to invest are further enhanced by the efforts of the Singapore government and private sector to develop Singapore as a pharmaceutical manufacturing hub. As pharmaceutical firms develop their manufacturing capabilities in Singapore, this leads to increased exports (machinery and materials) from the United States with subsequent export activity (finished products) from Singapore, much of it back to the U.S. market. The professional services market may benefit as well from these activities.

Appendix IV: Commercial/Economic Results of the Chile FTA

The Chile FTA entered into force on January 1, 2004. Chile, a small upper-middle income country with an open economy and liberal trading regime, has rapidly increased trade with the United States and the world. The Chile FTA appears to have increased trade between the two countries, strengthened the regulatory framework for services and investment, and provided a template for other trade agreements between Chile and other countries.

Chile's Economy and International Trade

Chile's economy has had dramatic growth in GDP over the last two decades with reductions in poverty while its government has taken steps to stabilize its macroeconomy, perform structural reforms, and increase competitiveness. For 2008, Chile's GDP was estimated at \$245 billion (PPP) and GDP per capita at \$14,900 (PPP) with a growth rate at 4 percent supported primarily by copper and other export earnings. Copper earnings have typically been about 10 percent of Chile's total income. More recently however, with the global economic downturn, copper prices have fallen from highs of \$4 per pound in 2008 to \$1.50 per pound in early 2009, with the value of Chilean copper exports down 66 percent in March 2009 compared with a year earlier. Since copper prices have been volatile over the years, the government has established a countercyclical macroeconomic policy accumulating surpluses in a sovereign wealth fund in years of higher copper prices, and only allowing deficit spending in years of lower copper prices. Also, according to the Organization for Economic Co-operation and Development (OECD), years of sustained growth has caused the poverty rate to decline precipitously from 38.6 percent of the population in 1990 to 13.7 percent in 2006.¹ At the same time, while there was some improvement between 2003 and 2006, Chile's level of income inequality has remained relatively high by Latin American and international standards.²

Chile's principal export destinations in 2007 included China, the United States, and Japan, and its principal import partners included the United

¹Organization of Cooperation and Development, OECD Reviews of Labour Markets and Social Policy - Chile, 2009.

²In 2007, the World Bank estimated Chile's Gini coefficient, an index of income inequality, was at 54.9 percent, which is high by Latin American and world standards. The OECD estimated that the Gini coefficient for Chile was 53 percent during the mid-2000s, while the OECD average is at 0.31. The values of the Gini coefficient range between 0, "perfect equality" (everyone has the same income) and 1, which represents "perfect inequality" (or all income goes to one person).

States, China, and Brazil. Overall, in 2008 Chile was the United States' 24th largest export market, up from 35th in 2003. In addition to the United States, Chile has signed FTAs with numerous countries, including the Mercosur countries, Canada, Mexico, Central America, the EU, South Korea, the European Free Trade Association countries, China, Singapore, New Zealand, Brunei, India, Panama, Peru, Columbia, and Japan. In the world market, Chile's exports include copper, fruit, fish products, pulp and paper, chemicals, and wine; its imports include petroleum, chemicals, electrical and telecommunication equipment, industrial machinery, vehicles, and natural gas. In agricultural products, because of opposite growing seasons, trade between the United States and Chile is complementary. The World Bank's 2009 Doing Business report ranked Chile 40th out of 181 economies in its global overall rank of "ease of doing business."

Key Market Access and Other Commercial and Regulatory Issues

The U.S.-Chile FTA is aimed at improving market access to one of South America's most important economies and "leveling the playing field" for U.S. products. Chile had already entered FTAs with Canada, Mexico, and the EU, leaving many U.S. products at a disadvantage in the Chilean market because of existing tariffs.

Prior to the FTA, Chile had remained a small trading partner with the United States over a long period. The United States was subject to a uniform 6 percent average most favored nation applied tariff rate, along with certain nontariff barriers on agricultural products. Nevertheless, Chile faced varying levels of tariffs on the U.S. side, although some products entered duty-free. The Chile FTA eliminates tariffs through five product-specific staging categories over a transition period that extends up to 12 years, from 2004 to 2016. For the United States, the agreement allows for 85 percent of all consumer and industrial goods to be duty-free immediately, with about 75 percent of all agricultural products duty-free within 4 years, and the rest eligible for duty-free status over time. For Chile, it allows for market access for 95 percent of all consumer and industrial goods immediately with 1.2 percent falling into the 12-year period. Access to each country's market was immediate for certain products such as pork, some fruits and vegetables, and tree nuts while tariffs to beef, poultry, and some processed vegetables are eliminated in schedules over 4 to 12 years.

In addition to reducing and eliminating tariffs, the agreement also contains provisions aimed at establishing a better, more transparent climate to foster trade and investment. The agreement restricts the application of

nontariff barriers, provides broadened coverage for U.S. service providers, improves access to the Chilean government procurement market, and provides for easier entry and exit of business persons. For example, the FTA addresses certain nontariff barriers through the recognition of U.S. food standards, the recognition of the U.S. meat inspection system, and the elimination of “price bands” for wheat and other agricultural imports, a system Chile has used to maintain prices of certain grain and vegetable oil products. Other commitments on merchandise goods in the FTA include an elimination of the luxury tax on automobiles over 4 years, as well as provisions for customs administration procedures. The agreement also uses a “negative list” approach to trade in services opening access to service markets such as financial services, telecommunications, insurance, and express delivery services. According to the 2003 Bush administration, the agreement also establishes a more secure, predictable legal framework for U.S. investors in Chile, including dispute settlement procedures. Moreover, the legal framework was to include higher standards and enforcement of intellectual property protections, building on the standards set in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. It recognized the evolution and development of digital products and included provisions for their protection that were a breakthrough for the South American region.

Observed Results of the FTA in Merchandise Trade, Services, and FDI

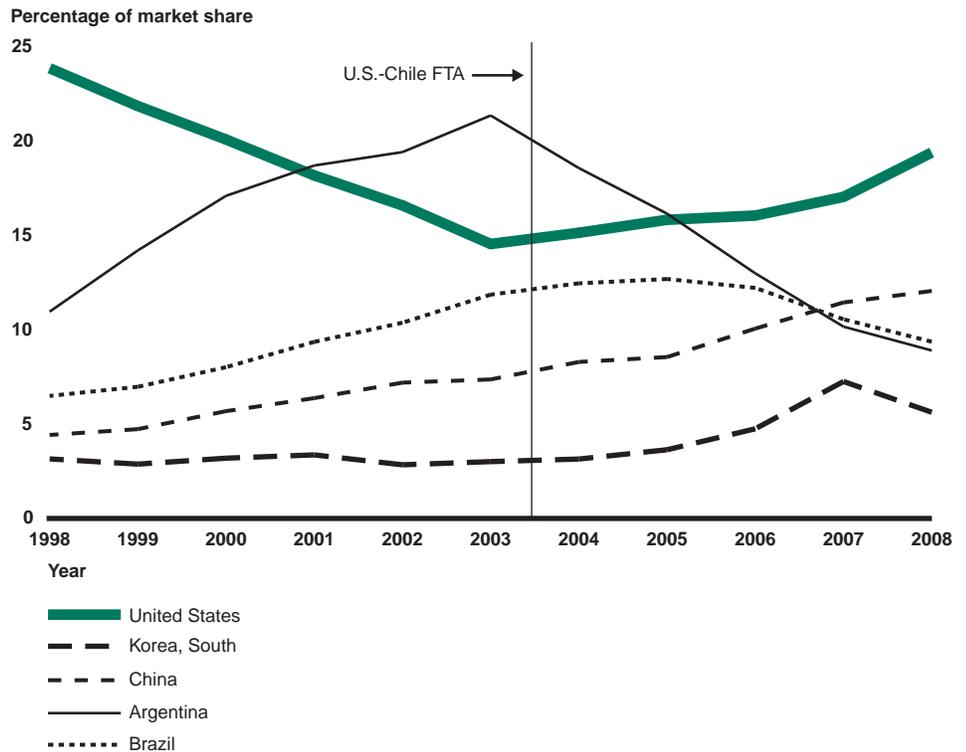
Merchandise Trade

After implementation of the FTA, total U.S. exports to Chile increased by 365 percent, from \$2.4 billion to \$11.4 billion from 2003 to 2008. During the same time period, Chile’s imports from the United States rose from \$4 billion to \$8.2 billion, or by 106 percent. Two-way trade between the countries increased from \$6.4 billion in 2003 to \$19.5 billion in 2008 or by 204 percent between 2003 and 2008. The balance of trade showed a somewhat widening trade deficit for the United States from 1999 to 2007, which then turned into a trade surplus of \$3.2 billion in 2008.

During the period after the agreement came into force, the United States regained its overall market share in the Chilean market that it had lost before the agreement. Figure 7 shows that following the FTA, the United States regained market share that it had lost to Argentina in that market

prior to 2004.³ U.S. market share, which had been at 24 percent in 1998, had fallen to 15 percent in 2003. After the FTA, the United States regained its market share, which rose to 19 percent in 2008.

Figure 7: Market Share of the Top Five Exporting Countries to Chile, 1998 to 2008



Sources: GAO analysis using data from the World Trade Atlas, GTIS, in cooperation with the Economic Research Service, U.S. Department of Agriculture (USDA).

For U.S. exports to Chile, the highest end use categories by value for 2008 were fuel oil, other petroleum products, civilian aircraft, materials handling equipment, and excavating, paving, and construction machinery. Looking at broader sectors, after the FTA came into force, Chile's official trade statistics show that U.S. agricultural exports to Chile, including agricultural commodities, horticultural products, and livestock grew tenfold, from \$25 million in 2004 to \$256 million in 2007, representing

³Argentina is a member of Mercosur, a regional trade agreement including Brazil, Argentina, Paraguay, Uruguay, and Venezuela that Chile entered into as an associate member in 1996.

growth from 6 percent to 26 percent during this period.⁴ Top valued U.S. import categories from Chile included copper, fruits and preparations, fish and shellfish, nonmonetary gold, and steelmaking and ferroalloying materials.

Across product categories, we also calculated the differences between pre- and post-FTA average annual growth rates for the top 25 U.S. exports and imports in value with Chile. Tables 6 and 7 display the top 25 end use categories for U.S. export and import categories with Chile: their description ranked by growth rate, their dollar value, their rank by dollar value, their average annual pre-FTA and post-FTA growth rates, and change in growth between the two periods. Table 6 shows that post-FTA growth rates were higher than pre-FTA growth rates for all, or 100 percent of the top 25 U.S. export categories to Chile, while table 7 shows that of the top 25 U.S. import categories from Chile, 52 percent were higher in the post-FTA than the pre-FTA period (for a more detailed discussion of the methodology of this analysis, see app. I).

Table 6: U.S. Exports to Chile: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Civilian aircraft, complete-all types	\$630,343	3	-56%	99%	155%
Wheat	132,056	19	6	128	122
Fuel oil	2,844,925	1	-12	103	115
Corn	107,652	24	-20	57	77
Generators, transformers, and accessories	128,546	20	-25	31	56
Passenger cars, new and used	261,197	8	3	56	53
Telecommunications equipment	203,520	11	-19	20	40
Minimum value shipments	434,783	6	-8	30	38
Materials handling equipment	539,980	4	1	37	36
Plastic materials	366,887	7	-2	34	36
Newsprint and other paper products	109,192	22	-10	26	35
Industrial inorganic chemicals	192,547	13	1	31	30
Industrial organic chemicals	250,710	9	0	30	30

⁴Central Bank of Chile.

**Appendix IV: Commercial/Economic Results of
the Chile FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Excavating, paving, and construction machinery	525,030	5	-8	19	26
Other petroleum products	724,890	2	1	27	26
Photo and service industry machinery and trade tools	105,856	25	2	27	25
Computers	139,838	18	-4	21	25
Fertilizers, pesticides, and insecticides	230,725	10	5	29	24
Other chemicals (coloring agents, photographic chemicals, printing inks, paint)	189,247	14	-3	18	21
Trucks, buses, and special purpose vehicles	184,155	15	1	21	21
Other parts and accessories	126,254	21	1	21	20
Other-manufactured and unmanufactured	107,675	23	-8	8	17
Industrial engines, pumps, compressors, and generators	170,035	16	-2	12	14
Computer accessories, peripherals, and parts	158,089	17	-14	-1	13
Other industrial machinery	\$198,889	12	0%	12%	12%

Source: GAO analysis using end use data from Commerce and ITC.

Table 7: U.S. Imports from Chile: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Other precious metals	\$162,079	11	-31%	78%	110%
Pulpwood and woodpulp	30,461	23	-29	22	52
Finished metal shapes and advanced manufactures, except steel	66,091	15	-9	32	41
Miscellaneous nonferrous metals (cobalt, mercury, antimony, etc.)	55,896	16	5	36	30
Nonmonetary gold	379,228	4	-5	25	30
U.S. goods returned, and reimports	92,066	13	-8	21	28
Copper	2,695,147	1	6	26	21
Industrial inorganic chemicals	277,213	7	-2	19	20
Vegetables and preparations	40,978	18	-13	7	20
Farming materials, including farm animals and animals for breeding	174,353	10	0	14	14
Other (tobacco, waxes, nonfood oils, fatty acids, natural materials used in the preparation of medicines, dyes, and perfumes)	27,717	25	-2	11	13

**Appendix IV: Commercial/Economic Results of
the Chile FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 1999-2003	Post-FTA growth rate 2004-2008	Change in growth rates
Minimum value shipments	34,644	22	4	14	10
Wine and related products	223,817	8	2	8	6
Other (soft beverages, processed coffee, etc.)	30,202	24	36	35	-1
Fruits and preparations, including frozen juices	1,493,268	2	8	7	-1
Fish and shellfish	985,523	3	10	8	-2
Other (boxes, belting, glass, abrasives, etc.)	35,297	21	4	2	-2
Fertilizers, pesticides, and insecticides	37,940	19	-1	-4	-3
Other nonagricultural foods and food additives	70,490	14	11	7	-4
Steelmaking and ferroalloying materials-unmanufactured	305,604	6	25	18	-7
Lumber and wood in the rough	191,926	9	3	-12	-15
Automotive tires and tubes	37,064	20	4	-11	-16
Other-finished (shingles, molding, wallboard, etc.)	361,415	5	9	-13	-21
Plywood and veneers	104,289	12	29	7	-22
Industrial organic chemicals	\$41,470	17	20%	-18%	-38%

Sources: GAO analysis using end use data from Commerce and ITC.

Factors other than the FTA were important in trade between the United States and Chile during this period including high commodity prices, exchange rates, other bilateral and regional trade and growth, among other dynamics of the market. For example, U.S. grain prices, as well as Chilean copper prices, reached record levels in 2008, which affected the value of imports and exports. However, the dramatic decline in both grain and copper prices in the later half of 2008, has also affected export earnings for both countries. Also, while in Chile, we were told that the lower value of the U.S. dollar relative to the Chilean peso made Chilean exports to the United States more expensive and U.S. imports relatively inexpensive. One Chilean academic noted that, with the low value of the U.S. dollar, the retail industry and construction in Chile have been thriving, partly due to cheaper U.S. imports.

Trade in Services

Commerce notes that the Chile FTA provided new market access for service industries, including groundbreaking transparency rules to ensure that service regulators operate fairly. Some of the key sectors expected to benefit from the agreement are computer and related services, telecommunications services, financial services, construction and engineering, express delivery, professional services (e.g., architects,

engineers, accountants, legal services), and distribution services (e.g., wholesaling, retailing, franchising).

Recently revised data from the BEA show that U.S. services exports to Chile in 2007 were about \$1.76 billion, less than one-tenth of 1 percent of the total. Comparing the 2007 figure with the 3-year average prior to the FTA, 2001-2003, exports to Chile were about 47 percent higher. This represents substantial growth and, given the very strong growth of overall U.S. services exports, it represents only a slight decline in the share of the U.S. total going to Chile. Of U.S. services exports to Chile, “other private services” represents the largest category at about 44 percent in 2007. The next largest services sector category is “travel” at about 25 percent with “other transportation” representing almost 16 percent. Comparing 2007 with the 3-year average prior to the FTA, the “other private services” category has grown over 100 percent, and the subcategory “business, professional and technical services,” which constitutes over one-half of the “other private services” category, has grown about 168 percent. This strong growth seems consistent with the improved market access provided in the FTA. Financial services also are garnering a sizable share of “other private services” U.S. exports. In addition, the “royalties and licensure fees” category has grown over 140 percent, with computer and information services representing a sizable share of this category.

We can infer whether the U.S. share of the Chilean services market has risen or fallen by looking at UN services data. These data show that total Chilean services imports from all partners totaled \$9.95 billion in 2007. Comparing this figure with the 3-year average prior to the FTA (2001-2003), we find that Chilean service imports grew 89 percent. If we compare this figure with BEA data on U.S. exports to Chile, we see that U.S. exports grew only 47 percent. So, given the sizable Chilean growth in worldwide service imports, we can infer that the U.S. share of Chilean imports has likely fallen in the post-FTA period. Nonetheless, the services market openings provided by the FTA seem to have shown some positive results.

U.S. services imports from Chile in 2007 were only about \$868 million, which is a very small percentage of overall U.S. service imports. Comparing the 2007 figure with the pre-FTA 3-year average, 2001-2003, service imports from Chile were about 19 percent higher. This modest increase, given the strong growth in U.S. services imports overall, suggests that services imports from Chile have declined as a share of the U.S. total. Travel, “other transportation,” and “other private services” represent 32 percent, 24 percent, and 29 percent, respectively, of total U.S. service imports from Chile. “Other private services” has increased about 162

percent in the post-FTA period, and the largest sectors are education services and business services and professional and technical services, the latter of which has grown almost 700 percent in the post-FTA period.

FDI The Chile FTA has helped to consolidate Chile's status as a secure location for foreign investment, according to Commerce. All forms of investment are covered by the FTA, including direct ownership of companies, real estate, intellectual property rights, government concessions and debt instruments. The IPR provisions of the FTA build on existing international standards, with emphasis on new and emerging technologies. The FTA includes state-of-the-art protection for trademarks and copyrights, expands protections for patents and undisclosed information, and calls for strong enforcement mechanisms.

In 2007, BEA data showed that the U.S. stock of outward FDI in Chile totaled \$12.6 billion. This level represents less than 1 percent (0.45) of total U.S. outward FDI. Since 1998, Chile's share of U.S. outward FDI has been under 1 percent of total and has shown a slow secular decline since before the FTA. Despite this secular decline, there has been growth in U.S. FDI since the FTA. A comparison of the 2007 level of FDI with the 3-year average prior to the FTA shows that U.S. FDI in Chile has increased 33 percent. This is based on growth of 20 percent in 2004 and 11 percent in 2007, while growth in 2005 and 2006 was 3 percent and 2 percent, respectively. Chilean government data show that historically, the United States and Spain have been the major foreign investors in Chile. However, more recent data (2007) show that Canada, the United States, and Colombia are now the largest foreign investors.

U.S. FDI in Chile is distributed across several sectors, with no one sector strongly dominating U.S. FDI. The breakdown is as follows: finance and insurance (22 percent); manufacturing (17 percent); other industries (16.5 percent); mining (11.5 percent); depository institutions (11.5 percent); wholesale trade (7 percent); and holding companies (7 percent). A breakdown of the manufacturing category (17 percent of total) excludes some categories for disclosure purposes, but available data show that chemicals comprise about 31 percent of U.S. FDI in manufacturing.

As for FDI by Chilean firms into the United States in 2007, the BEA reports a negative \$430 million inward FDI.⁵ Inward FDI had shown some growth in 2005 and 2006, reaching a positive \$288 million in 2006.

Data for sales by MOFAs of U.S. MNCs in Chile totaled about \$14.8 billion in 2006, based on preliminary BEA data. Of this total, two-thirds (67 percent) is sales of goods. Compared with the 3-year average prior to the FTA, total U.S. affiliate sales in Chile grew 72 percent, with sales of goods growing faster than sales of services. This suggests that U.S. MNCs are integrating well into the Chilean domestic market.

U.S. and Chilean Perspectives on FTA Results

Overall, Chilean officials and experts that we spoke with were very positive about the trade and commercial results of the FTA. One official, who was one of the major negotiators of the agreement, said that he thought the FTA provided an improved regulatory framework through which trade and investment can occur. The FTA was important on the cooperation side, in making changes in domestic legislation and diffusing this information to small-and-medium-sized enterprises and poorer regions in Chile. He explained that exports and imports between the United States and Chile had been increasing very fast, and trade with China and the EU also have increased. But the trade with China could be about 95 percent explained by copper and cellulosic goods. However, trade with the United States is much more diversified, and this is very important because it creates more employment within Chile. In agriculture, a representative of Chilean fruit and vegetable exporters provided examples of diversification of exports into new areas such as clementines, cranberries, and avocados. Also, according to AmCham in Chile, American firms have been particularly successful in exporting mining equipment and heavy machinery, as well as technological products such as computers. Here Chile's 6 percent tariff was not trivial and the fact that the United States' main competitors in the EU already had duty-free access meant they had been gaining market share at U.S. expense; since the FTA, U.S. firms have won most of this back.

From a U.S. perspective, however, there is disappointment in Chile's implementing its IPR obligations in the FTA. In 2007, Chile was moved

⁵A negative position for the *stock* of FDI seems odd but can occur due to a number of valuation adjustments to historical-cost positions, as discussed in Jeffrey H. Lowe, "Direct Investment, 2004-2007: Detailed Historical-Cost Positions and Related Capital and Income Flows," *Survey of Current Business* (2008) 38.

from the WTO's Watch List to the Priority Watch List because of inadequate protection in IPR.⁶ While noting concerns, there is some agreement by Chilean officials that they were actually making "a bit of progress" in these areas. Specifically, they cited recent progress in protecting copyrights, especially in the area of computer software. However, they acknowledged the IPR issues surrounding the presence of Chile's large generic pharmaceutical industry. All in all, they felt that with more knowledge, more direction, and better infrastructure within Chile for determining clear-cut authority, they will move in the right direction toward strengthening IPR protection. However, U.S. officials and others believe that while Chile is working on this issue, they still have not gone far enough and are not fully committed to meeting the IPR provisions provided in the FTA. For example, representatives of AmCham in Chile noted that this was proving to be a problem for many U.S. businesses in that they were not only losing opportunities and sales, but also losing time and money in bringing law suits against firms that infringed upon their patent rights.

From the Chilean side, several important issues remain outstanding. For instance, several officials that we spoke with hadn't seen any improvement with trade on the services side, and moreover there was a general dissatisfaction with the level of U.S. investment in Chile since the FTA came into force. Some officials in Chile blamed this on the fact that the United States and Chile have not agreed on a bilateral tax treaty.⁷ Others say that there are other reasons for this, including geography, the small size of their market, and that the fact that the United States is concentrating on other markets, in particular China and the "new" Europe.

⁶More specifically, this was due to concerns about inadequate protection against unfair commercial use for data generated to obtain marketing approval; insufficient coordination between Chile's health and patent authorities to prevent the issuance of marketing approvals for patent-infringing pharmaceutical products (commonly known as "linkage"); continuing copyright piracy and trademark counterfeiting; and the need for greater efforts to meet standards set out in the TRIPS Agreement of the U.S.-Chile FTA and other international agreements.

⁷The main objective of a bilateral tax treaty is to avoid double taxation. Countries enter into bilateral income tax treaties to allocate taxing rights on cross-border income between the source and residence state, thus avoiding excessive taxation that could otherwise result if both countries applied the full force of domestic law. In addition, tax treaties mitigate differences between two tax systems by coordinating definitions and practices of taxation, and establish methods of cooperation in tax administration.

Appendix V: Commercial/Economic Results of the Morocco FTA

The Morocco FTA entered into force on January 1, 2006, and was the second agreement, after Jordan, signed by the United States with an Arab country. Morocco, a lower-middle-income country in Northwest Africa, has experienced a gradual improvement in living standards and increased per capita income in recent years, through sound macroeconomic policies and sustained structural reforms. Three years after implementation of the FTA with the United States there have been increases in trade and investment for both partners, as well as strengthened regulatory and IPR laws.

Morocco's Economy and International Trade

Morocco had a GDP estimated at \$137.3 billion (Purchasing Power Parity, PPP) in 2008 (\$75 billion in 2007) with a GDP per capita income estimated at \$4,000 (PPP). While mining, textiles, tourism, and construction are important sectors in Morocco's economy, the agricultural sector is also significant, accounting for about 15-20 percent of total GDP and about 40-45 percent of the total workforce. However, the country is highly vulnerable to dry weather events. It suffered a severe drought in 2007, causing an 18 percent drop in agricultural production—real GDP growth fell significantly from 7.8 percent in 2006 to 2.7 percent in 2007. Morocco's unemployment rate was estimated at about 10 percent in 2008.

While certain business and trade indicators reveal Morocco is making reforms and moving forward, others show some competitive challenges remain. The World Bank's 2009 *Doing Business* report shows that Morocco has made progress in improving administrative procedures and has introduced major reforms, such as credit verification and reducing the tax rate from 35 to 30 percent, but it still remains relatively lower ranked in indicators such as the labor code, collateral law, and commercial courts functioning. In addition, using revealed comparative advantage indicators, the International Monetary Fund (IMF) demonstrated some competitiveness challenges in the Moroccan goods market, although it has gained market share in the services sector. Specifically, this analysis suggested losses in comparative advantage in sectors such as clothing and fresh food and some increases in processed foods, leather products, and electronic goods. According to their analysis, some new emerging sectors included basic manufacturing and transportation equipment. A comprehensive trade indicator, the Trade Performance Index, revealed that, among other regional economies that export to the EU market, Morocco ranks at best third among similar exporters in fresh and processed food trade in that market.

In external trade, Morocco's overall trade deficit with the rest of the world was estimated at about \$18.3 billion or close to 13 percent of GDP in 2008. In addition to joining the WTO in 1995, and entering into the FTA with the United States, it has entered into several bilateral and regional trade and economic agreements with other Middle East and North African countries, as well as European countries. These include an Association Agreement with the EU (2000), an FTA with Turkey (2006), and the Agadir Agreement between Morocco, Tunisia, Egypt, and Jordan (2006). Morocco's merchandise trade is mainly focused on the EU, with France the largest trading partner. Morocco has proximity, cultural, and language ties with Europe, and with France in particular, which makes it a natural trading partner. In 2008, Morocco was the 80th largest trading partner with the United States.

Key Market Access and Other Regulatory Issues

The U.S.–Morocco FTA aimed to create a preferential regime across a negotiated range of goods and services and included commitments covering other trade-related matters. The agreement would phase out tariffs on certain goods over periods of up to 18 years, but it would neither cover every aspect of bilateral trade nor all goods under any tariff category. Some tariff benefits would be limited during a transition period. The aim of the FTA was to strengthen the bilateral partnership, raise living standards in both countries, improve the business climate and competitiveness of firms, provide predictable rules, and build on the commitments to the WTO. Also, the U.S.-Morocco FTA was part of an overall effort by the United States to create a Middle East Free Trade Agreement (MEFTA).

Prior to the FTA, the United States was subject to an average tariff on all industrial goods exported to Morocco of 28 percent, with duties on certain products as high as 50 percent. There were also numerous nontariff barriers that restricted trade. After the FTA, many key U.S. export sectors became duty free immediately and others would gain access within 9 years benefiting industries such as information technology, machinery, construction equipment, and chemicals. Originating textile and apparel goods receive preferential duty treatment according to a 10-year tariff reduction schedule.

For most agricultural goods, duty-free access was immediate over a period of years, although some remain exposed to tariffs. All tariffs on U.S. agricultural products are phased out within 15 years. Tariffs on feed grains, soybeans and soybean products, and nuts and processed food products were cut significantly or removed immediately. Because of the

size, sensitivity, and importance of the wheat sector to Morocco, a complex arrangement of tariff-rate quotas was negotiated for durum and common wheat. Some U.S. agricultural commodities have long phase-out periods or are subject to indefinite border protection in the agreement including wheat, beef, and chicken leg quarters and wings. Similarly, some Moroccan agricultural exports to the United States would face long tariff phase-out periods including dairy products, preserved tomato products, and dried onions. Notably, the FTA includes a supplier preference clause that guarantees the United States the best market access afforded any other subsequent supplier should Morocco negotiate future trade agreements.

The FTA includes intellectual property protections and led Morocco to strengthen its own IPR laws. Specifically, it includes antipiracy provisions and the right for authorities to seize counterfeit and pirated goods. Test data and trade secrets for the purpose of product approval are protected against unfair commercial use for 5 years for pharmaceuticals and 10 years for agricultural chemicals.

The FTA contains investment provisions that protect all forms of investment such as enterprises, debt, concessions, contracts, and intellectual property.

Observed Results of the FTA in Merchandise Trade, Services, and FDI

Merchandise Trade

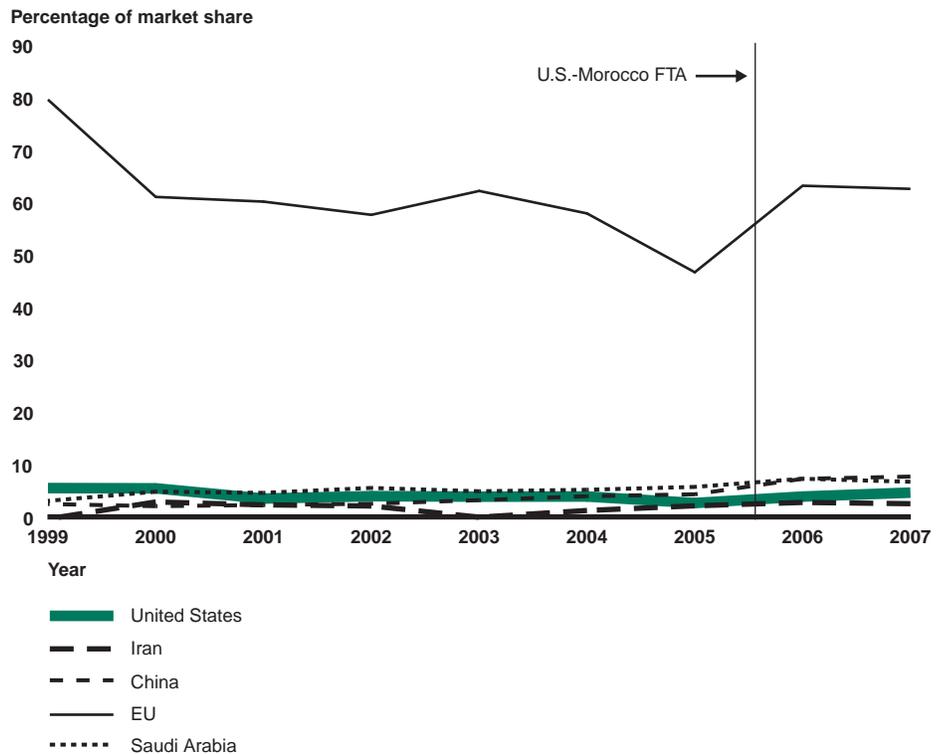
Unlike the period prior to the FTA, in 2006, 2007, and 2008, the United States held a trade surplus with Morocco. Although much of this increase can be attributed to an increase in Moroccan agricultural imports due to the drought and high commodity prices, our growth analysis shows that other U.S. product categories, such as plastic materials, excavating, paving, and construction machinery, and industrial organic chemicals also have benefited since the FTA was implemented.

The United States had a merchandise goods trade surplus with Morocco of \$626 million in 2008. Since 2005, the year before the FTA was implemented, total U.S. exports to Morocco increased by 190 percent, and imports from Morocco grew by 87 percent. Also, from 2007 to 2008, U.S. exports to Morocco grew by 13 percent, while Moroccan exports to the U.S. were 41 percent higher. Two-way trade, the sum of exports to and

imports from Morocco, has more than doubled from about \$988 million in 2005 to \$2.39 billion in 2008.

Overall, U.S. market share in the Moroccan market since implementation of FTA has increased marginally, but overall trade in this market is still dominated by EU trade (see fig. 8). While the EU had a 63 percent market share in 2007, the U.S. market share was only about 5 percent, with China's market share at 8 percent in the Moroccan market. However, U.S. market share has increased in several important products/sectors, mostly in agriculture products. In cereals, for instance, in 2007, the U.S. market share in the Moroccan market was about 30 percent, up from 14 percent prior to the FTA. This was compared with the EU in this market of about 41 percent in 2007, although they accounted for about 42 percent prior to the agreement.

Figure 8: Market Share of the Top Five Exporting Countries to Morocco, 1999 -2007



Source: GAO analysis using data from IMF's DOT.

By product category, for U.S. exports to Morocco, the highest-valued end use categories for 2008 were civilian aircraft, coal and related fuels, oilseeds and food oils, corn, and dairy products and eggs. Top valued U.S. import categories from Morocco included sulfur and nonmetallic minerals, semiconductors and related devices, fertilizers, pesticides, and insecticides, vegetables and preparations, and cotton apparel and household goods.

Across product categories, we also calculated the differences between pre- and post-FTA average annual growth rates for the top 25 U.S. exports and imports in value with Morocco. Tables 8 and 9 display the top 25 end use categories for U.S. export and import categories with Morocco including their description ranked by growth rate, their dollar value, their rank by dollar value, their average annual pre-FTA and post-FTA growth rates, and change in growth between the two periods. For the 25 largest U.S. export categories to Morocco, 60 percent had higher post-FTA annual average growth rates than pre-FTA growth rates (see table 8). As table 9 shows, post-FTA growth rates were higher in 40 percent of the largest 25 categories of U.S. imports from Morocco over pre-FTA growth rates (for a more detailed discussion of the methodology of this analysis, see app. I).

Table 8: U.S. Exports to Morocco: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 2002-2005	Post-FTA growth rate 2006-2008	Change in growth rates
Steelmaking and ferro-alloying materials	\$18,700	16	-85%	13,575%	13,660%
Iron and steel mill products	27,223	13	-86	546	632
Dairy products and eggs	77,774	5	9	320	311
Other coal and related fuels	146,836	2	-32	235	267
Industrial organic chemicals	15,197	20	-35	213	247
Other oilseeds and food oils	122,598	3	-92	153	245
Wheat	59,886	7	-74	26	100
Other chemicals (coloring agents, photographic chemicals, printing inks, paint)	17,981	19	16	101	86
Other petroleum products	66,911	6	6	80	74
Plastic materials	58,912	8	-43	12	55
Excavating, paving, and construction machinery	26,497	14	-5	36	41
Industrial engines, pumps, compressors, and generators	31,558	12	59	98	38
Other industrial machinery	13,053	24	-16	6	22

**Appendix V: Commercial/Economic Results of
the Morocco FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2008	Pre-FTA growth rate 2002-2005	Post-FTA growth rate 2006-2008	Change in growth rates
Telecommunications equipment	18,875	15	0	4	4
Miscellaneous domestic exports and special transactions	13,977	21	-2	1	4
Newsprint and other paper products	18,426	17	12	9	-3
Civilian aircraft, complete-all types	233,432	1	8	-2	-9
Soybeans	48,231	10	2	-19	-21
Passenger cars, new and used	13,182	22	70	47	-23
Other agricultural materials for industry-unmanufactured	35,013	11	86	52	-34
Parts for civilian aircraft	18,256	18	63	24	-39
Corn	90,094	4	45	-18	-62
Electric apparatus and parts, not elsewhere classified	11,543	25	99	-13	-112
Nonfarm tractors and parts	13,106	23	396	268	-128
Other animal feeds, not elsewhere classified	\$54,258	9	313%	75%	-238%

Sources: GAO analysis using end use data from Commerce and ITC.

Table 9: U.S. Imports from Morocco: Top 25 Categories by Value, Pre- and Post-FTA Average Annual Growth Rates, and Change in Growth Rates between Periods

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2007	Pre-FTA growth Rate 2002-2005	Post-FTA Growth Rate 2006-2008	Change in growth rates
Fertilizers, pesticides, and insecticides	\$65,213	3	-86%	5,620%	5,705%
Fruits and preparations, including frozen juices	26,721	9	-56	53	109
Generators, transformers, and accessories	2,802	23	-39	41	80
Sulfur and nonmetallic minerals	368,788	1	13	83	70
U.S. goods returned, and reimports	4,172	20	-49	5	55
Sporting and camping apparel, footwear, and gear	4,569	19	18	55	37
Apparel and household goods-cotton	43,992	5	-23	12	35
Minimum value shipments	5,130	18	6	34	28
Vegetables and preparations	53,299	4	1	20	20
Fish and shellfish	29,961	8	-1	11	12
Apparel and household goods-other textiles	29,994	7	-21	-24	-3
Other (clocks, portable typewriters, other household goods)	3,002	22	5	2	-3
Other (tobacco, waxes, nonfood oils, fatty acids, natural materials used in the preparation of medicines, dyes, and perfumes)	12,006	12	5	-2	-7

**Appendix V: Commercial/Economic Results of
the Morocco FTA**

Dollars in thousands

End use category description—top 25 categories ranked by largest percentage change in growth rate	Dollar value 2008	Rank by value 2007	Pre-FTA growth Rate 2002-2005	Post-FTA Growth Rate 2006-2008	Change in growth rates
Semiconductors and related devices	92,390	2	1	-16	-17
Tea, spices, and preparations	8,898	15	38	21	-18
Artwork, antiques, stamps, and other collectibles	1,990	24	6	-48	-53
Apparel and household goods-wool	13,716	11	42	-12	-54
Toiletries and cosmetics	8,680	16	89	11	-79
Footwear of leather, rubber, or other materials	9,290	14	67	-14	-82
Other parts and accessories	16,023	10	125	-4	-129
Electric apparatus and parts, not elsewhere classified	1,871	25	134	-19	-154
Liquified petroleum gases	3,953	21	236	20	-216
Food oils and oilseeds	9,672	13	288	-21	-309
Miscellaneous nonferrous metals (cobalt, mercury, antimony, etc.)	32,312	6	504	103	-401
Industrial organic chemicals	\$8,667	17	495%	-18%	-514%

Sources: GAO analysis using end use data from Commerce and ITC.

Factors other than the FTA were very important in trade between the United States and Morocco during this period including weather, exchange rates, high commodity prices, and growth, among other dynamics of the market. For example, Moroccan officials noted that factors such as competition with Asian producers, the expiration of the multifiber agreement, and the exchange rate hampered Morocco’s export sales to the United States of textiles and apparel. U.S. apparel importers, however, told us that the strict rules of origin, combined with concerns over whether Moroccan suppliers could meet associated customs documentation and accounting requirements, were also factors dampening buyer’s initial enthusiasm in Moroccan apparel suppliers after the FTA, despite their reputation for fashion.

Trade in Services

Commerce notes that services (mainly tourism) represent about 54 percent of Morocco’s GDP. The FTA helps reinforce the ongoing development of Morocco’s legal and regulatory reforms and development plans for a number of sectors that are of interest to U.S. service providers in areas such as telecommunications, e-commerce, and various professional services areas. The FTA has also helped to enhance transparency in Morocco’s regulatory framework. Unfortunately, data on U.S. bilateral trade in services with Morocco are not available from the BEA, and other data are limited, but the UN does provide sufficient data to

give some picture of Morocco's services trade with the world by service category.

For 2007, the UN estimates that Morocco's total service exports to the world reached \$13.4 billion, representing growth of over 230 percent since 2001. Based on 2006 data, about 61 percent of services exports was in travel, 15 percent was in transport, and 24 percent was in "other services." Over half of the "other services" category was composed of "other business services," and government services and communications also represented sizable shares.

The UN estimates that Morocco's total services imports from the world attained a level of \$5.97 billion, representing growth of 181 percent since 2001. Based on 2006 data, about 45 percent of services imports were in "other services," 39 percent were in transport, and almost 16 percent were in travel. Within the "other services" category, most was in either "other business services" or government services.¹

FDI

Some data on FDI for Morocco are available from BEA, and they can be supplemented with data from UNCTAD and other sources.² Regarding U.S. (outward) FDI in Morocco, the most recent figures show that, as of 2007, the stock of U.S. FDI in Morocco was only \$238 million. This level of FDI represents a minuscule share of total U.S. outward FDI (0.008 percent). Although the small level of FDI represents a large increase over the level in 2006, the first year of the FTA, the level of U.S. outward FDI in 2007 is still lower than total U.S. outward FDI during the period 2001-2003.

UNCTAD data provide figures for total inward FDI in Morocco, including FDI by the United States, that helps put these figures into perspective. Total inward FDI has been growing steadily, reaching \$32.5 billion in 2007. In fact, between 2000 and 2007, inward FDI in Morocco had an annual average growth rate of over 50 percent. Comparing the level of inward FDI from the UNCTAD data with the level of U.S. FDI into Morocco from the

¹Again, note that the available data do not tell us the U.S. share of these service exports and imports.

²Note that BEA data on sales by affiliates of U.S. MNCs (MOFAs) are not available for Morocco.

BEA data suggests that U.S. FDI has not played a significant role in the growth of investment in Morocco.³

Turning to outward FDI, UNCTAD data show that Morocco's FDI appears to have been growing steadily, reaching \$2.0 billion in 2007. The major countries in which Morocco invests include France, Canada, and Mauritania. By industry, Moroccan FDI is in mining and services (specifically, finance and business services). BEA data on inward U.S. FDI from Morocco shows a level of only \$5 million, which did not change over the period 2004-2007.

U.S. and Moroccan Perspectives on Issues Related to the FTA

Although the Moroccan FTA has only been in force since 2006, from the U.S. perspective, there have been some promising commercial trends. For instance, the American Farm Bureau Federation (AFBF) told us that, since the FTA came into force in 2006, U.S. agricultural exports to Morocco have grown exponentially, and Morocco's rank as a U.S. export destination for agriculture rose from 38th to 24th.⁴ Most of this gain has been the result of grain exports; however, some horticultural products have also expanded trade. For instance, the apple industry began exporting to Morocco as a result of the duty-free tariff rate quota established under the U.S.-Morocco FTA. Until that FTA was implemented, the 50 percent tariff served as a very effective barrier to trade, according to the AFBF. On the investment side, an official of AmCham in Morocco noted that many U.S. businesses have interests in Morocco, including Pfizer and Coca Cola. As far as the textile industries, AmCham explained that Fruit of the Loom recently invested \$166 million in a new business in Morocco that was linked to the U.S.-Morocco FTA. AmCham added that they invested because of the lower customs duties brought about by the FTA.

From the Moroccan perspective, some government officials noted that so far they had not benefited from the agreement as they had hoped. Moroccan trade concerns included trade statistics discrepancies, the lack of sanitary and phytosanitary (SPS) certification issues for tomatoes;

³Secondary source data (AmCham) indicate that France constitutes 75 percent of FDI in Morocco, followed by Spain with 5 percent, while the United States has less than 1 percent (apparently consistent with BEA data). AmCham indicates that almost 60 percent of inward FDI is in telecommunications, and almost 12 percent is in tourism.

⁴The American Farm Bureau also noted that while these trends were promising, they were likely aided by recent global trade trends, such as the increases in global commodity prices.

customs obstacles; and a request for early phasing out of U.S. tariffs on certain Moroccan goods, which was not accepted.⁵ Also, a private association of businesses in Morocco stated that “since Moroccan firms conduct business in French, the barrier to obtaining information about the rules, the U.S. market, and promotion is language.” Logistics was also cited as a problem. Some officials noted that there is no direct shipping line between Morocco and the United States, thereby increasing the costs for Moroccan firms. Currently, this business association envisions the port in Tangier (Tangier-Med) to act as a hub. Other Moroccan officials stated that the benefits of the agreement lie in the future. Other Moroccan officials stated that the benefits of the agreement lie in the future. For instance, one Moroccan academician agreed with this view and stated that one should not only look at the FTA’s impact on trade but also at the “spillover effects” of the agreement including technological changes, government institutions, and reforms.

There are several trade and regulatory capacity building programs associated with the U.S.-Morocco FTA. Commerce’s Commercial Law Development Program (CLDP) Team works with developing countries in adjusting their laws relating to investments and regulatory policy to conform with new trade agreements. Along with the United States Agency for International Development, they helped Morocco institute commercial laws and arbitration laws, as well as insurance laws and pharmaceutical laws, without which firms could not invest previously. The Morocco New Business Opportunities (NBO) program was initiated in response to the FTA in 2006 and is a 4-year program financed by USAID in partnership with the Ministry of Commerce, Industry and Economic Upgrading. The main objective of the NBO is to assist Moroccan enterprises in the manufacturing sector to take advantage of exporting opportunities to the U.S. The two priority sectors that are part of their national strategy to

⁵Concerning the issue with the Moroccan trade statistical discrepancies, the two countries are having ongoing consultations among participants from the U.S. Census and USTR, and the Moroccan Office des Changes (Foreign Exchange Office) to resolve these issues. U.S. officials explained that after an examination of this issue by both countries, it was found that Moroccan statistics had failed to fully account for exports sent to the United States via third countries which resulted in U.S. import statistics showing a higher volume of imports from Morocco than Moroccan statistics show as being exported to the United States. Concerning partner countries meeting U.S. standards, including sanitary and phytosanitary standards, U.S. officials commented that it often takes many years for the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, to certify products. For Moroccan tomatoes, we were told that APHIS has published a draft regulation, which is the first step in the process.

build capacity to develop and maintain long-term, commercial partnerships with U.S. companies are the textile and garment industry and the leather industry. Specifically, the NBO program provides technical support, training, and business contacts to Moroccan exporters in order for them to successfully promote their products in the U.S. market.

Appendix VI: Average Annual Growth Rates of Bilateral Trade with FTA Partner Countries Compared with Overall U.S. Trade

For each of the four selected FTAs, we examined the average annual growth in bilateral trade for several years prior to the agreements and compared that with growth rates after the agreements for a similar period of years (see table 10). Across partner countries, we found that post-FTA average annual growth rates for U.S. exports were all higher than pre-FTA growth rates and, in some instances, average growth went from negative to positive. For U.S. imports, we found that average annual growth rates were higher in three out of the four partner countries, all except for Jordan, which had a high rate of growth pre-FTA. Also, except for Singapore, the average annual growth rates for U.S. exports and imports with the partner countries were all higher in the post-FTA period than those for similar time periods for total U.S. exports and imports with the rest of the world.

Methodology and Data Used

First, to calculate average annual growth rates for U.S. exports and imports with the partner countries, we selected an equal number of years both before and after the selected FTAs came into force. For example, since both the Singapore FTA and Chile FTA came into force in 2004, we calculated an average annual growth rate of bilateral trade for a pre-FTA period of 5 years before 2004 and a post-FTA period of 5 years after implementation. For the Morocco FTA, which came into force in 2006, we calculated equal periods of 3 years before and after the agreement. Similarly, for Jordan, which came into force on December 2001, we calculated estimates of growth based on equal 7-year periods before and after the agreement came into force. Second, we obtained trade data for the United States and the partner countries from the ITC Interactive Tariff and Trade Dataweb for the appropriate years. Third, we adjusted the export or import series for inflation using the GDP's Implicit Price Deflator. Fourth, we calculated year-to-year growth rates for the series and then took an average growth rate for each pre- and post-FTA period. Fifth, we then subtracted the pre-FTA average annual growth rate from the post-FTA growth rate and sorted these differences in descending order for each product category. Finally, for comparison, we also calculated the average annual growth rates of U.S. trade with the world for the same periods as for each of the FTAs.¹

¹Many other factors were also likely affecting trade in both the pre- and post-FTA periods, such as commodity price changes, exchange rates, and other bilateral and regional trade agreements. As well, FTA specific changes such as lowering tariff and nontariff barriers increase market access and provide gains from trade.

**Appendix VI: Average Annual Growth Rates of
Bilateral Trade with FTA Partner Countries
Compared with Overall U.S. Trade**

Table 10: Average Annual Growth Rates of Bilateral Trade with Partner Countries Pre- and Post-FTA and U.S. Growth in Trade with the World for Similar Time Periods

Bilateral FTA partner country	Average annual growth rates of bilateral trade with partner countries		U.S. exports and imports with world	Average annual growth rates for U.S. trade for similar time periods as FTA	
	Pre-FTA period	Post-FTA period		Pre-FTA period	Post-FTA period
Singapore (5-year average period)					
U.S. exports to Singapore	-0.9%	8.6%	U.S. exports	-1.2%	9.3%
Imports from Singapore to United States	-6.1	-0.3	U.S. imports	4.9	7.8
Chile (5-year average period)					
U.S. exports to Chile	-9.1	32.6	U.S. exports	-1.2	9.3
Imports from Chile to United States	9.3	14.1	U.S. imports	4.9	7.8
Morocco (3-year average period)					
U.S. exports to Morocco	-4.5	40.8	U.S. exports	5.6	10.3
Imports from Morocco to United States	4.0	20.6	U.S. imports	9.9	5.1
Jordan (7-year average period)					
U.S. exports to Jordan	1.6	12.5	U.S. exports	3.1	5.8
Imports from Jordan to United States	52.9%	27.2%	U.S. imports	6.4%	6.5%

Sources: GAO analysis using data from Commerce and ITC, years 1994 through 2008.

Results of Overall Growth Rates for Trade with Partner Countries Pre- and Post-FTAs

Across partner countries, we found that post-FTA average annual growth rates for U.S. exports were all higher than pre-FTA growth rates, and for Singapore, Chile, and Morocco, average growth went from negative to positive. Also, except for Singapore, these growth rates with partner countries for U.S. exports were also higher than average annual growth rates of all U.S. exports during the same time periods. For the Chilean and Moroccan FTAs, the post-FTA annual growth rates for U.S. exports were considerably higher than the pre-FTA period growth rates, increasing from -9.1 percent to 32.6 percent, and from -4.5 percent to 40.8 percent, respectively. The growth in U.S. exports to Jordan and Singapore were more modest, increasing to 12.5 percent and 8.6 percent, respectively. U.S. import growth rates for the four partner countries were larger or less negative in the post-FTA period than the pre-FTA period for Singapore, Chile, and Morocco, but less for Jordan. The result for Jordan, in which overall growth goes from 52.9 percent in the pre-FTA period to 27.2 percent in the post-FTA period, coincides with our analysis for the product categories where less than half of the top 25 U.S. import categories from for Jordan experienced growth in the post-FTA period (see app. II for an

**Appendix VI: Average Annual Growth Rates of
Bilateral Trade with FTA Partner Countries
Compared with Overall U.S. Trade**

analysis of pre- and post-FTA growth rates of U.S. imports from Jordan by product category). However, this result is likely due to the fact that the QIZ program spurred such huge rates of growth prior to the Jordan FTA, especially in the apparel categories. However, the growth rates of U.S. imports from Jordan following the FTA and their value were quite sizeable also, but just not as large as pre-FTA levels. Notably, except for Singapore, the average annual growth rates of U.S. exports and imports with the partner countries were all higher in the post-FTA period than those for similar time periods for total U.S. exports and imports with the rest of the world.

Appendix VII: Comments from the Department of Labor

U.S. Department of Labor

Deputy Under Secretary for
International Affairs
Washington, D.C. 20210



May 18, 2009

Dr. Loren Yager
Director, International Affairs and Trade
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Dr. Yager,

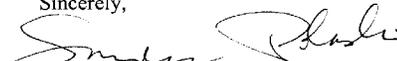
Thank you for the opportunity to review the draft GAO report, *International Trade: Selected Free Trade Agreements Have Resulted in Commercial Benefits, but Progress on Labor and Environment Has Been Limited*. One of the overall findings of your report—that provisions in these agreements designed to ensure that workers share in the benefits of trade has not been given the same attention as the commercial obligations—is an important concern of mine and of the Department of Labor.

While the United States has focused resources and attention on ensuring that commitments made by our trading partners to open their markets are upheld, the same has not been true for the labor provisions of these agreements. In line with Administration priorities, the Department of Labor will be placing a new emphasis on ensuring that all aspects of our trade agreements—including the labor provisions—are fully respected and enforced. We will work with our trading partners to help bring the opportunities of trade to both their workers and ours.

In order to reinvigorate the labor cooperation process and enforcement mechanisms envisioned in our free trade agreements, the President's Fiscal Year 2010 budget for the Department of Labor includes additional funds for staff and resources in the International Labor Affairs Bureau (ILAB). This additional support will allow ILAB to significantly improve its ability to monitor labor issues in FTA countries, provide a strengthened mechanism for enforcement of trade agreements, develop cooperative activities with FTA partners, and research facts relating to specific labor situations and submissions. This increase will allow ILAB to be more proactive in monitoring and addressing these issues, with the opportunity to work with FTA countries prior to labor incidents which warrant the filing of a submission.

The Department of Labor looks forward to working towards building a trading system that respects the rights of workers and expands opportunities for all workers and their families. Our efforts to improve the administration and enforcement of our free trade agreements are an important component of this work.

Sincerely,


Sandra Polaski
Deputy Under Secretary

Appendix VIII: Comments from the Department of State

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



United States Department of State

Washington, D.C. 20520

MAY 19 2009

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

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "INTERNATIONAL TRADE: Selected Free Trade Agreements Have Resulted in Commercial Benefits, but Progress on Labor and Environment Has Been Limited," GAO Job Code 320544.

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

If you have any questions concerning this response, please contact Steve Rhee, Labor and Environment Officer, Bureau of Economic, Energy and Business Affairs at (202) 647-4367.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Millette".

James L. Millette

cc: GAO – Kim Frankena
EEB– David D. Nelson (Acting)
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

**INTERNATIONAL TRADE: Selected FTAs Have Resulted in
Commercial Benefits, but Progress and U.S. Oversight on Labor
and Environment Have Been Limited**
(GAO-09-439 GAO Code 320544)

Thank you for the opportunity to respond to the GAO draft report
*"International Trade: Selected FTAs Have Resulted in Commercial
Benefits, but Progress and U.S. Oversight on Labor and Environment
Have Been Limited."*

Overall comments

We believe that the meaningful structural and institutional reforms enacted as a result of the FTA process in Morocco, Chile and Jordan are significant achievements not adequately recognized by the study. Establishment of environmental ministries (Jordan) and overhaul of Jordan's environmental and Morocco's labor codes represent significant enhancements for environmental and labor protection regimes. Chile is in the process of creating an environmental ministry. The study undervalues these accomplishments. The real question for this study should be whether the free trade agreements led to significant improvements in labor and environmental standards. We believe that this answer to this question is an unqualified yes.

The report should highlight how the FTAs and environmental and labor cooperation mechanisms have made environmental and labor protection a higher priority in these countries. While perhaps not yet perfect, these countries have made significant progress in strengthening and enforcing their laws that they likely would not have made without the FTAs and cooperation mechanisms.

State believes that the report should distinguish more clearly between FTA environment/labor *chapters* and environmental/labor *cooperation mechanisms*. When a government signs an FTA, it agrees to comply with the provisions in the labor and environment chapters. Once the FTA enters into force, it has a duty to comply with those provisions whether or not the U.S. provides support through cooperation. If one of our FTA partner governments is not meeting these obligations, then the U.S. has the

See comment 1.

See comment 2.

discretion to decide whether to address the noncompliance through mechanisms in the FTA.

General Labor and Environment Comments

Labor and environmental cooperation with our FTA partner governments is (and has been) a high priority for the State Department. State negotiates labor and environmental cooperation mechanisms, negotiates work plans for implementing the mechanisms, coordinates activities that occur under the work plans, and attempts to find funding sources for implementing activities or facilitate activities that require little funding but still have significant impacts. State continually strives to improve effective coordination with our partners in the interagency and internationally and to achieve measurable results on the ground.

However, State has been severely hampered by the lack of human and financial resources to undertake this work. For example, until now, Congress has not dedicated any funding for FTA-related environmental cooperation with Chile, Jordan, Morocco, or Singapore. Where Congress has provided funds for FTA implementation, as with CAFTA-DR, our technical cooperation has been robust, and we have had significant impact for a relatively small amount of investment. In the face of very limited funding, State has tried to identify other funding sources and connect those sources to other agencies for implementation. State has also tried to be creative by holding DVCs, undertaking exchanges, and pursuing other relatively low-cost capacity building with our partners. In 2009, consistent with the President's budget request, Congress did appropriate \$3 million for FTA-related environmental cooperation (non-CAFTA-DR). So, we anticipate more robust cooperation with some of these countries.

State has had a measure of success on these fronts. For example, State connected the Environmental Protection Agency (EPA) and the Department of Interior (DOI) with the Middle East Partnership Initiative (MEPI) program. As a result, EPA and DOI conducted environmental projects in Morocco with MEPI funding. State also has worked collaboratively with USAID Jordan to fund activities in the Jordan – U.S. Work Program. State has held low cost DVCs with officials from Singapore and Chile on energy efficiency in government buildings and clean laboratories, as well as between US and Chilean labor experts. State has worked with the Department of Labor to identify alternate sources of

funding to implement labor programs, such as an OAS-funded exchange on labor hotlines between US and Chilean experts.

See comment 3.

In general, the report seems to set an unrealistic standard for determining successful implementation of Environment Chapters of FTAs and Environmental Cooperation Mechanisms. The report describes that three of the four partners reported ongoing challenges to enforcing environmental laws. However, every government has challenges enforcing its environmental laws. In State's view, the standard for whether an FTA or Environmental Cooperation Mechanism (ECM) is successful should not be whether, after three, five, or even 10 years, a government no longer has "challenges" in enforcing its environmental laws.

Rather, the relevant question is whether that government has made substantial progress in improving its laws and enforcement since the FTA and ECM entered into force. Some of these countries started with almost no environmental infrastructure. The FTAs and ECMs have increased environmental protection as a priority in these countries, but they cannot be expected to solve all environmental problems in a few years. At least now, environmental protection is a focus of national attention, as evidenced by the report's descriptions of the many improvements that the governments have made to their environmental laws and enforcement.

Similarly, while State appreciates the attention to detail regarding the evolution of the labor situations in the four FTA partner countries, several statements are incorrect or unclear, and some mischaracterize the underlying situation. One example is an unfortunate oversimplification of the process by which the interagency helped develop and support the Better Work Jordan Program.

On the other hand, environmental cooperation generally is geared toward promoting conservation and protection of the environment, such as the prevention of pollution and the degradation of natural resources and ecosystems in support of sustainable development. With our FTA partners, the U.S. works to strengthen their environmental institutions and laws, improve enforcement, and provide opportunities for civil society engagement in environmental decision-making and enforcement.

In the end, however, even if we provide a partner government a significant amount of support through labor and environment cooperation, it is still up to that government to ensure that it is meeting its FTA obligations. We continually stress this with our trading partners.

Jordan and Environmental Issues Comments

The report understates the progress Jordan has made regarding environmental protection. Since the FTA entered into force and we issued our Joint Statement on Environmental Technical Cooperation, Jordan has made tremendous strides to strengthen its environmental institutions and improve environmental enforcement. Jordan has, among other things, created an Environment Ministry with responsibility for all environmental protection matters in Jordan and established the Royal Rangers (formerly the Environmental Rangers) to enforce environmental laws and regulations in the areas of pollution and natural resources. The U.S. Government provided Jordan assistance to accomplish these things. Now, EPA is training the Rangers to conduct investigations of environmental crimes. In October 2008, EPA hosted a very successful study tour of the United States' Environmental Enforcement and Compliance System for officials from Jordan's Ministry of Environment, the Royal Rangers, and the Royal Society for the Conservation of Nature. The Department of Interior is working with the Royal Society for the Conservation of Nature and other key partners to strengthen their ability to meet obligations in the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) and improve visitor services in protected areas. USAID is implementing a broad spectrum of environmental projects, including on water conservation, waste and waste water management, and biodiversity conservation.

Chile and Environmental Issues Comments

Chile deserves much credit for progress it has made in strengthening its environmental institutions and encouraging public participation in environmental decision-making. Chile has an environment minister and is in the process of changing its national environmental authority into a full Environment Ministry. Chile also recently sought input and views from environmental groups when developing its national strategies and other initiatives, such as the launch of its national climate change action plan. The report states that the United States missed an opportunity to use the FTA to cooperate with Chile to address problems in its salmon and forestry industries because U.S. agencies did not engage with Chile. However, USDA and FDA have conducted activities related to salmon and the 2009-

See comment 4.

2010 US Embassy Work Plan includes forestry projects. Moreover, State organized a major meeting in Washington, D.C. on U.S.-Chile parks cooperation in fall 2008.

The GAO seems to confuse the Environmental Affairs Council (EAC) with the Joint Commission on Environmental Cooperation (JCEC). Although there are project areas listed in the FTA environment chapter, the EAC does not have its own work plan. In its 2007-2008 Work Plan, the JCEC, included the following Activities: "Building Capacity for Assuring Compliance with Environmental Laws, and Regulations," "Reducing Environmental Impacts of Mining," "Improving Agricultural Practices," "Building Capacity for Protected Area Management," "Marine Protected Areas," and "Marine Science and Fisheries." If funding becomes available, State hopes to pursue activities in these areas.

Singapore and Environmental Issues Comments

As the report notes, Singapore has an excellent record of environmental protection. State has nevertheless pursued environmental cooperation with Singapore in a number of areas. For example, Singapore is a large transshipment point. We have worked with Singapore to try and curb illegal logging and wildlife trade. The United States and Singapore co-hosted a workshop from October 30 to November 2, 2007, in Singapore to train regional port inspectors and customs authorities to identify *ramin* wood. This training program reflects an important commitment by key government agencies from the United States, Singapore, Malaysia, Indonesia, and China to work together in an effort to curb illegal traffic in this endangered species of timber. TRAFFIC Southeast Asia conducted a training workshop on Wildlife Trade Regulation from July 29- 30, 2008 for checkpoints and CITES officers, which featured basic techniques in handling live specimens of wild fauna and case studies of the illegal freshwater turtle and tortoise trade in Southeast Asia and the python trade in Singapore. During a study tour in September 2008, two officials from the Singapore Agri-Food and Veterinary Authority (AVA) --the CITES Management Authority of Singapore -- consulted with the Fish and Wildlife Service and various other U.S. agencies that implement CITES and exchanged information on law enforcement methods and CITES implementation practices and systems.

Morocco and Environmental Issues Comments

Morocco also has made strides in its efforts to preserve and protect the environment since the 2006 entry-into-force of the FTA. State believes, however, that the report undervalues the cooperative environmental work undertaken with Morocco. EPA has completed at least eight trainings. EPA also is working to help Morocco implement a program for enforcing environmental rules and regulations in its textile sector, as well as to assist Morocco in developing industry partnerships that will address compliance assistance and pollution prevention issues. The Department of Interior worked with USAID to develop sustainable tourism in three regions of Morocco, promoting environmental conservation and generating income for rural communities. The U.S. Trade and Development Agency awarded a grant to a Moroccan agency for managing the detritus and waste water from olive oil factories. The grantee will partner with a U.S. company to do a feasibility study for a treatment plant in the Sebou River basin. NOAA's National Ocean Service will implement a UNEP/National Plan of Action project to update the baseline data needed for science-based decision making in protecting the ecosystems in three of Morocco's protected areas. This project should also help develop integrated watershed management for these regions. The United States was able to undertake these activities even though there has been no dedicated funding for environmental cooperation with Morocco.

State also appreciates and welcomes Moroccan officials' desire—reflected in the report—to step up our environmental cooperation program. Provided funding becomes available, State looks forward to deepening and strengthening our program in the near future.

GAO Recommendation

We recommend that the Secretary of State direct the Bureau of Oceans, Environment and Science (OES) to develop a structured approach to manage and monitor the implementation of environmental cooperation mechanisms and projects. This should include information such as number and nature of activities, source and amount of funding, and impact evaluations. Furthermore, OES should use this information to publicly report to Congress assessing the outcomes of projects as well as their compliance with applicable U.S. trade policy goals.

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The State Department appreciates GAO's recommendation to develop a structured approach to manage and monitor the implementation of environmental cooperation mechanisms and projects.

State is not entirely clear what GAO means by "structured approach." State currently employs a number of approaches to manage and monitor implementation of environmental cooperation mechanisms and projects. State regularly holds interagency meetings to receive updates on Work Plan and project implementation, as well as high level meetings to discuss projects and progress in meeting objectives in the environmental cooperation mechanisms. State also maintains a database in an effort to keep track of activities in each country. Without dedicated funding, however, it has proven to be very difficult to track funding associated with our cooperative environmental work. In many cases, State has used very little or no foreign assistance funds to undertake activities. For example, State has facilitated digital video conferences (DVCs) with environment officials from Chile and the United States that required a significant amount of staff time. It is difficult to put a dollar value on these kinds of activities, yet failing to take them into account would undervalue the amount that State contributes to environmental cooperation.

Moreover, State continually strives to improve the management and monitoring of this work. For example, in the Central America Free Trade Agreement (CAFTA-DR) region, State has provided a grant to the Organization of American States to independently monitor and evaluate our work there. State has not had funding to do anything similar with other countries such as Jordan, Chile, Singapore, or Morocco. But, again, we believe that robust monitoring and evaluation of this work is very important, and we are always looking for ways to improve.

State also welcomes the recommendation of publicly reporting to Congress on assessing the outcomes of projects and overall success of environmental cooperation.

See comment 5.

The following are GAO's comments on the Departments of State's letter dated May 19, 2009.

GAO Comments

1. GAO agrees that some important progress in strengthening environmental and labor protection has been achieved in FTA partners, notably in putting in place structures and institutions that had been absent in some countries, such as the Ministry of Environment in Jordan. As a result, we changed the title of our report from "Selected FTAs Resulted in Commercial Benefits, but Progress on Labor and the Environment Has Been Limited" to "Four FTAs GAO Reviewed Resulted in Commercial Benefits, but Challenges on Labor the Environment Remain." We reviewed the body to ensure these positive steps and U.S. officials' perspectives on progress are given due weight. For example, we added new information on environmental cooperation projects such as Interior's help to Jordan on CITES and noted Chile's nascent steps to allow civil society input into environmental decision making. In addition we recognize that the existence of FTA obligations may have been a factor in influencing partner action. The labor law improvements Morocco enacted had been long-pending prior to the FTA. The QIZ program does not require adherence to core labor standards, but the Jordan FTA requires partners to strive to ensure that labor principles and internationally recognized labor rights set forth in the FTA are recognized and protected by domestic law. Under the Jordan FTA, parties also commit to not fail to enforce its laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties.
2. GAO has revised the report to more clearly distinguish between FTA environmental chapters and environmental cooperation mechanisms and recognize the partners' are obligated by their FTA commitments.
3. State suggests GAO's report sets an unrealistic standard for determining success on the environment. GAO disagrees.

First, GAO's standards for judging FTA success in producing environmental progress are grounded in TPA goals and FTA requirements, and ensuing, related commitments or agreed goals on environmental cooperation. For example a principal negotiating objective under TPA is to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development. An FTA requirement on the environment call for parties to "strive to ensure" or "ensure" that their laws provide for

high levels of environmental protection and to continue to improve those laws as well as to “not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties.” As State notes, some of these are FTA requirements are quite broad.

Second, GAO’s judgments are based on the evidence made available to it about post-FTA developments and their significance. While the evidence we gathered has certain limitations, it nonetheless is authoritative and sufficient in the sense that it truly represents what can and cannot be said about FTA partners’ “progress to date.” In terms of evidence, GAO appreciates State’s call for us to “determine whether there has been substantial progress by partners in improving environmental laws and enforcement.” Indeed we had hoped to do just that. Unfortunately, the information made available to us by U.S. agencies about partners’ laws and enforcement did not permit such an evaluation by GAO. As noted in the report, a baseline assessment of the partners’ laws and enforcement is not included in any depth in the environmental review prepared by USTR. Though some partners reportedly did prepare them, agencies produced no such documents in response to our request for background on partner environmental regimes. Our interviews with EPA indicated that they may informally review or comment on partners’ environmental regimes, but that no template or check list of what a strong environmental regime should include is used. EPA officials rather stressed that a lot depended on the country’s legal context and its institutional and technical starting point. Moreover, State, USTR, and EPA told us they do not routinely monitor or report on changes in partners’ environmental regimes. These agencies’ responses to our document requests bore this out and did not surface much information.

Absent agreed or available baseline documentation and ongoing monitoring reports, GAO undertook efforts to identify on its own legal and institutional changes that had occurred in conjunction with or after the FTA’s entry into effect, as well as FTA-related cooperative projects. This was done by searching secondary sources of foreign laws and soliciting documentation from U.S. agencies such as State and Labor in Washington, and U.S. Embassies abroad during fieldwork. However, we did not independently assess or evaluate the foreign laws. We sought to compare the project-related information to agreed plans and priorities, but this often proved difficult to match in practice. In the case of labor, there were no articulated priorities or plans, though there usually were project evaluations. In the case of the environment, there were agreed priorities and plans, but their general

nature made it difficult to match projects, determine their significance, or assess the extent to which they satisfied expectations. The particulars of what a project involved in terms of funding or activities conducted often did not exist, nor were project evaluations available.

We also solicited partners' and U.S. officials' own assessment of this progress and the significance of their remaining challenges. U.S. officials' for example noted that due to the directional and aspirational nature of FTA commitments, they seek to "do no harm" and "do good works" and pointed to visible signs of improvement in certain partners, notably Jordan. We supplemented this information from official sources on partner developments versus expectations with feedback from selected experts and environmental stakeholders. For example, we spoke with an expert at the NAFTA Environmental Commission involved in a 10-year retrospective on progress under that cooperative arrangement, with ECLAC and ILO officials in Chile, with the chair and several liaisons to the Trade and Environment Policy Advisory Committee, and with in-country environmental groups identified and arranged by our State Embassy control officers. We relied on, report, and attribute the information we were able to gather. We have expanded the discussion of these sources and their limitations in the scope and methodology sections of the report.

Third, GAO took steps to assure a fair and balanced assessment of the extent of progress. On environment, for example, U.S. and partner government officials both told GAO that the FTAs were not intended to resolve all environmental problems and we now highlight this in the report. GAO had already noted in the background that differences in country context and the length of time FTAs have been in effect likely are important factors in the extent of observable progress. We reiterate this now in the conclusion. While the evidence we obtained led GAO to conclude that there has been some progress to date in improving partners' capacity to protect the environment, we do not suggest that FTAs fix all of the partners' environmental problems in a few years. GAO also includes information provided by agency officials intended to place these four FTAs in the broader context of progress over time and with more experience and resources.

4. State highlights, by partner, examples of environmental progress. We have supplemented somewhat our treatment of these developments in the report.

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5. GAO has expanded its description of the gaps and clarified its recommendation for a “more structured approach” in response to State’s request for a better explanation of what is missing and would be helpful.

Appendix IX: Comments from the Office of the United States 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

June 9, 2009

Dr. Loren Yager
Director, International Affairs and Trade
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Dr. Yager:

We appreciate the opportunity to review and comment on the draft of the General Accountability Office's (GAO) report, *International Trade: Four FTAs GAO Reviewed Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain* (Report). The Office of the U.S Trade Representative (USTR) appreciates the GAO's recognition that each of the four free trade agreements (FTAs) that the GAO examined produced commercial benefits at home and in the partner country. We are confident that we can continue to build on the record of reaping commercial benefits from all of our FTAs, and ensuring that our FTAs also provide, fully consistent with their terms, for protection of core labor standards for workers and enhanced protection of the environment.

USTR is reviewing our current FTAs and formulating new policies on implementing, monitoring and enforcing our agreements. The Congressional-Executive Agreement of May 2007, which added key commitments on labor standards and environmental protections to our recent FTAs, is a touchstone for future work. Ensuring that all provisions of our FTAs, including labor standards and environmental protections, are fully implemented and enforced is a priority as we go forward for USTR and other agencies.

USTR's work in recent months with Peru to address concerns related to environmental protection and Panama on labor standards issues demonstrates the Obama Administration's commitment to address environmental protection and labor issues vigorously and proactively. In the case of Peru, USTR and other agencies have been engaged continually over the past two years with the Government of Peru on implementation of our FTA, including the Forrest Sector Annex to the Agreement. Last month, President Obama established an interagency committee with responsibility for overseeing the implementation of that Annx. Moreover, the United States and Peru have met under the Environmental Cooperation Agreement and are developing a work plan and proposed projects. With regard to Panama, USTR and other agencies have been working to address concerns expressed about implementation of core labor standards. That work has already resulted in the Government of Panama issuing three Decrees to address important aspects of these labor issues.

While we agree that we need to ensure that each of our FTAs benefits Americans and achieves fully the labor and environment goals that each sets out, the GAO staff's reporting on and analysis of what agencies have done on FTA labor standards and environmental protection issues and what agencies are called on to do gives, in some

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Dr. Loren Yager
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See comment 1.

See comment 1.

respects, an inaccurate picture of the situation. This inaccurate depiction may result in misunderstanding of or confusion about future work and cooperative efforts with our FTA partners on labor standards and protection of the environment. This failure to focus on actions that are required under our FTAs and the Trade Act of 2002 (2002 Act) can give the impression that FTA obligations or the requirements of the 2002 Act are not being met. This lack of precision also applies to the Report's description of our FTA partners' actions and the challenges they face on labor standards and improving environmental protection. Further, the Report's analysis often ignores a key element of the commitments on labor standards and environmental protection--that an FTA partner not "fail to effectively enforce its [environmental]/[labor] laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties."

We recognize that more can be done on monitoring and enforcing the labor and environment provisions of our FTAs. Going forward, the Report will be useful in evaluating and prioritizing resource needs, as well as in the event we identify additional resource needs for monitoring and enforcement of our FTAs, in particular with regard to those provisions relating to labor standards and environmental protections.

This Administration is working to ensure that our FTAs benefit Americans through improved conditions for trade that expand opportunities for workers and their families, farmers, ranchers, and businesses, improved implementation of core labor standards, and enhanced environmental protections. We hope that we can have a common understanding of the guidance and direction that Congress has provided and those that this Administration will set.

Sincerely,

Timothy M. Reif
General Counsel

The following are GAO's comments on the Office of the United States Trade Representative's letter dated June 9, 2009.

GAO Comments

1. USTR said in some instances GAO had portrayed an inaccurate and potentially misleading picture of U.S. agency responsibilities, partner's actions, and outstanding challenges. In response, GAO made several technical corrections and ensured criteria were cited. In the revisions we made, we also sought to make clearer distinctions between requirements for U.S. agencies under TPA, FTA chapters, and associated cooperation mechanism agreements, versus more general expectations for U.S. agencies based on USTR's overall responsibilities for the operation of the U.S. trade agreements program, leading and guiding U.S. trade policy, and monitoring and enforcing trade agreements. We acknowledge that evaluation of the progress attained was based, in part, on interviews with responsible foreign and U.S. government officials and selected private sector interests and experts. USTR also indicated that GAO should have given more prominence to the FTA commitment that an FTA partner not fail to enforce its environmental and labor laws through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties (USTR's underlining for emphasis retained). GAO already distinguishes between this binding FTA obligation and other, more "aspirational" commitments. However, we believe that by definition all of the FTA commitments on labor and the environment are trade-related, because they are contained in a trade agreement, and thus appropriate for inclusion within the scope of our review of progress attained as result or since the entry into force of these FTAs. Moreover, some FTA commitments and FTA cooperative goals are broad or generally applicable, rather than being limited to traded sectors.

In each of the four FTAs and associated annexes we reviewed, partners recognize that cooperation provides enhanced opportunities to improve labor standards and strive to ensure their laws provide for high levels of environmental protection. Moreover, in contesting the Labor Advisory Committee's criticisms of the Chile and Singapore FTAs, we note that USTR itself stated that FTA labor provisions "create a forum to in which disputes regarding any labor-related matter of concern may be raised" and "create cooperative mechanisms to

improve worker rights.”¹ USTR added that “the U.S. Department of Labor had already embarked upon a cooperative program with Chile to improve the administration of its labor laws and enhance labor justice.” Finally, while GAO relied on the information available to document partner progress on labor, we reviewed the report to eliminate references to lack of protections for workers in non-traded sectors.² GAO notes that some of the FTA-related cooperative plans and projects address labor and environmental matters that are more general in nature, versus being strictly trade-related. For example, one of the agreed areas of focus for cooperation in the U.S.-Chile FTA is increasing the use of cleaner fuels,³ and one of the associated environmental cooperation projects State documented in Chile pertains to diesel bus emissions in Santiago. We continue to include this among the FTA-related progress reported.

¹See Office of the United States Trade Representative, Response to the Labor Advisory Committee Report on the Proposed Chile and Singapore FTAs, pp. 2-3.

²For example, State issues annual reports and human rights which include descriptions of whether trade partners’ provide the 5 core ILO labor rights in law and practice and the International Trade Union Confederation regularly issues reports on countries’ compliance with these core labor standards in conjunction with WTO Trade Policy Reviews.

³Chile FTA, Annex 19.3, para. 1 (h).

Appendix X: GAO Contact and Staff Acknowledgments

GAO Contact

Loren Yager, (202) 512-4347 or yagerl@gao.gov

Staff Acknowledgments

In addition to the individual named above, Kim Frankena, Assistant Director; Venecia Kenah, Analyst-in-Charge; Ann Baker; Kenneth Bombara; Barbara El Osta; Francisco Enriquez; Leyla Kazaz; Karen Deans; Etana Finkler; and Grace Lui contributed to this report. Expert advice was provided by Martin DeAlteriis, Mike Hix, and Revae Moran.

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