

**STATEMENT ON HOW
THE UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT
MAKES PROGRESS IN ACHIEVING
U.S. PURPOSES, POLICIES, OBJECTIVES, AND PRIORITIES**

A. INTRODUCTION

The United States-Australia Free Trade Agreement (FTA or Agreement) makes progress in achieving the applicable purposes, policies, objectives, and priorities of the Bipartisan Trade Promotion Authority Act (TPA Act). This Statement describes how and to what extent the applicable purposes, policies, objectives, and priorities are achieved through the FTA.

The U.S.-Australia FTA is the first bilateral free trade agreement concluded by the United States with a developed country since the U.S.-Canada FTA in 1988. Tariffs on almost all manufactured goods originating in the United States and Australia and on all U.S. agricultural exports to Australia will be eliminated as soon as the Agreement enters into force. The Agreement addresses duty treatment for imports of sensitive products into the United States through transition periods, use of tariff-rate quotas (TRQs), and continued application of current duty rates and quotas for sugar and some dairy products. Under the FTA, Australia will substantially reduce barriers to bilateral trade in services and investment. The Agreement also includes state-of-the-art provisions in such key chapters as intellectual property rights, electronic commerce, customs and trade facilitation, dispute settlement, and labor and environmental protection.

The United States-Australia FTA forms an integral part of the Administration's larger strategy of opening markets around the world through global, regional, and bilateral trade and investment initiatives. The Agreement also provides the opportunity to strengthen our economic ties with a long-time strategic ally.

The U.S.-Australia FTA meets or exceeds the applicable purposes, policies, objectives, and priorities that the Congress spelled out in the TPA Act. Accordingly, President Bush strongly believes that the Congress should approve the FTA and enact the legislation needed to implement the Agreement.

B. OVERALL TRADE NEGOTIATING OBJECTIVES

The TPA Act sets out a variety of "overall trade negotiating objectives" that call for future U.S. trade agreements to: (1) open markets by eliminating or reducing barriers to and distortions of trade and creating market opportunities, in particular for small businesses; (2) further strengthen international trading disciplines; (3) foster economic growth in the United States and globally; and (4) promote environmental and worker rights policies in the context of trade. The U.S.-Australia FTA builds on the foundation of existing trade agreements to make substantial progress in achieving each of these objectives.

1. Market Opening

On the day the FTA enters into effect, tariffs will be eliminated on virtually all of the tariff lines covering U.S. manufactured goods exports to Australia. Australia's tariffs on these products now average at 4.3 percent, and tariffs on some products of export interest to U.S. firms are as high as 15 percent. Australia will also eliminate tariffs on all U.S. agricultural exports immediately upon entry into force of the Agreement. The FTA provides additional market opening in a broad range of service sectors, including express mail delivery, insurance and other financial services. Australia has also agreed to restrict its review of U.S. investment in Australia, thus eliminating an element of uncertainty in that market.

The U.S.-Australia FTA opens Australia's government procurement market to U.S. suppliers for the first time on transparent and non-discriminatory terms. As Australia is not a signatory of the World Trade Organization (WTO) Agreement on Government Procurement, this represents a major benefit of the Agreement.

As a developed country market with familiar business norms and a common language, Australia presents fewer hurdles for U.S. small and medium sized enterprises (SME) considering entry into the global market. Australia's sophistication and stable political and legal foundations reduce the risks to SMEs. Exports from U.S. SMEs to Australia increased by nearly \$1 billion, or 65 percent between 1992 and 2001. Elimination of tariff and non-tariff measures through the FTA should increase the attractiveness of this market for SMEs.

2. Stronger International Trade Disciplines

The FTA includes innovative commitments to promote trade in digital products such as software, music, images, videos, and text. The Agreement draws from traditional trade principles to fashion customized nondiscrimination rules that will apply specifically to electronic commerce. The FTA prohibits tariffs when digital products are delivered over the Internet. The U.S.-Australia FTA is the first to include provisions relating to authentication and digital certificates, online consumer protection, and paperless trade administration.

The FTA recognizes that workers and firms can fully realize the agreement's market-opening potential only if it imposes disciplines that proceed from those currently in place through other agreements. Thus, the Agreement sets out rules on intellectual property rights (IPR) that clarify and build on those in the WTO TRIPS agreement and implement the more recent World Intellectual Property Organization (WIPO) treaties on protection of copyright and rights of performers and producers to strengthen enforcement and enhance rules for protecting IPR.

The Agreement also includes provisions on addressing anticompetitive behavior by firms, cooperation on consumer protection and recognition of judgments providing monetary restitution to consumers, investors, or customers who have suffered economic harm as a result of being

deceived, defrauded, or misled. The FTA includes detailed rules governing trade and investment in telecommunications services, imposing market-opening disciplines that extend beyond those in effect under the WTO. The Agreement also contains innovative procedures for settling disputes that may arise under the FTA, including provisions for monetary assessments to back up dispute panel decisions.

3. Foster Economic Growth

According to an independent study using the Michigan Model of World Production and Trade (Michigan model) to estimate certain economic effects of various free trade agreements, the FTA will boost annual global welfare by \$23.1 billion when fully implemented. In absolute terms, a major share of this positive welfare effect will be enjoyed by the United States (\$19.4 billion, or 0.2 percent of GNP). Australia's annual welfare will increase by \$5.4 billion (1.1 percent of GNP). Formal models, such as the Michigan model, however, tend to underestimate the benefits of free trade agreements because their scope is limited (*e.g.*, they fail to assess the impact of rules changes such as improved IPR protection and group many industries and products into a limited number of categories for analysis) and because not all the expected effects of the Agreement are necessarily measured (*e.g.*, they fail to estimate or fully estimate dynamic or intermediate growth gains from trade liberalization). It is clear, however, that the Agreement will make a positive contribution to U.S. economic welfare and the expansion of global trade.

4. Labor Rights and Environmental Protection

Trade agreements can, and should, complement efforts to protect worker rights and enhance environmental protection. Accordingly, the U.S.-Australia FTA includes meaningful commitments by each Party labor and environmental protection.

Both Parties reaffirm through the Agreement their respective obligations as members of the International Labor Organization (ILO) and under the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*. The Agreement also commits each Party to strive to ensure it does not waive or derogate from its domestic labor laws in a manner that weakens or reduces its adherence to internationally recognized labor rights as an encouragement for trade or investment with the other party. Moreover, while recognizing each Party's right to establish its own labor laws, exercise its discretion in investigatory, regulatory, prosecutorial, and compliance matters, and allocate enforcement resources, the Agreement commits both Australia and the United States not to fail to effectively enforce domestic labor laws on a sustained or recurring basis in a manner affecting bilateral trade.

Similarly, the FTA commits each Party to ensure that its laws provide for high levels of environmental protection and to strive to improve those levels. As is the case for labor law enforcement, the FTA contains a binding commitment that the Parties not fail to effectively enforce domestic environmental laws, while recognizing each Party's right to establish its own environmental laws, and exercise discretion in regulatory, prosecutorial, and compliance matters.

The Agreement also includes language similar to that on labor rights that requires each Party to strive to ensure it does not waive or derogate from its environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with the other country. Australia has been a strong partner on environmental issues. The FTA recognizes and builds on our shared commitment to strong environmental protections.

C. PRINCIPAL TRADE NEGOTIATING OBJECTIVES

The TPA Act establishes a variety of “principal trade negotiating objectives.” The U.S.-Australia FTA makes substantial progress toward each of the applicable principal goals set out in the act.

1. Opening Markets for U.S. Goods

The United States has a significant surplus in its trade in goods and services with Australia. Under the FTA, U.S. exporters will enjoy increased market opportunities and greater certainty regarding the terms for improved access to Australia’s market. For example, in addition to cutting tariffs on agricultural goods, the United States and Australia will work together on sanitary and phytosanitary (SPS) matters, with a view to facilitating trade between the Parties, while appropriately protecting human, animal or plant life or health. To that end, they have created an SPS Committee and a standing technical working group to address SPS issues. Australia and the United States will also enhance cooperation on technical regulations, standards, and conformity assessment procedures to prevent unnecessary technical barriers to trade (TBT) that hinder U.S. companies from taking advantage of open markets.

2. Opening Markets for U.S. Services

Australia is a major consumer of U.S. services and the FTA creates new market opportunities in Australia for a range of key U.S. services and will lock in access in sectors where Australia’s services market is already open. The Agreement includes a market-opening services framework based in substantial part on a trade-liberalizing “negative list” approach. This means that all services sectors are subject to the Agreement’s rules unless a Party has negotiated a specific exemption in that sector.

The Agreement will either open or lock in existing significant access to Australia’s services markets in such priority U.S. services export sectors as financial services, telecommunications, express delivery, computer and related services, professional services, advertising, audiovisual services, education and training, tourism, construction and engineering, energy services, and environmental services. For many service providers, Australia will end investment screening for new investments and permit life insurance companies to establish branches. The Agreement’s market-opening provisions are complemented by state-of-the-art rules governing regulatory transparency – rules that are especially important given the highly regulated nature of many services industries.

Under the FTA, Australia will afford U.S. services suppliers unimpeded access to another of its key services markets – express delivery. The FTA includes an innovative, comprehensive definition of express delivery services that ensures that market access restrictions that Australia includes for its postal sector do not pertain to express delivery services. The FTA also addresses the issue of postal monopolies directing revenues derived from monopoly postal services to confer an advantage on express delivery services.

3. Foreign Investment

The FTA commits Australia to provide a strong and predictable legal framework for U.S. investors, including direct ownership by U.S. firms of companies, real estate, intellectual property rights, concessions, permits, and debt instruments in Australia. Except for certain specified exceptions, the FTA will give U.S. investors the opportunity to establish, acquire, and operate investments in Australia on the same basis as Australian investors or other foreign investors – across the full spectrum of economic activity.

Under the Agreement, Australia will provide U.S. investors due process rights, and recourse in the event of expropriations, that are consistent with U.S. legal principles and practice. For example, the FTA includes protection against denials of justice in accordance with the principle of due process embodied in the principal legal systems of the world. The Agreement thus makes explicit that the treatment required by this obligation is grounded in, and does not extend beyond, the due process standards embraced by the United States and other major legal systems of the world.

With regard to recourse in the event of expropriations, the FTA draws heavily from principles developed in U.S. takings law under the Fifth Amendment of the Constitution. The FTA clarifies, for example, that takings are limited to property rights and property interests, not other types of interests, and incorporates tests used by the U.S. Supreme Court to determine whether a regulatory taking has occurred. The expropriation provisions also recognize that, as is the case in U.S. practice, nondiscriminatory regulatory actions designed and applied to protect legitimate public welfare objectives only rarely result in expropriation. While the FTA commits the United States to continue to provide Australian investors a high level of protection and due process, it gives Australia firms no greater substantive rights than U.S. companies already enjoy in the United States.

The FTA also commits Australia not to burden U.S. investors with protectionist “performance requirements” – such as rules requiring investors to buy local products – and ensures that Australia will allow U.S. investors to transfer funds related to their investments in and out of Australia.

In light of the unique circumstances of the Australian legal system, the FTA does not provide a separate dispute settlement mechanism for an investor of a Party to pursue a claim against the other Party. Among other things, Australia has an open economic environment and a legal system similar to that of the United States, U.S. investors have confidence in the fairness

and integrity of Australia's legal system, and the United States has a long history of close commercial relations with Australia that has flourished largely without disputes of the type addressed by international investment provisions. There are few other countries in the world that are in similar circumstances. If a Party believes, however, that there has been a change in circumstances such that one of its investors should be allowed to bring a claim against the other Party, the Party may request consultations with the other Party with a view towards establishing arbitral or other means of resolving the dispute.

4. Intellectual Property

The U.S.-Australia FTA clarifies and builds on existing international standards for the protection and enforcement of intellectual property rights, with an emphasis on new and emerging technologies. The Agreement ensures that Australia will provide a high level of IPR protection similar to that provided under U.S. law. Key provisions of the Agreement, such as those on preventing circumvention of anti-piracy devices and establishing the scope of liability for copying works on the Internet, are modeled on U.S. statutes.

The FTA requires Australia to accede to international Internet treaties and extend its term of protection for copyrighted works. The Agreement includes state-of-the-art protection for trademarks and copyrights, as well as expanded protection for patents and undisclosed information.

Under the FTA, Australia will ensure that copyright owners maintain rights to temporary copies of their works that others have on their computers, which is vital for protecting copyrighted music, videos, images, software, and text from widespread unauthorized sharing over the Internet. The FTA requires the two Parties to use only legitimate computer software, thus setting a positive example for private users. To prevent piracy of satellite television broadcasts, the Agreement will also require Australia to protect encrypted satellite signals as well as the programming those signals carry.

The FTA commits Australia to make patent rights available, with certain exceptions, for inventions and provides for extension of the patent term if there are unreasonable delays in issuing the patent or granting regulatory approval for marketing the patented product. The FTA provides for protection to stop imports of patented products when the patent owner has placed restrictions on import by contract or other means. The FTA will also require Australia to protect against unauthorized disclosure or unfair commercial use of test data and other information that pharmaceutical and agricultural chemical companies submit to government regulators in order to secure regulatory approval for their patented products. Under the Agreement, Australia will protect for five years product information generated in connection with pharmaceutical product approvals and will protect similar information for agricultural chemicals for 10 years.

These standards are made more meaningful through requirements for tough penalties to combat piracy and counterfeiting, including, in civil cases, procedures for seizure and destruction of pirated and counterfeit products, and the equipment used to produce these

products. The FTA also commits Australia to ensure that its enforcement authorities are empowered to seize, forfeit, and destroy counterfeit and pirated goods and, at least with respect to pirated goods, the equipment used to produce them. Australia must also authorize its enforcement officials to act on their own against counterfeit and pirated goods, either by stopping them at the border or initiating criminal cases, without receiving a formal complaint, thus providing more effective enforcement against these products.

5. Transparency

The Agreement recognizes that without a high standard of regulatory transparency, the benefits of market-opening trade and investment commitments can be lost through arbitrary or unfair government regulations. Accordingly, the FTA includes key provisions that will ensure that Australia observes fundamental transparency principles. Those provisions are set out in a specific chapter of the Agreement dealing with regulatory transparency as well as in provisions of the Agreement addressing cross-border services, competition, government procurement, customs administration, investment, telecommunications, and dispute settlement. The Agreement's principal transparency rules are based on U.S. practice under the Administrative Procedures Act.

Increased transparency is also an effective tool in addressing government corruption in international trade. Under the FTA, the United States and Australia affirm their commitments to adopt, maintain, and enforce effective measures against bribery and corruption in international business transactions. The Agreement also provides for the two Parties to cooperate on these issues and to look for ways to address issues of bribery and corruption through broader international initiatives.

6. Regulatory Practices

The FTA addresses regulatory issues directly linked to the Agreement's market-opening provisions. This includes specific provisions in almost all chapters including those on telecommunications, cross-border trade in services, government procurement, technical barriers to trade, SPS, and customs administration. In addition, the Agreement includes commitments on transparency, right of appeal of administrative decisions, and access to information. Chapter Fourteen deals with proscribing anticompetitive practices. Under the Agreement, Americans will have better opportunities to provide their views to Australia's regulators, either directly or under the various government-to-government consultation provisions and bodies established for ongoing cooperation and further work. This is the first FTA to include provisions supporting the mutual recognition and enforcement of monetary judgments obtained by the Federal Trade Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and Australia's Securities and Investments Commission and Competition and Consumer Commission to provide restitution to consumers, investors or customers who suffered economic harm as a result of being deceived, defrauded or misled.

The U.S.-Australia FTA is also our first FTA to directly address issues related to regulatory control of prices for pharmaceutical products. Under the FTA, Australia and the United States affirm their commitment to several basic principles related to their shared objective of facilitating high quality health care and improvements in public health. Each country will ensure that if its federal health care authorities do not rely on competitive market-based mechanisms, such authorities maintain more prompt and transparent procedures for listing pharmaceutical products for reimbursement purposes, or for setting the amount of reimbursement for pharmaceuticals, under their respective federal healthcare programs. Government procurement of pharmaceutical products, which includes formulary development and management, is dealt with under Chapter Fifteen (Government Procurement) rather than under the pharmaceutical-specific provisions of the Agreement.

Australia will establish and maintain procedures enhancing transparency and accountability in the listing and pricing of pharmaceuticals under that country's Pharmaceutical Benefits Scheme (PBS), including access to an independent review process for listing decisions. Companies will also be provided further opportunities to consult with officials during the PBS process.

7. Electronic Commerce

The FTA includes rules prohibiting duties on and discrimination against digital products, e.g., computer programs, video, images, and sound recordings. The Agreement creates a strong foundation for wider regional and multilateral efforts to bar duties and discriminatory treatment of digital products. The FTA also includes provisions relating to authentication and digital certificates, online consumer protection, and paperless trade administration.

8. Trade in Agricultural Products

The FTA includes several provisions designed to eliminate barriers to trade in agricultural products, while providing reasonable adjustment periods and safeguards for producers of import sensitive agricultural products. In addition, the United States and Australia have agreed to work together in WTO agriculture negotiations to: (1) substantially improve market access; (2) reduce, with a view to phasing out, all forms of export subsidies; (3) develop disciplines eliminating state trading enterprises' monopoly export rights; and (4) substantially reduce trade-distorting domestic support.

Under the FTA, each Party will eliminate export subsidies on agricultural goods destined for the other country. If a third-country subsidizes exports to a Party, the other Party may initiate consultations with the importing Party to develop measures the importing Party may adopt to counteract such subsidies. If the importing Party agrees to such measures, the exporting Party must refrain from applying export subsidies to its exports of the good to the importing Party.

The FTA includes safeguard procedures to aid domestic industries that are facing increased imports or imports below a price threshold of certain agricultural goods. The

Agreement contains three distinct safeguard mechanisms: (1) a price-based safeguard for certain horticultural goods; (2) a quantity-based safeguard for certain beef goods (available in years 9 through 18 of the Agreement); and (3) a price-based safeguard for certain beef goods (available starting in year 19 of the Agreement).

9. Labor Rights and Environmental Protection

Under the Agreement, Australia and the United States reaffirm their obligations as members of the ILO and will strive to ensure that their domestic laws provide for labor standards that are consistent with internationally recognized labor principles and rights as set forth in the Agreement. The Agreement makes clear that it is inappropriate to waive or derogate from domestic labor laws in a manner that weakens or reduces adherence to internationally recognized labor principles and rights as an encouragement for trade or investment with the other party. A key element of the Agreement's labor provisions, which is enforceable through the Agreement's dispute settlement procedure, is a commitment by each government that it will not fail to effectively enforce domestic environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade between the Parties. The FTA defines labor laws specifically to include those related to the prohibition and elimination of the worst forms of child labor. It also commits Australia and the United States to cooperate on labor issues and activities.

Environmental commitments are also included in the core text of the FTA. As is the case for labor rights, a key component of the FTA's environmental provisions is an enforceable commitment by each government that it will not fail to effectively enforce domestic environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade between the Parties. The Agreement also commits Australia and the United States to ensure that their domestic environmental laws provide for high levels of environmental protection and to strive to continue to improve these laws. Through the Agreement, Australia and the United States expressly recognize that it is inappropriate to waive or derogate from their environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with the other country. In addition, the United States and Australia agree to establish, pursuant to a "joint statement on environmental cooperation" negotiated in parallel with the FTA, a mechanism for collaborating on environmental issues of mutual interest.

10. Dispute Settlement

The FTA includes innovative procedures for settling disputes that may arise between the two Parties over the implementation of the Agreement. The Agreement's dispute procedures rely principally on consultations and compliance rather than imposition of trade sanctions or penalties. The procedures set high standards of openness and transparency. The FTA calls for dispute settlement proceedings to be open to the public, for the two Parties to release their legal briefs and other filings to the public, and for dispute panels to have authority to receive submissions from interested nongovernmental groups.

The FTA's dispute settlement rules also provide equivalent remedies to enforce panel decisions under the Agreement, regardless of whether they address the Agreement's commercial, labor, or environmental provisions. The FTA achieves this result through an enforcement mechanism that provides for the use of monetary assessments. That mechanism also allows a prevailing Party to suspend tariff benefits under the Agreement if a losing Party fails to pay such an assessment, while bearing in mind the Agreement's objective of eliminating barriers to bilateral trade and while seeking to avoid unduly affecting parties or interests not party to the dispute.

11. Trade Remedies

The FTA does not address antidumping or countervailing duty issues. Thus, the Agreement fully preserves U.S. rights and obligations regarding these trade remedies as they currently exist under the WTO.

The Agreement includes a bilateral safeguard procedure, similar to those in past U.S. free trade agreements that will be available to aid domestic industries that sustain or are threatened with serious injury due to increased imports resulting from the phase-out of U.S. import duties under the Agreement. The Agreement also includes a special safeguard to address the possibility that duty elimination under the Agreement could result in damaging levels of textile or apparel imports. This FTA is the only to provide for provisional relief in the context of a textile safeguard action.

The FTA does not affect U.S. rights to take safeguard actions under section 201, which implements the WTO Safeguards Agreement and GATT 1994. Under the FTA, the President may, but is not required to, exempt imports of goods from Australia, from a WTO Safeguard measure, if such goods are not a substantial cause of serious injury or threat thereof.

D. PRIORITIES FOR MAINTAINING GLOBAL COMPETITIVENESS

The TPA act also calls for the President to promote certain priorities to address and maintain U.S. competitiveness in the global economy. The U.S.-Australia FTA makes progress in promoting each of these priorities.

1. Labor Cooperation

The United States and Australia are both members of the ILO and have a longstanding cooperative relationship on labor issues. During the negotiations, government labor experts from the two countries consulted on U.S. and Australian labor laws and how their respective systems operate. The two Parties will continue to consult and work together to promote respect for the principles embodied in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* and compliance with *ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*. Officials of the U.S.

Department of Labor and Australia's Ministry of Work Place Relations and other appropriate agencies will participate in these consultations and future cooperation.

2. Domestic Policy Objectives

The FTA fully takes into account critical U.S. domestic policy objectives, such as the need to maintain flexibility in addressing U.S. national security and public health, safety, and consumer interests. The FTA includes a broad set of general policy exceptions for measures governing both trade in goods and services to ensure that the United States remains fully free to safeguard the national and public interest, including specific exceptions for national security, public health and morals, conservation, taxation, and protection of confidential information. The Agreement also avoids disturbing existing state and local governmental measures that might run afoul of the Agreement's services and investment rules by including "grandfather" clauses that exempt those measures from challenge under the Agreement.

3. Multilateral Environmental Agreements and GATT Article XX

As noted in the Administration's environmental review of the FTA, the environment and sustainable development are very important concerns for both the United States and Australia. The FTA expressly recognizes the importance of multilateral environmental agreements, including appropriate use of trade measures in such agreements to achieve specific environmental goals. The FTA commits the United States and Australia to consult regularly with respect to the ongoing negotiations in the WTO concerning the relationship between multilateral environmental agreements and WTO rules. In addition, the bilateral environmental cooperation agreement negotiated in parallel with the FTA will provide further opportunities for the two governments to cooperate in promoting effective implementation of multilateral environmental agreements to which they are both parties.

4. Currency and Exchange Rate Manipulation

Section 2102(c)(12) of the TPA states that "In order to address and maintain United States competitiveness in the global economy, the President shall seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade."

The Investment, Cross Border Trade in Services and Financial Services chapters of the United States—Australia Free Trade Agreement promote and protect the freer international movement of capital and consequently make it more difficult to manipulate exchange rates to achieve levels inconsistent with levels set by market forces.

The currency movements mentioned in section 2102(c)(12) can arise from many conditions, particularly from macroeconomic developments, macroeconomic policy changes or

the appearance of new information on fundamental economic conditions. The determination of whether any such movement reflects currency manipulation to promote a competitive advantage in international trade must therefore take into account a broad range of issues, institutions and market developments which will require a review mechanism with a larger scope than any specific trade agreement.

The Secretary of the Treasury is required, under the Omnibus Trade and Competitiveness Act of 1988, to analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in international trade. Each member of the IMF is obligated, under Article IV of the IMF Articles of Agreement, to avoid manipulation of exchange rates for such purposes.

The Department of the Treasury will ensure that currency movements mentioned in Section 2102(c)(12) are examined in its analysis of exchange rate policies of foreign countries and in consultations with the IMF concerning these policies. The Department of the Treasury will seek to resolve problems of currencies that are considered to be manipulated in the sense of 2102(c)(12) through discussions with the foreign authorities responsible for foreign exchange rate policies.

5. Reporting Requirements

As required under the TPA Act, the Administration has provided a report to the Congress describing Australia's laws governing exploitative child labor. In addition, the Administration has reported to the appropriate Congressional committees as required under the TPA Act on (1) the Administration's environmental review of the Agreement and (2) its review of the FTA's impact on U.S. employment. The Administration has also provided a meaningful labor rights report on Australia, which will also be made available to the public. Finally, the Administration has reported, as specified in the TPA Act, on U.S. efforts to establish consultative mechanisms to strengthen Australia's capacity to promote respect for core labor standards and develop and implement standards for the protection of human health based on sound science.