



United States International Trade Commission

# Budget Justification

Fiscal Year 2022



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## Alphabetical Listing of Abbreviations and Acronyms

Acronym	Description	Acronym	Description
AD/CVD	antidumping/countervailing duty	IP	intellectual property
ALJ	administrative law judge	IT	information technology
AMCA	American Manufacturing Competitiveness Act of 2016	MRL	maximum residue levels
CBP	U.S. Customs and Border Protection	MTB	Miscellaneous Tariff Bill
CDM	continuous diagnostics and mitigation	MTBPS	Miscellaneous Tariff Bill Petition System
DHS	U.S. Department of Homeland Security	NAFTA	North American Free Trade Agreement
DLP	data loss prevention	OIG	Office of Inspector General
EDIS	Electronic Document Information System	OMB	Office of Management and Budget
ERM	enterprise risk management	SCA	security controls assessment
FY	fiscal year	USITC	U.S. International Trade Commission
GAO	U.S. Government Accountability Office	USMCA	United States-Mexico-Canada Agreement
GDP	gross domestic product	WCO	World Customs Organization
HSPD-12	Homeland Security Presidential Directive 12	WTO	World Trade Organization
HTS	Harmonized Tariff Schedule of the United States		

# Introduction

The U.S. International Trade Commission (Commission or USITC) is an independent and bipartisan, federal agency with specific responsibilities in adjudicating and enforcing certain U.S. trade laws, providing relevant and timely analyses to the President and Congress on trade issues, and maintaining the Harmonized Tariff Schedule of the United States (HTS).

The Commission adjudicates disputes and enforces U.S. laws to ensure that U.S. businesses and workers do not face unfairly traded and injurious imports in the U.S. market. These laws address issues such as illegal dumping, trade-distorting subsidies, and patent infringement.

Beyond our quasi-judicial work, the Commission informs U.S. trade policy on an evolving range of issues. As trade has become a much bigger part of the U.S. economy, trade policy has become more controversial, and trade agreements have become more complicated, Congress and the President frequently turn to us for our uniquely bipartisan and independent expertise.

The Commission analyzes how international trade impacts the U.S. economy and American workers. Over the past year, Congress and the President have requested the Commission's expertise on a variety of topics including: a study of COVID-related goods and the challenges supplying those goods in the United States; studies related to environmental issues with a study evaluating the economic effects of illegal, unreported, and unregulated fishing, including labor violations, on U.S. commercial fisheries, and a study of the potential economic effects of increased renewable energy commitments in Massachusetts; the impact of trade in the agricultural sector through the study of the conditions of competition affecting raspberries grown for processing; and a study of the economic effects of Chinese and other foreign government censorship on U.S. businesses.

Reflecting the urgency and relevance of the Commission's work, we have a markedly high workload across all mission areas. Unfortunately, our resources have not kept pace with that work. Additional resources for the upcoming fiscal year are critical for the Commission to continue to enforce laws against unfairly traded and injurious imports, maintain the HTS, and provide high-quality, cutting-edge analysis of international trade issues to the President, Congress, and the American public.

## Mission

The mission of the USITC is to investigate and make determinations in proceedings involving imports claimed to injure a domestic

industry or violate U.S. intellectual property (IP) rights; provide independent analysis and information on tariffs, trade, and competitiveness; and maintain the HTS.

In addition to the longstanding mission areas, the Commission also responds to new and additional mandates. For example, the American Manufacturing Competitiveness Act of 2016 (AMCA), 19 U.S.C. § 1332 note, required the Commission to create and maintain an open and transparent process for consideration of petitions requesting temporary duty suspensions and reductions for specific products under a Miscellaneous Tariff Bill. More recently, the United States-Mexico-Canada Agreement (USMCA) Implementation Act, 19 U.S.C. § 4501 note, which entered into force on July 1, 2020, among other things, added another investigatory mandate—requiring the Commission to conduct investigations and make determinations in response to petitions alleging material harm to the U.S. long-haul trucking industry due to increased competition from cross-border services provided by Mexican trucking firms in the United States.

## Responsibilities and Goals

The investigations that we conduct to carry out our responsibilities in adjudicating and enforcing U.S. trade laws are guided by two strategic goals:

**Our first strategic goal: Produce sound, objective, and timely determinations in trade remedy proceedings.** These investigations fall into two major classes:

- **Antidumping and countervailing duty (AD/CVD) investigations and reviews**, which are conducted under Title VII of the Tariff Act of 1930, and **global safeguard investigations**, which are conducted under section 201 of the Trade Act of 1974.
- **Investigations into unfair practices in import trade**, usually based on violations of IP rights, which are conducted under section 337 of the Tariff Act of 1930.

In AD/CVD investigations, we determine whether a U.S. industry is materially injured or is threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of dumped or subsidized imports. If we make affirmative determinations and the U.S. Department of Commerce (Commerce) also finds that those imports are being dumped or subsidized, Commerce orders the imposition of additional duties on these imports—antidumping duties that offset the dumping, or countervailing duties that offset subsidies.

We also review existing antidumping and countervailing duty orders every five years. During these five-year reviews, we determine whether an order can be revoked without resulting in continued or recurrent injury to a domestic industry. If Commerce or the Commission determines that revocation is appropriate, Commerce will revoke the order.

In addition, we have sole responsibility to conduct investigations under section 201 of the Trade Act of 1974. If we determine that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing an article like or directly competitive with the imported article, we recommend one or more actions to the President that would remedy the injury and facilitate industry adjustment to import competition. The President makes the final decision on whether to provide a remedy, and the type and duration of any such remedy.

Section 337 investigations examine unfair practices in import trade. These investigations most frequently involve allegations of patent or trademark infringement; allegations of copyright infringement, misappropriation of trade secrets, passing off, false advertising, and antitrust violations also can be litigated under section 337. If a violation is found, we issue remedial relief, provided that the public interest does not preclude the issuance of such relief. Relief takes the form of exclusion orders, which bar entry of unfairly traded imports, or “cease and desist” orders prohibiting unfair acts in the United States.<sup>1</sup>

Most recently, section 322 of the USMCA requires the Commission to conduct investigations and make determinations with respect to whether grants of authority, received or requested by Mexican trucking firms or drivers to provide long-haul trucking services in the United States, cause or threaten to cause material harm to U.S. long-haul trucking firms and drivers.

We typically institute trade remedy proceedings in response to complaints and petitions filed by domestic industries seeking protection from unfairly traded imports. Given the rapid evolution of trade in the U.S. and world economies, this work is important in several ways:

- Our investigations of unfair trade practices help U.S. firms compete more effectively in an integrated global marketplace.
- Our issuance of sound and timely decisions in import injury investigations helps ensure that U.S. companies and workers

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<sup>1</sup> If the Commission issues an exclusion order, the President has 60 days to approve or disapprove such relief on policy grounds.

can compete on a fairer and more level playing field in the domestic market.

- Our timely resolution of complex IP disputes is economically critical to holders of U.S. IP rights, especially where innovation drives rapid technology change.

In enforcing U.S. trade laws, we conduct our investigations under the pertinent statutes, regulations, and case law as interpreted by the federal courts. Our determinations in both Title VII and section 337 investigations are subject to review by U.S. courts.

**Our second strategic goal: Provide independent, objective, and timely analysis and information on tariffs, trade, and competitiveness.**

The Commission is an independent, bipartisan agency that offers our requestors leading-edge insights that inform the development of sound U.S. trade policy. Policy makers use our analyses to help inform decisions on trade policy and international trade negotiations and to better understand the economic and distributional impact of trade. In our industry and economic reports, we examine, analyze, and estimate two subjects in particular:

- The many ways that changes in trade and competitiveness affect the U.S. economy and U.S. workers
- The effects of policy changes (past or proposed) on producers, consumers, employment, wages, and the U.S. economy as a whole

By law, whenever requested, we present the President, and, by delegation, the United States Trade Representative (USTR), the Senate Finance Committee (SFC), or the House Ways and Means Committee (HWM) with information and analysis on any matter related to international trade and industry competitiveness.

Although most requests for both analytic investigations and informal assistance come to us from the SFC, HWM, and USTR, some of our investigations are required by statute or are self-initiated. Our requestors recognize that, as a result of our economic and trade expertise, we can generate primary data, analyze specific industries, and provide insights unavailable elsewhere. To improve our analyses, we also regularly develop new tools, such as economic models that measure the effects of trade on specific U.S. industries and on U.S. companies operating abroad.

In fiscal year (FY) 2020, we responded to several requests that required us to gather information and provide analysis on a variety of topics. For example, we issued reports on recent trends and new developments pertaining to U.S. trade and investment with Sub-Saharan Africa and the first of two volumes on the global economic impact of missing and low pesticide maximum residue levels (MRLs). Other requests received in FY 2020 and early FY 2021 include: the economic effects of illegal, unreported, and unregulated fishing, including labor violations, on U.S. commercial fisheries; trade in COVID-related goods and challenges supplying these goods to the U.S. market (the report was delivered in FY 2021); potential effects of increased renewable energy commitments in Massachusetts; the conditions of competition affecting raspberries grown for processing; and the economic effects of foreign censorship on U.S. businesses. In preparation for potential future requests, we continue to focus our research and data development efforts on building capacity in high-interest areas such as enhancing our modeling capabilities to better capture the nuances of certain industries; trade policy uncertainty; trade policy enforcement; and the impact of trade and trade policy on U.S. workers and U.S. regions, as well as the effects of foreign barriers to U.S. exports and investment.

As a vital part of our second goal, we maintain and analyze the HTS. The HTS is the official document that sets out the classifications of imported goods and the U.S. tariffs that apply to each category. We make sure that the U.S. tariff schedule is up to date and accurate by reflecting all of the trade agreements and programs that the United States has implemented. In recent years, Administration trade-policy initiatives have required an increasing number of revisions to the HTS. In FY 2018, we issued 13 supplemental revisions to the annual Basic Edition of the HTS, compared to only two revised versions of the annual edition in FY 2017. In FY 2019, we published the annual Basic Edition and 14 revisions. In FY 2020, we published the annual Basic Edition and 30 revisions. Maintaining an accurate HTS in a period of rapid change serves the tariff and trade information needs of U.S. exporters and importers, U.S. Customs and Border Protection staff, and decision makers in Congress and the executive branch. Additionally, to further U.S. competitiveness, we work to ensure that changes in the international Harmonized System for goods classification, which is administered by the World Customs Organization, reflect the interests of U.S. companies.

In 2016, the AMCA introduced a new process for the consideration of miscellaneous tariff bills. Under the statute, the Commission is responsible for receiving and processing petitions for the temporary suspension or reduction of duties on specific products as well as comments on these petitions. U.S. firms typically seek this temporary relief for imported materials when the materials are not available from domestic manufacturers. AMCA mandated two petition cycles. During the 2016 cycle, we received about 3,200

petitions and 2,500 comments on those petitions. We produced preliminary and final reports on those petitions for the SFC and the HWM, in which the Commission determined that 1,686 products were eligible for inclusion in a miscellaneous tariff bill. The second petition submission period began on October 11, 2019 and ended on December 10, 2019. We received nearly 4,100 petitions—an increase of more than 900 petitions (nearly 30 percent) over the 2016 cycle. We delivered preliminary and final reports to the Committees in June and August of 2020, respectively.

To meet our mission and any new mandates, we must maintain the staff, analytic tools, and other resources needed to conduct fair and efficient investigations, as well as to provide high-quality and objective information and analysis on a wide array of issues. We continue to invest in the development of highly skilled analysts, economists, and attorneys; creation of new databases and data systems; collaboration with other organizations to enhance our own research; and acquisition of new, or upgrades to existing, advanced analytic tools.

### **Our Management Goal: Efficiently and Effectively Advance the Agency's Mission**

The first management objective that relates to efficient and effective operations is to attract and develop a skilled, diverse, and flexible workforce, which is essential to meeting the varying workload and new mission requirements. While we have successfully fulfilled the AMCA requirements due, in part, to our capacity for flexible staffing, we have exhausted that strategy and remain far below our target staffing level. With new legislative mandates and an investigative workload continuing to increase, we have a growing workforce requirement gap that must be closed to fulfill our mission in FY 2021 and FY 2022. To continue our success in attracting a diverse and flexible, highly talented workforce, to ensure mission accomplishment, and to prevent staff burnout and accelerating departures, we will need to recruit and train more staff. As detailed in our staffing plan and accounting for an expected vacancy rate of about five percent, we seek to hire an additional 33 employees, based on staff currently on board, and to replace any departures as they occur to ensure we are efficiently and effectively advancing the Commission's mission. The Chief Human Capital Officer ensures that such recruitment targets a diverse applicant pool. Further, the Commission will provide robust training for new employees, which will include an orientation program designed to address the virtual work environment.

Our human capital objective is consistent with maintaining our recruitment draw. In 2019, the Commission was rated as the #1 Partnership for Public Service's Best Place to Work in the small agency category and our Office of Operations received the ranking of

#3 Best Place to Work among 420 agency subcomponents of any size. Our ability not only to attract, but also to retain, a high-quality workforce has consistently been reflected in our Federal Employee Viewpoint Survey scores in global satisfaction and employee engagement and in responses to questions about hiring practices and career development. Further, active recruitment and backfilling positions is essential to prevent burnout and departures.

Our second management objective is to ensure good stewardship of taxpayer funds. To achieve this objective, we:

- Ensure that our financial management reports are timely and provide data that enable our managers to manage efficiently and effectively
- Ensure that our contract award processes and contract files meet the needs of customers in a timely way, and that the files are accurate and complete
- Ensure that financial controls are documented, implemented, reviewed, and refined on a regular basis to maintain an annual unmodified audit opinion

During FY 2020, the Office of the Chief Financial Officer continued a robust budget formulation process that directly ties resource requests to projected workload and specific outcomes. The Director of Procurement continued to review the timeliness of contract activity and achieved real-time reporting of the status of procurement actions. Finally, the Director of Finance reviewed the agency's accounting processes each quarter to ensure that key financial controls were identifiable and operational, as documented. These financial process and control evaluations supported the achievement of our tenth consecutive unmodified financial audit opinion during FY 2020. In FY 2021, we will explore migrating to a new financial shared services provider and moving to electronic procurement files, both in an effort to reduce costs and further streamline our financial management processes, the funding for which is included in our FY 2022 budget request.

Our third management objective is to identify, deliver, and secure reliable enterprise information systems. In recent years, we have made tangible progress toward meeting our information technology (IT) management objective, which aims to ensure that IT resources support our mission. Our IT performance goals for FYs 2020 and 2021 quantify how the Office of the Chief Information Officer (OCIO) intends to support this objective. The Chief Information Officer, as the leader for this management objective, will also ensure that critical IT systems are continuously available at a high level so that we can conduct our operations with little to no loss of

efficiency and capability. Additionally, the OCIO will continue to ensure our IT security by complying with federal cybersecurity priorities.

To achieve our third management objective and address government-wide priorities and initiatives, we:

- Ensure that all of our systems have a valid Authority to Operate
- Implement and verify security configuration baselines for 100 percent of servers and workstations
- Retire legacy hardware
- Utilize virtualization to consolidate resources and improve network and system availability
- Migrate appropriate applications and services to a cloud-based architecture

Our fourth management objective is to increase our operational effectiveness by evaluating and improving processes, performance, and communication.

To accomplish this, managers continually measure and improve the processes of operational activities for which they are responsible. As part of our continuing efforts in this area, we:

- Oversaw implementation of a system of internal rules
- Build empirical sources of administrative and investigative data that enable consistent and accurate reporting
- Continuously improve our web presence, including use of evolving technologies that benefit our customers and improve user satisfaction
- Continue the use of enterprise risk management to pinpoint risks and establish priorities to inform decision makers
- Invest in and modernize our IT infrastructure and management systems

Detailed performance goals for program and management activities are presented in our *Annual Performance Plan, FY 2021–2022*, and *Annual Performance Report, FY 2020*, which can be found at [https://www.usitc.gov/strategic\\_plan.htm](https://www.usitc.gov/strategic_plan.htm).

## Budget Highlights

For FY 2022, the Commission requests \$118.8 million to carry out our mission and functions. Most significantly, this funding is essential to hire more staff and make the necessary IT investments, commensurate with our record high caseload. What was originally perceived to be a temporary surge in caseload has proven to be a structural change in its volume and complexity. Initially, we managed the surge by realigning funds from non-personnel areas, notably IT infrastructure and system maintenance and development, to increase staff. However, that is no longer a viable option and current staffing levels are simply insufficient to manage existing and projected workload.

Our request reflects the resources required to increase staffing levels in the Office of Operations and the Office of the General Counsel, in particular, as they are heavily impacted by the high investigative caseloads. Further, caseload has surpassed the workload assumptions that we used to build our current staffing plan several years ago and the plan was built prior to additional statutory mandates (discussed below).

The request also provides resources for critical non-personnel needs that have been deferred to fund critical human capital investments. Further, it seeks to make long-overdue IT investments to improve the security of, alleviate the stress on, and maximize our IT infrastructure and to ensure the availability and accessibility of our public-facing IT systems. FY 2022 IT investments will include replacing end-of-life servers, investing in data loss prevention appliances to prevent potential data breaches, and modernizing our data center and disaster recovery capabilities by increasing our use of cloud-based technologies. Leveraging the cloud optimizes the availability and performance of our IT resources, offers better continuity of operations in the event of a catastrophe, improves reliability, and secures the highest long-term value for our users and the American taxpayer. Our request also aims to sustain capabilities in both research and economic analysis so we can better investigate proposed changes in trade policy, as well as important developments in U.S. competitiveness.

## Impact of COVID-19 Pandemic on Operations

The COVID-19 pandemic posed significant challenges during FY 2020 and we expect future challenges as we work toward resuming normal operations. The Commission shifted to mandatory telework in mid-March of 2020. Upgrades to our IT infrastructure made during FY 2019 and early FY 2020 allowed all Commission staff to shift to telework with minimal disruption. Agency leadership quickly issued guidelines to ensure employee safety and developed protocols for a phased approach to a return to the building. Senior management also quickly developed procedures to transform remaining paper-based processes to fully electronic processes.

Previous investments in platforms to support video-teleconferences allowed the agency to expeditiously adjust the format of its public hearings and staff conferences for its statutory investigations in light of the mandatory telework order. Later in the fiscal year, the agency procured video-teleconferencing software that had the requisite security to support the conduct of hearings and other activities involving confidential business information. The need to procure an alternative video-teleconferencing platform, among other things, led to unavoidable delays for unfair import investigations. Limited resources, particularly in staffing, exacerbated by the limitations of an entirely remote workforce, also posed a significant challenge as our statutory workload increased significantly throughout FY 2020. Despite this increase and the challenges posed by COVID-19, the Commission met statutory deadlines for its import injury and fact-finding investigations.

## United States-Mexico-Canada Agreement

The United States-Mexico-Canada Agreement (USMCA) Implementation Act, 19 U.S.C. § 4501 note, entrusts the Commission with two new responsibilities: (1) to conduct investigations and make determinations with respect to whether grants of authority, received or requested by Mexican trucking firms or drivers to provide long-haul trucking services in the United States, cause or threaten to cause material harm to U.S. long-haul trucking firms and drivers; and (2) for the Chair of the Commission to participate in an interagency committee that advises on the implementation, enforcement, and modification of USMCA provisions that relate to automotive goods, including the alternative staging regime, and that reviews the operation of the USMCA with respect to trade in automotive goods, including the economic effects of the automotive rules of origin and the impact of new technology on such rules of origin.

The long-haul trucking provision, a Commission-wide mandate which involves the investigation of an imported service's impact on a domestic industry—a novel concept—will likely impose a greater burden on resources as it provides a new investigative authority. It authorizes U.S. providers of trucking services, and drivers and their unions, to file petitions for relief with the Commission. Upon receipt of a petition from an interested party (which also includes the President, the United States Trade Representative (USTR), or the USITC's two congressional oversight committees), the Commission must conduct an investigation, collect data and other relevant information, hold a hearing, and make a determination with respect to whether the grants of authority cause or threaten to cause material harm to U.S. long-haul trucking firms and drivers. Akin to the other safeguard cases, if the Commission makes an affirmative determination, it must recommend a remedy to the President. At the end of its investigation, the Commission must submit a report to the President that sets out its determination, any recommendation, and the basis therefor. The Commission has 120 days from the filing of a petition to make its determination on material harm. If it makes an affirmative determination, the Commission has 60 days to recommend a remedy.

## **American Manufacturing Competitiveness Act of 2016**

The American Manufacturing Competitiveness Act of 2016 (AMCA), 19 U.S.C. § 1332 note, enacted in May 2016, directed the Commission to conduct two petition cycles for the consideration of miscellaneous tariff bills (MTBs). Under the AMCA, potential beneficiaries can file petitions to suspend or reduce duties on eligible imported goods directly with the Commission. We successfully completed the second cycle on August 10, 2020, delivering a final MTB report, which determined that 2,694 products were eligible for inclusion in the omnibus MTB legislation. Twelve months after enactment of any MTB, we are to submit a report on the economic effects of the duty suspensions and reductions included in the bill. At the time this document was drafted, Congress has not introduced an MTB for the second cycle. Therefore, our FY 2022 budget request does not reflect the resources needed to produce the economic-effects report. In addition, at the time of this writing, there is no legislation authorizing future MTB petition cycles. Therefore, our FY 2022 budget request does not reflect the resources needed to maintain and enhance the MTB Petition System and fully staff future MTB petition cycles. There is the possibility, however, of both the need to submit a report and a reauthorization of the AMCA legislation, requiring the Commission to once again flex existing human capital and IT resources.

## Additional Workload Drivers

In addition to the continued heavy workload in antidumping/countervailing duty (AD/CVD) and unfair import investigations described below, we have been devoting more resources to conducting or supporting other investigations and Administration initiatives. For example, following the two global safeguard investigations launched in 2017, after a hiatus of 16 years, under sections 201–204 of the Trade Act of 1974 (concerning Solar Panels and Cells, and Large Residential Washers), we conducted two section 204 midpoint monitoring investigations. Such investigations are conducted to monitor developments in an industry that has received relief from heavy import pressure under section 204, including the industry’s efforts to adjust positively to import competition. We completed one investigation in 2019 and another in 2020. In addition to a safeguard investigation on blueberries requested by the U.S. Trade Representative, during 2020, we also initiated two additional investigations related to the two safeguard investigations launched in 2017—advice on modification of the safeguard measure requested by the U.S. Trade Representative and request for extension of relief requested by the industry. When relief ends, we will also initiate end-of-relief assessment reports. The November 2020 request by the U.S. Trade Representative for two perishable and seasonal fruits and vegetables-related monitoring investigations may also drive additional global safeguard petitions from these industries. Such investigations are infrequent and more resource intensive, requiring more data collection and remedy recommendations.

In addition, we have had to amend the Harmonized Tariff Schedule of the United States (HTS) in recent years an unprecedented number of times to incorporate the changes brought about by Administration initiatives. In a typical year, two or three HTS revisions are made; in FYs 2018 and 2019, 13 and 14 revisions were made, respectively. In FY 2020, the number of revisions increased to 30. The increase in HTS revisions was driven by a number of trade policy actions, including the entry into force of the USMCA; the USTR’s investigation of acts, policies, and practices by the government of China under section 301 of the 1974 Trade Act; the U.S. Department of Commerce’s two investigations (on steel and then aluminum) under the national security provisions of section 232 of the Trade Expansion Act of 1962; safeguard actions on large residential washers; and GSP modifications.

## Program Overview

### Antidumping/Countervailing Duty Investigations and Unfair Import Investigations (Section 337)

The Commission provides a venue for private sector firms and other qualifying entities to bring allegations of certain unfair or injurious trade practices involving imports before an independent, objective, and expert quasi-judicial governmental body. Our trade remedy investigations caseload continues to grow in volume and complexity. In FY 2020, the number of AD/CVD investigations was significantly higher than in recent fiscal years, and the caseload is expected to stay at comparable levels in FYs 2021 and 2022. In FY 2016, new unfair import matters under section 337 exceeded the previous peak in FY 2011; this caseload has remained high in subsequent years, and we expect it to remain high in FYs 2021 and 2022.

#### AD/CVD Caseload and Recent Safeguard Actions are at Record High Levels

In FY 2020, 26 petitions were filed under Title VII of the Tariff Act of 1930, a significant increase from the prior fiscal year resulting in a new fiscal year filing record. The Commission witnessed historic caseload levels across the board as filings surpassed initial estimates by more than 40 percent; a total of 75 institutions surpassed recent records by 15 percent; and a total of 69 completions surpassed recent records by 11 percent. High caseload levels are expected to continue in FY 2021: we anticipate instituting 70 proceedings and completing 73. In FY 2020, more than half of the petitions involved imports from multiple countries (including three investigations covering 8, 16, and 18 countries each), with China being listed in 12 of the 26 petitions. Domestic industries filing petitions in FY 2020 produced a range of products, including various steel and metal products, chemicals, processed agricultural products, and final consumer products. While a substantial number of these investigations covered downstream products, including final and near-final consumer products (such as vertical shaft engines and walk-behind lawnmowers), a large share continued to cover steel and metal, and chemical products. Some investigations were particularly notable because of the large volumes of trade involved or the complexity of the market, including passenger vehicle and light truck tires (Korea, Taiwan, Thailand, and Vietnam), common alloy aluminum sheet (18 countries), mattresses (8 countries), fluid end blocks (China, Germany, India, and Italy), and utility scale wind towers (India, Malaysia, and Spain). In addition to new investigations, we instituted 30 reviews of existing AD/CVD orders.

Because existing orders are reviewed every five years, any increases in new investigations add to the number of reviews going forward, increasing our future caseload multifold.

As discussed above, there had not been any global safeguard investigations since 2001 until the Administration initiated the two safeguard investigations in FY 2017 (Solar Panels and Cells, and Large Residential Washers) and the subsequent remedy provided by the President. In FY 2020, the Commission completed one of the two midpoint monitoring investigations initiated in FY 2019. In addition, during 2020, we initiated two additional investigations related to the two 2017 safeguard investigations—advice on modification (Solar Panels and Cells) requested by the U.S. Trade Representative, and request for extension of relief (Large Residential Washers) requested by the industry. When relief ends, we will also initiate end-of-relief assessment reports. At the request of the USTR, we also initiated a global safeguard investigation on a perishable agricultural product, blueberries, which will also require the institution of a mid-term monitoring report if relief is provided. The USTR's request for two additional perishable and seasonal fruits and vegetables-related monitoring investigations may also contribute to expedited global safeguard petitions from these industries. As stated above, these investigations are uniquely resource intensive, requiring large data gathering and remedy recommendations.

During FY 2020, we continued our efforts to increase the transparency of our proceedings and reduce the burden on participating parties. We applied information obtained from a survey in 2019 to external stakeholders about the benefits, challenges, and key features to inform the structure of ongoing initiatives related to web- or extraction-enabled vehicles for providing information and collecting data. In FY 2021, we will continue ongoing efforts to develop a data system for more complete, timely, and accessible reporting of investigative information, including Title VII information.

### **Unfair Import Investigations Caseload Remains High**

In FY 2020, our section 337 workload remained at high levels and is expected to remain steady in FYs 2021 and 2022. Parties continue to find that our proceedings offer an attractive forum for resolving disputes involving unfair acts in the importation of goods, including imports that allegedly infringe U.S. intellectual property (IP) rights. Our proceedings provide for timely resolution of matters that may also involve more drawn-out litigation in the U.S. district courts. In addition, section 337 authorizes unique relief in the form of exclusion of goods at the border. IP-intensive industries account for a large number of high-wage jobs in U.S. industries that generate significant exports.

The range of technologies covered in these investigations is quite broad, encompassing, among other things, various electronic devices, pharmaceutical and medical devices, transportation-related products, and other consumer goods such as LED lighting, height-adjustable desks, electronic candles, food service equipment, luxury vinyl tile, unmanned aerial vehicles, toner cartridges, and adjustable child carriers. Although section 337 investigations typically involve patent infringement allegations, they can also involve allegations of other unfair acts such as trademark infringement, trade dress infringement, false advertising, and trade secret misappropriation, which is an area of heightened concern for U.S. companies and Congress.

Work is ongoing to ensure that section 337 investigations are completed expeditiously, in line with congressional intent. We continue to build and develop the necessary staff and resources to conduct evidentiary hearings in section 337 investigations and focus on making the process more efficient and less costly for both litigants and the agency. Our efforts include improvements to courtroom space, acquisition of a FedRAMP-certified video-conference platform for virtual evidentiary hearings, our rules of procedure, procedural pilot programs, and substantial investments over the past few years in our Electronic Document Information System (EDIS). Further, in FYs 2021–22, we plan to implement electronic service of documents in EDIS, commencing with public service and moving to confidential service. We acquired BOX, a FedRAMP-certified cloud content management system, to enhance the secure transfer, use, and storage of the voluminous electronic documents produced in our investigations. We also plan to transition our investigation database, 337Info, which provides detailed information to the public about investigations instituted since October 1, 2008, to a new agency-wide investigations database system that will enhance features provided in 337Info. All of these efforts necessitate an adequate level of funding.

Synergies between EDIS and the new investigations database system will help us to better manage our large volume of investigation-related materials while making our investigative process more transparent. These systems also comply with government Open Data rules, furthering our efforts to make our data more accessible to and usable by other agencies and the public. Funding these types of improvements will help us to address the challenges of resolving section 337 matters expeditiously and will keep the public informed on these matters.

## **Analysis and Information on Tariffs, Trade, and Competitiveness**

Our agency supplies the executive branch and Congress with objective analyses of significant trade issues of the day. We provide

industry and economic research, tariff and trade information, and trade policy support through formally instituted investigations and other expert advice. Given our unique economic and trade expertise, we offer leading-edge data and insights that support the development of sound U.S. trade policy. The caseload for industry and economic analysis was at a high level in FY 2020 and is expected to remain high in FYs 2021 and 2022.

### **We Continue to Develop New Approaches in Our Industry and Economic Analyses**

International trade touches nearly all sectors of the U.S. economy. As with section 337 and Title VII investigations, we constantly develop and refine our capabilities to meet requests for increasingly complex analyses in emerging areas of international trade, trade policy, and competitiveness. We gather primary data to provide unique insights into emerging issues, assembling this information via a variety of instruments, including carefully crafted industry surveys.

Our staff also develops new methods to produce high-quality economic analysis. For example, in estimating the economic effects of proposed trade policies, we have found it increasingly important to account for nontariff issues and concessions. Assessing the impact of such changes is considerably more challenging than examining the effects of tariff concessions. During FY 2020, we applied new modeling approaches to assess the global economic impact of missing and low pesticide maximum residue levels. We continue to develop new capabilities by collaborating with other organizations, including academic institutions. During FYs 2021 and 2022, we plan to focus our research on areas such as improving our ability to model the effects of trade and trade policy on U.S. workers, modeling the effects of trade policy uncertainty, assessing industry competitiveness, and analyzing supply chains.

Our work in industry and economic analysis spans a wide variety of issues and responds to particular requests from the President and Congress. A few examples include:

- The performance of U.S. companies in global and regional value chains, such as for COVID-related products
- How trade and investment barriers, rules of origin, and standards affect U.S. firms, workers, and consumers
- The distributional impacts of trade and trade policy on diverse groups within the United States
- The promises—and pitfalls—of new technologies, industries, and business models
- Benefits and damages to U.S. affiliates abroad from certain policies and regulations of the countries in which they are located

- Economic analysis of U.S. free trade agreements, both proposed and completed, as well as technical support to policy makers during trade negotiations

To effectively support the interests of trade policy makers, we must maintain a staff with expert knowledge and skills to provide relevant and timely insights on trade, investment, and the international competitiveness of U.S. companies in the global marketplace.

### **Tariff and Trade Information Services Benefits from New Technology and Improved Business Processes**

Our work to maintain and update the HTS, as discussed above, also impacts other U.S. agencies, private parties, and other stakeholders. U.S. Customs and Border Protection (CBP) relies upon the HTS for collecting tariff revenues on imported goods. Private firms use the HTS to learn the duties that they will pay on imported goods. U.S. exporters and importers depend on our work in the World Customs Organization that aims to ensure that global tariff product classification (“nomenclature”) is up to date and takes into account industry interests and changing patterns of trade. Compared to two or three revisions in a typical year, in FY 2020, we prepared and published 30 revisions of the HTS, as well as the annual Basic Edition for January 1, 2020. These revisions were made to incorporate tariff rate changes implemented during the year due to entry into force of the USMCA, tariff increases on steel and aluminum for national security, safeguard actions on large residential washers, GSP modifications, and on thousands of products to address policy changes with respect to China.

The HTS provides the foundation for the U.S. trade data maintained by the U.S. Census Bureau (Census), and it enables CBP to manage its trade and enforcement activities. We ensure that the HTS is both accurate and up to date so that it meets the demands for trade and tariff information from Census, CBP, U.S. exporters and importers, the Administration, and policy makers in Congress. Due to the size and openness of the U.S. economy and the volume of U.S. trade, the HTS is the most heavily used tariff schedule in the world. Its more than 15,000 tariff lines must be updated and maintained throughout the year to reflect changes from implementing trade agreements and from other congressional and administration actions. Redesigned in FY 2013, this system was developed as a data management system in FY 2014, and it was made available to the public at the beginning of the fourth quarter of FY 2015. In FY 2018, we completed the redesign of DataWeb, the trade data system that we use for our own work and provide to the public. We deployed a beta version of the redesigned DataWeb in FY 2018 and we released the final version in the first quarter

of FY 2019.

As these developments show, we have taken advantage of new technologies to make tariff and trade information far more accessible and usable, both for our own analyses and for many essential public uses. Maintaining and building on these improvements requires resources. In particular, we plan to reengineer the HTS Data Management System in FY 2022. Our appropriation request includes funding for that specific purpose. The skills needed to support many of these tariff and trade information services (*e.g.*, HTS maintenance and classification) are unique and can take years to develop. Moreover, many of the agency experts that we rely on for tariff and trade information services are approaching retirement eligibility, so we expect human capital planning and recruitment to be a priority over the next few years.

### **Trade Policy Support Remains of Interest but Could Face Resource Constraints**

We draw heavily on staff in all agency program areas to respond to requests for trade policy support from Congress and the Administration. In FY 2020, we supplied rapid responses on a broad array of issues and topics, ranging from litigation support in international tribunals to assessments of specific industry and economic issues, including issues relevant to the response to the COVID-19 pandemic. Our staff often provides support to negotiators working on proposed trade agreements or adjustments to existing agreements. We supply information, expertise, and software-based tools to support U.S. negotiating teams.

We are also seeing increasing interest from our requestors on non-tariff-related trade matters, as well as on significant emerging tradable sectors such as services and digital trade. Moreover, behind-the-border issues related to regulation and services trade have required us to refocus our resources, apply new analytic techniques, and develop new trade-related databases. As budget and statutory workload permits, we also detail staff members to our main requestors' offices, where they can support the requestors' work while broadening their own skills and experience.

Congress and the Administration place a high value on our staff's ability to produce timely, objective, and independent information related to their most urgent issues. Because we are facing heavier workloads, work that is more complex, and staffing challenges in various areas, we anticipate that we will experience significant constraints on our ability to respond to these requests if the requested level of funding is not received. Thus, staff recruitment and development are pressing needs for us.

## Efforts to Strengthen Information Technology Security

We continue to demonstrate our commitment to improving our IT security by complying with and implementing mandates, directives, and best business practices pertaining to IT security in a timely way. We continue to expand and improve our access controls, as well as mature our authorization program for web-based technologies. We predictively monitor and report on all activities via our security operations center, and we have improved our ability to ensure a secure IT infrastructure by increasing our level of security engineering support.

In FY 2022, strengthening our IT security posture by investing in new technologies, processes, and capabilities to exceed the requirements of the Federal Information Security Modernization Act of 2014, is a priority. Planned improvements include the following:

- More stringent access controls to further secure our infrastructure
- Increased reporting and improved monitoring of our network security by applying new software and increasing licensing
- Coordinating with the U.S. Department of Homeland Security to conduct external assessments and scans of agency systems
- Continuing independent assessments of our security and privacy controls systems to ensure that security controls are applied correctly, operating as intended, and producing the desired outcome for security requirements
- Further maturing of our incident response and intrusion detection processes

### Remote and Cloud Computing

We plan to further advance our disaster recovery capacity and telework capability in FY 2022 by maintaining a modernized remote access solution, adding additional network capacity and redundancy, and ensuring improved levels of availability and accessibility via our hybrid cloud-based architecture. With continued reliance on the capabilities necessary to support a remote workforce, in FY 2022, we expect to continue migrating functionality to a distributed, hybrid cloud-based architecture to continuously improve the availability and accessibility of our systems, increase our redundancy, reduce our dependence on physical data centers, strengthen the security posture of all users, lower maintenance costs, and fully realize a positive return on investment.

## **Risk Management and Planning**

We have an enterprise risk management (ERM) process to establish, maintain, monitor, evaluate, and report on agency risks and the agency's system of internal controls. ERM is an integral part of all strategic planning, performance management, budget, IT, and human capital functions and activities.

As part of this effort we maintain an ERM database, which supports us in categorizing, documenting, and evaluating risks to the agency. Management performs ongoing assessments to identify, manage, and update the risks in this database. The risk profile is developed from the risk database and ranks risks from an agency-wide perspective. The profile is discussed, prioritized, and reviewed by our Performance Management and Strategic Planning Committee. The primary purpose of this risk profile is to provide a thoughtful assessment of the risks that we face arising from our operations and mission-support activities.

The Office of Management and Budget (OMB) provides agencies with guidance related to risk management in certain specialized areas, including cybersecurity. OMB directs agencies to assess their cybersecurity risk, to manage the cybersecurity component of enterprise risk, and to adopt the Framework for Improving Critical Infrastructure Cybersecurity. We manage risk in a way that is commensurate with the magnitude of the harm that would result from unauthorized access, use, disclosure, disruption, modification, or destruction of a federal information system or federal information. We comply with all cybersecurity reporting requirements. Our managers actively integrate risk management principles into performance planning and budget formulation. There is now a more direct link between decision making, the weighing of risks, and the attainment of strategic goals.

## **Good Accounting Obligation in Government Act**

The Good Accounting Obligation in Government Act requires each agency to include in its annual budget justification a report that lists each public recommendation issued by the Government Accountability Office (GAO) and the agency's Office of Inspector General (OIG) that has remained unimplemented for one year or more from the annual budget justification submission date. The Commission does not have any open GAO recommendations. The table below lists all six of the Commission's IG recommendations that have been open for more than one year and the Commission's target date to take final action on the recommendations.

Report Title	Report Number	Issue Date	USITC OIG Recommendation	Target Date for Final Action on Management Decisions
Audit of Directives Management	OIG-AR-15-14	09/02/2015	Define standard format and content requirements for each type of internal rule.	04/01/2021
Audit of Directives Management	OIG-AR-15-14	09/02/2015	Document interrelated and dependent directives to understand how changing one policy may affect another.	04/01/2021
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Update Commission policies to remove duplicative information and clearly identify the roles and responsibilities where authority has been delegated.	04/01/2021
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Establish a process to keep accurate record of the hours worked by employees.	04/01/2021
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Have a consistent policy for recording time increments for credit, compensatory, and overtime hours.	04/01/2021
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Establish a policy to manage religious compensatory time.	04/01/2021

## Publications Proposed for Elimination

The Commission has identified two publications that it has proposed for elimination or streamlining in response to requirements of the GPRA Modernization Act of 2010. Specifically, the Commission has requested elimination of the requirement found in 19 U.S.C. § 3204 to provide the *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution* report. The requirement is outdated because the President's authority to provide trade preferences under the Act expired in 2013 and has not been extended by Congress. Thus, none of the four eligible countries have participated in the program

since 2013. As a result, there is no continued benefit to issuing the report.

Similarly, the Commission requested that Congress streamline the production of the HTS by eliminating the requirement to print a hard copy of it, which can be found in 19 U.S.C. § 3007(a). The statute requires the Commission to prepare a hard-copy version of the HTS and authorizes it to publish an electronic version. Users of the HTS rely almost exclusively on the electronic version. The requirement of a hard copy duplicates the electronic version. In addition, the hard-copy version often becomes outdated soon after issuance due to the numerous modifications, and it therefore provides little benefit to the public.

# Appropriation Language

## Salaries and Expenses

*“For necessary expenses of the U.S. International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. § 3109, and not to exceed \$2,250 for official reception and representation expenses, \$118,842,000, to remain available until expended.”*

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## Trade Remedy Investigations

Our agency plays an important role in administering and applying U.S. trade remedy laws by conducting several types of investigative proceedings. These proceedings focus on allegations that subsidized and dumped imports are injuring a domestic industry; that surges of imports are injuring a domestic industry; or that imports are infringing domestic intellectual property (IP) rights or are involved in unfair acts that injure or threaten a domestic industry.

Our first strategic goal is to produce sound, objective, and timely determinations in trade remedy proceedings. Our work supports U.S. companies and their workers' efforts to compete in the United States and in the global economy. Moreover, our timely resolution of complex IP disputes (section 337 disputes) can be of paramount economic importance to persons and companies holding U.S. IP rights.

## Import Injury Investigations

We conduct investigations to determine whether unfairly traded imports cause or threaten material injury to a U.S. industry, or materially retard an industry's establishment, under Title VII of the Tariff Act of 1930. Under this law, unfair imports can be remedied through AD/CVD orders imposing duties on the goods in question. The U.S. Department of Commerce (Commerce) issues and administers these orders. We conduct five-year reviews of existing AD/CVD orders to determine whether their revocation would be likely to cause material injury to a U.S. industry to continue or recur. We have independent legal authority to defend our decisions in appeals to the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit), as well as in proceedings under the North American Free Trade Agreement (NAFTA) and the USMCA. We also give extensive assistance to the U.S. Trade Representative in resolving disputes before the World Trade Organization (WTO).

Unfair imports, whether subsidized by a foreign government or "dumped" for sale at prices below the foreign market price or the cost of production, can injure U.S. companies. Congress enacted the AD/CVD laws to give U.S. producers and labor unions a way to obtain remedies when we find material injury or threat of material injury stemming from imports that Commerce has determined to be unfairly traded. The remedies take the form of AD/CVD duties on imported merchandise equivalent in value to the dumping margin and/or subsidy rate found for foreign producers by Commerce.

Historically, AD/CVD petitions have covered a broad range of products representing many sectors of the economy. These petitions can cover intermediate products, such as steel and chemicals, or finished goods, such as consumer products and processed agricultural products. In FY 2020, we instituted investigations covering nine final end-use or consumer-related products, such as utility scale wind towers, walk-behind lawn mowers, mattresses, passenger vehicle and light truck tires, and twist ties. In addition, we instituted investigations covering various steel and metal products, such as common alloy aluminum sheet, seamless refined copper pipe and tube, aluminum foil, and silicon metal, as well as chemicals, such as phosphate fertilizers and methionine. In FY 2020, caseload levels continued to increase, and we surpassed recent records with 75 instituted investigations (compared to 59 in FY 2019) and 69 completed investigations (compared to 60 in FY 2019).

In FY 2020, more than half of the 26 petitions filed involved imports from multiple countries, ranging from 2 to 18 countries, with China being the predominant import source (12 of 26 petitions). Collectively, AD/CVD investigations resulting from petitions filed in FY 2020 involved about \$48.3 billion in U.S. consumption, \$11.5 billion in imports, and more than 86,000 U.S. production employees. The large increases over FY 2019 in U.S. consumption, imports, and production employees involved in AD/CVD investigations before the Commission were driven by record-level filings coupled with a large number of subject countries and domestic industry participants, such as investigations concerning passenger vehicle and light truck tires, mattresses, common alloy aluminum sheet, aluminum foil, and wood mouldings and millwork products.

Under section 201 of the Trade Act of 1974, we conduct global safeguard investigations and determine whether increased imports are a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing the subject product. In FY 2020, the Commission received a petition requesting an extension of remedy for large residential washers, and we initiated an investigation that was completed in December 2020. In FY 2020, we also initiated a global safeguard investigation on fresh, chilled, or frozen blueberries at the request of the USTR and completed a section 204 investigation (*i.e.*, midpoint safeguard monitoring investigations) for crystalline silicon photovoltaic (CSPV) cells and modules—resulting from the section 201 investigations completed in FY 2018. In addition, in FY 2020, the Commission received a request from the USTR under section 204 that the Commission provide advice about the probable economic effect on the domestic industry manufacturing CSPV cells and modules of modifying the safeguard measure, which we delivered on March 7, 2020. USTR requests for two perishable and seasonal fruits and vegetables-related monitoring investigations as well as ongoing outreach efforts by Commerce may contribute to additional global safeguard petitions from these or other agriculture-sector industries.

To conduct import injury investigations, we assemble multidisciplinary teams that compile information from a number of sources, including questionnaire responses from domestic and foreign firms, publicly available information, plant tours, testimony at USITC conferences and hearings, and legal briefs from parties. Our investigative teams prepare fact-based reports on which the commissioners rely to make their determinations. Interested parties' representatives approved under administrative protective orders (APOs) have access to the information that we examine, including confidential information released under the APO. All hearings and votes are open or available to the public, and public versions of reports, party submissions, and opinions are available on our website, offering timely and useful information to companies and individuals. In FY 2020, the Commission effectively implemented video-conferencing technology to quickly resume public hearings.

Our investigative processes are fair and transparent. We ensure that investigative records are complete and contain information from all parties so the commissioners can make sound and objective determinations that can withstand judicial scrutiny. We continually seek to upgrade our processes in terms of speed, efficiency, and technical soundness. Increased caseload in FY 2020 hampered ongoing efforts to improve our electronic data collection and processing efforts. This information is essential in making it easier for external parties to participate in our processes and use our resources as we work to improve the way that we collect, analyze, and present information. We were able to apply feedback that the Office of Investigations received from the FY 2019 survey of outside counsel about the benefits, challenges, and key features of web- or extraction-enabled information collection vehicles to the development of ongoing data-collection initiatives. However, we were unable to advance planned piloting and implementation efforts for the responses to the notice of institution survey portal.

Throughout FY 2020, we continued to make more content available on the internet, and we continued our efforts to promote transparency—efforts that were critical to maintaining operations and meeting statutory deadlines after we transitioned to a primarily virtual environment during the COVID-19 pandemic. Despite incremental advancements, increased caseload pressures and resource constraints slowed ongoing efforts to develop and manage a data system for more complete, timely, and accessible reporting of information on trade remedy investigations, as well as efforts to more efficiently collect information and data from parties and the public. In FY 2021, we plan to continue to develop these productivity enhancing initiatives as well as develop the required staff skills.

Our workload in import injury investigations is a function of both new filings and reviews of existing orders; estimating the number

of future filings is more difficult than estimating the number of future reviews. Overall caseload (*i.e.*, new filings plus reviews) fluctuates from year to year and was as low as 32 investigations in FY 2010. Since then, the number of investigations and reviews instituted has steadily increased, and there has been a sustained upward shift in recent years, with annual institutions increasing from the 40s to current levels averaging in the 60s with a record level in FY 2020 of 75. This upward shift is driven by continuing high levels of petitions, now regularly ranging from 15 to 20 filings per year with a record level in FY 2020 of 26. A complicating factor is the growing share of staggered cases (*i.e.*, multiple-country investigations that have more than one final determination date) and increasing uncertainty regarding investigation start dates and overall duration; these increase administrative and scheduling challenges across an existing heavy caseload. The growth in cases instituted per year has also been driven by the fact that very few trade remedy orders have been revoked in recent years, either at the Commission or at Commerce, resulting in a stock of orders that has increased by more than 200 orders in the past five years. For FYs 2021 and 2022, we project a sustained high overall caseload for import injury investigations and reviews, estimating 70 investigations and reviews instituted in FY 2021 and 80 instituted in FY 2022. The overall number of reviews instituted is projected to remain high in FY 2021 and increase in FY 2022, reflecting, in part, the number of new orders put into effect since 2000.

Another significant portion of our workload in this area is defending our determinations in response to domestic litigation challenging them. This litigation is conducted at the U.S. Court of International Trade (CIT), the Federal Circuit, and binational review panels under NAFTA (or under USMCA for cases initiated after July 1, 2020). In addition, our staff assists the USTR in WTO disputes defending our import injury determinations, challenging injury determinations made by other WTO members that affect U.S. exports, or providing third-party comments on legal issues that are of institutional interest.

In FY 2020, there were three new appeals of Commission Title VII determinations to the CIT and two appeals under NAFTA. At the close of FY 2020, there were five Commission import injury cases pending in the CIT and two pending before NAFTA dispute settlement panels. During FY 2020, the Federal Circuit affirmed the three appeals of Commission Title VII determinations that were pending before it. The CIT issued opinions in two cases, both of which included remands to the Commission, which, in turn, resulted in additional work for Commission staff. Also in FY 2020, a NAFTA panel affirmed a challenged Commission determination. There were also eight challenges involving Commission determinations pending under the dispute settlement procedures of the WTO. In addition, there were three other WTO disputes involving trade remedies in which Commission staff provided trade policy support to the USTR.

For FYs 2021 and 2022, we project that the number of new appeals challenging our import injury determinations will increase, reflecting the historically high number of new petitions filed in FY 2020 and the number of active investigations that will be completed in FY 2021. In addition, in FY 2021, we continue to actively prepare submissions and participate in hearings for the three WTO disputes concerning Commission determinations that are currently pending before WTO panels.

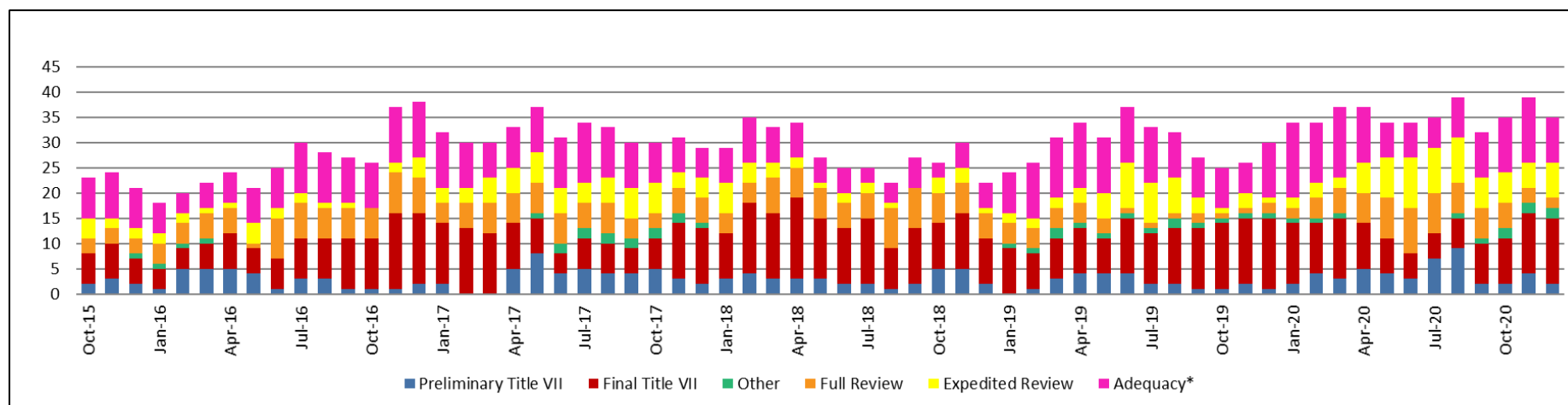
Trends in the investigative caseload and caseload estimates for FYs 2021 and 2022 are shown below.

# Import Injury Investigations Caseload

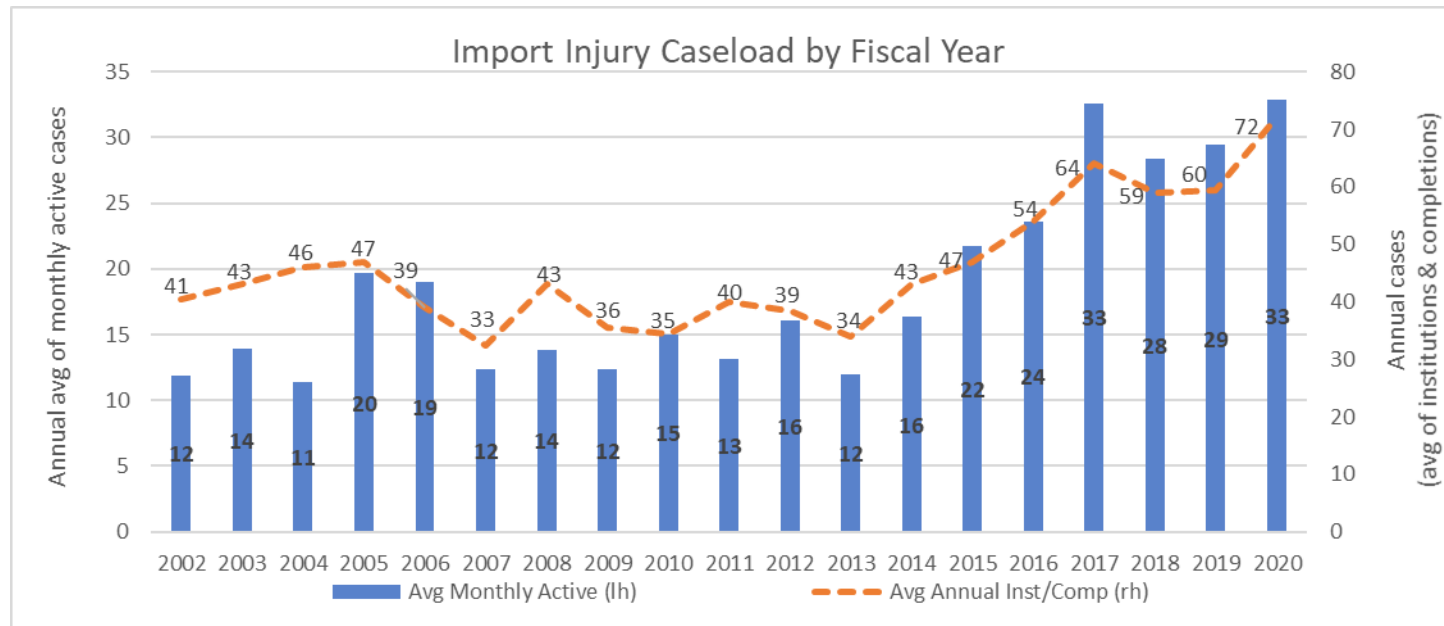
## Instituted and Completed Investigations

	Instituted							Completed						
	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Estimate	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Estimate
Preliminary Title VII	18	20	18	15	26	18	18	19	17	18	19	25	19	18
Final Title VII	16	12	21	19	16	21	18	13	19	18	15	20	21	20
Other	1	2	0	3	3	6	4	1	0	2	2	2	5	5
Full review	11	11	7	6	5	10	13	6	11	11	7	6	8	12
Expedited review	11	17	10	16	25	15	27	12	15	13	17	16	20	21
<b>Total</b>	<b>57</b>	<b>62</b>	<b>56</b>	<b>59</b>	<b>75</b>	<b>70</b>	<b>80</b>	<b>51</b>	<b>62</b>	<b>62</b>	<b>60</b>	<b>69</b>	<b>73</b>	<b>76</b>

## Monthly Active Caseload



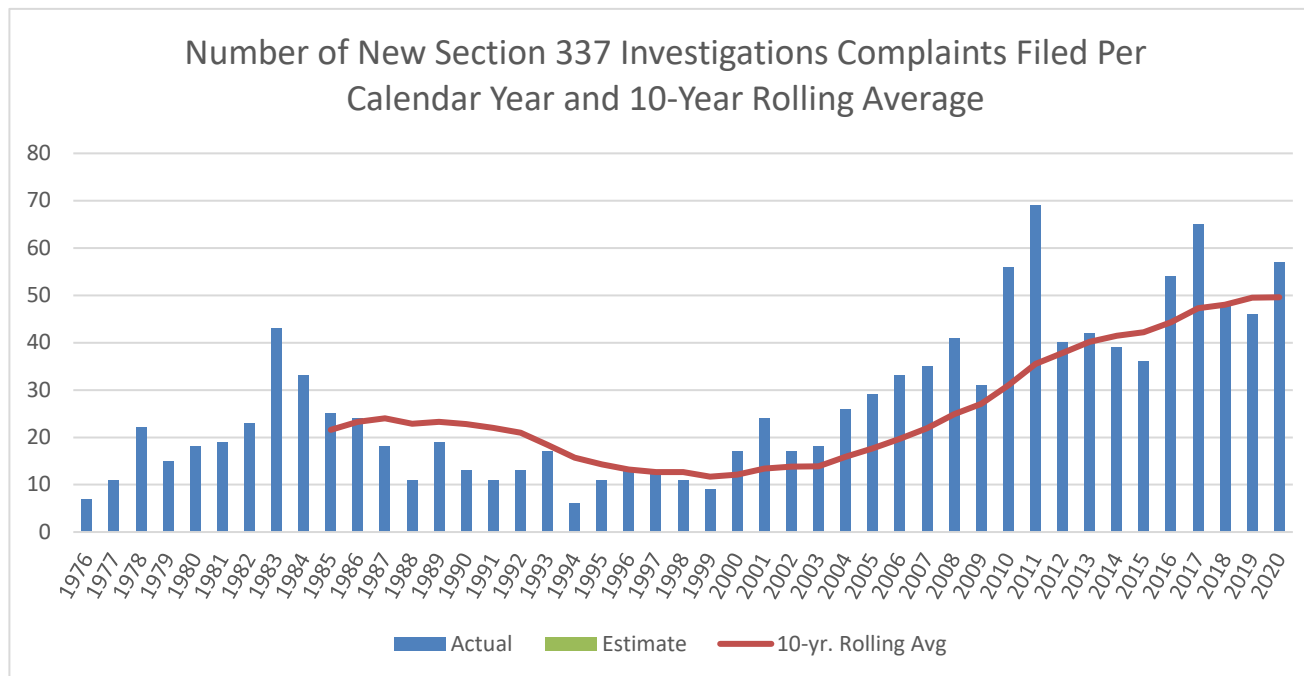
\*We realigned our workload for five-year reviews in FY 2015, shifting a substantial portion of work to the “adequacy phase” of these proceedings. This phase precedes a determination to conduct a full or expedited review. In this chart, beginning in FY 2015, active five-year reviews in their adequacy phase are presented separately and labeled “Adequacy.”



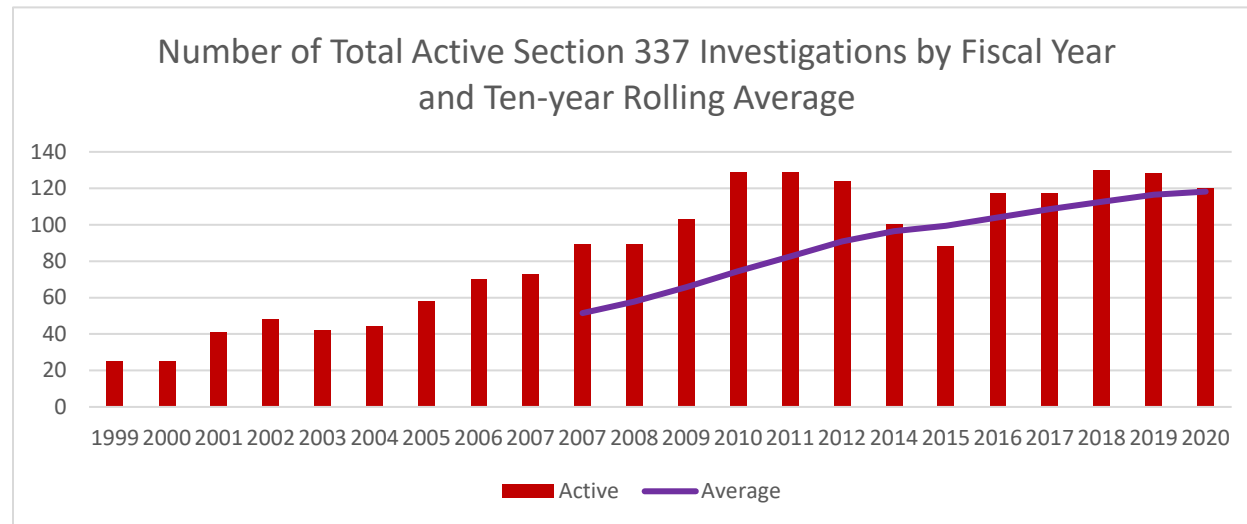
## Unfair Import Investigations

The Commission investigates unfair methods of competition and unfair acts involving imported articles under section 337 of the Tariff Act of 1930. These investigations typically involve alleged infringement of statutory IP rights, primarily patent rights. IP is a key driver of the U.S. economy and a critical element in U.S. competitiveness, and the Commission plays an important role in protecting it. The primary relief available under section 337 is exclusion of goods at the border. We have earned a reputation for providing fair, timely, and expert adjudication of complex IP disputes. As a result, many IP rights holders, particularly in industries where the product life cycle is short, have come to see the Commission as a vital forum for the redress of IP infringement. This interest is reflected in the number of filings for unfair import investigations that we have received in recent years and in the significant percentage of the patent trials held in the United States that are conducted at the Commission.

For nearly two decades, there has been an overall upward trend in new investigations filed year over year (as illustrated in the chart below). FY 2020 was no exception, and we expect the trend to continue in FYs 2021 and 2022. The Commission does not maintain data for the number of new complaints filed by fiscal year dating back to 1976. However, it does report how many complaints are filed each calendar year over the same period. The number of complaints filed provides an indication of the level of work flowing into the agency because under section 337, prior to institution of an investigation, all complaints must be examined for (1) sufficiency and compliance with the applicable rules to determine whether they were properly filed; (2) identified sources of relevant information; and (3) assurance of the probable availability of evidence therein. This involves a substantial amount of work by the Commission and Office of Unfair Import Investigations. Thus, the chart below indicates how many complaints are being considered each calendar year.



To better understand workload trends, it is important to review the overall active investigations metrics by fiscal year. This number reveals how many investigations are active at the agency, not just the number of incoming investigations illustrated in the previous graph. The active investigation number is informed by the incoming number of investigations, the settlement rate, and any delays in reaching a final determination, whether internal or external. As the chart below demonstrates, the number of overall active investigations in FY 2020 remained high.



In FY 2020, the settlement rate of section 337 investigations (*i.e.*, the rate at which private parties settled their disputes or complaints were withdrawn) continued to decline, from 52 percent in FY 2018 to 45 percent in FY 2019 to 34 percent in FY 2020. This means that about 66 percent of all investigations were proceeding to the final determination. As a result, investigations instituted in FY 2020 will continue to have an impact on workload in FYs 2021 and 2022. Any resulting appeals could last for at least a year, but likely longer.

The average length of an investigation on the merits in FY 2020 was 18.6 months, in part due to investigations impacted by the lapse in funding in FY 2019. In FY 2020, the pandemic had a significant impact on section 337 active investigations that will likely be felt in

FYs 2021 and 2022, as the inability to gather necessary discovery domestically and abroad due to the lockdowns delayed investigations. In addition, some evidentiary hearings were delayed while the Commission procured a FedRAMP-certified video teleconferencing platform secure enough to allow for presentation of confidential business information during evidentiary hearings.

While the majority of section 337 investigations are based on patent infringement allegations, there has been an increase in investigations alleging unfair acts and methods of competition other than patent infringement, including claims based on trademarks, trade dress, false advertising, false designation of origin, trade secret misappropriation and antitrust. These investigations continue to make up approximately 15 percent of our investigations. The recent focus in both the executive and legislative branches on the protection of trade secrets highlights the importance of this part of our docket.<sup>2</sup> In addition, there continues to be an increase in the number of investigations seeking general exclusion orders for consumer good items.

To adjudicate section 337 investigations, our administrative law judges (ALJs), in accordance with the Administrative Procedure Act, conduct evidentiary hearings, issue initial determinations, and facilitate dispute settlement. Our Office of Unfair Import Investigations reviews complaints before investigations are instituted, advises the commissioners on institution determinations, participates (when appropriate) as a party to proceedings, and aids in facilitating settlements. The ALJs' initial determinations are subject to review by the commissioners, and the Commission's final determinations in section 337 investigations can be appealed to the U.S. Court of Appeals for the Federal Circuit. Our Office of the General Counsel provides advice to the commissioners during each investigation and defends the agency's final decision during any subsequent appeals. Each of these offices employ ALJs and attorneys with technical backgrounds who have spent years developing expertise not only in patent and competition law, but also in the law of section 337.

The spectrum of products and IP rights at issue in section 337 investigations is quite broad. The docket has included many investigations involving the importation of sophisticated electronic devices, such as smartphones, tablets, laptops, and memory devices, and this will likely continue. In FY 2020, we also adjudicated investigations involving pharmaceuticals and medical devices, transportation-related products, and products such as LED lighting, height-adjustable desks, electronic candles, food service

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<sup>2</sup> The IP Commission found that the cost of trade secret theft to U.S. firms was \$180–\$540 billion, or 1%–3% of the U.S. gross domestic product. Commission on the Theft of American Intellectual Property, Update to the IP Commission Report, Seattle: National Bureau of Asian Research, 2017. [http://www.ipcommission.org/report/IP\\_Commission\\_Report\\_Update\\_2017.pdf](http://www.ipcommission.org/report/IP_Commission_Report_Update_2017.pdf)

equipment, luxury vinyl tile, unmanned aerial vehicles, toner cartridges, and adjustable child carriers. There is a substantial overlap between the industries that dominate our IP docket and the industries found in a Commerce study to be the most IP-intensive in the United States.<sup>3</sup> The study found that these IP-intensive industries represent 29.8 percent of all jobs in the United States; that wages of private sector workers in IP-intensive industries were 46 percent higher than those of workers in non-IP-intensive industries; and that wages for workers in patent-intensive industries were over 74 percent higher than those of workers in non-IP-intensive industries. The study also found that the value added by IP-intensive industries amounts to more than 38 percent of the U.S. GDP. Our IP enforcement efforts therefore contribute to strengthening the U.S. economy and employment. As noted above, one of our strategic goals is to produce sound, objective, and timely determinations in our investigative proceedings. The timely resolution of section 337 disputes is particularly important to patent holders because the duration of patents is limited. Speed is even more crucial when disputes involve high-technology products that tend to have short commercial life cycles. Thus, in accordance with congressional intent, it is important to conclude our unfair import-based investigations as quickly as possible. This goal has been challenging in recent years because of the volume and complexity of investigations. We continue to examine various options for shortening the length of investigations. For instance, for several years we piloted a 100-day early disposition program under which, in selected investigations, the ALJ could decide a potentially case-dispositive issue within the first 100 days of the investigation. The pilot proved successful and in FY 2018, we issued rules incorporating it into our procedures.

In addition, we regularly take steps to make our procedures more efficient and cost-effective, both for litigants and for the agency. During FY 2018, we promulgated several new rules. Besides codifying the early disposition program discussed above, we introduced rules regarding the severing of investigations with unrelated patents and technologies into multiple investigations. The purpose of these rules is to help us meet our strategic goal of issuing timely decisions while providing due process to litigants, allowing us to build sufficient factual records and maintain quality decision making. We also issued rules that would better align our section 337 subpoena practice with that of the federal courts.

We are also assessing ways to improve the effectiveness of the remedial orders that we issue. One issue frequently raised in this area is whether new and redesigned products are covered by an existing Commission exclusion order, cease and desist order, or consent order. U.S. importers, would-be importers, and IP rights holders have all expressed concern in recent years about how they

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<sup>3</sup> U.S. Department of Commerce, Intellectual Property and the U.S. Economy: 2016 Update, 2016.

can obtain timely, transparent, and binding decisions in this regard. In response, in FY 2015 we announced a pilot program to test the use of expedited modification and advisory opinion procedures to evaluate and rule on redesigned and new products that are potentially covered by our remedial orders. While modification and advisory opinion procedures have been available for years, we have set performance goals to streamline them to better meet the needs of those who may be affected by remedial orders. We have tested this pilot in 13 investigations since FY 2016, including two in FY 2020. Overall, this pilot decreased the length of time for these redesign proceedings.

In addition, we have been working to improve both our ability to report data involving section 337 investigations and the transparency of our data to the public. At the end of FY 2014, we launched 337Info, a searchable database providing data on investigations instituted since October 1, 2008.<sup>4</sup> Accessible from our website, 337Info offers members of the public easy access to information on scheduling, parties involved, patents at issue and unfair acts alleged, staff assigned, disposition of the investigation, and any appeals. Over the coming years, 337Info will be incorporated into a Commission-wide investigations database, enhancing the current features of 337Info. This effort will also assist the Commission in managing all of its investigation data. We use information captured in 337Info to generate statistics to respond to internal and external inquiries about section 337. Besides 337info, since FY 2016, we regularly report statistics for section 337 through an enhanced website interface that includes average length of investigations, number of exclusion orders issued, types of accused products, types of unfair act allegations, number of patents at issue, and settlement rates. The new enhanced investigations database system will improve the process of capturing additional information and automate some of our reporting processes.

We continue to encourage and support settlement of cases by the parties involved in our section 337 investigations in several ways. These include ALJs ordering settlement discussions throughout the investigation; some ALJs requiring formal mediation; investigative attorneys fostering settlement efforts in those investigations in which they participate; and all parties having access to our mediation program. Settlements reduce the number of investigations in which we must make final determinations and conserve the resources of both litigants and the agency. As noted above, however, the settlement and withdrawal rates further decreased this past fiscal year.

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<sup>4</sup> For information on investigations instituted before October 1, 2008, the Commission converted its legacy system into a searchable Microsoft Excel file. In the new investigations database system this information will be searchable along with the post-2008 data.

Appellate litigation pending at the U.S. Court of Appeals for the Federal Circuit stemming from section 337 investigations absorbs a significant share of employee resources in our Office of the General Counsel. We are typically successful in defending our determinations before the Federal Circuit. The table below displays the number of pending appeals at the end of each fiscal year, FYs 2012–20.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>Number of pending appeals at end of FY</b>	17	13	17	16	17	15	26	17	24

This is only a snapshot of the appellate litigation challenging section 337 determinations handled by the Office of the General Counsel. During FY 2020, there were 57 active section 337 litigation appellate matters, including 50 active Federal Circuit appeals (some of which were concluded prior to the close of the fiscal year, and are not counted above), four petitions for certiorari to the U.S. Supreme Court, one appeal in the U.S. Court of Appeals for the District of Columbia Circuit, and two civil actions in the U.S. District Court for the District of Columbia.

For FYs 2021 and 2022, we anticipate a similar number of new appeals challenging section 337 determinations, based on the historical rate of appeals and the projected filings.

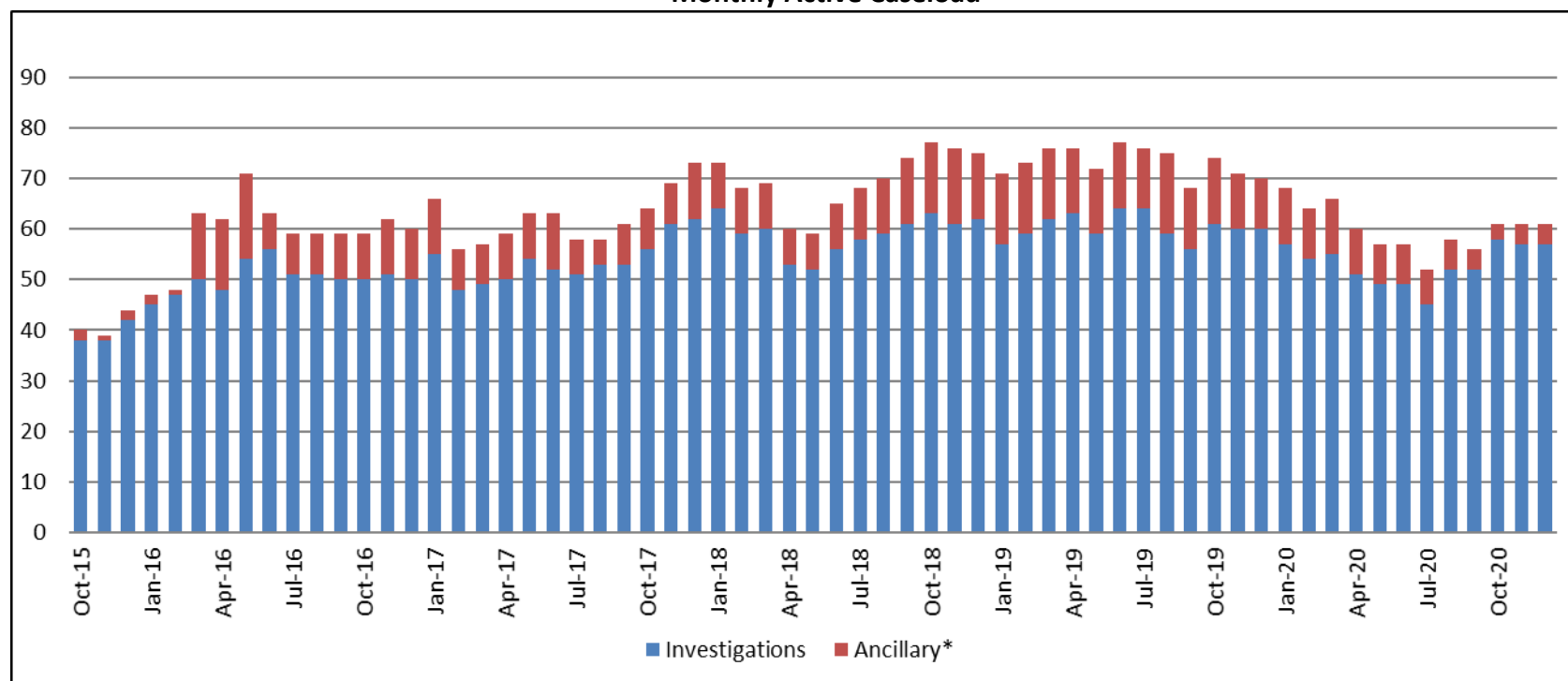
Trends in the investigative caseload and caseload estimates for FYs 2021 and 2022 are shown below.

## Unfair Import Investigations Caseload

### Instituted and Completed Original and Ancillary Investigations

Status	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Estimate
Instituted	79	64	74	59	52	60	60
Completed	64	61	61	60	67	55	60

### Monthly Active Caseload



\*Ancillary investigations include post-order proceedings, such as modifications or rescissions (*i.e.*, revocations) of remedial orders, advisory opinions, remands (cases returned) by the U.S. Court of Appeals for the Federal Circuit, and enforcement proceedings.

# Tariff, Trade, and Competitiveness-related Analysis and Information

To fulfill our mission, we must give timely, objective, high-caliber information and analysis to federal policy makers to help them in negotiating trade agreements and in evaluating the effect of legislation or other trade policy actions on the U.S. economy and industry competitiveness.

We have statutory responsibilities to provide information at our disposal to Congress and the President, who has delegated the President's request authority to the USTR. In response to these policy makers' requests, we supply independent research on numerous topics, both through factfinding investigations (industry and economic research and analysis) and expert advice (trade policy support). To ensure that we develop and maintain the technical expertise needed for this work, we also identify and research priority areas in international trade, industry competitiveness, and the U.S. and global economies.

With the exception of requested confidential studies, we offer our industry and economic analysis and research freely to the public.

## Industry and Economic Analysis

### Investigations

We conduct investigations on a wide range of international trade and competitiveness issues that are of interest to U.S. policy makers and that affect firms, industries, workers, and consumers. Authority for most of our investigations is granted by section 332 of the Tariff Act of 1930, but also by various implementation statutes for specific trade agreements and by several general trade statutes. Most factfinding investigations fall into three broad categories:

- General analytic investigations

- Investigations examining the probable economic effect of proposed trade policy changes
- Assessments of the probable effects of negotiated trade agreements

External events that impact U.S. international trade and domestic competitiveness shape our requestors' needs and interests. Consequently, the nature, timing, and complexity of requests for these investigations are unpredictable and lead to wide variations in the level of resources required to complete any specific investigation. Resource needs depend on such factors as the state of global competition in specific sectors or with certain trading partners, emerging interests of policy makers in the Administration and Congress, the scope and scale of policy makers' requests, and the level of public information available related to the request. The interplay of these factors, as well as their uncertainty, makes accurate forecasting of future workloads challenging.

Our industry and economic analysis is widely considered to be expert and objective, and it is routinely cited by parties representing all sides in trade debates. Our ability to collect, compile, and assess unique data is widely sought by policy makers. Trade policy makers rely on us for authoritative information on trade- and competitiveness-related issues to support informed decision making.

Our investigations in most cases focus on issues that affect U.S. trade or important parts of the U.S. economy. Policy makers rely on us to produce expert analysis of the global competitiveness of U.S. industries and U.S. trade with specific countries or regions. Recently completed reports have analyzed the economic effects of duty reductions and suspensions in the Miscellaneous Tariff Bill Act of 2018; trade in COVID-19-related goods and challenges supplying these goods to the U.S. market; and the probable economic effects of the proposed United States-Kenya free trade agreement.

Policy makers also rely on us to provide expert information about how narrowly focused policy changes—such as those affecting tariff preference programs or rules for determining a good's origin—may affect specific, often narrowly defined products. Recently completed or ongoing examples of such work include reports on illegal, unreported, and unregulated fishing; potential effects of renewable energy commitments in Massachusetts; changes to the U.S. Generalized System of Preferences (GSP) program; and two volumes analyzing the global economic impact of missing and low pesticide MRLs.

The schedules for requested investigations often overlap with each other and with mission-critical work in other investigative areas. Moreover, requests often require us to develop or apply new analytic methods; collect and analyze unique primary data obtained

through sector-specific questionnaires; or research and analyze new industries, competitive conditions, or trade barriers. During FY 2020, our employees executed multiple industry and economic analysis projects in tandem with other work projects required by statute, such as import injury investigations, trade policy support, tariff and trade information services, and petitions for temporary duty suspension or reduction.

## Workload Expectations in FYs 2021 and FY 2022

In FYs 2021 and 2022, we expect the number of new investigations to be similar or higher to that of FY 2020, given the active trade policy agenda of the executive and legislative branches. In both fiscal years, we expect to administer, develop, and analyze up to two surveys, drawing on a relatively large amount of agency resources. We will continue to advance our use of electronic survey tools and methods, which have contributed to productivity gains in recent questionnaire-based investigations.

Our staff periodically discusses recurring reports with the requestors to ensure their continued interest in the information provided or to learn whether we should furnish additional information to meet emerging needs. During both FYs 2021 and 2022, we will enhance the online user interface of recurring reports, such as *The Caribbean Basin Economic Recovery Act Report*, *The Year in Trade*, *Shifts in U.S. Merchandise Trade*, and *Recent Trends in U.S. Services Trade*.

For FY 2021, in addition to the recurring reports, we anticipate responding to requests or statutory direction for new reports providing unique data and analysis. The reports will inform federal policy makers' efforts in international trade negotiations or in developing trade and other economic policies. Ongoing reports in FY 2021 include the following:

- *Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels, Vol. 2*
- *Renewable Electricity: Potential Economic Effects of Increased Commitments in Massachusetts*
- *Illegal, Unreported, and Unregulated Fishing*
- *Raspberries for Processing: Conditions of Competitiveness*
- *Squash: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast*
- *Cucumbers: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast*
- *Foreign Censorship: Trade and Economic Effects on U.S. Businesses*

We anticipate a robust analytic workload in FYs 2021 and 2022, and we have a performance goal of expanding our capability to anticipate and address new areas of economic and industry analysis. To achieve this goal, we will focus our research and data development work in high-interest areas like the following:

- Advancing our modeling capabilities, such as the flexibility and usability of partial equilibrium analysis to better capture the nuances of specific industries
- Expanding analysis in areas such as
  - The impact of trade policy uncertainty
  - The enforcement of provisions in U.S. trade agreements
  - The socioeconomic and distributional effects of trade and trade policy on U.S. workers
  - Trade in digital goods and services
  - Behind-the-border nontariff measures affecting goods and services (*e.g.*, regulatory practices, technical regulations, conformity assessments, and standards)
  - Supply chains
- Increasing our capabilities and knowledge concerning trade-related agreements and U.S. trade relationships

Such preparatory work expands our expertise and can help us respond efficiently and effectively to requests for analytic investigations, while also contributing to our work in import injury cases, tariff schedule maintenance, and trade policy support. These high-interest areas tend to require information and tools that are not readily available. Moreover, such work often requires significant staff effort to refine existing analytic tools or develop new ones. Our research agenda has kept us at the forefront of emerging analytic areas, such as disruptions and changes in global supply chains, including those for COVID-19-related goods; the effects of trade on U.S. workers, including labor transition costs; quantifying a wider variety of nontariff measures; analyzing the growth of digital trade and its impact on a growing range of industries; and evaluating the impacts of government policies and regulations on trade and investment in specific industries. Consistent dedication of resources to support such work is needed to maintain the world-class quality of our work products.

External factors that are likely to influence the scope and number of requests for analytic investigations in FYs 2021 and 2022 include, among others, the following:

- The trade policy focus of the executive and legislative branches
- Interest by trade policy makers in new technologies, industries, and business models, as well as interest in sector-specific U.S. industry competitiveness
- Challenges and opportunities presented by shifting trade patterns and economic relationships between the United States and major trading partners

To respond to these requests efficiently and effectively, we must recruit, develop, and maintain staff with a high level of expertise in industry, regional, and economic matters. Skilled personnel are our single most important resource and account for the majority of our budget request. Staff research and external communication and collaboration are vital to honing staff skills, as well as developing information and analytic tools for use in requested investigations. We conduct these activities under the broad authority of sections 332(a) and (b) of the Tariff Act of 1930, often publishing our findings as articles or presenting them at international meetings of experts and multilateral institutions. We also develop expertise and make our research available through direct interaction with many international and domestic agencies, at academic gatherings, and with private sector associations. These activities offer us an important forum for external technical review of new analytic approaches and often suggest new, relevant areas of potential interest. Staff travel is often necessary to share and gather knowledge from domestic and international experts, as well as to conduct critical field research for investigations.

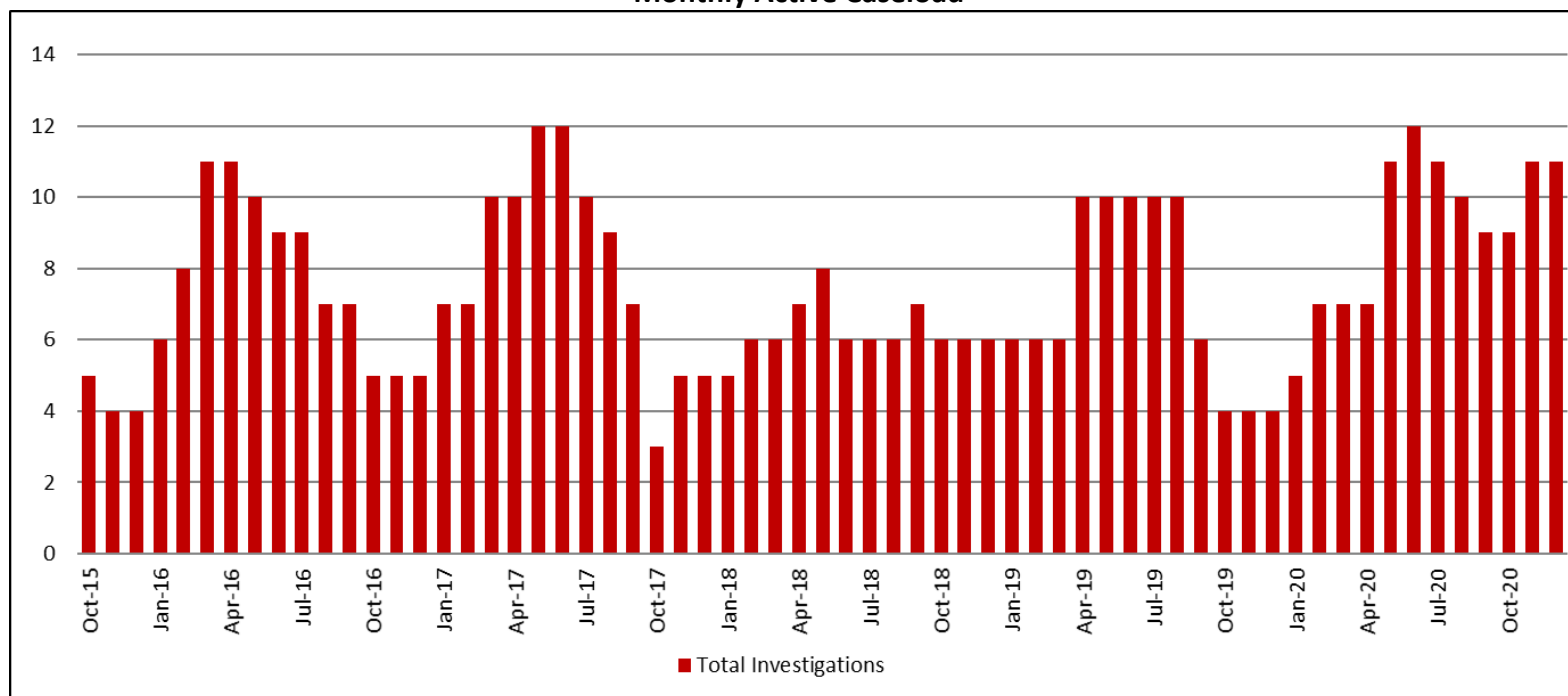
We also invest funds to ensure that we can respond efficiently and effectively to requests from Congress and the Administration through the continuous acquisition, development, and improvement of analytic tools, information resources, and research approaches, including survey methods and statistical, econometric, and simulation analyses. These funds are primarily spent on information databases, expert consulting services, and specialized software. In particular, staff collaborates with outside experts to update models so that we can better estimate the impact of policies affecting U.S. workers, U.S. affiliates abroad, energy markets, and commodity supply chains. We also continue to make significant advances in understanding nontariff measures affecting both goods and services trade, as well as trade agreements such as the U.S.-Mexico-Canada Agreement. During FYs 2021 and 2022, we will continue to invest in both our human capital and other resources to ensure that we can provide high-quality tariff-, trade-, and competitiveness-related analysis and information to policy makers in both the executive and legislative branches. Trends in the investigative caseload and caseload estimates for FYs 2021 and 2022 are shown below.

## Industry and Economic Analysis Investigations Caseload

### Instituted, Completed, and Active Recurring Investigations

Status	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Estimate
Instituted	7	5	5	7	10	11	10
Completed	9	5	4	9	5	9	8
Active recurring	6	7	6	6	5	6	6

Monthly Active Caseload



## **Tariff and Trade Information Services**

The USITC maintains and publishes the HTS under the Tariff Act of 1930 and section 1207 of the Omnibus Trade and Competitiveness Act of 1988 (1988 Act). In line with this mission, we strive to improve access to high-quality, up-to-date tariff and international trade information and to reinforce our technical expertise in these areas to support the executive and legislative branches, the broader trade community, and the public. We maintain online interactive and in-house databases and an online HTS search tool; chair the U.S. interagency Committee for Statistical Annotation of Tariff Schedules; conduct investigations under section 1205 of the 1988 Act to propose certain HTS amendments to the President to meet our international obligations; and participate in the U.S. delegation to the World Customs Organization (WCO). Staff expertise in these areas strengthens our investigative work, as well as the trade policy support that we give to the executive and legislative branches. We also provide technical reports to Congress on miscellaneous tariff bill legislation and advise the U.S. Trade Representative on aspects of the trade agreements program. We launched a new investigation under section 1205 of the 1988 Act in FY 2019 to evaluate the modification to the HTS that will be necessary to meet U.S. obligations to the WCO. These obligations involve incorporating the international Harmonized System changes for 2022 into the U.S. tariff schedule. The Commission published a preliminary report for public comment and will address relevant comments and produce and deliver a final report for Administration review and congressional layover (a period of delay required by rule) in FY 2021.

## **Maintenance of the Harmonized Tariff Schedule of the United States**

Maintaining and ensuring access to an accurate and up-to-date tariff schedule is of critical importance to the U.S. government and the private sector. U.S. Customs and Border Protection (CBP) relies on the HTS in collecting all tariff revenues and fees, which were estimated to be \$66.2 billion assessed on \$2.3 trillion in imports in FY 2020. U.S. importing firms rely on the HTS for accurate information in importing all goods into the country. As noted above, the HTS is the most heavily used tariff schedule in the world, based on the volume of trade covered. The HTS underlies the U.S. trade data maintained by the U.S. Census Bureau (Census), enables anyone interested in trade information to find tariff codes and rates, and is critical to CBP managing its trade enforcement activities.

The Harmonized Tariff Schedule of the United States Annotated consists of the HTS, its statistical annotations, and other related information. In addition to its tariff schedule management responsibilities, the Commission chairs the interagency Committee for Statistical Annotation of the Tariff Schedules in coordination with CBP and Census. That committee administers statistical breakouts for tracking specific goods, if certain criteria are met. We also participate in or lead the U.S. delegation to various committees of the WCO. Continued funding for staff to attend WCO-related meetings is an agency priority as part of U.S. government efforts to ensure that the international tariff nomenclature takes U.S. economic interests into account.

In FY 2020, we prepared and published 30 revisions of HTS, as well as the annual Basic Edition for January 1, 2020. Prior to FY 2018, the USITC typically made only two or three HTS revisions annually. The HTS Data Management System allows staff to incorporate legal modifications to the HTS proclaimed by the President, such as tariff rate increases on national security grounds or otherwise approved changes. That system also increases efficiency by automatically revising yearly staged rate reductions for products entering the United States under various free trade agreements. In its trade agreements, the United States and its trading partner(s) commit to eliminate tariffs on trade between them on a staged schedule (typically 5, 10, and 15 years, depending on the import sensitivity of the products). These tariff rate reductions occur at the beginning of each calendar year and are included in the annual Basic Edition.

The Data Management System has received substantial positive feedback from the trade community and other agencies. Users particularly appreciate the system's ability to allow access to HTS data in machine-readable format. In FYs 2021 and 2022, we plan to improve the overall performance and functionality of the system as it is reengineered using more modern technologies. With these improvements, we expect the Data Management System to better serve as the backbone for issuing accurate and timely updates to the HTS for many years to come.

We also provide ongoing support to the USTR in developing and analyzing rules for determining a product's origin—vital for negotiating and carrying out free trade agreements. This is another responsibility that will require significant staff time, particularly in connection with the evaluation of existing and new agreements. Our staff also helps the USTR prepare the final versions of the implementing proclamations for trade agreements and other actions affecting HTS.

## Other Online Tariff-related Services

The Commission also provides online trade services, such as the USITC DataWeb and the HTS tariff database. The DataWeb is a valuable tool used by our staff, external customers, and the public to organize U.S. import and export data for analysis. To improve functionality and address feedback, we re-engineered DataWeb, issuing the final version in the first quarter of FY 2019. The HTS tariff database reflects not only normal duty rates (“column 1-general tariff rates”), but also various preferential rates applicable under free trade agreements, the U.S. GSP, and other preferential duty programs. Additionally, the web interface began integrating certain tariff information contained in our HTS Data Management System (described above) to provide seamless and efficient sharing of data.

Visitors to our website rely heavily on our HTS search function. In 2020, over 1.93 million visitors accessed our online systems. The unique content we offer as the official manager of the HTS ensures that we will continue to be a “go-to” source for the business community, domestic and foreign government agencies, and taxpayers.

## Trade Policy Support

We draw on knowledge gained from our formal investigations and other research to respond to expedited requests for technical expertise and data that trade policy makers can use to inform the development of U.S. international trade policy. This trade policy support, provided under section 332 of the Tariff Act of 1930, includes:

- Providing information and analysis on current issues related to trade and competitiveness
- Providing technical comments on draft legislation
- Preparing draft tariff legislation and annexes for presidential proclamations, memoranda, executive orders, and final decisions by various agencies
- Providing information and analysis in briefings and meetings
- Temporarily assigning (*i.e.*, detailing) Commission staff to our oversight committees and the USTR
- Assisting trade delegations, negotiating teams, and Administration-led litigation teams in international dispute settlement forums

Providing trade policy support allows us to fulfill our strategic goal of producing objective, high-quality, and responsive analysis and information on tariff, trade, and competitiveness questions. We use regular communication and formalized feedback mechanisms to help us anticipate policy makers' needs and proactively develop expertise to meet a high volume of requests for assistance.

In FY 2020, trade policy support requests covered a broad range of topics and issues. The variety of these requests underscores the wide scope of current trade policy issues, as well as recognition of our unique capabilities and expertise. We anticipate that the volume of trade policy support requests for FYs 2021 and 2022 will remain high. Congressional interest in obtaining real-time assistance with draft legislation and emerging policy issues is expected to continue, as is executive branch interest in our support of negotiating teams and appearances before the WTO. In some instances, we have met our requestors' requirements by detailing our staff to congressional oversight committees or to the U.S. Trade Representative. As budget and statutory workload permit, we may continue to detail a limited number of staff to these entities, on their request.

# Information Technology

## General Statement

The Commission is committed to leveraging the power of IT to transform agency operations, improve the customer experience, and safeguard our computer networks and information. Our IT program is critical to achieving our strategic goals and objectives, managing risk, and creating value for our stakeholders. Our FY 2022 budget request of \$118.8 million includes \$11.3 million to operate and maintain existing IT systems, infrastructure, and security; supply the IT resources needed to enhance systems that support our research and investigative missions; accommodate increased cybersecurity requirements; and modernize our data center and disaster recovery capabilities by increasing our use of cloud-based technologies.

## Supporting the Agency's Mission

Our IT budget contains the resources to operate and maintain, as well as develop, modernize, and enhance, a complex suite of essential systems. These systems support all of our mission areas and the analysis and information that we provide to the public and our stakeholders.

**Harmonized Tariff Schedule of the United States (HTS):** Maintaining and ensuring access to an accurate and up-to-date tariff schedule is of critical importance to the U.S. government and private sector. U.S. Customs and Border Protection relies on the HTS in collecting all tariff revenues and U.S. import firms rely on the HTS for accurate information in importing all goods into the country. Even with the COVID-19 pandemic, HTS user sessions remained at all-time high levels with over 9.1 million sessions in FY 2020, matching the previous peak in FY 2019. In addition, the HTS system has supported an increased number of revisions over the past three years. In FY 2020 we published the annual Basic Edition and 30 revisions. We expect user sessions to remain at high levels throughout FYs 2021 and 2022, which will require continued system maintenance to ensure availability and implementation of requested enhancements to search capabilities.

**Electronic Document Information System (EDIS):** EDIS is the repository for all documents filed in connection with any investigations conducted by the Commission. EDIS provides the capability to file documents for an investigation, as well as search for submitted documents. It also supports the processing and review of documents internally. In FY 2018, we released a modernized version of EDIS to improve usability, incorporate updated technology, and add automated tracking of orders issued in response to motions filed in an investigation. In FY 2021 and into FY 2022, we will continue to modernize EDIS's capability to electronically serve documents (eService) to external users under an administrative protective order (APO) for an investigation by allowing secure electronic access to designated documents containing business proprietary or confidential business information.

EDIS eService will make it possible for the Commission to electronically serve public and confidential documents to representatives of parties in our investigations who are authorized to access those documents under an APO, a function normally accomplished by the preparation of compact discs for pick-up by authorized parties in Title VII investigations and via paper documents delivered by overnight mail in section 337 investigations. New functions added to EDIS will include the capability to create and maintain public and confidential APO service lists for each investigation, to allow the selection and review of documents to be served for an investigation, and to serve those documents to approved users using secure electronic means. These functions will significantly enhance our continuity of operations posture by eliminating the need to copy and deliver the documents on physical media.

In FYs 2021 and 2022, we will enhance EDIS to support full integration with the Investigations Database System (IDS), further improving the level of service provided by each. Through the IDS project, we are reviewing all of our investigations and assessing the data needs of each type. Needs can include status monitoring, daily execution tasks, general reporting needs, opportunities to standardize shared or similar data points, and improved accessibility of data internally and to the public. The new IDS will make it easier to intake, manage, and share investigation data, focusing on data related to Title VII, section 337, and factfinding investigations. By standardizing and centralizing our investigative data in one consolidated system, we expect to improve the level of services that we provide and reduce ongoing maintenance costs. IDS will not only upgrade investigative data management, but it will also strengthen system security by enabling more extensive auditing. It will also add information about remands; offer access to relevant documents from EDIS; and serve as a modernized, electronic record of Commission votes and determinations. IDS will replace multiple legacy systems.

## Information Security

We will continue to strengthen our security posture in FY 2022 by investing in new technologies, processes, and capabilities in line with the Federal Information Security Modernization Act of 2014 and government-wide best practices.

**Continuous Diagnostics and Mitigation (CDM):** We have internally implemented the four technical capabilities identified within phase 1 of the Department of Homeland Security's CDM program: (1) hardware asset management, (2) software asset management, (3) vulnerability management, and (4) configuration settings management. We use these capabilities to maintain our awareness of information security vulnerabilities and threats and to manage organizational risk. In FY 2022, we will continue to refine these capabilities internally.

**Security Controls Assessments (SCAs):** We continue to conduct SCAs on all of our defined IT systems. An SCA is a due-diligence exercise that uses a comprehensive, documented process to evaluate the extent to which an agency's security controls are implemented correctly, operating as intended, and meeting the security requirements for an information system. These assessments are needed to issue an Authority to Operate (ATO) for each defined system, and they must be recertified every three years. In FY 2022, we will continue to recertify ATOs for our mission-essential systems.

**Homeland Security Presidential Directive 12 (HSPD-12):** We implemented HSPD-12 at our agency in FY 2016, enforcing two-factor authentication (*i.e.*, a personal identification verification card plus a personal identification number) for system access. We continue to integrate this capability with numerous agency subsystems and applications to reduce the number of application-based login systems.

**Data Loss Prevention (DLP):** We are currently able to detect the transmission of personally identifiable information (PII) via a scanner system that monitors all network transmissions in real time for certain PII patterns (primarily Social Security numbers) and a forensic network packet recorder that records all network transmissions for later retrieval and analysis. This recorder can also search for arbitrary text patterns such as PII keywords. We have implemented a DLP solution that reviews data in emails sent externally from an internal agency address (*i.e.*, email exfiltration) to prevent email containing PII, such as Social Security numbers and dates of birth, from being transmitted outside the agency's network. In FYs 2021 and FY 2022 we plan to bolster our DLP capabilities by

deploying dedicated DLP appliances to detect and prevent potential data breaches or exfiltration by monitoring, detecting, and blocking the movement of sensitive data. We will also continue to increase our ability to retain audit data so that we can better analyze trends.

**Privacy Program:** We will continue to improve our maturing privacy program in FY 2022 by revising privacy policies that define how we manage and protect the PII that we collect, use, and maintain, and by optimizing our Privacy Impact Assessment process. These assessments are designed to evaluate the risks to PII used by an agency. Maintaining a robust privacy program will ensure that we continually comply with all relevant privacy requirements, such as the Privacy Act of 1974, the E-Government Act of 2002, and OMB directives, and minimize the risk to individuals whose PII we use in our work.

## Digital Systems Modernization

The 21st Century Integrated Digital Experience Act (21st Century IDEA) requires all executive branch agencies to improve their digital services and make them more accessible to all users. We consistently review our publicly available website and assess its digital services, ensuring that they provide modern functionality and accessibility. We prioritize ongoing modernization efforts based on those with the most direct user impact.

The USITC website ([www.usitc.gov](http://www.usitc.gov)) is our digital service with the highest number of public views and it is the most important digital service that we offer for public engagement. It provides tariff information, industry and economic research, and trade data to the general public. During FY 2020, the site had over 930,000 unique visitors accounting for over 1.9 million site visits. Website customer satisfaction averaged 74.2 for FY 2020, measured on a 0-100 scale, and continues to show an increase since the site's redesign in August 2019. The government-wide average for all agencies is 75.5, up slightly from 73 where it had remained flat for the previous three years. We continue to receive positive feedback from the public regarding the website redesign.

We have identified four additional Commission digital services as having a significant role in public engagement: the EDIS, DataWeb, the Miscellaneous Tariff Bill Petition System (MTBPS), and the HTS web applications. All four services are modern and accessible, and they meet the technical, functional, and security requirements of new websites and digital services. The agency remains committed to modernizing and enhancing its digital services using data-driven analysis to ensure that it addresses user needs, and that all new

websites and digital services will comply with the requirements of the 21st Century IDEA.

The Commission has issued a directive authorizing the use of digital signatures instead of handwritten ones, unless handwritten signatures are required by law. We also provide policy and rules on the use of electronic signatures, of which digital signatures are a type, for agency personnel. The Commission requires that new electronic applications and major application revisions support electronic signatures.

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## The Office of Inspector General

The USITC's OIG conducts audit, evaluation, inspection, and investigative activities covering all Commission programs and strategic operations. Its mission is to promote and preserve the agency's effectiveness, efficiency, and integrity. By statute, the OIG is required to perform six reviews in FY 2021. The OIG will use contractor support to perform the independent audit of our annual financial statement and in-house staff will perform the remaining five reviews. In addition to these reviews, and based on available resources, the OIG has identified 11 potential areas for review in its FY 2021 Annual Audit Plan.

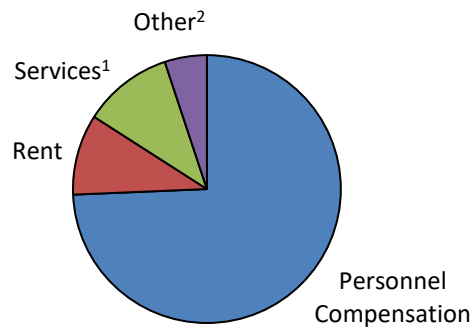
At approximately \$249,000, the OIG's non-personnel budget request for FY 2022 represents a \$17,000 increase to the amount of funding received in FY 2021. Included in the FY 2022 request is \$181,000 for contractual services, \$27,000 for technical equipment and supplies, and about \$3,500 for the OIG's annual contribution to the Council of Inspectors General on Integrity and Efficiency. The OIG request also includes \$18,700 for travel and \$18,700 for training to meet the office's continuing requirements for professional education in leadership, technical knowledge, and other skills. The Commission's budget request contains enough resources to support the OIG's four full-time staff members in FY 2021 and an increase to five in FY 2022.

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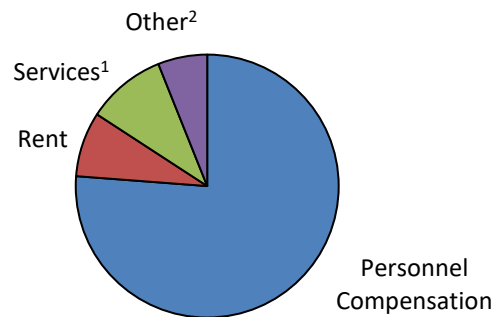
## Dollar Cost: Comparison by Object Classification, Fiscal Years 2020–22

(dollar amounts in thousands)

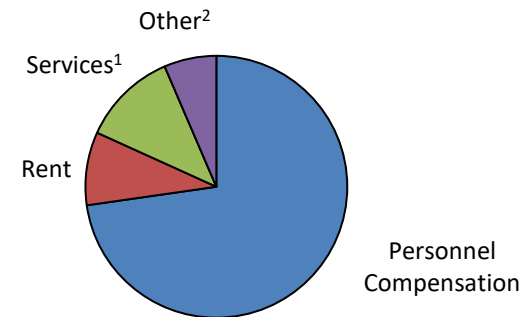
**FY 2020: \$101,625**



**FY 2021: \$103,350**



**FY 2022: \$118,842**



CATEGORY OF OBLIGATION	FY 2020 Actual		FY 2021 Estimate		FY 2022 Request	
	Dollars	Percent of Total	Dollars	Percent of Total	Dollars	Percent of Total
Personnel Compensation	\$75,543	74.3%	\$78,755	76.2%	\$86,439	72.7%
Rent	9,890	9.7%	8,246	8.0%	10,741	9.0%
Services	11,023	10.8%	10,200	9.9%	13,983	11.8%
Other	5,169	5.1%	6,149	5.9%	7,679	6.5%
<b>TOTAL</b>	<b>\$101,625</b>	<b>100.0%</b>	<b>\$103,350</b>	<b>100.0%</b>	<b>\$118,842</b>	<b>100.0%</b>

Note: Dollars may not add due to rounding in this and subsequent charts.

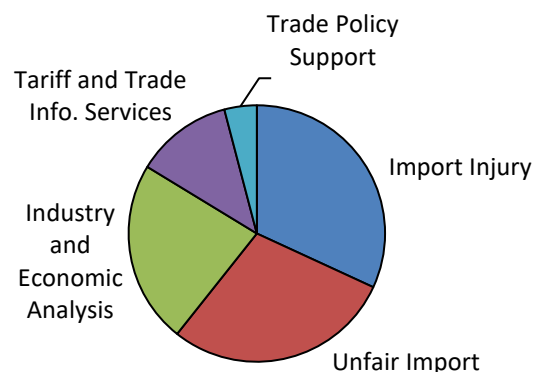
<sup>1</sup> Services include, but are not limited to, obligations for contractor staff (IT service desk, security guards, financial audits), software licenses, and equipment maintenance.

<sup>2</sup> "Other" includes budget object classes such as equipment, supplies, communications and equipment rental, travel, training, printing and reproduction, land and structures, postage and contractual mail, and transportation.

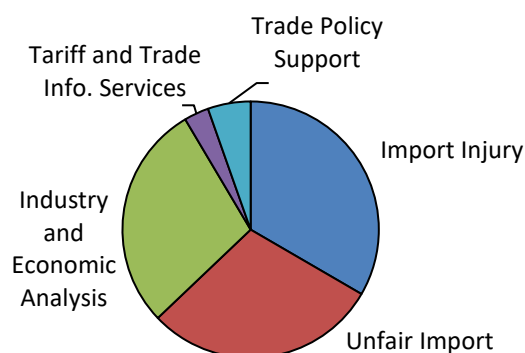
## Dollar Cost: Comparison by Strategic Goal, Fiscal Years 2020–22

(dollar amounts in thousands)

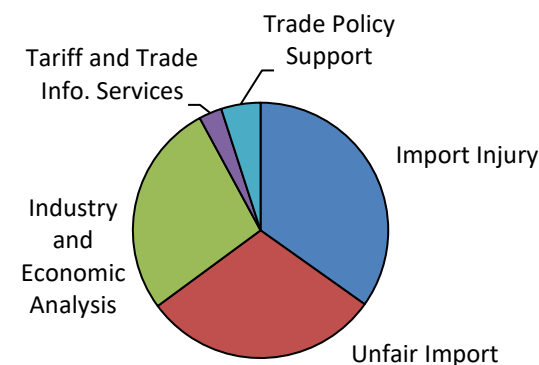
**FY 2020: \$101,625**



**FY 2021: \$103,350**



**FY 2022: \$118,842**



CATEGORY OF OBLIGATION	FY 2020 Actual		FY 2021 Estimate		FY 2022 Request	
	Dollars	Percent of Total	Dollars	Percent of Total	Dollars	Percent of Total
<b>Trade Remedy Investigations (Strategic Goal 1)</b>						
Import Injury	\$32,391	31.9%	\$34,496	33.4%	\$41,389	34.8%
Unfair Import	29,277	28.8%	30,503	29.5%	35,744	30.1%
<b>Tariff, Trade, and Competitiveness Related Analysis and Information (Strategic Goal 2)</b>						
Industry and Economic Analysis	23,395	23.0%	29,545	28.6%	32,319	27.2%
Tariff and Trade Information Services	12,414	12.2%	3,227	3.1%	3,468	2.9%
Trade Policy Support	4,148	4.1%	5,579	5.4%	5,922	5.0%
<b>TOTAL</b>	<b>\$101,625</b>	<b>100.0%</b>	<b>\$103,350</b>	<b>100.0%</b>	<b>\$118,842</b>	<b>100.0%</b>

## Analysis of Change by Object Classification, Fiscal Years 2020–22

(dollar amounts in thousands)

	FY 2020 Actual	FY 2021 Estimate	FY 2022 Request	FY 2021 22 Change	Percentage Change
<b>Personnel Obligations</b>	<b>\$75,543</b>	<b>\$78,755</b>	<b>\$86,439</b>	<b>\$7,684</b>	<b>9.8%</b>
<b>Non-personnel Obligations</b>					
Rent	\$9,890	\$8,246	\$10,741	\$2,495	30.3%
Services	11,023	10,200	13,983	3,784	37.1%
Supplies	1,642	1,741	1,932	191	11.0%
Equipment	1,102	1,226	2,507	1,281	104.4%
Travel	97	535	534	-1	-0.2%
Training	312	600	600	0	0.0%
Communications and Equipment Rental	1,664	1,635	1,683	48	2.9%
Printing and Reproduction	296	334	344	10	3.0%
Official Reception and Representation	2	4	4	0	0.0%
All Other (Transportation, Postage, Land and Structures)	55	74	74	0	0.0%
<b>Subtotal Non-personnel Obligations</b>	<b>\$26,082</b>	<b>\$24,595</b>	<b>\$32,403</b>	<b>\$7,808</b>	<b>31.7%</b>
<b>Total Obligations</b>	<b>\$101,625</b>	<b>\$103,350</b>	<b>\$118,842</b>	<b>\$15,492</b>	<b>15.0%</b>

# Summary of Changes from the FY 2021 Estimate

(dollar amounts in thousands)

## Personnel Obligations

**Personnel.....+\$7,684**

Personnel obligations are expected to increase by about \$7.7 million. This funding is required to make human capital investments commensurate with our record high caseload. What was originally expected to be a temporary surge in caseload has proven to be a structural change in its volume and complexity. To illustrate, in FY 2020, there was a record-setting number of import injury investigation institutions (75 compared to an average of 57 in the preceding five years and an average of 47 in the preceding 10 years). Further, the upward trend in the number of new unfair import investigations and new appeals challenging section 337 determinations is expected to continue. The recent declining settlement rate of section 337 investigations (*i.e.*, the rate at which private parties settle their disputes or complaints are withdrawn) is also expected to contribute to continued higher future workload. Additionally, in FY 2021, we expect to reach a 10-year high in the number of new incoming factfinding reports. Lastly, the number of HTS revisions has increased exponentially in recent years, from 2-3 in a typical year to 13 in FY 2018, 14 in FY 2019, and 30 in FY 2020.

This funding level will also cover an anticipated 1.9 percent pay raise effective January 1, 2022, and pay for the normal cost of employee promotions, within-grade increases, and increased benefits.

## Non-Personnel Obligations

**Rent.....+\$2,495**

FY 2022 rent obligations are expected to increase by \$2.5 million to reflect the annual rent in our 15-year lease agreement.

**Services.....+\$3,784**

Services obligations are expected to increase by \$3.8 million. Additional resources are requested to fund requirements that have been deferred to fund human capital investments. This includes modernizing our data center and disaster recovery

capabilities by increasing our use of cloud-based technologies to ensure the availability and accessibility of our public-facing IT systems, making cybersecurity investments, migrating to a new financial shared services provider, and automating the procurement system to end reliance on paper contract files.

**Supplies.....+\$191**

Supplies obligations are expected to increase by \$191,000 for data purchases to support our investigative caseload and trade mission.

**Equipment.....+\$1,281**

Equipment obligations are expected to increase by \$1.3 million to support IT network and infrastructure maintenance and upgrade projects that have been deferred to fund human capital investments. This includes lifecycle replacement of cybersecurity equipment, servers, and workstations, and investments to secure a more available and flexible cloud-based architecture.

**Travel.....-\$1**

Travel obligations are expected to remain nearly the same in FY 2022 and will sufficiently fund statutory investigations, anticipated studies, knowledge development in emerging trade issues and priority areas, representational travel to international organization meetings, litigation support, and multilateral and regional agreement negotiation support.

**Training.....\$0**

Training obligations are expected to remain the same in FY 2022. Training will be sufficiently funded to support developing and advancing staff skills and meeting licensing, certification, and professional education requirements.

**Communications and Equipment Rental.....+\$48**

Communications and equipment rental obligations reflect an inflationary increase.

**Printing and Reproduction.....+\$10**

Printing and reproduction obligations reflect an inflationary increase.

**All Other** (Official Reception and Representation, Transportation, Postage, Land and Structures).....**\$0**

All other obligations are expected to remain the same in FY 2022.

**Net Non-Personnel Obligations Changes.....+\$7,808**

**Total Adjustment to Base (\$103,350).....+\$15,492**

**Total FY 2022 Budget Request.....\$118,842**

## The Commissioners

The USITC is headed by six commissioners, who are nominated by the President and confirmed by the U.S. Senate. Jason E. Kearns, a Democrat, is serving as Chair of the Commission for a term ending June 16, 2022. Randolph J. Stayin, a Republican, is serving as Vice Chair for a term ending June 16, 2022. Other commissioners currently serving are, in order of seniority, David S. Johanson, Rhonda K. Schmidtlein, and Amy A. Karpel.<sup>5</sup>

Each commissioner serves a term of nine years, unless appointed to fill an unexpired term. The terms are set by statute and are staggered such that a different term expires every 18 months.<sup>6</sup> A commissioner who has served for more than five years is ineligible for reappointment. A commissioner may, however, continue to serve after the expiration of his or her term until a successor is appointed and qualified. Congress's desire to create an independent and bipartisan Commission is evident in the rules that dictate the composition of the Commission. No more than three commissioners may be members of the same political party. The Chair and the Vice Chair are designated by the President<sup>7</sup> and serve for a statutory two-year term. The Chair may not be of the same political party as the preceding Chair, nor may the President designate two commissioners of the same political party to serve as the Chair and Vice Chair. Currently three Democrats and two Republicans serve as commissioners.

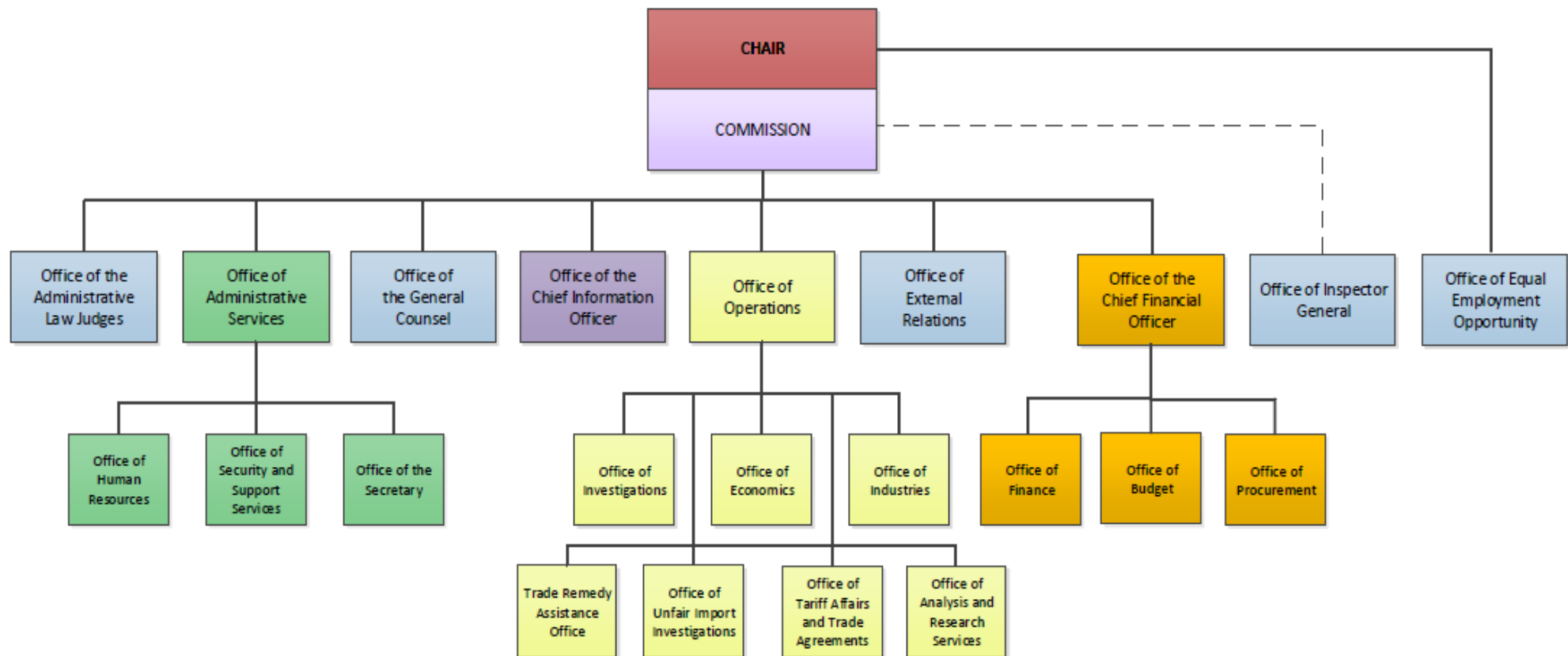
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<sup>5</sup> Currently, there is one vacancy.

<sup>6</sup> 19 U.S.C. § 1330.

<sup>7</sup> If the President does not designate a Chair, the senior commissioner of the relevant political party serves as Chair, by operation of law.

## U.S. International Trade Commission Office-level Organization Chart



## Current Permanent and Term Staffing Plan and Target Staffing Levels

Office	Permanent and Term Positions		
	FY 2020 Staffing Plan	Onboard as of 1/26/2021	Gap
Commissioners	38	29	9
External Relations	4	4	0
Inspector General	4	3	1
General Counsel	53	46	7
Administrative Law Judges	26	24	2
Equal Employment Opportunity	2	2	0
Chief Information Officer	38	34	4
<b>Subtotal: Other Offices</b>	<b>165</b>	<b>142</b>	<b>23</b>
Operations	6	5	1
Analysis and Research Services	28	23	5
Investigations	31	28	3
Unfair Import Investigations	25	24	1
Economics	44	36	8
Tariff Affairs and Trade Agreements	14	14	0
Industries	77	63	14
<b>Subtotal: Operations</b>	<b>225</b>	<b>193</b>	<b>32</b>
Chief Financial Officer & Internal Controls	7	8	-1
Budget	3	3	0
Finance	6	6	0
Procurement	6	6	0
<b>Subtotal: Chief Financial Officer</b>	<b>22</b>	<b>23</b>	<b>-1</b>
Administrative Services	5	5	0
Human Resources	12	10	2
Security and Support Services	11	10	1
Secretary and Dockets	20	20	0
<b>Subtotal: Administrative Services</b>	<b>48</b>	<b>45</b>	<b>3</b>
<b>Commission Total</b>	<b>460</b>	<b>403</b>	<b>57</b>

Note: We are constantly evaluating our workload and aligning resources to meet emergent needs. In the short term, we may approve requests for staffing that exceed office allocations to meet workload challenges. If those workload challenges persist, we may make the adjustment permanent by shifting positions. Furthermore, end of Q1/beginning of Q2 staffing levels typically reflect the lowest point for staffing due to year-end retirements.

The End.



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