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Trade Compliance Efforts Need Improved Coordination

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UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

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MEMORANDUM FOR: Grant D. Aldonas
Under Secretary for International Trade

William H. Lash III
Assistant Secretary for Market Access and Compliance

FROM: Johnnie E. Frazier

SUBJECT: Final Inspection Report: *Trade Compliance Efforts Need Improved Coordination* (IPE-14282)

As a follow up to our January 25, 2002, draft report, attached is our final report examining the International Trade Administration's trade agreement compliance efforts, with particular emphasis on the operations of the Trade Compliance Center (TCC). The report includes some changes made as a result of followup discussions we held with ITA officials as well as comments from ITA's written response, which is included in its entirety as an appendix to the report. We are pleased that you and your staff have agreed with some of our recommendations to improve ITA's trade compliance program. However, we are concerned that, in some cases, actions taken, or proposed to be taken, may not resolve the problems identified in our report. In addition, ITA's written response did not explicitly address some of our recommendations. We request that you please provide an action plan addressing the recommendations in our report within 60 calendar days.

We thank your staff for the assistance and courtesies extended to us during our evaluation. If you have any questions about our report or the requested action plan, please contact me at (202) 482-4661, or Jill Gross, Assistant Inspector General for Inspections and Program Evaluations, at (202) 482-2754.

Attachment

cc: Stephen P. Jacobs, Deputy Assistant Secretary for Agreements Compliance

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EXECUTIVE SUMMARY

U.S. companies that wish to compete effectively in today's global business arena often need assistance to address unfair trade practices or violations of trade agreements, inadequate intellectual property protection, or other barriers to the export of goods and services. The Department of Commerce provides such assistance through various offices in the International Trade Administration that---working with the Office of the U.S. Trade Representative, the Department of State, the Department of Agriculture, and at least 13 other agencies---monitor and enforce trade agreements. Overall, ITA endeavors to address and solve trade compliance and market access problems quickly and at the lowest level possible--outside formal dispute settlement structures, such as the World Trade Organization, where cases can be litigated for years.

In recent years, the number and complexity of trade agreements have grown substantially. To accommodate this increase, ITA created the Trade Compliance Center (TCC) in 1996. The TCC monitors U.S. trade agreements and reviews compliance complaints from a variety of sources. When warranted, the center forms a compliance team to bring a case to satisfactory conclusion. The team members are drawn from the center and various ITA operating unit staff, including Market Access and Compliance (MAC) country desk officers, Trade Development industry specialists, U.S. and Foreign Commercial Service (US&FCS) domestic and overseas personnel, and staff from other offices, as appropriate. In addition to the work coordinated by the TCC, each of ITA's operating units handles a substantial amount of market access and trade compliance work of its own.

Our review concentrated on ITA's trade compliance efforts, with a specific focus on the activities of the TCC. We sought to determine whether the trade agreement compliance process, as managed by the center, was efficient, effective, and responsive to client needs. In addition, we analyzed how ITA compliance efforts could best be coordinated and tracked to ensure that compliance activities were being fully reported, trade agreements were being adhered to, and market access problems were being addressed. Specifically, we found the following:

Trade agreement compliance work needs better coordination within ITA. To ensure the success of compliance activities, ITA's operating units must collaborate. Each has unique areas of expertise that are important to the positive resolution of trade compliance cases. We found, however, that staff in some units do not understand the role of the TCC and, thus, have not sought its assistance in working trade compliance issues. Collaboration is further hindered by organizational rivalries and a lack of written guidance about the need for and importance of working together to ensure that U.S. exporters receive complete, timely, and accurate responses to compliance complaints. We believe that such guidance must be developed. Not only should it give ITA staff a better understanding of the TCC's role, it should also provide clear direction about when they should consult with the center on trade compliance issues. Following our fieldwork, the TCC developed a compliance manual and provided it to all ITA staff in September 2001. Also, to foster an atmosphere that values and rewards cooperation and teamwork, managers should be encouraged to use the ITA incentive awards program to acknowledge superior compliance teams. Finally, ITA

should explore the possibility of allowing the TCC to present awards to compliance teams (see page 7).

A central database of trade compliance work is needed. The TCC is responsible for tracking ITA-wide compliance-related activities and reporting this work monthly to the Secretary. However, the center's database is incomplete because ITA units often fail to report all of their compliance work to the TCC. As a result, the monthly reports to the Secretary are incomplete as well. To rectify this problem, a central compliance database needs to be created that contains compliance work performed by MAC, Trade Development, and US&FCS. To accomplish this, all three operating units need to develop or refine existing tracking and reporting mechanisms to ensure that compliance work is entered into the database (see page 14).

ITA's compliance performance measures should be reexamined. ITA recently set out to redefine its performance measures so that they more closely reflect outcomes. It adopted two new measures for assessing the effectiveness of trade compliance activities: (1) the number of market access and compliance cases initiated, and (2) the dollar value of trade barriers addressed. We understand that ITA came up with the first measure, in part, to encourage staff to focus more on compliance issues on the theory that what is measured gets done. However, we question what bearing the number of initiated cases has on meeting ITA's mission-focused goal of ensuring fair competition in international trade, particularly for small and medium-size enterprises. In addition, using the dollar value of trade barriers as a performance measure presents the following problems--this information is difficult to collect, the values obtained may not be reliable, and US&FCS may already be collecting and reporting this data, which would make the center's efforts to do the same duplicative. As a result, we believe that the two proposed performance measures for ITA's compliance workload need to be reexamined (see page 18).

The TCC complaint process has improved over time, but some aspects still require adjustment. We found that the TCC's process for reviewing trade compliance cases has improved since the center began taking on casework in late 1997. Over time, the staff's knowledge and experience have grown, and the results achieved by the compliance teams have enhanced ITA's efforts to increase access to foreign markets and compliance with trade agreements. In addition, it appears that the TCC staff does a very good job of tracking cases, ensuring work is accomplished, and meeting deadlines. However, we found that some aspects of the center and its operations require adjustment. Specifically, the Rapid Response Team initiative, which calls for four new TCC staff members to travel overseas to help with market access and compliance issues at US&FCS posts, is being implemented without a clear plan or a defined need. We believe that the initiative should be evaluated immediately to determine whether there is sufficient justification for continuing the program. In addition, we found that the trade complaint hotline on the TCC web site receives many inquiries and complaints that are not directly related to trade compliance, and the site does not list TCC staff or provide a telephone number for contacting the center. Some of our concerns were addressed in a recent remodeling of the web site (see page 22).

On page 27, we offer recommendations to address our concerns.

In response to our draft report, the Deputy Under Secretary for International Trade agreed with some of our recommendations, disagreed with others, and was silent on other aspects of our recommendations. A complete discussion of ITA's response to our recommendations follows each chapter in this report. We are requesting that ITA develop an action plan to comment on aspects of our recommendations that were not addressed in its March 4, 2002, response, as well as discuss what additional actions it intends to take in the coming months to implement the recommendations made in this report.

INTRODUCTION

Pursuant to the authority of the Inspector General Act of 1978, as amended, the Office of Inspector General evaluated the International Trade Administration's trade agreement compliance efforts, with a particular emphasis on the operations of the Trade Compliance Center (TCC), which is housed in ITA's Market Access and Compliance (MAC).[1]

Program evaluations are special reviews that the OIG undertakes to provide agency managers with information about operational issues. One of the main goals of a program evaluation is to eliminate waste in federal government programs by encouraging effective and efficient operations. By asking questions, identifying problems, and suggesting solutions, the OIG hopes to help managers move quickly to address problems identified during the program evaluation. Program evaluations may also highlight effective programs or operations, particularly if they may be useful or adaptable for agency managers or program operations elsewhere. This program evaluation was conducted in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency, and was performed under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended. Our field work was conducted from April through September 2001. During the review and at its conclusion, we discussed our findings with the Under Secretary for International Trade, the Assistant Secretary for Market Access and Compliance, and the Deputy Assistant Secretary for Agreements Compliance.

OBJECTIVES, SCOPE AND METHODOLOGY

The initial objective of this program evaluation was to determine whether ITA's trade agreement compliance process was efficient, effective, and meeting the needs of its clients. Specifically, we sought to review the timeliness of the compliance process, the development and management of compliance teams, the use of outside experts, how cases are closed or suspended, and client satisfaction with the process.

Our approach focused on the standards compliance issue area, which is governed by several World Trade Organization (WTO) trade agreements. We selected a sample of seven of the TCC's recently closed compliance cases (see Appendix A), ensuring coverage of (1) country/geographical region and (2) source of the compliance case (i.e., hotline, US&FCS post, cable, letter, or District Export Council). Each case involved a team consisting of staff members from various operating units in ITA, and some cases also contained members from other departmental bureaus or other federal agencies. We interviewed all team members, reviewed relevant documents and case files, and to the extent possible, obtained information regarding

[1] The International Trade Administration consists of four units – MAC, Trade Development, U.S. and Foreign Commercial Service (US&FCS), and Import Administration.

company or trade association satisfaction. We also interviewed senior TCC and MAC staff, as well as officials from the Office of the U.S. Trade Representative and the U.S. General Accounting Office.

As we interviewed the team members and others that were actively involved in these cases, it became clear that compliance work was being done by all of the ITA units, as well as other federal agencies, and that there was confusion among some units about the mission and responsibility of the center. Given this new information, we expanded the scope of the review by adding a second objective--to determine how best to coordinate and track compliance efforts within ITA to maximize the Department's ability to ensure compliance with trade agreements and address market access problems.

Therefore, we expanded our interviews and collected additional documentation from staff in the TCC, MAC country desks, Trade Development industry specialists, and the US&FCS domestic offices and overseas posts. We also spoke with information technology specialists that work with the various tracking databases in ITA and conducted additional meetings with senior managers, including the Under Secretary for International Trade and Assistant Secretary for Market Access and Compliance.

BACKGROUND

Creation of the TCC

Since the early 1980s, the United States has entered into over 400 trade-related agreements. Over the years, Congress and the President have raised concerns about the adequacy of trade agreement monitoring, and whether U.S. companies were realizing the full benefits of the negotiated trade agreements. In the mid-1990s, in response to those concerns, the Department of Commerce established the TCC in ITA. The initial objective of the TCC was to develop an inventory of negotiated trade agreements that would enable U.S. companies to determine their rights and opportunities in foreign export markets.

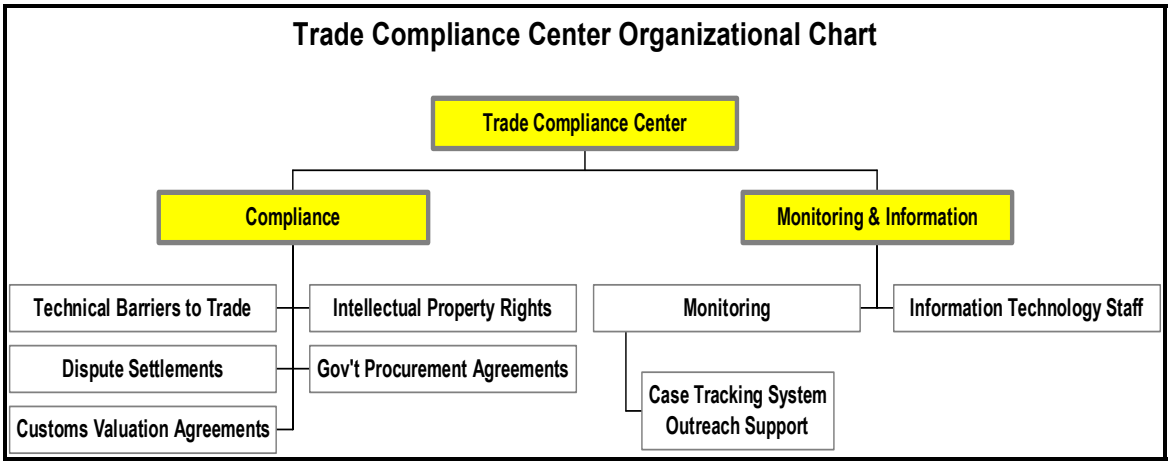
The TCC was created on July 2, 1996, as part of a restructuring of ITA's International Economic Policy unit, which was replaced by a new unit, MAC. According to its web site, "MAC's overriding objectives are to obtain market access for American firms and workers and to achieve full compliance by foreign nations with trade agreements they sign with our country." Organizationally, MAC is divided into five Regional Divisions[2] and an Agreements Compliance Division. The TCC is housed in the Agreements Compliance Division along with the Office of Multilateral Affairs and the Office of the North American Free Trade Agreement Secretariat.

TCC Functions and Structure

Today, the TCC is Commerce's focal point for trade compliance. The TCC provides information about trade agreements and helps U.S. businesses understand their rights and gain market opportunities. The TCC is divided into a Compliance staff and Monitoring and Information staff. The Compliance staff is divided into five areas of expertise, which are based on technical areas in WTO agreements (See Figure 1 on next page for the TCC organizational chart). The Monitoring and Information staff is divided into two sections. There is a monitoring section, which is responsible for monitoring complaints, entering information into the compliance database, casework, and conducting outreach. The information technology section oversees the web site and provides information services, such as Exporter's Guides on trade agreements and Market Access Reports, to interested exporters.

[2] The five divisions – Asia and Pacific, Western Europe, Middle East and North Africa, Africa, and Europe – are further divided into country offices (often referred to as country desks).

Figure 1



In addition to the on-line database of trade agreements, the TCC offers web-based products such as a complaint hotline, trade agreement "how-to" guides for businesses, and compliance or agreement-related news and updates. The compliance staff and the monitoring staff also monitor foreign compliance with trade agreements by reviewing cables, news, and journal reports, and contacting external liaisons. The outreach program actively seeks opportunities for TCC staff to inform the exporting community about Commerce's compliance services. Finally, the TCC tracks and resolves company complaints that come to its attention and, in doing so, coordinates with other ITA staff and staff in other federal agencies, if needed.

The TCC is responsible for coordinating compliance and monitoring efforts across the Department. In doing so, it works closely with other Commerce bureaus, such as the Patent and Trademark Office, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service, and the National Institute for Standards and Technology. The TCC also coordinates and works closely with the Office of the U.S. Trade Representative, other Executive agencies, such as the State Department and the U.S. Department of Agriculture, and Congress, to resolve compliance issues and assist with enforcing trade law as required by legislation.

TCC's Budget and Staffing

During its first few years, the TCC received express support in Congress. The congressional committee report language for ITA in fiscal years 1997 and 1998 specifically mentioned the TCC and its functions. For those two fiscal years, the TCC was funded as a separate line item in ITA's budget. Beginning in fiscal year 1999, the TCC's budget was merged into the overall MAC appropriation. MAC supports its activities at the Deputy Assistant Secretary (DAS) level; therefore, the TCC is funded out of the DAS for Agreements Compliance budget allocation each year.

The TCC's budget allocation (in millions), staffing allocation (full-time equivalents or FTEs), and actual staffing numbers from its first year (fiscal year 1997) to the present are listed below (see Table 1).

Table 1: TCC Resources

	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
Budget Allocation	$1.15 M	$2.07 M	$2.05 M	$1.50 M	$1.91 M
FTE Allocation	17	25	25	24	30
Actual FTEs	17	18	19	18	24

ITA recently received an increase in funding for compliance activities. Congress supported a $12.8 million ITA-wide compliance initiative in fiscal year 2001, for MAC and Import Administration. MAC received a $5.3 million increase to its fiscal year 2001 budget base and an additional six FTEs. MAC was not able to use all of the $5.3 million allocated for the compliance initiative, most of which was intended for salaries. However, MAC was successful in adding four new overseas compliance officers, and the TCC added four new domestic staff as part of the initiative (the two additional FTE came from existing positions that were vacant). Staffing plans include sending two compliance officers to Beijing and one each to Tokyo and Brussels. As discussed on page 22, at the time of our review, the plan was for the four domestic staff to form a Rapid Response Team of compliance experts to go overseas to assist, on an as-needed basis, with short-term compliance issues, or to fill-in behind more senior staff from headquarters who were away on assignment. The initiative also placed special emphasis on building expertise within Import Administration and MAC in compliance and market access issues related to China, Japan, and Korea.

Historical Internal Coordination Problems

As the lead Commerce office for compliance, the TCC works with the other three units in ITA: US&FCS, Trade Development, and Import Administration, as well as other MAC components. However, coordination within ITA, and particularly within MAC, has had a history of problems. When the TCC was established in 1996, no new additional staff or resources were requested because the Congress directed that the TCC funding come from the MAC regional divisions. The establishment of the TCC from existing resources was not well received by the offices that lost funding and staff. In addition, friction between a former TCC official and staff on the MAC country desks further isolated the TCC staff from the rest of MAC and ITA. Relations between the TCC and other MAC units have reportedly improved over the last six years.

Importance of Trade Compliance

The Secretary of Commerce has clearly stated that trade compliance and enforcement are a priority for the new Administration. In August 1, 2001, testimony before the Senate Commerce Committee, Secretary Evans stated that a key goal for compliance and enforcement "…is to solve problems at a practical level. Once a problem is identified, a compliance action team analyzes it, develops a strategy and then applies compliance advocacy, in the form of calls, letters and meetings between Departmental and foreign government officials – beginning at the staff level and working on up to me [the Secretary] as needed. If, and when, that is not possible, we help build cases that USTR can litigate at the World Trade Organization or in other formal dispute fora." How well the Department is fulfilling its compliance and monitoring role will come under increased scrutiny as higher expectations are placed on Commerce, ITA, MAC, and the TCC.

OBSERVATIONS AND CONCLUSIONS

I. Trade Agreement Compliance Work Needs Better Coordination Within ITA

The Under Secretary of Commerce for International Trade, testifying before the U.S. House of Representatives' Committee on International Relations in June 2001, stated that trade agreement compliance is the job of everyone in ITA. During the course of our review, we found this to be true. While MAC purportedly has the lead role, we found that US&FCS and Trade Development also play significant roles in carrying out trade compliance and monitoring within ITA. We also found that cooperation and coordination between the various operating units on trade compliance work needs improvement.

Coordination on compliance work is critical because U.S. companies come to Commerce with unfair trade practices they encounter looking for sound advice and optimal solutions. To ensure that U.S. companies receive the full benefit of the compliance services and expertise offered by ITA, we suggest that the TCC's role be more clearly articulated within ITA to foster better understanding of the TCC's services. We also suggest that the TCC be marketed as a value-added resource (as opposed to an alternative resource) to other operating units who work on compliance cases. In addition, to encourage coordinated compliance team efforts and to ensure that "credit" is given to those that actually do the work, managers need to make better use of the provisions in the ITA awards program so they can reward teams that span operating units.

Cooperation and Coordination are Important to Compliance Work

Effective trade compliance work requires cooperation and coordination between operating units. At a minimum, a compliance issue involves a country, an industry, and a trade agreement. Within ITA the expertise to deal with such factors is housed in MAC country desks/ US&FCS overseas posts, Trade Development, and the TCC. In addition, legal expertise from the Office of General Counsel is often needed, as well as specialized expertise in standards, intellectual property, or fisheries products that can be found at NIST, PTO, or NOAA, respectively. U.S. exporters will only receive complete, timely, and accurate responses to trade compliance problems or inquiries, if all involved units work together.

The Role of the TCC is Unclear to Many

In our conversations with many ITA staff, we noted that some staff were knowledgeable about the TCC and had worked extensively with the center. However, some were not clear about the role of the TCC and, as such, had not sought assistance from the center in working trade compliance issues. As a result, the functional area expertise housed in the TCC was not always used to help address compliance issues. Having the TCC staff with expertise in WTO trade agreements involved in dealing with compliance problems certainly might be helpful to ensure that WTO issues are considered as cases are worked. According to the TCC Director, viewing

problems through a "compliance lens" enables ITA to solve recurring problems once and for all by dealing with the underlying problem of a trade agreement violation, rather than dealing one at a time with problems resulting from the violation.

Another problem we encountered was that since ITA-wide compliance work was not always coordinated with the TCC, much of the trade compliance work performed by ITA is not being captured by the TCC's compliance database. Thus, not all compliance activity is being reported to the Secretary in the monthly compliance activity reports (see the next chapter, beginning on page 14, for a more thorough discussion of this problem).

No Written Guidance on When to Coordinate Compliance Work With the TCC

There are several reasons why many ITA staff do not understand the role of the TCC and have not sought assistance from the center in working trade compliance issues. One major reason is that there is no written guidance provided to ITA staff about what types of problems or cases necessitate the involvement of the TCC. Despite declarations from TCC and MAC managers that staff, particularly in MAC, know that they are to coordinate with the TCC on trade compliance work, we found that this was generally not the case. While there are certainly some we interviewed that intentionally avoided working with the TCC (for reasons enumerated below), many clearly did not understand the role of the TCC. In fact in several of our discussions with staff, particularly in US&FCS's international offices, when we explained what type of expertise was available in the TCC, they immediately wanted to contact the TCC staff to obtain assistance on a current project or to familiarize themselves with the staff for cooperation on future compliance cases.

We found that there are some ITA staff who intentionally do not want to work, or at a minimum coordinate, with the TCC on compliance matters. This problem was definitely most pronounced within MAC. As described in the background section of this report, many staff in MAC still harbor resentment about the way in which the TCC was formed and how it was run during its first few years of existence. As a result, there is an organizational rivalry between the MAC country desks and the TCC that hinders cooperation between the two groups. In addition, there is a perception on the part of some in ITA that the TCC tends to take credit for work actually performed by others, and also complicates work administratively by asking for frequent updates on the status of cases for inclusion in the compliance database.

Our review of the compliance case files maintained by the TCC corroborated these complaints to some degree. For example, the center supplied for our examination a number of compliance cases that were included in a list of "Trade Compliance success stories." However, we found that in many of these cases, staff from MAC country desks, US&FCS, or Trade Development had performed the majority of the work. While the TCC did not state that it had achieved these successes single handedly, its practice of publicizing them as compliance success stories without giving explicit credit to the offices that performed the work has conveyed that message to some

in other operating units. In some instances, the TCC's only involvement in a case was to request status reports for updating the database. We do not want to minimize the important contributions made by TCC staff to compliance cases, but our review of the case files did provide support for some of the concerns expressed by staff in other operating units about the level of the TCC's involvement.

Trade Compliance Work is Not Clearly Defined

Another reason why many ITA staff did not understand the TCC's role or had not sought assistance from the center in working trade compliance issues is that there are differing definitions of what constitutes trade compliance work within ITA. During our discussions with staff in the different operating units, it soon became clear to us that they all use different terms to describe the same type of work. In fact, the terms "compliance", "trade compliance", "market access", "policy advocacy", and "trade disputes" were often used interchangeably to mean the same type of work. For example, while one staff member in US&FCS may say he is working on a policy advocacy case, a TCC staff member might look at the same case and believe it is a trade compliance issue. Both may be right given their organizational terms of reference, as well as the fact that the terminology is not clearly defined anywhere in ITA.

Further compounding the definitional problem is that it is not unusual for staff to work on a reported problem or complaint for some time before being able to determine that there is an underlying trade compliance issue; i.e., that the terms of a trade agreement may be at issue. Therefore, a case could be worked as a market access problem for several months, or longer, before it becomes evident that there may be a compliance issue. But, at that point, the staff who have been working on the case want to see it through to its conclusion and are reluctant or see no need to involve the TCC. Furthermore, the determination and definition of what type of case they are working is left up to the individual staff members. Thus, staff working on the MAC country desks are apt to call all of their work "market access", whereas the TCC staff call all of their work "compliance." Both MAC and TCC management told us that they do not believe the definitional issue is a serious concern. In their view, staff are to be looking for trade barriers and working to overcome them, and it is management's responsibility to sort through the work being done and ensure that staff are applying all relevant tools to resolving the problem.

In our review of the TCC's case files, there were several cases that appeared to be market access cases because the trade compliance angle was not used. For example, there was one case involving a large motorcycle manufacturer that was concerned about a proposed change to the European Union's driving license directive that, if enacted, might adversely affect the firm's export of motorcycles to the European Union. The case was ultimately resolved through meetings, set-up by US&FCS staff, between officials from the European Union, the motorcycle manufacturer, and the Association of European Motorcycle Manufacturers. According to staff in Trade Development, US&FCS, the MAC country desk, and the TCC, the trade agreement that was thought to apply to this problem, the technical barriers to trade agreement under the WTO,

was not discussed during any of the meetings, and a compliance angle was not implemented on this case. Yet, this case was included in the compliance database and is included as a compliance success story by the TCC.

TCC managers contend that the European Union driving license directive case, and other similar cases that we discussed with them, are in fact compliance cases because there is an underlying trade agreement that could have been used. In addition, they argue that the goal of the compliance work that ITA does is to resolve problems quickly and at the lowest level possible without involving outside formal dispute settlement structures, such as that of the WTO, where cases can be litigated for years. Despite the assertions of TCC and MAC managers, we maintain that, because of the differing definitions of the compliance work performed by ITA's operating units, it is difficult for staff to ascertain when they should or why they would need to coordinate that work with the TCC.

Managers Should Make Better Use of ITA's Awards System to Foster Better Compliance Team Cooperation and Performance

Another reason why some ITA staff in different operating units are reluctant to coordinate and cooperate on trade compliance work is that they like to claim credit for any success that is achieved. After discussions with staff in many different offices, we concluded that they are highly motivated by the promise of monetary awards for achieving market access or trade compliance successes for U.S. exporters. As a result, they are reluctant to share a potential case with another office, such as the TCC, because should a success be achieved, they would have to share the credit for it. Although we did not observe this in every instance we encountered, we did find that managers in all operating units generally agreed with our observation. They stated that while they would like to foster team cooperation by providing monetary awards to teams, they are unable to do so under ITA's current awards program. The managers told us that they are only provided with a pool of award money for their own staff and while they are free to use these funds to reward staff from other operating units, they are reluctant to do so because it would short-change their own staff.

We met with the Director of ITA's incentive awards program to discuss the current awards program. She informed us that the program, which ended its second year of implementation on September 30, 2001, does allow managers to give team awards. Special Act or Service awards, which are presented throughout the year, can go to teams that cut across operating units. It does take a little more work on the part of a manager who wants to reward a team because they must (1) consult with and obtain the approval of the supervisors of the staff members in the other operating units that they want to recognize and (2) find sufficient funds to recognize all of the team members. If the manager does not have enough money in his own budget to reward employees in other operating units, he is able to ask the employee's supervisor to provide the funds. The managers we spoke to were not aware that they have the ability to make team awards that cut across operating units. They also did not know that there are a couple of other awards

managers can use. For example, the annual Under Secretary's award program has a few monetary awards that recognize teams, and one of the honorary (not monetary) memorial awards presented annually (the Charles E. Meissner award) is also presented to a team.

Conclusions

While many of the problems identified above have not been created by the TCC, the center's management does recognize that it needs to do a better job of educating ITA staff about the TCC's role and encouraging other units to enlist the center's assistance in working trade compliance issues. To its credit, the TCC has launched an extensive education campaign within ITA during the past year. According to the TCC, this includes over 40 events, 25 of which were at headquarters. We found that the campaign has been particularly successful in educating staff in US&FCS's domestic offices, which are often on the "front line" in dealing with business clients. In our conversations with staff in several U.S. Export Assistance Centers (USEACs), they stated that it was very clear to them as to what types of problems or issues the TCC could help them with. In addition, they and their clients were very pleased with the support that they received from the TCC. We encourage the TCC to continue this outreach campaign.

Given the importance of ITA's trade compliance efforts in meeting the Department's performance goal of expanding U.S. trade and increasing access to world markets for U.S. exporters, improvements certainly can be made to ensure that all of ITA's pertinent resources are brought to bear on trade compliance issues in the most efficient way possible. We do not want to imply that improved cooperation and coordination means that all trade compliance work performed by ITA needs to be coordinated with the TCC. Clearly this would overwhelm the TCC's resources and would not be productive. Staff in all operating units should be empowered to resolve small market access or compliance issues without consulting either the TCC or staff in other operating units. However, we believe there are clearly compliance problems that would benefit from a more comprehensive approach that can only be achieved by involving experts from the various operating units, as well as the TCC.

To ensure that important trade compliance issues benefit from a comprehensive approach and to aid in increased cooperation and coordination, we recommend that ITA develop guidance and/or a handbook that provides very clear direction to all staff as to what the TCC's role is and when staff should consult with the TCC on a case. If feasible, this guidance should include definitive criteria or a threshold that staff can apply to incoming complaints so that cases that might benefit from the expertise housed in the TCC, as well other operating units, are sufficiently coordinated. The guidance should also set forth a clear definition of trade compliance work to ameliorate the confusion over terminology, as discussed in this chapter.

In addition, the TCC should continue its approach to outreach by marketing itself as a value-added resource to other ITA operating units. It should stress its expertise in WTO trade

agreements and compliance issues, and its desire to work cooperatively with staff in other operating units. Finally, to stress the importance and value of team work in working trade compliance cases, ITA should (1) educate managers about, and encourage them to take full advantage of, the mechanisms built into the existing program for providing Special Act or Service awards to compliance teams and (2) investigate the possibility of giving the TCC the authority and funds to present awards for superior compliance team efforts that span operating units.

In responding to our draft report, the Deputy Under Secretary stated that the TCC completed a Compliance Manual in September 2001. In reviewing the manual, we determined that it does a good job of explaining how the compliance program works and outlining the roles of the different ITA staff (TCC compliance officers, MAC desk officers, US&FCS officers, and Trade Development industry analysts). However, the manual does not assist staff by providing any definitive criteria or a threshold that staff can apply to incoming complaints to guide them as to when to coordinate with the TCC. Further, the manual does not set forth a clear definition of trade compliance work to ameliorate the confusion over terminology, as discussed in this chapter.

According to the Deputy Under Secretary, ITA believes that attempts to draw arbitrary distinctions between market access and compliance in an attempt to "clarify" what the compliance program can address are a distraction both to ITA's clients and its work. We agree. However, we were not suggesting that there be firm definitions for each discipline. That would be counterproductive given the highly intertwined nature of market access and compliance work. Rather, we were recommending that ITA give some hard thought to defining the types of cases that it believes would benefit from the team approach it promotes in its Compliance Manual and giving staff some clear guidance as to what those cases are. Again, simply asking staff to identify compliance problems and bring them to the TCC is not working because everyone has a different definition of what compliance is. Until this very real problem is addressed, we believe that cases that could benefit from a comprehensive approach, involving ITA's different operating units, are not being coordinated with the TCC. We request that ITA address this important issue in its action plan.

Regarding outreach and the TCC marketing itself as a value-added resource to other ITA operating units, the Deputy Under Secretary stated that the TCC has marketed itself as "the place that can help find solutions to problems encountered in overseas markets—most decidedly not that it is the sole source of compliance expertise." He emphasizes that the ITA compliance team brings together expertise found throughout the Department to work through identified problems and propose solutions. Finally, with regard to providing team awards to high-performing compliance teams, the Deputy Under Secretary reported that ITA has added a team award to the Undersecretary's Quarterly Stars Awards program. In addition, the Deputy Under Secretary has asked ITA's incentive awards program office to work with the TCC to recognize team

performance. In ITA's action plan, we would be interested in obtaining an update as to any progress the incentive awards program office has made in this endeavor.

II. A Central Database of Trade Compliance Work Is Needed

Because the TCC is responsible for reporting all ITA compliance work to the Secretary of Commerce, we evaluated its effectiveness at tracking such activities. We found that the TCC's compliance database did not capture all ITA compliance work and as a result, the TCC's monthly ITA-wide compliance reports prepared for the Secretary were not comprehensive. The center's tracking methods did not capture all of ITA's compliance work because ITA units do not fully report their compliance activities to the TCC.[3] To ensure that the TCC's compliance reports include all ITA compliance work outside of the TCC, MAC needs to improve and consolidate its compliance tracking mechanisms, and Trade Development and US&FCS need to develop or modify existing systems to identify and report compliance work. The monthly report to the Secretary should then encompass the compliance work from these various reporting systems.

Section 8a of Departmental Organizational Order 40-1 states that the Deputy Assistant Secretary for Agreements Compliance is responsible for developing and maintaining a central databank for monitoring and reporting on foreign compliance with bilateral, regional, and multilateral trade agreements. The DAS has delegated this responsibility to the TCC.

Three Different MAC Databases Track Compliance Work

We found that compliance-related work is tracked differently in each of the ITA operating units. In MAC, we identified three different types of databases that are used to track compliance-related work. First, there is the TCC-managed compliance database that is used to monitor compliance work performed by TCC-assembled compliance teams. We found that TCC staff are the predominant users of the database, but all MAC and/or compliance team staff can access the database. The US&FCS offices in the U.S. European Mission to European Union (Brussels) and China also have access to the compliance database, as part of an overseas pilot project. In Brussels, we were told that the compliance database is used to record the same information that is recorded in the US&FCS's Client Management System. In China, post staff also have access to the compliance database, but the TCC does not anticipate that it will be used much until the compliance officers arrive at post and China ascends to the WTO.

There is now a separate China market access/commercial case database that is used by MAC's Office of China country desk staff to track market access, compliance, and commercial casework. Once China ascends to the WTO, it is likely that all of the information in this database will be moved into the compliance database. The main purpose of the China market access/commercial case database is to track work and to promote communication among its users including post, country desk, and select TCC staff. When Office of China staff open a compliance-related case, the TCC is sent a copy of the case via e-mail, at which point TCC staff can enter it into the TCC

[3] The TCC does clear the monthly compliance reports with the other operating units before providing the reports to the Secretary. However, it is unclear whether the staff clearing the reports are cognizant enough of all compliance work being performed in their unit to note that something might be missing from the reports.

compliance database. Overall, the TCC staff and the China desk staff believe the current China database and compliance case notification system works well.

The final database is MAC's market access database, which is a modified version of the compliance database and should contain all market access and/or compliance work not contained in the compliance database or the China market access/commercial case database. All MAC staff have access to the market access database, but we were told that it was only recently that MAC staff have started to use it. We learned that use has increased because staff were told that the Assistant Secretary for Market Access and Compliance is reviewing the database and views it as a priority.

Trade Development and US&FCS Do Not Track Compliance-Related Work

Trade Development and US&FCS do not have databases specifically designed to track and monitor compliance-related work performed by their staff. For example, in Trade Development, compliance-related work is housed in several different databases, including the harmonized system products' database, the textiles database, the advocacy database, and the automotive affairs database. However, none of these databases is designed specifically for the purpose of tracking compliance work. The US&FCS staff uses its Client Management System to track and record all of its work. While the CMS database tracks counseling work performed by the US&FCS staff, it does not currently track compliance work as a separate assistance category. However, starting in fiscal year 2002, US&FCS senior commercial officers and any other officers involved in trade compliance and market access issues must now have a work element in their annual performance plans that reflects work accomplished on ITA's trade compliance initiatives. As a result, it will be necessary for officers to account for and report on compliance activities conducted at overseas posts.

Compliance Work is Not Being Reported to the TCC

Overall, we did not find a comprehensive system in ITA for reporting compliance-related work to the TCC. Mainly, we found that operating units relied on informal mechanisms to report compliance work to the TCC, such as meetings and work-related conversations, or simply did not report compliance work to the TCC at all. We observed that MAC country desk and Trade Development staff attend the TCC's biweekly compliance coordinators meetings and report on compliance-related work. We learned that MAC desk officers, however, are often reluctant to report all of their compliance work to the TCC because, as mentioned previously in this report, there is a perception on the part of some staff that the TCC tends to take over cases. Trade Development and TCC staff communicate regularly with one another, but Trade Development does not have a formal compliance reporting system. In the US&FCS, the Office of Domestic Operations' U.S. Export Assistance Centers generally refer businesses with compliance issues directly to the TCC and do not track compliance-related work. For the Office of International Operations, the TCC compliance database captures compliance work done by commercial officers

when they are on TCC compliance teams. Office of International Operations staff recognize, however, that additional compliance goes on at overseas posts. The Office of International Operations does not have a separate compliance reporting system in place to track this work and, as noted above, its Client Management System does not currently track compliance work as a separate category of assistance.

Conclusions

Because ITA's tracking of compliance work varies among the operating units and compliance reporting is not systematic, the TCC has not been able to maintain a comprehensive ITA-wide database on trade agreement compliance work performed at Commerce. The reporting problem is further complicated by the fact, as discussed earlier in this report, that there is no clear definition of what is considered trade compliance work and should be included in such a database. To correct these problems and provide a central database of trade compliance work, we are recommending several improvements. First, we recommend that MAC implement a single market access and compliance database. Secondly, we recommend that MAC, Trade Development, and US&FCS modify their existing reporting systems to specifically capture trade compliance work and develop mechanisms to report compliance-related work to the TCC. Reports should be designed to provide the TCC with regular updates on each unit's compliance work. Finally, the TCC should develop a quality control system to ensure that information provided in the unit reports is included in the center's monthly compliance reports to the Secretary of Commerce.

In a followup discussion with the Assistant Secretary for Market Access and Compliance and according to the Deputy Under Secretary for International Trade's response to our draft report, we learned that MAC, in July 2001, moved to a consolidated database of compliance and market access cases. They told us that the database became operational on February 1, 2002. Further, the Deputy Under Secretary stated that the monthly compliance reports to the Secretary receive clearance from all four ITA operating units before being released. He stated that this provided the quality control we recommend, as well as the opportunity for these units to provide information on additional activities not contained in the report. We are encouraged by ITA's efforts with regard to developing a single market access and compliance database and developing a quality control system to ensure that the monthly compliance reports to the Secretary of Commerce are inclusive of compliance work performed by all ITA units. However, because the consolidated database is primarily used by MAC units—the country desks and the TCC—it is still unclear how market access and compliance work performed by US&FCS and Trade Development will be included in the database. The Deputy Under Secretary for International Trade mentions that the database is being tested with several of the overseas posts, but there is no discussion of how US&FCS and Trade Development will modify their existing reporting systems to specifically capture trade compliance work and develop mechanisms to report compliance-related work to the TCC. If those offices do not have an effective way to capture their own compliance performance data, they will

not be able to provide complete reports of that activity to the TCC for inclusion in the monthly reports to the Secretary. Therefore, we request that ITA address this aspect of our recommendation in its action plan.

III. ITA's Compliance Performance Measures Should be Reexamined

ITA is currently in the process of redefining its compliance performance measures to more closely reflect outcomes. While we believe that ITA deserves credit for attempting to address deficiencies in its performance measures, we are concerned that the proposed measures will not adequately measure ITA's performance toward its overall goal of ensuring fair competition in international trade, particularly for small and medium-size enterprises. Specifically, we believe the two proposed performance measures for the TCC and MAC compliance workload do not adequately capture performance in market access and compliance and, thus, need to be reexamined.

Two New Measures Put in Place

In 1993, Congress passed the Government Performance and Results Act to improve federal program effectiveness and public accountability by creating a new focus on results, service quality, and customer satisfaction. The intent, according to a June 9, 1998, memo from the Congress to the Office of Management and Budget, is "that agencies strive to articulate performance goals in terms of actual results or 'outcomes' that matter to the American people." By measuring, analyzing, and evaluating performance data, managers can work toward improving the efficiency and effectiveness of its programs. Managers can also provide officials and the public with important, and hopefully objective, information on program performance.

To this end, three years ago ITA began an initiative to overhaul its strategic plan, goals, and performance measures. As a result of this bureau-wide effort, a new strategic plan was developed and a number of ITA's performance goals were "reworded and strengthened" in the *Fiscal Year 2002 Annual Performance Plan of the U.S. Department of Commerce*. The performance goals set out to clearly communicate ITA's strategic direction and to reflect departmental strategic goals and objectives.

For fiscal year 2002, ITA has implemented new performance measures that are designed to better articulate agency outcomes and impacts and help manage programs. The 18 new performance measures include two "compliance and market access" measures. The two new measures are (1) the number of market access and compliance cases initiated, and (2) the dollar value of trade barriers addressed and/or removed/reduced.

Number of Market Access and Compliance Cases Initiated

For the first new measure--number of market access and compliance cases initiated--ITA plans to obtain the data directly from a newly created MAC compliance database. Under current plans for assessing this measure, anyone in ITA with access to Lotus Notes, the platform upon which the database is run, will be able to enter cases into the database. The number counted toward the performance measure will include only legitimate market access and compliance cases, not the general trade inquiries or questions that are also logged into the database.

We question whether measuring the number of cases initiated will adequately reflect the effectiveness of ITA's compliance work. Since ITA's goal is to resolve compliance problems at the lowest possible level, some compliance matters may be resolved at an overseas post even before a case is opened. We also are concerned that such a measure might create a negative incentive to open cases that are not compliance cases. In addition, initiating a "case" does not address the amount of staff effort involved in solving the complaint or the outcome of the complaint. Based on our review of compliance cases included in the monthly reports to the Secretary, we found that some initiated cases were not good examples of compliance efforts. For example, one case, involving a major American pizza manufacturer experiencing trouble exporting cheese to Venezuela, consisted of transferring the complaint to the U.S. Department of Agriculture, which had been working on the issue for two years and was in the process of elevating the problem to the WTO. Another "case" was an e-mail response to an informational message that was not a complaint. Both of these cases were reported to the Secretary in the monthly compliance report as closed compliance cases, suggesting that ITA had some significant role in solving compliance-related problems.

Dollar Value of Trade Barriers Addressed and/or Removed/Reduced

ITA will obtain data to support the second new measure--dollar value of trade barriers addressed and/or removed/reduced--from the company that it assisted. The TCC staff recognizes that collecting dollar values is challenging because companies often do not want to provide such proprietary information, and even if they do, the estimated dollar amount may not be accurate and would be difficult to verify. At the time of this review, there was still some uncertainty regarding the specifics for collecting the data for this measure, although the tentative plan was to have the information collected by the case team member who has the most interaction with the company.

While this measure could be considered an outcome measure, we are also concerned that the amount used might duplicate information US&FCS is also collecting and reporting. For example, US&FCS collects information from businesses--including a dollar value for exports--to report on its export "successes." If the TCC becomes active in a case involving a long-standing US&FCS customer, and both organizations report the success, ITA could be double counting in reporting its success figures. The TCC has acknowledged that this may be a problem and intends to address it during the upcoming year.

In addition to double counting ITA's export successes, multiple ITA organizations may be contacting the same businesses for proprietary information about its recent export, thereby possibly overburdening the public. Finally, if the emphasis is on high dollar figures, then the measure may promote ITA assistance to companies with large versus small dollar problems, thus favoring large versus small-to-medium enterprises, which are ITA's targeted clients.

Ideas for Improving Performance Measures

It is not easy to identify meaningful trade compliance performance measures. A brief review of the performance measures currently in place by other agencies with trade agreement responsibilities (the Foreign Agricultural Service in the U.S. Department of Agriculture, the State Department, and the Office of the U.S. Trade Representative) shows that ITA is not alone in its struggle to define effective measures of performance. In a June 2001 report[4], GAO suggested that ITA has in its possession data that could support additional performance measures related to its performance goals. Specifically, GAO concluded that information contained in the existing TCC database, along with other information collected by ITA, is a "rich set of useful data" that is directly related to the agency's performance goals of improving competitiveness and access to foreign markets by enforcing compliance with U.S. trade laws and agreements. We agree that using an established database, especially one that is enhanced as we suggest in the previous chapter, is an efficient way to collect information. However, the measure should provide information that assesses achievement of overall program goals and/or helps the agency better manage programs. For the latter purpose, information could be collected on the number of initiated cases as they relate to specific multilateral and bilateral agreements, as well as country and industry. Such information could be used to discuss the viability of existing agreements or the need for future trade agreements with specific countries or on specific industries or barriers. In addition, this information could be used by ITA managers to determine whether existing staffing levels match the workload and where changes may be needed.

Another measure that could be drawn from the existing database is timeliness of response. The TCC has established a 10-day standard for responding to hotline complaints. This measure could be used as a barometer of customer satisfaction with the TCC's speed of responsiveness to customer complaints. Incentives for staff to complete work in a timely manner and collaborate with multiple offices could also be built around new performance measures.

Conclusions

Without accurate, reliable measures of performance, however, ITA, the Administration, the Congress, and the public are unable to assess how well the agency is meeting its mission-focused goal of ensuring fair competition in international trade, particularly for small and medium-size enterprises. As they are currently defined, the two proposed compliance performance measures will not adequately assess ITA's trade agreement and compliance monitoring work. As a result, we recommend that ITA continue to develop its compliance performance measures to ensure that they focus on the results of its compliance efforts and develop appropriate reporting guidelines to

[4] *Status of Achieving Key Outcomes and Addressing Major Management Challenges*, U.S. General Accounting Office, GAO-01-793, June 15, 2001, page 12.

help avoid double counting when it comes to measuring successes. In addition, ITA should explore measures that will help it better manage the program.

The Deputy Under Secretary for International Trade, in responding to our draft report, stated that the current ITA-wide market access and compliance measures address the performance behavior that ITA senior management desires ITA staff to emulate. He also noted that both the Secretary of Commerce and ITA's senior managers accept the general concept that "what gets measured, gets done." Thus, they have emphasized to the entire compliance component that initiating cases and measuring results is a Commerce and ITA priority. The Deputy Under Secretary believes that the measure of the number of market access and compliance cases initiated, while clearly not perfect, will result in a higher number of identified problems exporters face and, consequently, problems resolved. The agency's response also stated that it would consider the OIG's input if the TCC determines that lower level performance measures would be useful to monitor program improvements in the future. We appreciate ITA's continued focus on improving performance measures to make them more meaningful and recognize that this is a difficult task. At this time, we do not have any additional suggestions to improve the market access and compliance performance measures.

IV. The TCC Complaint Process Has Improved Over Time, But Some Aspects Still Require Adjustment

As noted in the Objectives, Scope, and Methodology section of this report (see page 1), we initially limited our review to ITA's trade agreement compliance process, as managed by the TCC. To do this, we selected a sample of seven recently closed cases in the standards compliance issue area. For these cases, we reviewed pertinent documentation and interviewed the compliance team members to determine whether the process is efficient, effective, and meeting the needs of its clients. In summary, we found that the process has improved over time. Specifically, much of the TCC's early work dealt with simple questions or issues that did not require a comprehensive team approach on the part of ITA. But as the center has done more outreach and the TCC staff have gained expertise and experience, the center has been able to work on cases that require a more comprehensive approach. In addition, it appears that the TCC staff does a very good job of tracking cases and ensuring that work is accomplished and deadlines are met. For example, according to the TCC Director, the 10-day standard that the TCC has established for responding to hotline complaints is always met. We found this to be true for the sample of cases that we reviewed.

However, we do have a few concerns about the TCC and its operations. We found that the Rapid Response Team initiative is being implemented without a clear plan or defined need. We also found that many of the inquiries and complaints received through the trade complaint hotline on the TCC web site are not related to trade compliance. In addition, we believe that the TCC web site could be modified to make it more user-friendly.

A. Rapid Response Team initiative requires close scrutiny

In fiscal year 2000, the TCC developed a strike force initiative that called for new TCC staff members to work with embassy staff in-country on short-term compliance issues or more complicated market access and compliance cases. The initiative is now referred to as the Rapid Response Team or Mobile Compliance Team. Although ITA did not receive its full budget request of $2.7 million for the strike force initiative, it did receive $500,000 in fiscal year 2000. The $500,000 ITA initially received was added to ITA's base appropriation to continue funding the Rapid Response initiative in fiscal year 2001. Due to hiring constraints in the Department, ITA was unable to bring the new staff on board for the initiative until August 2001.

The Rapid Response Team was to be staffed with four newly hired staff members. However, it was not clear what value the Rapid Response Team would add given the new hires' relative lack of experience with trade compliance issues. Also, some we spoke to were concerned about the team members' foreign language ability and their limited knowledge of US&FCS post operations.

We found that the initiative was being implemented without a clear plan or defined need. ITA management did not conduct a needs assessment to determine if additional staff or funding

would be necessary to assist US&FCS overseas posts with trade agreements and trade compliance issues. Even after funding was received, MAC did not adequately define how the Rapid Response Team would operate. At the time of our review, with the exception of a brief mission statement and position descriptions, MAC had not developed a work plan for the team members who were due to start one month later, at the end of August.

At the time of our review, some Senior Commercial Officers also raised concerns about the need for and effectiveness of the Rapid Response Team. Several officers were vaguely familiar with the initiative, and some knew nothing about it. The officers echoed our concerns about the new employees' foreign language fluency and their knowledge of US&FCS post operations. Even with overseas experience and language skills, the Senior Commercial Officers told us that it can be difficult doing business with some foreign governments and companies.

To verify the need for and utility of a Rapid Response Team, we recommend that MAC evaluate the initiative. In evaluating the Rapid Response Team concept, MAC managers should assess the demand, if any, from US&FCS overseas and domestic offices and ITA headquarters personnel for trade compliance assistance from the TCC, as well as the most efficient way to meet that demand. In addition, if MAC continues to implement the Rapid Response Team initiative, management should consider utilizing existing staff, either from the TCC or other ITA operating units. The current TCC staff has a wealth of experience and knowledge in specific subjects pertaining to trade agreements and compliance and may be better suited to address specific problems in a country or the issue area involved. ITA managers should also consider allowing Trade Development industry analysts and/or MAC country desk personnel to participate on the Rapid Response Team.

In its response to our draft report, ITA stated that the Rapid Response Team is a new program for which staff recruitment was only completed in August 2001, and like any new program, it takes time to get it up and running and get the kinks out. The Deputy Under Secretary also reported that the team members have now been trained in compliance techniques and trade agreements. The agency response went on to describe several different instances where compliance Rapid Response Teams have been deployed to take expeditious action to successfully resolve compliance problems. Such teams have generally included a member with regional expertise, a TCC member, and other experts from Commerce, or if necessary, other federal agencies. We understand from the agency's response that it sees value in the Rapid Response Team concept and believes it should continue. However, this was not explicitly stated. Nor, was our recommendation to verify the need and utility of the initiative addressed by the agency in its response. As a result, we request that ITA, in its action plan, explicitly address how it intends to implement our recommendation. As with any new initiative, we believe that it is important to evaluate the costs and benefits of the Rapid Response Team, and consider alternatives to the original concept. We have modified our recommendation for an immediate assessment of the initiative based on the agency's steps to address some of the shortcomings of the original Rapid Response Team proposal. We believe that

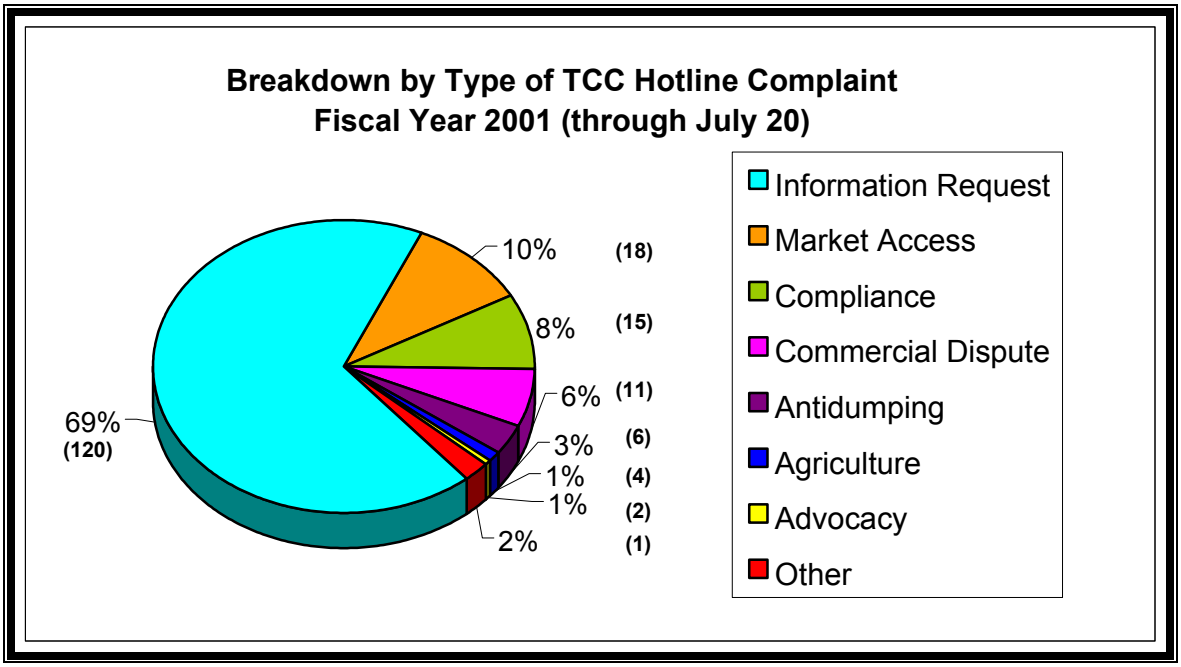
it makes good management sense to conduct an independent evaluation of the concept after it has been in operation for 9 to 12 months.

B. The TCC web site could be improved to better assist users

During our review, we found that most of the inquiries and complaints received through the trade complaint hotline on the TCC web site are not related to trade compliance. The inquiries ranged from basic trade questions, to inquiries from students seeking information for class assignments or projects, to companies with concerns about various market access issues. Also, we noted that the TCC staff or points of contact with expertise in areas pertaining to WTO agreements, such as technical barriers to trade, import licensing agreements, government procurement, intellectual property rights, and customs trade policy, are not listed on the web site. Nor does the web site provide a general telephone number to contact the TCC.

TCC management informed us that they never expected the web site hotline to produce many cases and that most complaints come in through active outreach efforts and contacts. We found this to be true. In reviewing the TCC web site's hotline records for fiscal year 2001, through July 20, we determined that of the 177 complaints received, only 15 were related to trade compliance issues (see Figure 2). While more complaints may come in through other mechanisms, it is important for the web site to be designed so as to better screen out unrelated complaints. We found that the web site's complaint intake form is too broad. The form requests several pieces of information, such as name, company, address, telephone, fax, e-mail, and finally there is a "tell us in your own words" box, which allows a complainant to enter two and a half pages of text to ask a question or describe a problem. Reviewing and tracking such inquiries is time consuming and, in most cases, the inquiries or complaints are not related to a trade compliance or market access issue and the TCC's mission. In addition, the hotline page does not direct clients who have general trade questions about exports, tariffs and taxes, specific countries, or other topics to a more appropriate web site, such as that of the Trade Information Center (TIC).

Figure 2



Source: TCC

By way of comparison, we reviewed the TIC and Trade Development web sites to better understand how other ITA web sites serve the public. These web sites have links to general and specific information sites and provide answers to some specific export questions. For example, the "how may we help you page" on the TIC web site leads directly to a page that offers a telephone number and e-mail address to reach the TIC. Trade Development's web site offers information on specific programs. The names of industry analysts are also provided, along with e-mail addresses and phone numbers for each analyst.

It is important to provide clear and useful information on a government web site to help clients understand what information or services are available to them from the government. Also, the web site should identify how the expertise is organized in the agency, and who to contact if they would like to speak to someone directly. In addition, a web site should be user-friendly by providing clients with various ways to contact the agency; e.g. hotline form, fax, telephone numbers and e-mail addresses.

To better assist its clients, the TCC should redesign its web site to (1) clarify what information and services it offers, (2) direct clients with general questions and inquiries to the TIC, (3) modify its hotline inquiry form to ensure that the hotline is used as intended, (4) provide a general telephone number for the TCC, and (5) list and regularly update the names of the TCC staff and their areas of expertise.

In response to our draft report, the Deputy Under Secretary for International Trade stated that a completely new TCC web site debuted on January 8, 2002. We reviewed the new web site and agree with the Deputy Under Secretary that the new site addressed many of the suggestions made in our report. However, we still believe that the site could do more to direct clients with general questions and inquiries to the TIC. This could be done by having a link to the TIC on the web site's hotline intake form page. In addition, we believe there is value in listing and regularly updating on the web site the names of the TCC staff and their areas of expertise. Therefore, we request that ITA address these suggestions for improvement in its action plan.

RECOMMENDATIONS

We recommend that the Under Secretary for the International Trade Administration take the following actions.

(1) Develop guidance and/or a handbook for ITA staff that clearly delineates the following:
- The exact role of the Trade Compliance Center,
- When staff must consult with the TCC on a trade compliance or market access case, including definitive criteria or a threshold that staff can apply to incoming complaints to guide them as to when to coordinate with the TCC,
- A clear definition of trade compliance work to ameliorate the confusion over terminology, and
- What types of trade compliance and market access cases do not need to be coordinated with the TCC and can be handled directly by MAC country desks, Trade Development, or US&FCS staff (see page 11).

(2) Direct the TCC to market itself as a resource for other ITA operating units. The center should stress its expertise in WTO trade agreements and compliance issues, as well as its desire to work cooperatively with staff in other units (see page 11).

(3) Educate managers about, and encourage them to take full advantage of, the mechanisms built into ITA's existing awards program for providing Special Act or Service awards to compliance teams. In addition, investigate the possibility of giving the TCC the authority and funds to present awards for superior compliance team efforts that span operating units (see page 11).

(4) Implement a single market access and compliance database within MAC giving consideration to the following:
- Administering and managing the database centrally,
- Using the China market access/commercial case database as a model,
- Seeking input from each MAC office regarding the database's design,
- Addressing the needs of users outside MAC, and
- Providing formal training and technical assistance to the database users, including development of guidelines for staff usage (see page 16).

(5) Establish mechanisms within MAC, Trade Development, and US&FCS to ensure that regular updates on each operating unit's compliance work are regularly reported to the TCC. In addition, the TCC should develop a quality control system to ensure that information provided in the unit reports is included in the center's monthly compliance reports to the Secretary of Commerce (see page 16).

(6) Develop compliance performance measures that focus on the results of compliance efforts and ITA's goal of ensuring fair competition in international trade, particularly for small and medium-size enterprises. In addition, avoid double counting with success story reporting (see page 20).

(7) Conduct an independent evaluation of the Rapid Response Team after it has been in operation for 9 to 12 months. The evaluation should assess the costs and benefits of the concept, as well as whether a Rapid Response Team is the most efficient way to meet the demand, if any, for trade compliance assistance from the TCC by US&FCS overseas and domestic offices and ITA headquarters personnel (see page 25).

(8) Redesign the TCC web site to (a) clarify what information and services it offers, (b) direct clients with general questions and inquiries to the TIC, (c) modify its hotline inquiry form to ensure that the hotline is used as intended, (d) provide a general telephone number for the TCC, and (e) list and regularly update the names of the TCC staff and their areas of expertise (see page 25).

APPENDIX A

Summary of Sampled TCC Cases
(cases reviewed May and June 2001)

Case # 21 (Canada--seed certification): Complaint was entered into the compliance database in April 1998 and was closed in May 1998. The U.S. company was concerned that the Canadian government was requiring certification of seeds by Canadian laboratories as a condition for importation into Canada. The MAC country desk officer worked this case alone by clarifying the Canadian seed certification procedures for the U.S. firm. The problem was not a trade compliance issue. Rather, the U.S. company just needed assistance interpreting the Canadian regulations.
Case # 81 (Austria--tire chains): Complaint was entered into the compliance database in November 1998 and was closed in December 1999. The U.S. company was concerned that the Austrian government was requiring testing of tire chains to meet standards that were different than those in other European countries, as well as the United States. The team was led by the MAC country desk officer and included staff from US&FCS Portland (Oregon), Trade Development, and the TCC. The company was able to resolve the problem on its own, thus little work was done by the compliance team.
Case #145 (Korea--household appliances): Complaint was entered into the compliance database in November 1999 (although ITA received the case in February 1999) and was closed in July 1999. A major American household appliance manufacturer received a request from a Korean agent to purchase one of the manufacturer's washing machines, which runs on 110 volts. To meet the Korean 220-volt standard, the manufacturer proposed adding an internal step-down transformer to run the washing machine, but Korean government standards prohibited the importing of 110-volt electrical appliances with step-down internal transformers. The team was led by the MAC country desk officer and included TCC and Trade Development staff. Although not listed on the team, the National Institute of Standards and Technology played an active role. This case was started by the MAC country desk officer nine months prior to being entered into the compliance database and resolved four months prior to being entered into the database.
Case #190 (Kenya--used clothing): Complaint was entered into the compliance database in November 1999 and was closed in April 2000. A U.S. firm exporting 500 kilograms of unsorted recycled clothing bales to Kenya was concerned about new requirements set by Kenyan officials for shipping bales of used clothing. The new standards limited the size of bales to 50 kilograms, required that clothes be sorted, and that bales include fumigation and health certificates. The compliance team was led by the Office of Multilateral Affairs and included a MAC country desk officer, Trade Development officer, and US&FCS Kenya. TCC staff did not play an active role. The team concluded that Kenya's regulation was based on public health and safety concerns, was

applied equally to all suppliers, and did not appear to be inconsistent with Kenya's international obligations under the WTO. Thus, the U.S. government was unable to take any action.

Case #237 (China--scrap paper standards): Complaint was entered into the compliance database in March 2000 and was closed in December 2000. The case involved a U.S. company's complaint that China's state-owned inspection company was requiring full inspections of all shipments from U.S.-owned exporters of recycled fiber products, whereas similar inspections were not required for similar shipments from Chinese-owned firms based in the United States. The team was led by the MAC country desk officer and included staff from Trade Development, US&FCS China, and the TCC. Ultimately, because China was not a member of the WTO and not subject to its agreements, there was not a compliance issue. The country desk officer was tasked with monitoring the issue.

Case # 308 (European Union--motorcycle driving license directive): Complaint was entered into the compliance database in July 2000 and was closed in March 2001. A U.S. motorcycle manufacturer was concerned that a proposed change to the European Union driving license directive would, if adopted, adversely affect the firm's export of motorcycles to Europe. A Trade Development officer led the team, with assistance from the US&FCS Mission to the European Union and the MAC country desk officer. TCC staff did not play an active role. The case was entered into the compliance database nearly 4 months after Trade Development received the complaint. The case was successfully resolved through meetings, arranged with Commerce help, between European Union officials and representatives from the U.S. motorcycle manufacturer and the Association of European Motorcycle Manufacturers. Prior to issuance, the European Union amended its driving license directive to resolve the manufacturer's concerns.

Case # 387 (Chile--salmon eggs): Complaint was entered into the compliance database in November 2000 and the case is still active. The Chilean government stopped granting import permits for salmon eggs in March 2000 to protect its industry from the Infectious Salmon Anemia pathogen, a disease that had been affecting European and eastern Canadian salmon operations. Salmon egg producers from Washington State and an industry association sought U.S. government assistance to gain access to the Chilean market. The team is led by the TCC and included a MAC country desk officer, National Marine Fisheries Service staff, and US&FCS Chile staff. Two U.S. Department of Agriculture offices – the Animal and Plant Health Inspection Service and the Foreign Agricultural Service – also have played an active role in the case. The Fisheries Service has primary contact with the industry.

APPENDIX B

Agency Comments on Draft Report

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

MAR 14 2002

MEMORANDUM FOR Jill Gross
Assistant Inspector General for Inspections and Program Evaluations

FROM: Timothy J. Hauser

SUBJECT: Draft Inspection Report regarding Trade Compliance (IPE 14282)

Thank you for providing the draft inspection report dated January 25, 2002, on ITA's compliance efforts and for the opportunity to provide comments. I have asked my staff to review particular issues directly with your office. As requested, I am providing brief general comments and responses to your recommendations.

Generally, I think it's important to recognize that Market Access and Compliance (MAC), Trade Development (TD) and the U.S. & Foreign Commercial Service (US&FCS) all work together in a team approach. Traditionally, overseas commercial officers work with MAC on identifying and solving compliance issues. The skills and industry expertise of team members from TD are routinely utilized in compliance matters. For example, the recently formed Textile Compliance Team is staffed by representatives from the Trade Compliance Center (TCC) and TD's textiles office and the office of the Assistant Secretary of MAC. The Assistant Secretary will also be addressing the annual meetings of Senior Commercial Officers this Spring to discuss compliance.

We appreciate the recognition in your report of our efforts to open and track cases, ensure work is accomplished and deadlines are met. Of course, we thoroughly agree that as in most programs improvements can be undertaken and coordination can be improved. This has been a hallmark of the compliance operation and the reason that changes that have been implemented both in the course of your inspection and since, many of which were discussed with your staff.

Recommendations 1 and 2: Develop guidance for ITA staff, market TCC as resource.

In September 2001, the Trade Compliance Center (TCC) completed a "Compliance Manual" that outlines the roles and responsibilities of various ITA units in the compliance effort. Senior ITA management continues to believe that staff in Washington and in the field are indeed aware of their responsibilities regarding compliance and coordination, and this tool will help in that effort. In addition, I note that Market Access and Compliance (MAC) and Commercial Service (CS) staff collaborated in developing training materials used in the first-ever series of National Foreign Affairs Training Center classes on compliance for foreign service officers.

We are pleased that you note that staff in US Export Assistance Centers are very clear as to what types of problems or issues the TCC can help with and are pleased with the support they receive. I believe this is a reflection of the extensive outreach efforts made by the TCC to inform ITA

units as to the help that is available in the Market Access and Compliance unit and throughout ITA on compliance and market access problems. Over the past year more than 40 separate outreach sessions have been held with ITA offices, 25 in ITA Headquarters alone. In these sessions, and with external clients, the TCC has marketed itself as the place that can help find solutions to problems encountered in overseas markets--most decidedly not that it is the sole source of compliance expertise. While the TCC does have many specialists in WTO and other agreements the ITA compliance team brings together expertise found throughout the Department to work through identified problems and propose solutions. We will continue to emphasize that approach in our outreach efforts.

In line with this approach, the average trade specialist in the field should not be expected to decide when or whether a trade agreement might apply to a particular problem, nor should a business executive. Consequently, as discussed with your staff, we continue to believe that attempts to draw arbitrary distinctions between market access and compliance in an attempt to "clarify" what the compliance program can address are a distraction both to our clients and to our work. Cases that may not be "compliance" today can still benefit from the activities and expertise of TCC compliance officers (such as information gathering during WTO meetings, overseas contacts, etc.).

Recommendation 3: Educate managers about mechanisms for team awards

Under Secretary Aldonas and I believe that ITA managers need to recognize team performance and, to that end, ITA has recently added a team award to the Undersecretary's Quarterly Star Awards. I have asked our incentive awards program office to work with the Trade Compliance Center to recognize team performance. Thank you for emphasizing this important point.

Recommendation 4 and 5: Implement a single market access database; quality control for monthly reports

In July 2001, MAC began moving to a consolidated database of compliance and market access cases. This database became operational on February 1, 2002. It is administered centrally and is the product of extensive consultations with users. Training on its use has been provided and will continue to be provided. We are now testing its overseas access with several of our Posts. With respect to monthly reports provided to the Secretary, it should be emphasized that while the TCC prepares them, the monthly report receives clearances from all four ITA operating units, providing the quality control you recommend and the opportunity for these units to provide information on additional activities. We would welcome information on specific compliance work that has not been reported.

Recommendation 6: Develop compliance measures that focus on results of efforts

During the course of your inspection, the topic of performance measures was repeatedly discussed by ITA management with your team. We believe that both of the current ITA-wide market access and compliance measures address the performance behavior that ITA senior management desires ITA staff to emulate. These measures were developed during an extensive strategic planning process undertaken by all of ITA over the past 18 months. The concept is,

"what gets measured, gets done," and Secretary Evans, Under Secretary Aldonas and ITA's senior management team clearly have used these measures to communicate to the entire compliance dedicated component of the organization that initiating cases and measuring results is a DOC and an ITA management priority. While clearly not perfect, we believe that measuring staff efforts to find new cases will result in a higher number of identified problems exporters face and, consequently, problems resolved. A measure that focuses on "efforts" is meaningless. (Is effective policing measured by the number of convictions?) Assistant Secretary Lash invited suggestions for better measures, but we believe the suggestions in your draft report are more suited to program management improvements than performance measurement. We remain open to further suggestions. ITA has initiated the development of lower level measures in some program areas that are neither strategic nor ITA- wide but may be useful to program managers. We will consider the IG's input if the TCC determines that lower level measures could be useful to monitor program improvements.

Recommendation 7: Evaluate the need for the rapid response team.

This is a new program for which staff recruitment was only completed in August, 2001. Like any new program, it takes time to get up and running and get kinks out. As was discussed with your staff, team members will not be sent overseas until trained in compliance techniques and trade agreements. This has been done. MAC has requests from offices in China and Japan to assist with short term temporary assignments in Beijing and Tokyo this year until new Compliance Officers arrive at post later this year. In addition, team members are available to provide back up in Washington when more senior experts are deployed overseas. For example, last fall, we had two temporary assignments planned for more senior specialists at the request of overseas posts; these assignments were cancelled in light of the terrorist attacks.

MAC actively deploys compliance rapid response teams throughout the world. These teams focus on finding cases through regionally focused outreach and then creating innovative action plans to successfully resolve each case. Each team consists of a member with regional expertise, a member from the TCC and other experts from Commerce, or if necessary, other USG agencies. These teams focus on taking expeditious action to achieve results. For instance, last November the Office of the Western Hemisphere identified a compliance problem in Ecuador. Within a week, Assistant Secretary Lash, accompanied by compliance and Western Hemisphere staff, flew to Ecuador to meet with government officials to identify a solution.

In Europe, MAC recently deployed a compliance officer to work in Brussels. The officer is working closely with the European compliance team in Washington, DC. The team is prioritizing existing Western European cases, while conducting outreach to businesses and trade associations throughout the United States and in Western Europe. Together, the compliance team and compliance officer will work through a strategic agenda to achieve maximum results. We created a similar team to focus on NAFTA issues. Members of the NAFTA team recently traveled to Mexico to discuss outstanding compliance issues. The NAFTA team is also conducting state outreach activities with a focus on states directly bordering Canada and Mexico. Our Textile Rapid Response team is also reaching out to the states to achieve market access for American textiles. Assistant Secretary Lash, a member from the TCC and textile expert from Trade Development compose the team. Since its inception in January, the team visited North

Carolina, South Carolina, and Georgia. Follow-up visits to these states and future visits to other textile states are planned throughout the year. These rapid response teams provide focused and efficient use of MAC resources by identifying opportunities to obtain success quickly or creating new and innovative solutions to outstanding compliance problems.

Recommendation 8: Redesign the TCC website

On January 8, 2002, we announced the completely redesigned TCC website that offers new and simpler tools to the exporting community. This nearly year-long effort was discussed with your staff and the new site addressed most of the suggestions made in your report for improvements. We received no complaints regarding the previous website but the new one has received commendations from private sector users. As with your recommendation 2, we continue to believe that encouraging the public to report the widest range of problems they face enables us to provide the best service. Our Hotline form is open ended on purpose, to encourage complainants to tell us as much as possible about a problem. The redesigned website has pulled together a number of features in one place, such as a checklist of "common trade problems that U.S. companies have encountered and we have addressed," which serves as a useful reference point to clarify Commerce compliance services.

Thank you for the opportunity to have our responses considered in your final report.