



United States International Trade Commission

Budget Justification

Fiscal Year 2023



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Alphabetical Listing of Abbreviations and Acronyms

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

Introduction

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

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

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

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

Congress also periodically adds additional mandates to the Commission's mission. For example, the American Manufacturing Competitiveness Act of 2016 (AMCA), 19 U.S.C. § 1332 note, now expired but may be renewed for another cycle, required the Commission to create and maintain an open and transparent process for consideration of petitions for duty suspensions and reductions. More recently, the Commission made significant progress in drafting rules, policies, and procedures to prepare for investigations that may be filed pursuant to the United States-Mexico-Canada Agreement (USMCA) Implementation Act, 19 U.S.C. § 4501 note, requiring the Commission to conduct investigations and make determinations in response to any petitions alleging

material harm to the U.S. long-haul trucking industry due to increased competition from cross-border services provided by Mexican trucking firms in the United States. While no petitions have been filed to date, the Commission's work in FY 2021 and FY 2022 has prepared it to expeditiously initiate and investigate petitions that may be filed following the Department of Transportation's report to Congress and the Commission in August 2021.

Reflecting the urgency and relevance of the Commission's work, we have a markedly high workload across all mission areas. Unfortunately, our resources have not yet kept pace with that work. The requested level of funding for FY 2023, like the FY 2022 request, is critical for the Commission to continue to enforce laws against unfairly traded and injurious imports, maintain the HTS, and provide high-quality, cutting-edge analysis of international trade issues to the President, Congress, and the American public.

Mission

The mission of the USITC is to investigate and make determinations in trade remedy proceedings; analyze and provide information on tariffs, trade, and competitiveness; update and maintain the U.S. tariff schedule; and execute the agency's mission with independence, integrity, trust, and transparency.

In addition to the longstanding mission areas, the Commission also responds to new and additional mandates, as discussed above. One example of this is a recent request from the President for the Commission to expand the scope of its quantitative analysis in future probable economic effects advice, to include estimates of the potential distributional effects of trade and trade policy on U.S. workers.

Responsibilities and Goals

The Commission's investigations fall into three major classes:

- **Import injury investigations**, which include antidumping and countervailing duty (AD/CVD) investigations and five-year reviews of existing AD/CVD orders conducted pursuant to Title VII of the Tariff Act of 1930, global safeguard investigations conducted under section 201 of the Trade Act of 1974, as well as others.
- **Unfair import investigations** conducted pursuant to section 337 of the Tariff Act of 1930, usually based on infringement of intellectual property (IP) rights by imported goods such as patent or trademark infringement, other

unfair acts such as trade secret misappropriation, false advertising, and false designation of origin.

- **Factfinding investigations and trade policy support** conducted pursuant to section 332 (g) of the Trade Act of 1974 and various other statutes such as section 131 of the Trade Act and statutes for specific trade agreements.

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

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

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

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

In our factfinding investigations, we typically analyze the ways that trade, trade policy, and competitiveness affect U.S. workers, producers, consumers, and the U.S. economy. By law, whenever requested, we present the President, and, by delegation, the United

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

States Trade Representative (USTR), the Senate Finance Committee (SFC), or the House Ways and Means Committee (HWM) with information and analysis on any matter related to international trade and industry competitiveness. Our analyses help inform policymakers' decisions on trade policy and international trade negotiations and to better understand the economic and distributional impacts of trade.

The Commission reinforces its commitment to fulfilling these mandates with timely, transparent, thorough, and high-quality determinations and analysis through its strategic goals. The Commission's first two strategic goals guide how we carry out our investigations, while our third strategic goal and its associated objectives provide the framework for accomplishing our investigative and analytical responsibilities.

Our first strategic goal: Conduct reliable and thorough investigations.

The Commission's investigations often involve products or industries that are critical to U.S. productivity, innovation, and competitiveness, and policymakers and businesses may make important decisions based on Commission analysis and determinations. The reliability and thoroughness of our investigations are underpinned by objectives ensuring timely and transparent proceedings and regular engagement with relevant stakeholders and experts, including our statutory requestors, U.S. industries, workers, and the American public.

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

- Our investigations of unfair trade practices help U.S. firms compete more effectively in an integrated global marketplace.
- Our issuance of sound and timely decisions in import injury investigations helps ensure that U.S. companies and workers can compete on a more level playing field in the domestic market.
- Our timely resolution of complex IP disputes is economically critical to holders of U.S. IP rights, especially where innovation drives rapid technology change.

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

Although most requests for factfinding investigations come to us from the SFC, HWM, and USTR, pursuant to section 332 (g) of the Trade Act of 1974, some of our investigations are required by various other statutes or are self-initiated. In response to requests, the Commission provides cutting-edge analyses that inform the development of sound U.S. trade policy. Providing this industry and economic analysis in a timely manner assists policymakers during trade negotiations, in enacting legislation, or taking other policy actions that affect U.S. workers and the competitiveness of U.S. industries as well as the overall U.S. economy.

The Commission conducts comprehensive outreach and engagement to support its investigations. Regular outreach to bar groups, requestors of Commission work products, experts, and other representatives and stakeholders helps us support public understanding of the Commission's work, target Commission capacity-building efforts for future requests, diversify our knowledge base, and gain valuable feedback on Commission analysis.

Our second strategic goal: Develop sound and informed analyses and determinations.

In recent years, changes in the global trading environment have brought new issues to the Commission's investigations and determinations. The petitions filed with the Commission reflect increasing firm and industry complexity. Import injury and unfair imports investigations face analytical challenges associated with interconnectedness of firm relationships, structure of multinational firms and conditions of competition, wide-ranging nature of market participation, rapidly changing technology, and particularization of the supply chain—all of which are conducted in a quasi-judicial forum. To address the depth and scope of these investigations, we collect large, detailed, and primarily confidential data and information from the relevant industries, provide multiple perspectives of analysis reflecting industry and market structure, and develop comprehensive records and issue opinions that can withstand litigation and judicial review. Similarly, policymakers have expanded the complexity of industry and economic analysis they have requested from the Commission. Our requestors recognize that due to our economic and trade expertise, we can generate primary data, analyze specific industries, and provide insights unavailable elsewhere. To improve our analyses, we also regularly develop new tools, such as economic models that measure the effects of trade on specific U.S. industries and on U.S. companies operating abroad. The goal for developing sound and informed analyses and determinations is underpinned by objectives to apply innovative analysis developed through investment in regularly updated research priority areas and to provide clear, relevant, and accurate information in Commission work products.

As a vital part of this strategic goal, we also maintain and analyze the HTS. The HTS is the official document that sets out the classifications of imported goods and the U.S. tariffs that apply to each category. We make sure that the U.S. tariff schedule is up to

date and accurately reflects the implementation of all the trade agreements and programs of the United States. In addition, to further U.S. competitiveness, we work to ensure that changes in the international Harmonized System for goods classification, which is administered by the World Customs Organization, reflect the interests of U.S. companies.

To meet our existing mission and any new mandates, we must maintain the staff, analytic tools, and other resources needed to conduct fair and efficient investigations, as well as to provide high-quality and objective information and analysis on a wide array of issues. The FY 2023 budget request will allow the Commission to continue to invest in the development of highly skilled analysts, economists, and attorneys; creation of new databases and data systems; collaboration with other organizations to enhance our own research; and acquisition of new, or upgrades to existing, advanced analytic tools.

Our third strategic goal: Execute and advance organizational excellence.

The first strategic objective that relates to executing and advancing organizational excellence is to attract, develop, and retain a skilled, diverse, and versatile workforce, essential to meeting the varying workload and new mission requirements. In previous years, we have used our capacity for flexible staffing to successfully fulfill new legislative mandates, such as process changes in the AMCA that made the Commission responsible for receiving and processing petitions for specific products to be included in a miscellaneous tariff bill. We have now exhausted that strategy and remain far below our target staffing level. With new legislative mandates and an investigative workload continuing to increase, we have a growing workforce requirement gap that must be closed to fulfill our mission in FY 2022 and FY 2023. To continue our success in executing and advancing organizational excellence through a talented and diverse workforce, and to prevent staff burnout and accelerating departures, we need to recruit and train more staff. As detailed in our staffing plan and accounting for an expected vacancy rate of about five percent, we seek to hire approximately 30 additional employees, and to replace any departures as they occur to ensure that we are efficiently and effectively advancing the Commission's mission. The Chief Human Capital Officer ensures that such recruitment targets a diverse applicant pool. Further, the Commission provides robust training for new employees, including an orientation program designed to address the virtual work environment.

Our human capital objective is consistent with maintaining our recruitment draw. In 2020, the Commission was rated as the #3 Partnership for Public Service's Best Place to Work in the small agency category. Our ability to not only attract, but also to retain, a high-quality workforce has consistently been reflected in our Federal Employee Viewpoint Survey scores in global satisfaction and employee engagement and in responses to questions about hiring practices and career development.

Our second strategic objective for this goal is to ensure good stewardship of taxpayer funds, accomplished as follows.

- We evaluate the structure of the Office of the Chief Financial Officer, and its systems (accounting, procurement, and travel), practices, and policies, to determine if it is suited to meet the current and future needs of the Commission.
- We ensure that our contract-award processes and contract files meet the needs of customers in a timely way, that the files are accurate and complete, that the Commission’s contracting officer’s representatives are properly trained and are faithfully carrying out their duties, and that we transition from paper to electronic files.
- We ensure that financial controls are documented, implemented, reviewed, and refined on a regular basis to maintain an annual unmodified audit opinion.
- We require managers to tie budget requests for personnel and non-personnel funding to projected workloads and provide linkage to performance planning.

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

Our third strategic objective is to implement reliable and secure systems that promote resilience, innovation, and efficiency. In recent years, we have made tangible progress toward meeting our information technology (IT) strategic objective, which aims to ensure that IT resources support our mission. Our IT performance goals for FYs 2022 and 2023 quantify how the Office of the Chief Information Officer (OCIO) intends to support this objective. The Chief Information Officer, as the leader for this strategic objective, will also ensure that critical IT systems are continuously available and optimized so that we can conduct our operations with little to no loss of efficiency and capability. Additionally, the OCIO will continue to ensure our IT security by complying with federal cybersecurity priorities.

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

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

Our fourth strategic objective is to manage and leverage data as an asset. We recognize the importance of leveraging data as an asset and are focusing significant effort and resources on addressing our needs in this area, including priorities contained in various federal initiatives. To achieve this objective, we:

- Strive to strengthen agency-wide data governance by establishing enterprise-wide strategies, objectives, and policies for managing data
- Seek to advance the agency's strategic use of data by identifying priority questions of decision makers and deploying accurate, timely, insightful, and relevant information to answer them
- Ensure data are leveraged as a strategic asset by making them discoverable
- Strive to foster transparency by developing and deploying cutting-edge technologies to improve the flow of information; and develop controls to ensure data are appropriately protected from creation through destruction

Our fifth strategic objective is to increase our operational effectiveness by evaluating and improving processes and communication. Operational effectiveness is about continually improving functional performance. To accomplish this, managers lead and control the functional activities within the agency, and continually measure and improve the processes for which they are responsible. Strategies we will continue to use to meet this strategic objective include:

- Using enterprise risk management (ERM) to identify risks and establish priorities to inform agency decision makers
- Refocusing available resources to support agency-wide policy development
- Investing in and modernizing our IT infrastructure and management systems

The Commission recognizes that resource constraints, unexpected external requirements, and other priorities may slow efforts to fully accomplish all of its planned initiatives in the near future. However, we believe that recent developments—in particular,

expanded IT capabilities both within and outside of the OCIO, and increased managerial focus on this and related issues—may mitigate these constraints. During FY 2021, the Commission made improvements to operational processes and procedures and to its use of risk analysis. For factfinding investigations, the Commission dedicated additional resources to increase the accuracy of these reports, including revisions to internal procedures for thorough fact-checking and review of regulatory issues. We continue to evaluate how to improve our planning and ERM processes and how to make more effective use of the data that we collect. In FY 2021, the Commission also implemented a new process for risk evaluation by delegating risks to the relevant agency-wide management committees for discussion, review, and assessment. Committees provide information to the Performance Management and Strategic Planning Committee (PMSPC) on any changes to the risks and the PMSPC makes a final determination on risks, as they relate to the top agency risks. This new process has resulted in a more in-depth analysis of risks and their importance to the Commission and its ability to meet its mission and achieve its performance goals.

Detailed performance goals for program and management activities are presented in our *Annual Performance Plan, FY 2022–2023*, and *Annual Performance Report, FY 2021*, which can be found at https://www.usitc.gov/strategic_plan.htm.

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Budget Highlights

For FY 2023, the Commission requests \$122.4 million to carry out our mission and functions. This funding reflects a modest inflationary increase over our FY 2022 request and will enable us to maintain the investments we plan to make during FY 2022. Most significantly, as previously discussed for FY 2022, we must hire more staff and make the necessary and critical IT investments that have been long deferred, commensurate with our record high caseload. What was originally perceived to be a temporary surge in caseload has proven to be a structural change in its volume and complexity. Initially, we managed the surge by realigning funds from non-personnel areas, notably IT infrastructure and system maintenance and development, to increase staff. However, that is no longer a viable option and we must adjust the baseline for staffing levels to manage existing and projected workload.

Our request reflects the resources required to maintain staffing levels in the Office of Operations and the Office of the General Counsel, in particular, as they are heavily impacted by the continued high investigative caseloads, specifically antidumping and countervailing duty (AD/CVD), unfair import, and industry and economic analysis investigations. Further, caseload has surpassed the workload assumptions that we used to build our current staffing plan several years ago.

The request also provides resources to continue making IT investments to improve the security of, alleviate the stress on, and maximize our IT infrastructure. The request will also ensure the availability and accessibility of our public-facing IT systems. FY 2023 IT investments will include replacing end-of-life servers, continued work towards implementing a zero trust architecture as required by new Executive Orders, expansion of our telecommunications network to improve continuity of operations, enhanced remote access controls, and improving the user work experience. Our request also aims to sustain capabilities in both research and economic analysis so we can better investigate proposed changes in trade policy, as well as important developments in U.S. competitiveness.

Through the process of navigating pandemic-related disruptions to our operations and managing elevated workloads, the Commission also discovered better tools and strategies for efficiently and effectively carrying out its mission. However, many of these improvements require upfront investments to implement, including time spent training staff. For example, virtual hearings during the pandemic resulted in larger numbers of participants/attendees and allowed individuals that may not have been able to participate or attend the opportunity to do so. Continuation of virtual or consideration of hybrid hearings is dependent on adequate funding for necessary IT equipment, software, and ongoing support.

Additional Workload Drivers

In addition to the continued heavy workload in AD/CVD and unfair import investigations described below, we have been devoting more resources to conducting or supporting other investigations and Administration initiatives. For example, the number and increased complexity of factfinding investigations and trade policy support requests have required more research and resources. In addition, we continue to witness increased activity under sections 201–204 of the Trade Act of 1974. In December 2020, the Commission completed the investigation concerning whether to extend the safeguard measure on large residential washers. The Commission also initiated in October 2020 and completed in March 2021 the safeguard investigation into fresh, chilled, or frozen blueberries. The Commission received two petitions requesting an extension of the safeguard measure on solar products in August 2021 and initiated a combined investigation covering both. The Commission will also conduct end-of-relief assessment reports when actions taken by the President expire for large residential washers and solar products and may also be required to conduct another monitoring investigation if the President extends the measure on solar products. Further, monitoring activities for two perishable and seasonal fruits and vegetables industries may drive additional global safeguard petitions from these industries. Though these types of investigations are relatively infrequent, they are typically more resource intensive, often requiring more data collection, remedy recommendations, and follow-on related investigations.

In addition, we have had to amend the Harmonized Tariff Schedule of the United States (HTS) in recent years an unprecedented number of times to incorporate the changes brought about by Administration initiatives. In a typical year, two or three HTS revisions are made; in FYs 2018 and 2019, 15 and 20 revisions were made, respectively. In FY 2020, the number of revisions increased to 28. In FY 2021, the Commission continued to complete revisions to the HTS at an elevated level: in addition to a preliminary Basic Edition and the Basic Edition, the agency issued 18 revisions to implement multiple tariff changes.

Program Overview

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

The Commission provides a venue for private sector firms and other qualifying entities to bring allegations of certain unfair or injurious trade practices involving imports before an independent, objective, and expert quasi-judicial governmental body. Our trade remedy investigations caseload continues to grow in volume and complexity. In FY 2021, the number of AD/CVD investigations remained at historically elevated levels. The caseload is expected to stay relatively high in FYs 2022 and 2023, though driven primarily by the structural and more predictable increase in review investigations relative to original investigations. In FY 2021, new unfair import matters under section 337 exceeded the peaks in previous fiscal years, and we expect caseload to remain high in FYs 2022 and 2023.

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

In FY 2021, 11 petitions were filed under Title VII of the Tariff Act of 1930. Though below the FY 2020 record-breaking level, filings were consistent with historic levels and reflect the regular cyclical activity associated with AD/CVD investigations over time. The record number of petitions filed in FY 2020, however, resulted in a record number of final-phase investigations. The Commission completed 25 final-phase investigations in FY 2021 – five (or 25%) more than the prior fiscal year; the average number of completed final-phase investigations for fiscal years 2011 to 2020 was 10. In FY 2021, approximately half of the petitions involved imports from multiple countries. Domestic industries filing petitions in FY 2021 produced a range of products, including various steel and metal products, chemicals, processed agricultural products, and final consumer products. While a substantial number of these investigations covered downstream products, including final and near-final consumer products (such as mobile access equipment, freight rail coupler systems, and walk-behind snow throwers), a large share covered chemical and agricultural products (such as PTFE resin, R-125, urea ammonium nitrate, raw honey, and organic soybean meal). Some investigations were particularly notable because of the size and/or complexity of the U.S. industry and market, including thermal paper, and mobile access equipment. In addition to new investigations, we instituted 26 reviews of existing AD/CVD orders in FY 2021 and anticipate instituting 40 and 35 in FYs 2022 and 2023, respectively. Overall, the Commission instituted 61 investigations and completed 67 investigations in FY 2021. While less than FY 2020, the changes reflect the normal cyclical activity of cases and are consistent with recent elevated levels (the FY 2011-to-

FY 2020 average for institutions and completions was 52 and 50, respectively). We anticipate continued high caseload levels, driven primarily by returning review investigations; in FY 2022, we anticipate instituting 73 proceedings and completing 65. In FY 2023, we anticipate instituting 72 proceedings and completing 75.

As mentioned above, in FY 2021 the Commission completed the extension investigation concerning the safeguard measure on large residential washers. The Commission also initiated and completed a global safeguard investigation into fresh, chilled, or frozen blueberries, which covered several parts of the production process and included a large number of U.S. producers, U.S. importers, and foreign producers. The Commission also received two petitions requesting extensions of the safeguard measure on solar products in August 2021. The Commission subsequently instituted a safeguard extension investigation to determine whether the measure continues to be necessary to prevent or remedy serious injury and whether there is evidence that the domestic industry is making a positive adjustment to import competition. The Commission will also conduct end-of-relief assessment reports when actions taken by the President expire for large residential washers and solar products, two measures that are based on investigations that were initiated in 2017. The Commission may also be required to conduct another monitoring investigation if the President extends the measure on solar products. In addition, monitoring activities for two perishable and seasonal fruits and vegetables industries (strawberries and bell peppers) may drive additional global safeguard petitions from these industries. As noted above, though these types of investigations are relatively infrequent, they are typically more resource intensive, requiring more data collection and remedy recommendations.

During FY 2021, we continued our efforts to increase the transparency of our proceedings and reduce the burden on participating parties. In FY 2021, we issued an external survey about virtual staff conferences and hearings to better understand the benefits and challenges of virtual staff conferences and hearings for external parties. In FY 2022, we plan to apply information obtained from the survey to inform ongoing initiatives related to virtual/hybrid hearings efforts. In FY 2021, we made substantial gains in our ongoing efforts to develop a data system for more complete, timely, and accessible reporting of investigative information (the Investigations Database System, or IDS), including Title VII information. In FY 2022, we will continue to expand and advance these systems and their functionality.

Unfair Import Investigations Caseload Remains High

In FY 2021, our section 337 workload reached the highest level of activity to date, and due to the increase in the number of new investigations in FY 2021, we anticipate that there will be a high number of active cases throughout FY 2022 and into FY 2023.

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

The range of technologies covered in these investigations is quite broad, encompassing, among other things, various electronic devices, pharmaceutical and medical devices, transportation-related products, and other consumer goods such as artificial eyelashes, stud finders, shingled solar modules, home security and HVAC systems, swabs used in medical testing, and decorative wood grain paper for use in furniture. Although section 337 investigations typically involve patent infringement allegations, they can also involve allegations of other unfair acts such as trademark infringement, trade dress infringement, false advertising, and trade secret misappropriation, which is an area of heightened concern for U.S. companies and Congress.

Work is ongoing to ensure that section 337 investigations are completed expeditiously, in line with congressional intent. We continue to build and develop the necessary staff and resources to conduct evidentiary hearings in section 337 investigations and focus on making the process more efficient and less costly for both litigants and the agency. Our efforts include improvements to courtroom space, acquisition of a FedRAMP-certified video-teleconference platform for virtual evidentiary hearings, our rules of procedure, procedural pilot programs, and substantial investments over the past few years in our Electronic Document Information System (EDIS). Further, in FY 2021, we implemented electronic service of public documents through EDIS, and plan to move to confidential service in FY 2022. We acquired BOX, a FedRAMP-certified cloud content management system, to enhance the secure transfer, use, and storage of the voluminous electronic documents produced in our investigations. We also started the transition of our investigation database, 337Info, which provides detailed information to the public about investigations instituted since October 1, 2008, to IDS, which will enhance features provided in 337Info. These efforts necessitate an adequate level of funding.

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

Analysis and Information on Tariffs, Trade, and Competitiveness

Our agency supplies the executive branch and Congress with objective analyses of significant trade issues. We provide industry and economic research, tariff and trade information, and trade policy support through investigations and other expert advice. Given our unique economic and trade expertise, we offer cutting-edge data and insights that support the development of sound U.S. trade policy. The caseload for industry and economic analysis was at a high level in FY 2021, and the number of requests will likely remain at similar levels in FY 2022 and FY 2023.

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

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

Our staff also develops new methods to produce high-quality economic analysis. By way of example, assessing the economic impact of proposed trade policies changes is considerably more challenging than examining the effects of tariff changes. During FY 2021, we applied new modeling approaches to assess the effects of provisions in U.S. trade agreements. We continue to develop new capabilities by collaborating with other organizations, including academic institutions. During FYs 2022 and 2023, we plan to focus our research on areas such as improving our ability to model the distributional effects of trade and trade policy on diverse groups within the United States, assessing industry competitiveness, and analyzing supply chains.

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

- The performance of U.S. industries in critical supply chains
- How trade and investment barriers, rules of origin, and standards affect U.S. firms, workers, and consumers
- The distributional impacts of trade and trade policy on diverse groups within the United States
- The promises—and pitfalls—of new technologies, industries, and business models
- The effects of trade policies on the environment

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

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

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

Our work to maintain and update the HTS, as discussed above, also impacts other U.S. agencies, private parties, and other stakeholders. U.S. Customs and Border Protection (CBP) relies upon the HTS for collecting tariff revenues on imported goods. Private firms use the HTS to learn the duties that they will pay on imported goods. U.S. exporters and importers depend on our work in the World Customs Organization to ensure that global tariff product classification (“nomenclature”) is up to date and takes into account industry interests and changing patterns of trade. Compared to two or three revisions in a typical year, in FY 2021, we prepared and published 18 revisions of the HTS, as well a preliminary Basic Edition and the annual Basic Edition for January 1, 2021. These revisions were made to incorporate tariff rate changes implemented during the year due to World Trade Organization disputes on large civil aircraft, certain actions under the African Growth and Opportunity Act, tariff increases on steel and aluminum for national security, safeguard actions on large residential washers, and Generalized System of Preferences modifications, as well as to address policy changes with respect to China on thousands of products.

The HTS provides the foundation for the U.S. trade data maintained by the U.S. Census Bureau (Census), and it enables CBP to manage its trade and enforcement activities. We ensure that the HTS is both accurate and up to date so that it meets the demands for trade and tariff information from Census, CBP, U.S. exporters and importers, the Administration, and policy makers in Congress. Due to the size and openness of the U.S. economy and the volume of U.S. trade, the HTS is the most heavily used tariff schedule in the world. Its more than 19,000 10-digit statistical subheadings must be updated and maintained throughout the year to reflect changes from implementing trade agreements and from other congressional and administration actions. Redesigned in FY 2013, this system was developed as a data management system in FY 2014, and it was made available to the public at the beginning of the fourth quarter of FY 2015. In FY 2018, we completed the redesign of DataWeb, the trade data system that we use for our own work and provide to the public. We deployed a beta version of the redesigned DataWeb in FY 2018 and we released the final version in the first quarter of FY 2019.

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

Trade Policy Support Remains of Interest but Could Face Resource Constraints

We draw heavily on staff in all agency program areas to respond to requests for trade policy support from Congress and the Administration. In FY 2021, we supplied rapid responses on a broad array of issues and topics, ranging from litigation support in international tribunals to assessments of specific industry and economic issues, including issues relevant to the response to the COVID-19 pandemic. Our staff often provides support to negotiators working on proposed trade agreements or adjustments to existing agreements. We supply information, expertise, and software-based tools to support U.S. negotiating teams.

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

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

Efforts to Improve Diversity, Equity, and Inclusion

In FY 2021, we significantly enhanced our diversity, equity, and inclusion (DEI) program. We reinvigorated our DEI efforts through a collaborative overhaul of our DEI charter and a newly formed DEI Council made up of both an advisory body of senior leaders as well as a diverse group of employee volunteers. The DEI efforts have been primarily led by the Office of Human Resources and included a week-long DEI program with speakers from Capitol Hill, workshops, and discussions; regular activities and a weekly newsletter highlighting the significance of each special emphasis and heritage month; additional agency-wide DEI-related trainings; an agency-wide mentoring program and coaching for supervisors; sponsorship for an employee to attend a leadership program with a focus on DEI; monthly employee-led discussion groups; dedicated intranet resources, including a substantive SharePoint page; and a broadening of diverse hiring efforts to include our first Diversity Recruitment Fair. Additional efforts in the area of accessibility and inclusion have included training and application of 508 accessibility measures both through our reporting and at hearings. Specifically, all published factfinding investigations, staff working papers, *Journal of International Commerce and Economics* articles, and administrative reports were 508 compliant. Additionally, Commission reports for Title VII investigations included 508-compliant formatting, text, and tables.

To effectively support and advance these efforts in FY 2022, we must maintain our commitment to staff with expert knowledge in these areas including DEI, hiring and staffing, retention, and training. We expect to continue to utilize the DEI Council as a consultative body to help assess program diversity, equity, and inclusion across the agency and recommend areas for further examination and review. Additionally, all managers and supervisors will receive training as part of our commitment to increasing inclusivity, as part of their mandatory supervisory training. We will maintain the continuity of programming mentioned previously, including DEI Week, celebration of special emphasis and heritage months, mentoring and coaching, and continuing our commitment to diverse recruiting. Over the next two years, the Commission will continue its efforts to increase the accessibility of the written materials it provides the public by achieving full 508 compliance for its public documents. This supports its broader efforts to provide clear and accurate work products and customer service.

Efforts to Strengthen Information Technology Security

We continue to demonstrate our commitment to improving our IT security by complying with and implementing mandates and best business practices pertaining to IT security in a timely way. We continue to expand and improve our access controls, as well as bolster our core architecture using more secure devices. We continue to enhance our continuous monitoring abilities as they relate not only directly to IT security, but also to operations and maintenance activities. We monitor, track, and report on all activities via our security operations center. We have improved our ability to ensure a secure IT infrastructure by implementing encryption at rest and in transit and multi-factor authentication. We continue to work towards a full zero trust architecture.

In FY 2023, strengthening our IT security posture by investing in new technologies, processes, and capabilities will continue to be a priority. Planned improvements include the following:

- More stringent remote access controls to further secure our infrastructure
- Continued maturing of our incident response and intrusion detection processes
- Improved flexibility and security in application development utilizing containerization
- Enhancements to the Commission's continuous monitoring program
- Continued streamlining of vulnerability management processes
- Coordinating with the U.S. Department of Homeland Security to conduct external assessments and scans of agency systems
- Continuing independent assessments of our security and privacy controls systems to ensure that security controls are applied correctly, operating as intended, and producing the desired outcome for security requirements

Remote and Cloud Computing

We plan to further advance our continuity and telework capabilities in FY 2023 by maintaining a secure and modernized remote access solution, adding additional service provider capacity and redundancy, and ensuring improved levels of availability and accessibility by expanding our hybrid cloud-based architecture. The Commission will continue to implement non-proprietary development techniques and technologies to ensure flexibility and portability in cloud deployments, while maintaining the necessary levels of IT security. In FY 2023, we expect to continue utilizing a hybrid cloud-based architecture to improve the availability and accessibility of our systems, increase our redundancy, and reduce our dependence on physical data centers.

Risk Management and Planning

We have an enterprise risk management (ERM) process to establish, maintain, monitor, evaluate, and report on agency risks. The process is led by the Director of the Office of Internal Control and Risk Management, who reports directly to the Chair as a result of a recent change to the Commission's reporting structure. ERM is an integral part of all strategic planning, performance management, budget, IT, and human capital functions and activities. As part of this effort, we maintain an ERM database, which supports categorizing, documenting, and evaluating risks to the agency. Management performs ongoing assessments to identify, manage, and update the risks in this database. The risk profile is developed from the risk database and ranks risks from an agency-wide perspective. The profile is discussed, prioritized, and reviewed by the Commission's Performance Management and Strategic Planning Committee. The primary purpose of the risk profile is to assess how the risks we face from operations, mission-support activities, and external factors influence our ability to meet the agency's mission and achieve its performance goals.

The Office of Management and Budget (OMB) provides agencies with guidance related to risk management in certain specialized areas, including cybersecurity. OMB directs agencies to assess their cybersecurity risk, to manage the cybersecurity component of enterprise risk, and to adopt the Framework for Improving Critical Infrastructure Cybersecurity. The Commission manages risk in a way that is commensurate with the magnitude of the harm that would result from unauthorized access, use, disclosure, disruption, modification, or destruction of a federal information system or federal information. The Commission complies with all cybersecurity reporting requirements.

Each quarter, agency leaders and other senior staff review progress on our strategic and management objectives and identify and discuss enterprise risks. These reviews, along with the evidence related to specific performance goals and associated risks identified by our managers, inform the development of our Annual Performance Plan and Congressional Budget Justification. We continue to evaluate how to improve our planning and ERM processes and how to make more effective use of the data we collect.

Good Accounting Obligation in Government Act

The Good Accounting Obligation in Government Act requires each agency to include in its annual budget justification a report that lists each public recommendation issued by the Government Accountability Office (GAO) and the agency's Office of Inspector

General (OIG) that has remained unimplemented for one year or more from the annual budget justification submission date. The Commission does not have any open GAO recommendations. The table below lists all six of the Commission’s IG recommendations that have been open for more than one year and the Commission’s target date to take final action on the recommendations.

Report Title	Report Number	Issue Date	USITC OIG Recommendation	Target Date for Final Action on Management Decisions
Audit of Directives Management	OIG-AR-15-14	09/02/2015	Define standard format and content requirements for each type of internal rule.	04/01/2022
Audit of Directives Management	OIG-AR-15-14	09/02/2015	Document interrelated and dependent directives to understand how changing one policy may affect another.	04/01/2022
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Update Commission policies to remove duplicative information and clearly identify the roles and responsibilities where authority has been delegated.	04/01/2022
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Establish a process to keep accurate record of the hours worked by employees.	04/01/2022
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Have a consistent policy for recording time increments for credit, compensatory, and overtime hours.	04/01/2022
Audit of Time and Attendance	OIG-AR-18-09	03/27/2018	Establish a policy to manage religious compensatory time.	04/01/2022

Publications Proposed for Elimination

The Commission has identified two publications that it has proposed for elimination or streamlining in response to requirements of the GPRM Modernization Act of 2010. Specifically, the Commission has requested elimination of the requirement found in 19 U.S.C. § 3204 to provide the *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop*

Substitution report. The requirement is outdated because the President's authority to provide trade preferences under the Act expired in 2013 and has not been extended by Congress. Thus, none of the four eligible countries has participated in the program since 2013. As a result, there is no continued benefit to issuing the report.

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

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Appropriations Language

Salaries and Expenses

“For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed \$2,250 for official reception and representation expenses, \$122,400,000, to remain available until expended.”

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Trade Remedy Investigations

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

Our first strategic goal is to “investigate: conduct reliable and thorough investigations” by making them expeditious and transparent and engaging the public, including stakeholders and experts, and collecting all relevant data to inform and support investigations. Our work supports U.S. companies and their workers’ efforts to compete in the United States and in the global economy. Moreover, our timely resolution of complex IP disputes (section 337 disputes) can be of paramount economic importance to persons and companies holding U.S. IP rights.

Import Injury Investigations

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

Unfair imports, whether subsidized by a foreign government or “dumped” for sale at prices below the foreign market price or the cost of production, can injure U.S. companies. Congress enacted the AD/CVD laws to give U.S. producers and labor unions a way to obtain remedies when we find material injury or threat of material injury stemming from imports that Commerce has determined to

be unfairly traded. The remedies take the form of AD/CVD duties on imported merchandise equivalent in value to the dumping margin and/or subsidy rate found for foreign producers by Commerce.

Historically, AD/CVD petitions have covered a broad range of products representing many sectors of the economy. These petitions can cover intermediate products, such as steel and chemicals, or finished goods, such as consumer products and processed agricultural products. In FY 2021, we instituted 11 preliminary-phase investigations covering a wide variety of industries in the U.S. economy. Several covered final end-use or consumer-related products, such as walk-behind snow throwers, mobile access equipment, and freight rail coupler systems, as well as intermediate goods such as polyester textured yarn and acrylonitrile-butadiene rubber. We also instituted investigations covering chemical products, including pentafluoroethane, polytetrafluoroethylene, and urea ammonium nitrate, as well as agricultural products, including organic soybean meal and raw honey. As the Commission experienced a record number of petitions and preliminary-phase investigations in FY 2020, in FY 2021 we experienced a record number of final-phase investigations. The Commission completed 25 final-phase investigations in FY 2021 – five (or 25%) more than the prior fiscal year, and more than twice the average of 10 investigations for fiscal years 2011 to 2020. In FY 2021, caseload levels decreased but remained at elevated levels. Overall, the Commission instituted 61 investigations (compared to 75 in FY 2019) and completed 67 investigations (compared to 69 in FY 2019). This level of overall investigations reflects the normal cycle of cases and is consistent with recent elevated levels (the FY 2011-to-FY 2020 average for institutions and completions was 52 and 50, respectively).

In FY 2021, approximately half of the 11 petitions filed involved imports from multiple countries, ranging from 2 to 5 countries, with China being the predominant import source (4 of 11 petitions). Collectively, AD/CVD investigations resulting from petitions filed in FY 2021 involved about \$7.2 billion in U.S. consumption, \$2.2 billion in imports, and more than 9,000 U.S. production employees. The leading contributors to the U.S. consumption value were mobile access equipment and urea ammonium nitrate, which in addition to walk-behind snow throwers and polyester textured yarn, also accounted for most of the U.S. employment value. The decreases relative to FY 2020 in U.S. consumption, imports, and production employees involved in AD/CVD investigations before the Commission is a result of the decrease in petitions filed and consistent with the cyclical nature of filings.

In FY 2021, the Commission undertook several section 201 investigations including completion of the extension investigation for large residential washers; initiation and completion of the investigation into fresh, chilled, or frozen blueberries; and initiation of a solar products investigation that combined two separate petitions. When required, the Commission will also initiate end-of-relief

assessment reports for large residential washers and solar panels, two investigations that were initiated in 2017, and may receive petitions related to monitoring activities for two perishable and seasonal fruits and vegetables industries (strawberries and bell peppers). As noted above, though these types of investigations are relatively infrequent, they are typically more resource intensive, requiring more data collection and remedy recommendations.

To conduct import injury investigations, we assemble multidisciplinary teams that compile information from a number of sources, including questionnaire responses from domestic and foreign firms, publicly available information, plant tours, testimony at USITC conferences and hearings, and legal briefs from parties. Our investigative teams prepare fact-based reports on which the commissioners rely to make their determinations. Interested parties' representatives approved under administrative protective orders (APOs) have access to the information that we examine, including confidential information released under the APO. All hearings and votes are open or available to the public, and public versions of reports, party submissions, and opinions are available on our website, offering timely and useful information to companies and individuals. In FY 2021, the Commission advanced its ongoing efforts to leverage technology to improve video conferencing and initiatives to expand application of paperless processes.

Our investigative processes are fair and transparent. We ensure that investigative records are complete and contain information from all parties so the commissioners can make sound and objective determinations that can withstand judicial scrutiny. We continually seek to upgrade our processes in terms of speed, efficiency, and technical soundness. In FY 2021, the Commission made substantial advances to ongoing efforts to develop a data system for more complete, timely, and accessible reporting of investigative information (the Investigations Database System, or IDS), including Title VII information. We implemented advancements in the areas of system testing, advanced search functionality, and data migration source identification, as well as initial deployment of the system for internal use. In FY 2022, we will continue to assemble and migrate historical data, as well as expand and advance the system's functionality. This information will improve the way that we collect, analyze, and present information. In FY 2021, we issued an external survey about virtual staff conferences and hearings to better understand the benefits and challenges of virtual staff conferences and hearings for external parties. This feedback will inform ongoing initiatives related to virtual/hybrid hearings efforts. In addition, we made substantial advancements in our technical efforts to collect responses to notices of institution through electronic means and anticipate addressing the administrative process required to advance this initiative. We continued our efforts to promote transparency—efforts that are critical to maintaining operations and meeting statutory deadlines despite operating primarily in a virtual environment during the fiscal year. Throughout FY 2021, we continued to make publicly available investigations-related content available on the internet. Despite the heavy workload, the Commission met

100% of deadlines set by statute for agency determinations and reports.

Our workload in import injury investigations is a function of both new filings and reviews of existing orders; estimating the number of future filings is more difficult than estimating the number of future reviews. Overall caseload (i.e., new filings plus reviews) fluctuates from year to year and the number of investigations and reviews instituted has steadily increased, exhibiting a sustained upward shift in recent years. Annual institutions fluctuated between 32 and 47 from FY 2007 to FY 2015 (with an average of 39) but fluctuated between 56 and 75 from FY 2016 to FY 2021 (with an average of 62). This upward shift was driven by sustained above-average petitions; filings fluctuated between 3 and 15 from FY 2007 to FY 2015 (with an average of 10) but fluctuated between 11 and 26 from FY 2016 to FY 2021 (with an average of 18). A complicating factor is the large share of staggered cases (i.e., multiple-country investigations that have more than one final determination date) and uncertainty regarding investigation start dates and overall duration; these increase administrative and scheduling challenges across an existing heavy caseload. The growth in cases instituted per year has also been driven by the fact that very few trade-remedy orders have been revoked in recent years, either at the Commission or at Commerce, resulting in a stock of orders that has increased substantially in the past five years. The 5-year average of instituted reviews increased from 20 for FY 2012–16 to 25 for FY 2017–21; the projected 5-year average for FY 2022–26 is 37. For FYs 2022 and 2023, we project a sustained high overall caseload for import injury investigations and reviews, estimating 73 investigations instituted in FY 2022 and 72 instituted in FY 2023.

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

In FY 2021, there were 11 new appeals of Commission Title VII determinations to the CIT and one case initiated in the CIT concerning a procedural matter related to a safeguard investigation. At the close of FY 2021, there were, in addition to the safeguard procedural matter, 12 Commission import injury cases pending in the CIT and two pending before NAFTA dispute settlement panels. The CIT issued opinions in two cases, affirming the Commission's determinations in full in both cases. There were also eight challenges involving Commission determinations pending under the dispute settlement procedures of the WTO. During FY 2021, the WTO panel hearing one of these disputes involving a challenge to a U.S. safeguard measure affirmed the measure,

including the Commission's serious injury determination, in full. In addition to the disputes challenging Commission determinations, there were seven other WTO disputes involving trade remedies, and two USMCA disputes, in which Commission staff provided trade policy support to the USTR.

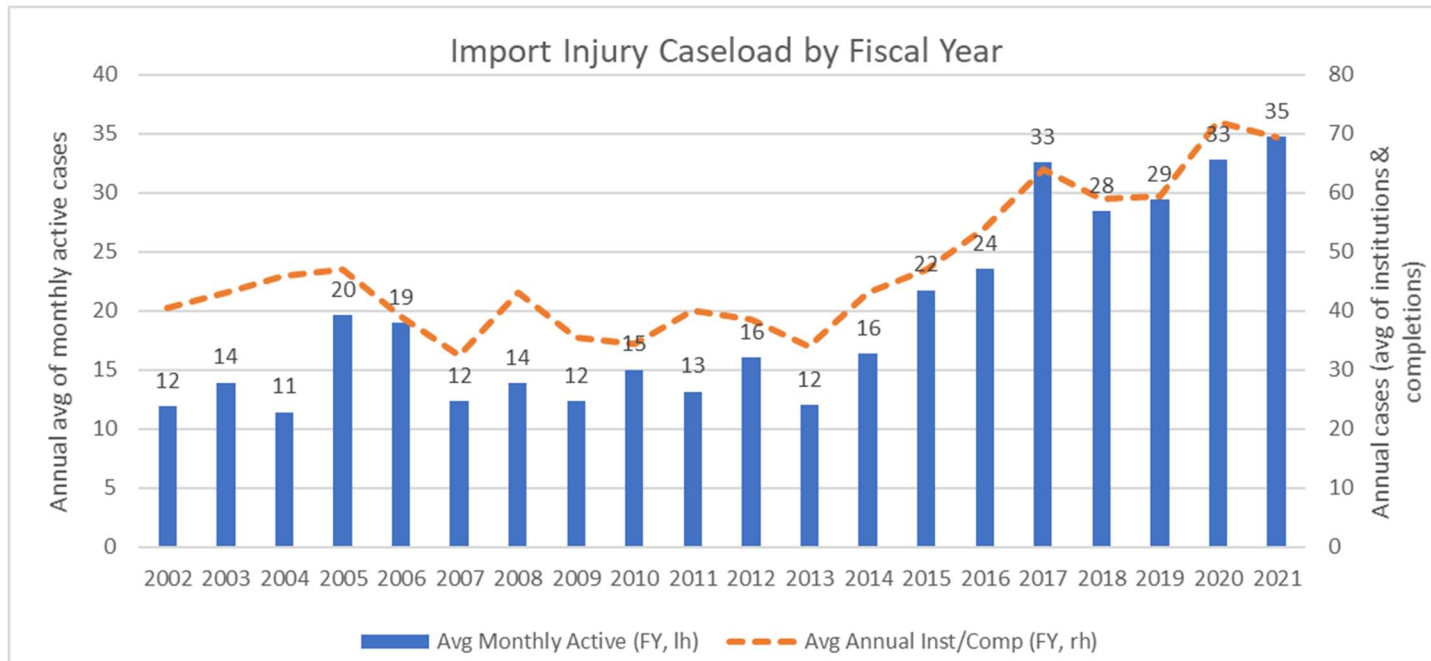
For FYs 2022 and 2023, we project that the number of new appeals challenging our import injury determinations will continue to remain at similar or increasing levels, reflecting the historically high number of new petitions filed in FYs 2020 and 2021, and the number of active investigations that were recently completed in FY 2021 or will be completed in FY 2022.

Trends in the investigative caseload and caseload estimates for FYs 2022 and 2023 are shown below.

Import Injury Investigations Caseload

Instituted and Completed Investigations

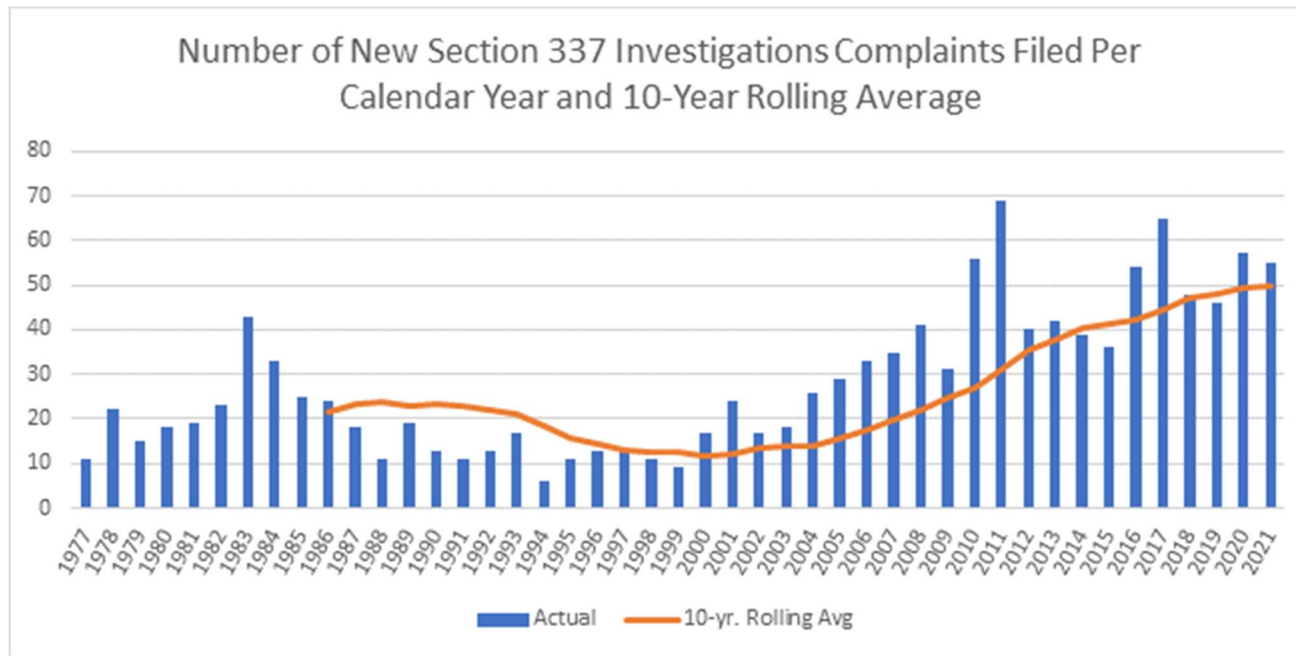
	Instituted							Completed						
	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Preliminary Title VII	20	18	15	26	11	17	17	17	18	19	25	12	17	17
Final Title VII	12	21	19	16	23	13	17	19	18	15	20	25	13	17
Other	2	0	3	3	1	3	3	0	2	2	2	2	2	3
Full review	11	7	6	5	9	11	11	11	11	7	6	5	8	11
Expedited review	17	10	16	25	17	29	24	15	13	17	16	23	25	27
Total	62	56	59	75	61	73	72	62	62	60	69	67	65	75



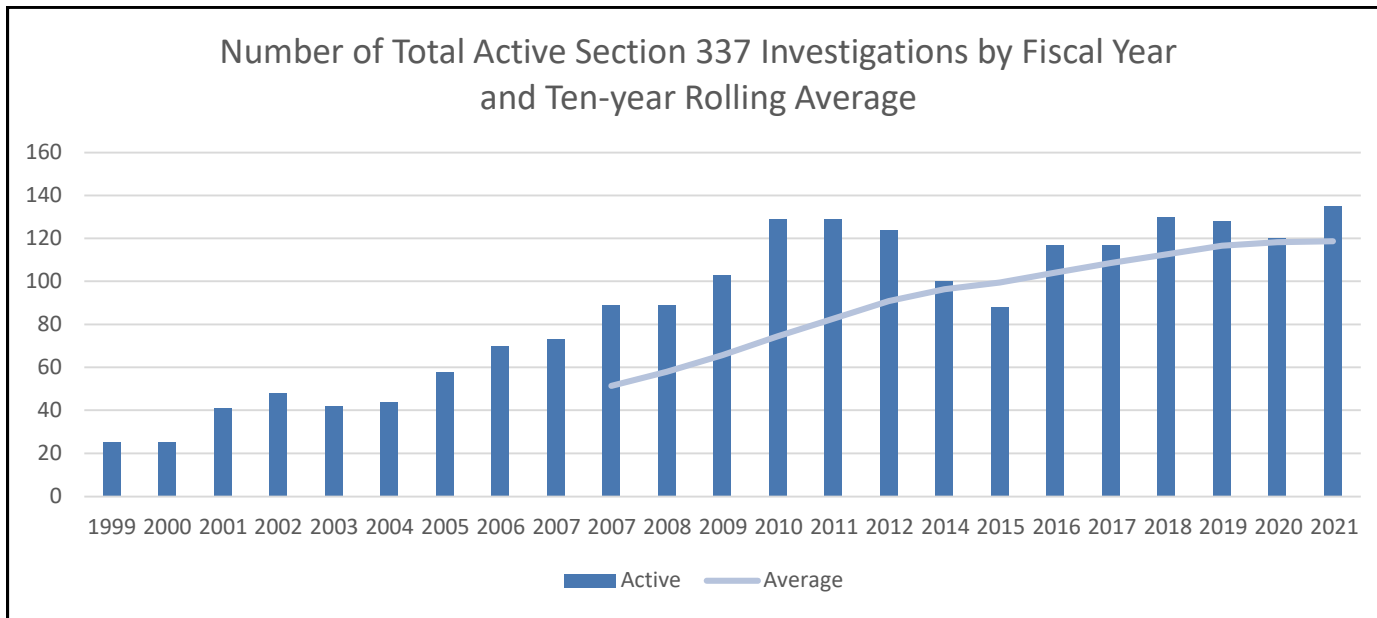
Unfair Import Investigations

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

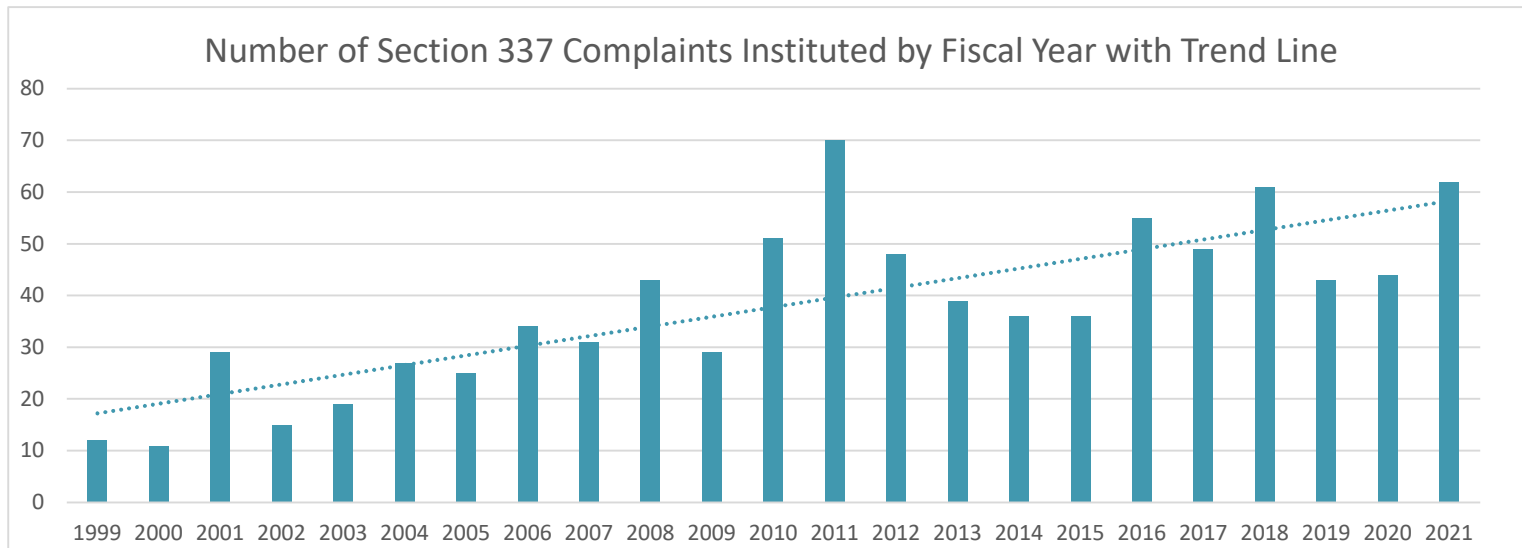
For nearly two decades, there has been an overall upward trend in new investigations filed year over year (as illustrated in the chart below). FY 2021 was no exception, and we expect the trend to continue in FYs 2022 and 2023. The Commission does not maintain data for the number of new complaints instituted by fiscal year dating back to 1976. However, it does report how many complaints are filed each calendar year over the same period. The number of complaints filed provides an indication of the level of work flowing into the agency because under section 337, prior to institution of an investigation, all complaints must be examined for (1) sufficiency and compliance with the applicable rules to determine whether they were properly filed; (2) identified sources of relevant information; and (3) assurance of the probable availability of evidence therein. This involves a substantial amount of work by the Commission and Office of Unfair Import Investigations. Thus, the chart below indicates how many complaints are being considered each calendar year.



To better understand workload trends, it is important to review the overall active investigations metrics by fiscal year. This number reveals how many investigations are active at the agency, not just the number of incoming investigations illustrated in the previous graph. The active investigation number is informed by the incoming number of investigations, the settlement rate, and any delays in reaching a final determination, whether internal or external. As the chart below demonstrates, the number of overall active investigations was at its highest in FY 2021.



In FY 2021, the settlement rate of section 337 investigations (i.e., the rate at which private parties settled their disputes or complaints were withdrawn) returned to previous normal rates, rising from an all-time low of 34 percent in FY 2020 to 62 percent in FY 2021. While this increase indicates that investigations are more likely to end in a settlement, consent order, or a complaint being withdrawn, there were also 82 new matters commenced during the fiscal year. As a result, the volume of investigations instituted in FY 2021 will continue to have an impact on workload in FYs 2022 and 2023.



The average length of an investigation on the merits in FY 2021 was 18.2 months, in part due to investigations impacted by the lapse in funding in FY 2019, but also because of the pandemic, as the inability to gather necessary discovery domestically and abroad due to the lockdowns delayed investigations. In addition, some evidentiary hearings were delayed while the Commission procured a FedRAMP-certified video teleconferencing platform secure enough to allow for presentation of confidential business information during evidentiary hearings.

While most section 337 investigations are based on patent infringement allegations, there has been an increase in investigations alleging unfair acts and methods of competition other than patent infringement, including claims based on trademarks, trade dress, false advertising, false designation of origin, and trade secret misappropriation. These investigations continue to make up approximately 12 percent of our investigations. The recent focus in both the executive and legislative branches on the protection of trade secrets highlights the importance of this part of our docket.² In addition, there continues

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

to be an increase in the number of investigations seeking general exclusion orders for consumer good items.

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

The spectrum of products and IP rights at issue in section 337 investigations is quite broad. The docket has included many investigations involving the importation of sophisticated electronic devices, such as smartphones, tablets, laptops, memory devices, and other 5G devices and this will likely continue. In FY 2021, we also adjudicated investigations involving pharmaceuticals and medical devices, transportation-related products, and products such as artificial eyelashes, stud finders, shingled solar modules, home security and HVAC systems, swabs used in medical testing, and decorative wood grain paper for use in furniture.

There is a substantial overlap between the industries that dominate our IP docket and the industries found in a Commerce study to be the most IP-intensive in the United States.³ The study found that these IP-intensive industries represent 29.8 percent of all jobs in the United States; that wages of private sector workers in IP-intensive industries were 46 percent higher than those of workers in non-IP-intensive industries; and that wages for workers in patent-intensive industries were over 74 percent higher than those of workers in non-IP-intensive industries. The study also found that the value added by IP-intensive industries amounts to more than 38 percent of the U.S. GDP. Our IP enforcement efforts therefore contribute to strengthening the U.S. economy and employment.

As noted above, one of our strategic goals is to investigate by conducting reliable and thorough investigations. The Commission aims

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

to make unfair import investigations expeditious and transparent. It also seeks to engage the public, including stakeholders and experts, and to collect all relevant data to inform and support investigations. The timely resolution of section 337 disputes is particularly important to patent holders because the duration of patents is limited. Speed is even more crucial when disputes involve high-technology products that tend to have short commercial life cycles. Thus, in accordance with congressional intent, it is important to conclude our unfair import-based investigations as quickly as possible. This goal has been challenging in recent years because of the volume and complexity of investigations. We continue to examine various options for shortening the length of investigations. For instance, we have implemented rules under which, in selected investigations, the Commission may identify a potentially case-dispositive issue at institution for the ALJ to adjudicate within the first 100 days of the investigation.

The Commission also introduced rules regarding the severing of investigations with unrelated patents and technologies into multiple investigations to divide a larger, more complex investigation into more manageable investigations. The Commission has also introduced a new pilot whereby an ALJ may identify an issue to resolve early in an investigation, take evidence on that issue, and then issue an interim initial determination. The purpose of these rules is to help us meet our strategic goal of issuing timely decisions while providing due process to litigants, allowing us to build sufficient factual records and maintain quality decision making. We also issued rules that would better align our section 337 subpoena practice with that of the federal courts.

We are also assessing ways to improve the effectiveness of the remedial orders that we issue. One issue frequently raised in this area is whether new and redesigned products are covered by an existing Commission exclusion order, cease and desist order, or consent order. U.S. importers, would-be importers, and IP rights holders have all expressed concern in recent years about how they can obtain timely, transparent, and binding decisions in this regard. In response, in FY 2015 we announced a pilot program to test the use of expedited modification and advisory opinion procedures to evaluate and rule on redesigned and new products that are potentially covered by our remedial orders. While modification and advisory opinion procedures have been available for years, we have set performance goals to streamline them to better meet the needs of those who may be affected by remedial orders. We have tested this pilot in 16 investigations since FY 2016, including three in FY 2021. Overall, this pilot decreased the length of time for these redesign proceedings.

In addition, we have been working to improve both our ability to report data involving section 337 investigations and the transparency of our data to the public. At the end of FY 2014, we launched 337Info, a searchable database providing data on

investigations instituted since October 1, 2008.⁴ Accessible from our website, 337Info offers members of the public easy access to information on scheduling, parties involved, patents at issue and unfair acts alleged, staff assigned, disposition of the investigation, and any appeals. 337Info has been incorporated into IDS, enhancing the current features of 337Info. This effort will also assist the Commission in managing its investigation data. We use information captured in 337Info to generate statistics to respond to internal and external inquiries about section 337. Besides 337info, since FY 2016, we regularly report statistics for section 337 through an enhanced website interface that includes average length of investigations, number of exclusion orders issued, types of accused products, types of unfair act allegations, number of patents at issue, and settlement rates. The new enhanced investigations database system will improve the process of capturing additional information and automate some of our reporting processes.

We continue to encourage and support settlement of cases by the parties involved in our section 337 investigations in several ways. These include ALJs ordering settlement discussions throughout the investigation; some ALJs requiring formal mediation; investigative attorneys fostering settlement efforts in those investigations in which they participate; and all parties having access to our mediation program. Settlements reduce the number of investigations in which we must make final determinations and conserve the resources of both litigants and the agency. These efforts resulted in an increase in settlements and withdrawal rates in FY 2021.

Appellate litigation pending at the U.S. Court of Appeals for the Federal Circuit stemming from section 337 investigations absorbs a significant share of employee resources in our Office of the General Counsel. We are typically successful in defending our determinations before the Federal Circuit. The table below displays the number of pending appeals at the end of each fiscal year, FYs 2012–21.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Number of pending appeals at end of FY	17	13	17	16	17	15	26	17	24	26

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

This is only a snapshot of the appellate litigation challenging section 337 determinations handled by the Office of the General Counsel. During FY 2021, there were 44 active section 337 litigation appellate matters, including 41 active Federal Circuit appeals (some of which were concluded prior to the close of the fiscal year, and are not counted above), one appeal in the U.S. Court of Appeals for the District of Columbia Circuit, and two civil actions in the U.S. District Court for the District of Columbia (none of which are counted above for the same reason).

For FYs 2022 and 2023, we anticipate a similar number of new appeals challenging section 337 determinations, based on the historical rate of appeals and the projected filings.

Trends in the investigative caseload and caseload estimates for FYs 2022 and 2023 are shown below.

Unfair Import Investigations Caseload

Instituted and Completed Original and Ancillary Investigations

Status	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Instituted	64	74	59	52	82	65	65
Completed	61	61	60	67	64	60	60

Tariff, Trade, and Competitiveness-related Analysis and Information

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

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

Except for requested confidential studies, we make available our industry and economic analysis and research freely to the public.

Industry and Economic Analysis

Investigations

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

External events that impact U.S. international trade and domestic competitiveness shape our requestors' needs and interests. Consequently, the nature, timing, and complexity of requests for these investigations are unpredictable and lead to wide variations in resources required to complete any specific investigation. Resource needs depend on such factors as the state of global

competition in specific sectors or with certain trading partners, emerging interests of policy makers in the Administration and Congress, the scope and scale of policy makers' requests, and the level of public information available related to the request. The interplay of these factors and their uncertainty make accurate forecasting of future workloads challenging.

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

Our investigations in most cases focus on issues that affect U.S. trade or important parts of the U.S. economy. Policy makers rely on us to produce expert analysis of the global competitiveness of U.S. industries and U.S. trade with specific countries or regions. Policy makers also rely on us to provide expert information about how narrowly focused policy changes—such as those affecting tariff preference programs or rules for determining a good's origin—may affect specific, often narrowly defined products. Recently completed reports include:

- *Renewable Electricity: Potential Economic Effects of Increased Commitments in Massachusetts*
- *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing*
- *Raspberries for Processing: Conditions of Competitiveness*
- *Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels, Vol. 2 (Final)*
- *COVID-19 Related Goods: The U.S. Industry, Market, Trade, and Supply Chain Challenges*
- *Economic Impact of Trade Agreements Implemented Under Trade Authority Procedures, 2021 Update*

The schedules for requested investigations often overlap with each other and with mission-critical work in other investigative areas. Moreover, requests often require us to develop or apply new analytic methods; collect and analyze unique primary data obtained through sector-specific questionnaires; or research and analyze new industries, competitive conditions, or trade barriers. During FY 2021, our employees executed multiple industry and economic analysis projects in tandem with other work projects required by statute, such as import injury investigations, trade policy support, tariff and trade information services, and petitions for temporary duty suspension or reduction.

Workload Expectations in FYs 2022 and 2023

In FYs 2022 and 2023, we expect the number of new investigations to be similar to or slightly higher than that of FY 2021, given the active trade policy agenda of the executive and legislative branches. In both fiscal years, we expect to administer, develop, and analyze up to two surveys, drawing on a relatively large amount of agency resources. We continue to advance our use of electronic survey tools and methods, which have contributed to productivity gains in recent questionnaire-based investigations.

Our staff periodically discusses recurring reports with the requestors to ensure their continued interest in the information provided or to learn whether we should furnish additional information to meet emerging needs. For FY 2022, in addition to the recurring reports, we anticipate responding to requests or statutory direction for new reports providing unique data and analysis. The reports will inform federal policy makers' efforts in international trade negotiations or in developing trade and other economic policies. Ongoing reports in FY 2022 include the following:

- *Distributional Effects of Trade and Trade Policy on U.S. Workers*
- *Foreign Censorship Part 1: Policies and Practices Affecting U.S. Businesses*
- *Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses*
- *Squash: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast*
- *Cucumbers: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast*
- *African Growth and Opportunity Act (AGOA)*
- *Monitoring of Fresh or Chilled Strawberries*
- *Monitoring of Fresh or Chilled Bell Peppers*
- *Foreign Trade Zones (FTZs): Operations and Conditions of Competitiveness in U.S. FTZs and Similar Programs in Canada and Mexico*

We anticipate a robust analytic workload in FYs 2022 and 2023 and have a performance goal of expanding our capability to anticipate and address new areas of economic and industry analysis. To achieve this goal, we will focus our research and data development work in high-interest areas like the following:

- Advancing our modeling capabilities, such as the flexibility and usability of partial equilibrium (PE) analysis to better capture the nuances of specific industries

- Expanding analysis in areas such as the distributional effects of trade and trade policy on U.S. workers; trade and the environment; trade impacts of COVID-19; and global supply chains
- Increasing our capabilities and knowledge concerning trade-related agreements and U.S. trade relationships

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

External factors that are likely to influence the scope and number of requests for analytical investigations in FYs 2022 and 2023 include, among others, the following:

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

To respond to these requests efficiently and effectively, we must recruit, develop, and maintain staff with a high level of expertise in industry, regional, and economic matters. Skilled personnel are our single most important resource and account for most of our budget request. Staff research and external communication and collaboration are vital to honing staff skills and developing information and analytic tools for use in requested investigations. We conduct these activities under the broad authority of sections 332(a) and (b) of the Tariff Act of 1930, often publishing our findings as articles or presenting them at international meetings of experts and multilateral institutions. We also develop expertise and make our research available through direct

interaction with many international and domestic agencies, at academic gatherings, and with private sector and worker associations. This engagement offers us an important forum for external technical review of new analytic approaches and often suggests new, relevant areas of potential interest. Staff travel is often necessary to share and gather knowledge from domestic and international experts, as well as to conduct critical field research for investigations.

During FYs 2022 and 2023, we will continue to invest in both our human capital and other resources to ensure that we can provide high-quality trade- and competitiveness-related analysis and information to policy makers in both the executive and legislative branches. We invest funds to ensure that we can respond efficiently and effectively to requests from Congress and the Administration through the continuous acquisition, development, and improvement of analytic tools, information resources, and research approaches, including survey methods and statistical, econometric, and simulation analyses. These funds are primarily spent on information databases, expert consulting services, and specialized software. Staff collaborates with outside experts to update models so that we can better estimate the impact of policies affecting U.S. workers, U.S. affiliates abroad, energy markets, commodity supply chains, and nontariff measures affecting both goods and services trade.

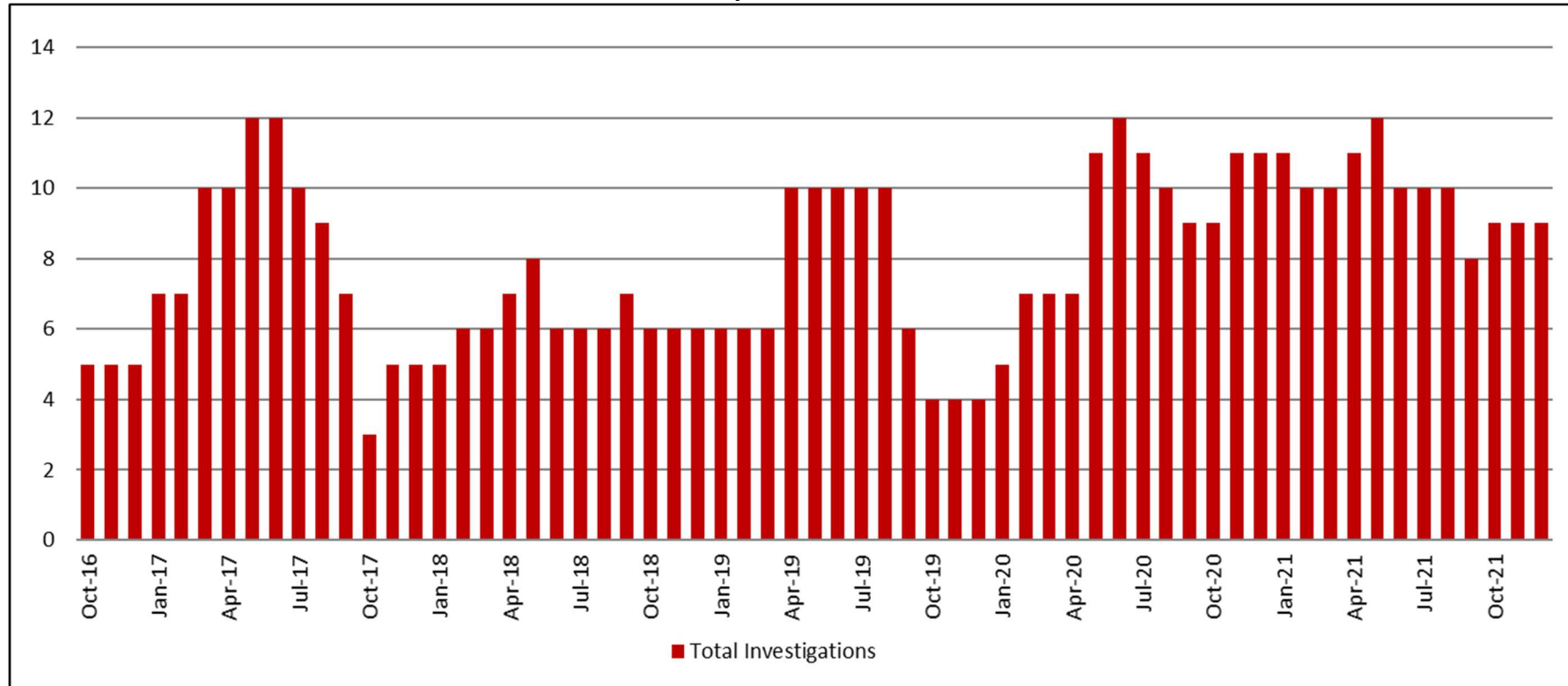
Trends in the investigative caseload and caseload estimates for FYs 2022 and 2023 are shown below. Of course, these caseload data do not reflect the increasing complexity of these investigations.

Industry and Economic Analysis Investigations Caseload

Instituted, Completed, and Active Recurring Investigations

Status	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Instituted	5	5	7	10	6	7	7
Completed	5	4	9	5	6	8	7
Active Recurring	7	6	6	5	5	5	5

Monthly Active Caseload



Tariff and Trade Information Services

The USITC maintains and publishes the Harmonized Tariff Schedule of the United States (HTS) under the Tariff Act of 1930 and section 1207 of the Omnibus Trade and Competitiveness Act of 1988 (1988 Act). In line with this mission, we strive to improve access to high-quality, up-to-date tariff and international trade information and to reinforce our technical expertise in these areas to support the executive and legislative branches, the broader trade community, and the public. We maintain online interactive and in-house databases and an online HTS search tool; chair the U.S. interagency Committee for Statistical Annotation of Tariff Schedules; conduct investigations under section 1205 of the 1988 Act to propose certain HTS amendments to the President to meet our international obligations; and participate in the U.S. delegation to the World Customs Organization (WCO). Staff expertise in these areas strengthens our investigative work, as well as the trade policy support that we give to the executive and legislative branches. We also provide technical reports to Congress on miscellaneous tariff bill legislation and advise the USTR on aspects of the trade agreements program. We completed an investigation under section 1205 of the 1988 Act in FY 2021 to modify the HTS to concord with changes to the Harmonized System at the WCO. These modifications were made to the HTS in January 2022.

Maintenance of the Harmonized Tariff Schedule of the United States

Maintaining and ensuring access to an accurate and up-to-date tariff schedule is of critical importance to the U.S. government and the private sector. U.S. Customs and Border Protection (CBP) relies on the HTS in collecting all tariff revenues and fees, which were estimated to be \$61.4 billion assessed on \$2.1 trillion in imports in FY 2021. U.S. importing firms rely on the HTS for accurate information in importing all goods into the country. As noted above, the HTS is the most heavily used tariff schedule in the world, based on the volume of trade covered. The HTS underlies the U.S. trade data maintained by the U.S. Census Bureau (Census), enables anyone interested in trade information to find tariff codes and rates, and is critical to CBP managing its trade enforcement activities.

The Harmonized Tariff Schedule of the United States Annotated consists of the HTS, its statistical annotations, and other related information. In addition to its tariff schedule management responsibilities, the Commission chairs the interagency Committee for Statistical Annotation of the Tariff Schedules in coordination with CBP and Census. That committee administers statistical breakouts

for tracking specific goods, if certain criteria are met. We also participate in or lead the U.S. delegation to various committees of the WCO. Continued funding for staff to attend WCO-related meetings is an agency priority as part of U.S. government efforts to ensure that the international tariff nomenclature takes U.S. economic interests into account.

In FY 2021, we prepared and electronically released a preliminary Basic Edition, the Basic Edition, and 18 HTS revisions. Prior to FY 2018, the USITC typically made only two or three HTS revisions annually. The HTS Data Management System allows staff to incorporate legal modifications to the HTS proclaimed by the President, such as tariff rate increases on national security grounds or otherwise approved changes. That system also increases efficiency by automatically revising yearly staged rate reductions for products entering the United States under various free trade agreements. In its trade agreements, the United States and its trading partner(s) commit to eliminate tariffs on trade between them on a staged schedule (typically 5, 10, and 15 years, depending on the import sensitivity of the products). These tariff rate reductions occur at the beginning of each calendar year and are included in the annual Basic Edition.

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

Revisions to the Harmonized Tariff Schedule of the United States

Number of Revisions	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual
	4	2	3	15	20	28	18

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

Other Online Tariff-related Services

The Commission provides a publicly available online system, known as the HTS Search, to access and search the HTS for current tariff information. In FY 2021, over 1.90 million visitors used the HTS Search system.

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

The unique content we offer as the official manager of the HTS ensures that we will continue to be a “go-to” source for the business community, domestic and foreign government agencies, and taxpayers.

Trade Policy Support

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

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

Providing trade policy support falls under our strategic goal of developing sound and informed analyses and determinations. We use regular communication and formalized feedback mechanisms to help us anticipate policy makers' needs and proactively develop expertise to meet a high volume of requests for assistance.

In FY 2021, trade policy support requests covered a broad range of topics and issues. The variety of these requests underscores the wide scope of current trade policy issues, as well as recognition of our unique capabilities and expertise. We anticipate that the volume of trade policy support requests for FYs 2022 and 2023 will remain high. Congressional interest in obtaining real-time assistance with draft legislation and emerging policy issues is expected to continue, as is executive branch interest in our support of negotiating teams and appearances before the World Trade Organization. In some instances, we have met our requestors' requirements by detailing our staff to congressional oversight committees or to the U.S. Trade Representative. As budget and statutory workload permit, we may continue to detail a limited number of staff to these entities, on their request.

Information Technology

General Statement

The Commission is committed to leveraging the power of IT to transform agency operations, improve the customer experience, and safeguard our computer networks and information. Our IT program is critical to achieving our strategic goals and objectives, managing risk, and creating value for our stakeholders. Our FY 2023 budget request of \$122.4 million includes \$11.4 million to operate and maintain existing IT systems, infrastructure, and security; supply the IT resources needed to enhance systems; accommodate increased cybersecurity requirements; and modernize our disaster recovery capabilities by continuing our use of cloud-based technologies.

Approximately 90 percent of our IT budget is directly related to maintaining or enhancing the Commission's cybersecurity posture. As threat actors become more proficient at locating and attacking technical vulnerabilities, it is important that even the most mundane IT administration activities continue unimpeded to mount a viable defense and reduce the number of exploitable vulnerabilities, in both hardware and software. These activities include, but are not limited to, operations and maintenance of existing systems, software upgrades and replacement, lifecycle replacement of key components, and continuous monitoring and reporting. In FYs 2020 and 2021, there were numerous mandates issued to address industry- and government-wide security incidents. We expect these incidents to continue as threat actors and technologies continue to evolve, thus reinforcing the importance of receiving adequate IT funding.

Supporting the Agency's Mission

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

Harmonized Tariff Schedule of the United States (HTS): Maintaining and ensuring access to an accurate and up-to-date tariff schedule is of critical importance to the U.S. government and private sector. U.S Customs and Border Protection relies on the HTS in

collecting all tariff revenues and U.S. import firms rely on the HTS for accurate information in importing all goods into the country. HTS user sessions remained at all-time high levels with over 8.5 million sessions in FY 2021, further illustrating that the peaks seen in FYs 2019 and 2020 are now more the norm than the exception.

Electronic Document Information System (EDIS): EDIS is the repository for all documents filed in connection with any investigations conducted by the Commission. EDIS provides the capability to file documents for an investigation, as well as search for submitted documents. It also supports the processing and review of documents internally. In FY 2021, we modernized EDIS's capability to electronically serve documents (eService) to external users under an administrative protective order (APO) for an investigation by allowing secure electronic access to designated public documents. In FY 2022, EDIS eService will be expanded to make it possible for the Commission to electronically serve confidential documents.

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

In FY 2021 we enhanced EDIS to support full integration with the Investigations Database System (IDS), further improving the level of service provided by each. Through the IDS project, we are reviewing all of our investigations and assessing the data needs of each type. Needs can include status monitoring, daily execution tasks, general reporting needs, opportunities to standardize shared or similar data points, and improved accessibility of data internally and to the public. The IDS makes it easier to intake, manage, and share investigation data, focusing on data related to Title VII, section 337, and factfinding investigations. By standardizing and centralizing our investigative data in one consolidated system, we improved the level of services provided.

Information Security

We will continue to strengthen our security posture in FY 2023 by investing in new technologies, processes, and capabilities in line with mandates and best practices.

Continuous Diagnostics and Mitigation (CDM): We have internally implemented the four technical capabilities identified within phase 1 of the Department of Homeland Security's CDM program: (1) hardware asset management, (2) software asset management, (3) vulnerability management, and (4) configuration settings management. We use these capabilities to maintain our awareness of information security vulnerabilities and threats and to manage organizational risk. In FY 2023, we will continue to refine these capabilities internally.

Security Controls Assessments (SCAs): We continue to conduct SCAs on all of our defined IT systems. An SCA is a due-diligence exercise that uses a comprehensive, documented process to evaluate the extent to which an agency's security controls are implemented correctly, operating as intended, and meeting the security requirements for an information system. These assessments are needed to issue an Authority to Operate (ATO) for each defined system, and they must be recertified every three years. USITC has a well-defined ATO process for both internal and cloud-based systems which utilizes a continuous monitoring model. In FY 2023, we will continue to mature our programs and maintain ATOs for all mission-essential systems.

Multifactor Authentication: We implemented Homeland Security Presidential Directive 12 (HSPD-12) at our agency in FY 2016, enforcing multifactor authentication (i.e., a personal identification verification card plus a personal identification number) for system access. In FY 2021 and continuing into FY 2022, we expanded multifactor authentication to include internal and external applications. Utilizing login.gov, we continue to integrate this capability with applications to reduce the number of application-based login systems and alleviate the need for members of the public to maintain separate login credentials for multiple .gov applications.

Data Loss Prevention (DLP): We are currently able to detect the transmission of personally identifiable information (PII) via a scanner system that monitors all network transmissions in real time for certain PII patterns (primarily Social Security numbers) and a forensic network packet recorder that records all network transmissions for later retrieval and analysis. This recorder can also search for arbitrary text patterns such as PII keywords. We have implemented a DLP solution that reviews data in emails sent externally

from an internal agency address (i.e., email exfiltration) to prevent email containing PII, such as Social Security numbers and dates of birth, from being transmitted outside the agency's network. In FY 2023, we will continue to optimize our monitoring and increase our ability to retain audit data to better analyze trends.

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

Implementing Zero Trust: Zero Trust is a strategic initiative designed to prevent data breaches by eliminating trust within a network architecture. In the event of a successful network breach, a threat actor is prevented from moving from asset to asset. While significantly more complicated to implement in many legacy networks, it provides a greater level of protection. In FY 2023, USITC will continue to take steps to implement zero trust throughout its entire network infrastructure.

Digital Systems Modernization

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

The USITC website (www.usitc.gov) is the most important digital service that we offer for public engagement, with over 780,000 visitors accounting for over 1.3 million site visits in FY 2021. It provides tariff information, industry and economic research, and trade data to the general public. We have identified four additional Commission digital services as having a significant role in public engagement: the EDIS, DataWeb, the Miscellaneous Tariff Bill Petition System (MTBPS), and the HTS web applications. All four services are modern and accessible, and they meet the technical, functional, and security requirements of new websites and digital services. The agency remains committed to modernizing and enhancing its digital services using data-driven analysis to ensure that they address user needs, and that all new websites and digital services will comply with the requirements of the 21st Century IDEA.

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

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The Office of Inspector General

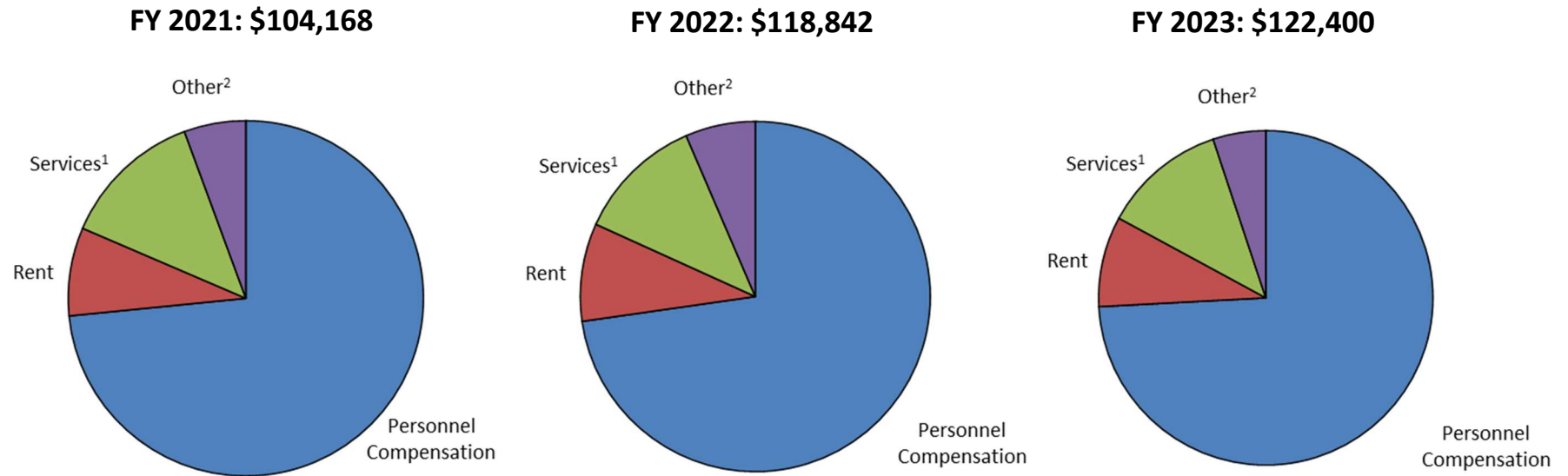
The USITC's Office of Inspector General (OIG) conducts audit, evaluation, inspection, and investigative activities covering all Commission programs and strategic operations. Its mission is to promote and preserve the agency's effectiveness, efficiency, and integrity. By statute, the OIG is required to perform six reviews in FY 2022. The OIG uses contractor support to perform the DATA Act audit, which will be issued in FY 2022, and the independent audit of our annual financial statement. In-house staff will perform the remaining four reviews. In addition to these reviews, and based on available resources, the OIG has identified 11 potential areas for review in its FY 2022 Annual Audit Plan.





At approximately \$256,000, the OIG's non-personnel budget request for FY 2023 represents a nearly \$12,000 increase to the amount of funding requested for FY 2022. Included in the FY 2023 request is \$188,100 for contractual services, \$27,000 for technical equipment and supplies, and about \$3,700 for the OIG's annual contribution to the Council of Inspectors General on Integrity and Efficiency. The OIG request also includes \$18,700 for travel and \$18,700 for training to meet the office's continuing requirements for professional education in leadership, technical knowledge, and other skills. The Commission's budget request contains enough resources to support five full-time staff members in FY 2022 and an increase to six in FY 2023.

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Obligations: Comparison by Budget Object Classification, Fiscal Years 2021–23

(Dollar amounts in thousands)



CATEGORY OF OBLIGATION		FY 2021 Actual		FY 2022 Request		FY 2023 Request	
		Dollars	Percent of Total	Dollars	Percent of Total	Dollars	Percent of Total
Personnel Compensation		\$76,806	73.7%	\$86,439	72.7%	\$90,780	74.2%
Rent		8,269	7.9%	10,741	9.0%	10,698	8.7%
Services		13,308	12.8%	13,983	11.8%	14,677	12.0%
Other		5,785	5.6%	7,679	6.5%	6,245	5.1%
TOTAL		\$104,168	100.0%	\$118,842	100.0%	\$122,400	100.0%

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

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

²“Other” includes budget object classes such as equipment, supplies, communications and equipment rental, travel, training, printing and reproduction, land and structures, postage and contractual mail, and transportation.

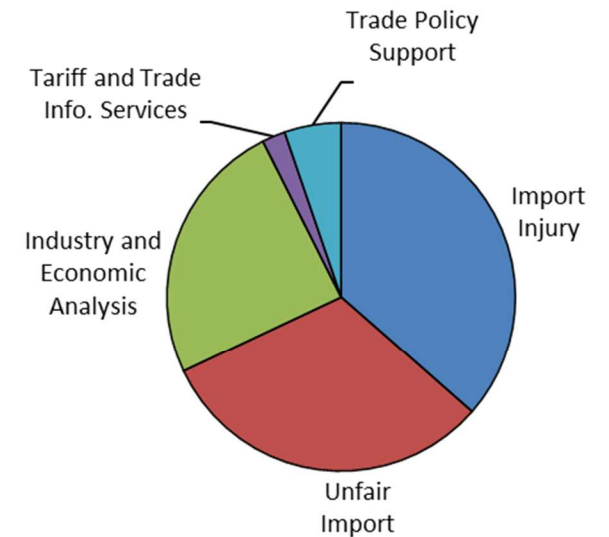
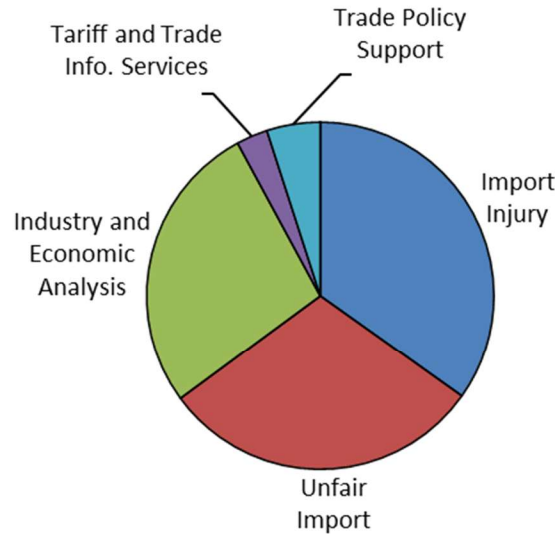
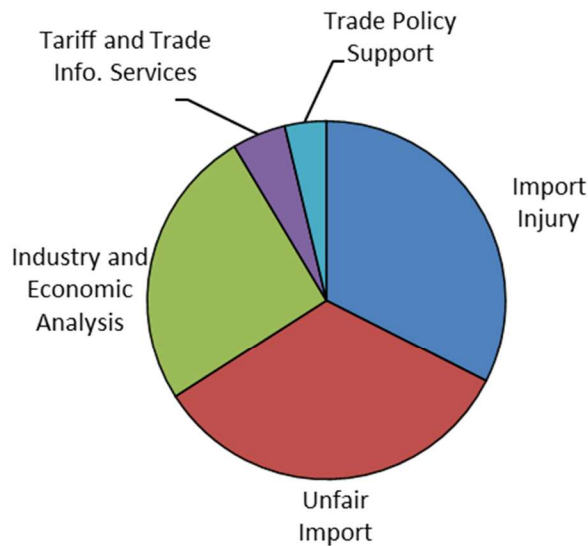
Obligations: Comparison by Strategic Goal, Fiscal Years 2021–23

(Dollar amounts in thousands)

FY 2021: \$104,168

FY 2022: \$118,842

FY 2023: \$122,400



CATEGORY OF OBLIGATION	FY 2021 Actual		FY 2022 Request		FY 2023 Request	
	Dollars	Percent of Total	Dollars	Percent of Total	Dollars	Percent of Total
Trade Remedy Investigations (Strategic Goal 1)						
Import Injury	\$33,819	32.5%	\$41,389	34.8%	\$44,633	36.5%
Unfair Import	34,880	33.5%	35,744	30.1%	38,589	31.5%
Tariff, Trade, and Competitiveness Related Analysis and Information (Strategic Goal 2)						
Industry and Economic Analysis	26,527	25.5%	32,319	27.2%	30,101	24.6%
Tariff and Trade Information Services	5,043	4.8%	3,468	2.9%	2,634	2.2%
Trade Policy Support	3,899	3.7%	5,922	5.0%	6,443	5.3%
TOTAL	\$104,168	100.0%	\$118,842	100.0%	\$122,400	100.0%

Analysis of Change by Budget Object Classification, Fiscal Years 2021–23

(Dollar amounts in thousands)

	FY 2021 Actual	FY 2022 Request	FY 2023 Request	FY 2022–23 Change	Percentage Change
Personnel Obligations	\$76,806	\$86,439	\$90,780	\$4,341	5.0%
Non-personnel Obligations					
Rent	\$8,269	\$10,741	\$10,698	-\$43	-0.4%
Services	13,308	13,983	14,677	694	5.0%
Supplies	2,006	1,932	1,997	65	3.4%
Equipment	1,772	2,507	1,770	-737	-29.4%
Travel	8	534	411	-123	-23.0%
Training	370	600	641	41	6.7%
Communications and Equipment Rental	1,263	1,683	895	-788	-46.8%
Printing and Reproduction	370	344	355	11	3.0%
Official Reception and Representation	0	4	4	0	0.0%
All Other (Transportation, Postage, Land and Structures, Credit Card Rebates)	-2	74	172	98	132.4%
Subtotal Non-personnel Obligations	\$27,362	\$32,403	\$31,620	-\$783	-2.4%
Total Obligations	\$104,168	\$118,842	\$122,400	\$3,558	3.0%

Summary of Changes from the FY 2022 Budget Request

(Dollar amounts in thousands)

Personnel Obligations

Personnel +\$4,341

Personnel obligations are expected to increase by about \$4.3 million. This funding is required to sustain the human capital investments that we plan to make in FY 2022, commensurate with our record high caseload. What was originally expected to be a temporary surge in caseload has proven to be a structural change in its volume and complexity. To illustrate, we experienced a record number of petitions and preliminary-phase import injury investigations in FY 2020. In FY 2021, we completed a record number of final-phase investigations – five, or 25%, more than the prior fiscal year, and more than twice as much as the average of 10 investigations for fiscal years 2011 to 2020. We project a sustained high overall caseload for import injury investigations and reviews, estimating 73 investigations instituted in FY 2022 and 72 instituted in FY 2023.

Further, in FY 2021, our section 337 workload reached the highest level of activity to date and due to the increase in the number of new investigations in FY 2021, we anticipate that there will be a high number of active cases throughout FY 2022 and into FY 2023. Additionally, in FY 2022 we expect the number of new incoming factfinding reports to increase over FY 2021 and remain steady into FY 2023. Lastly, compared to two or three revisions in a typical year, in FY 2021, we prepared and published 18 revisions of the HTS (in addition to releasing a preliminary Basic Edition and the annual Basic Edition for January 1, 2021). We expect that a similar number of revisions will be necessary for FYs 2022 and 2023.

This funding level will also cover an anticipated 2.5 percent pay raise effective January 1, 2023, and pay for the normal cost of employee promotions, within-grade increases, and increased benefits.

Non-Personnel Obligations

Rent -\$43

FY 2023 rent obligations are expected to remain stable; the \$43,000 decrease reflects an adjustment to real estate taxes.

Services.....+\$694

Services obligations are expected to increase by \$694,000. Additional resources are requested to fund end-of-life network area storage replacement, cyber security investments, and technologies to improve the transfer and management of data over the network.

Supplies+\$65

Supplies obligations reflect an inflationary increase.

Equipment.....-\$737

Equipment obligations are expected to decrease by \$737,000, which reflects the FY 2022 lifecycle replacement of IT equipment that is not included in the FY 2023 request.

Travel.....-\$123

Travel obligations are projected to decrease and align with post-pandemic travel expectations. This request will sufficiently fund statutory investigations, anticipated studies, knowledge development in emerging trade issues and priority areas, representational travel to international organization meetings, litigation support, and multilateral and regional agreement negotiation support.

Training.....+\$41

Training obligations are expected to increase \$41,000, which will provide sufficient funding for developing and advancing staff skills and meeting the licensing, certification, and professional education requirements of existing and newly hired staff.

Communications and Equipment Rental.....-\$788

Communications and equipment rental obligations are expected to decrease by \$788,000, which reflects the savings associated with migration to the General Services Administration’s Enterprise Infrastructure Solutions contract for our telecommunications requirements. It is important to note that these savings may be repurposed to increase bandwidth and make long-overdue infrastructure upgrades (refer to the increase in services obligations).

Printing and Reproduction.....+\$11

Printing and reproduction obligations reflect an inflationary increase.

All Other (Official Reception and Representation, Transportation, Postage, Land and Structures, Credit Card Rebates).....**+\$98**

Land and structures obligations are expected to increase to fund building modifications to improve post-pandemic operations.

Net Non-Personnel Obligations Changes.....-\$783

Total Adjustment to Base (\$118,842).....+\$3,558

Total FY 2023 Budget Request.....\$122,400

The Commissioners

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

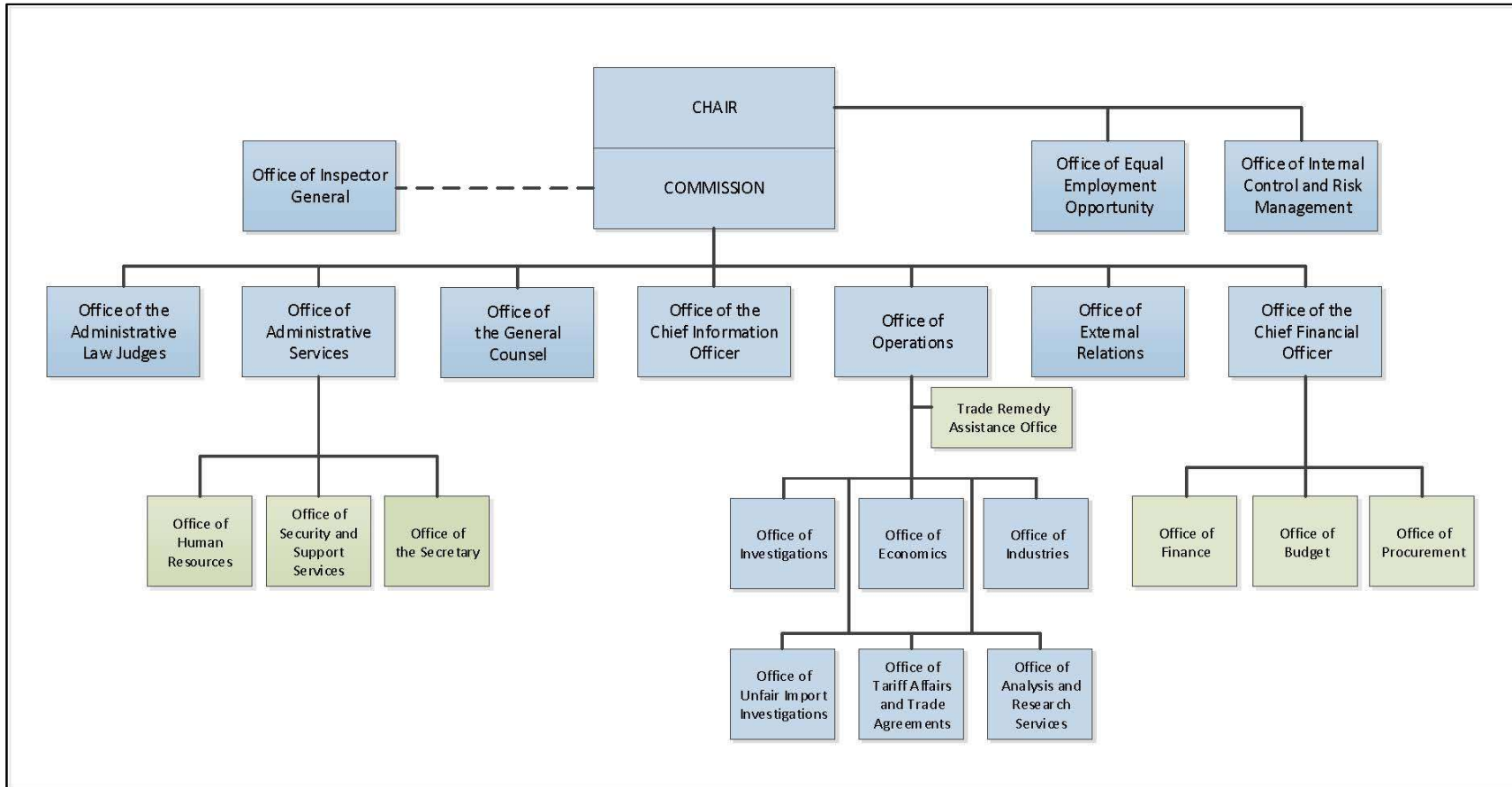
Each commissioner serves a term of nine years, unless appointed to fill an unexpired term. The terms are set by statute and are staggered such that a different term expires every 18 months.⁶ A commissioner who has served for more than five years is ineligible for reappointment. A commissioner may, however, continue to serve after the expiration of his or her term until a successor is appointed and qualified. Congress's desire to create an independent and nonpartisan Commission is evident in the rules that dictate the composition of the Commission. No more than three commissioners may be members of the same political party. The Chair and the Vice Chair are designated by the President⁷ and serve for a statutory two-year term. The Chair may not be of the same political party as the preceding Chair, nor may the President designate two commissioners of the same political party to serve as the Chair and Vice Chair. Currently three Democrats and two Republicans serve as commissioners.

⁵ Currently, there is one vacancy.

⁶ 19 U.S.C. § 1330.

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

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



Current Permanent and Term Staffing Plan and Target Staffing Levels

Office	Permanent and Term Positions		
	FY 2022 Staffing Plan	Onboard as of 1/24/2022	Gap
Commissioners	38	29	9
External Relations	4	3	1
Internal Control & Risk Management	4	4	0
Inspector General	5	4	1
General Counsel	53	49	4
Administrative Law Judges	26	23	3
Equal Employment Opportunity	2	1	1
Chief Information Officer	38	36	2
Subtotal: Other Offices	170	149	21
Operations	6	4	2
Analysis and Research Services	28	22	6
Investigations	31	32	-1
Unfair Import Investigations	25	24	1
Economics	44	38	6
Tariff Affairs and Trade Agreements	14	13	1
Industries	77	64	13
Subtotal: Operations	225	197	28
Chief Financial Officer	3	3	0
Budget	3	3	0
Finance	6	6	0
Procurement	6	6	0
Subtotal: Chief Financial Officer	18	18	0
Administrative Services	5	5	0
Human Resources	12	11	1
Security and Support Services	11	10	1
Secretary and Dockets	20	20	0
Subtotal: Administrative Services	48	46	2
Commission Total	461	410	51

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

The End.



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