



# **Strategic Human Capital Plan 2009-2013**



**January 2010**

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**Commissioners:**

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Office of the Chairman



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## UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

January 29, 2010

CO80-HH-001

### MEMORANDUM

TO: COMMISSION STAFF

FROM: The Chairman

SUBJECT: The Commission's Strategic Human Capital Plan for 2009-2010

I am pleased to present to you the Commission's new Strategic Human Capital Plan, covering 2009-2013. Human capital is the Commission's most important resource, so planning for an appropriate workforce is essential to the fulfillment of the Commission's mission.

The Commission issued the first edition of the Plan, called the Strategic Human Capital Management Plan, in 2005. The agency's experience since that time led the Commission to determine that it was necessary to revisit that Plan to ascertain whether organizational and other changes were called for to ensure that the agency is in the best position to carry out its responsibilities. To that end, the Commission requested the Strategic Planning Committee ("SPC") to examine these issues and to make recommendations. Beginning in June 2008, the SPC met with office directors to develop staffing plans and assessed other human resource issues ranging from fluctuations in workload, to the role of contractors, and retention and recruitment of personnel. Draft recommendations from the SPC were delivered to the Commission in March 2009 and input was also received from staff under the auspices of the Labor-Management Partnership Council.

The new Plan reflects these discussions and deliberations. For each office, the Plan includes a narrative as well as a series of staffing charts. The first chart in each instance, entitled "Current State," is a snapshot of the state of the office as of the date indicated. The other chart, entitled "Future State," shows how the office will look after the changes contemplated by the Plan are made. Recognizing that the human capital situation is not static (because of the evolving nature of the Commission's work), the Commission anticipates revisiting the Plan with each new Chairmanship.

Among the key changes effected by the Plan are the following:



- The Plan realigns the Office of Operations to include an Office of Analysis and Research Services. This new office will include the Research Library, Knowledge Management, Editorial Services, and Statistical Analysis and Data Services.
- The Plan realigns the Office of Administration to comprise the new Offices of Docket Services and Procurement, as well as the Offices of Human Resources, Facilities Management, and Finance. The creation of the new Office of Docket Services involves the move of the Docket Services Division staff from the Office of the Chief Information Officer. The creation of the Office of Procurement involves the move of the procurement staff from the Office of Facilities Management.
- The Plan realigns the Office of the Chief Information Officer to comprise the new Office of Enterprise Security Management as well as the Office of Information Technology Services. The Office of Enterprise Security Management incorporates the staff of the Information Security and Infrastructure Management Division.

The Plan also effects staffing and organizational changes within offices, such as the realignment of divisions, the creation of new positions, and shifts in the use of contractor personnel.

The Commission also has requested the Director of Human Resources to prepare and issue a Human Resources Handbook that incorporates a number of policies that the SPC recommended and that the Commission has adopted. These policies, in general, embrace a flexible, and practical, approach to workforce requirements. For example, office directors will possess latitude in shifting between permanent and term staffing for specific positions and will be able to use temporary and/or contract employees to meet unexpected and short-term work requirements. Additionally, the subject of management structure (including supervisory ratios) and procedures for creating higher graded positions will be addressed there.

The Plan describes certain changes relating to offices with responsibility for the administration of Section 337 that were proposed, considered, but which have not at this time been adopted by the Commission. The Commission has not yet approved final staffing plans for the Offices of the General Counsel and Unfair Import Investigations. This is because a review of Strategic Operation No. 2, Intellectual Property-Related Investigations, is ongoing. The current Plan similarly does not affect the Office of the Administrative Law Judges.

In developing the Plan, the Commission sought to address a number of human resource-related issues.

- *Technical expertise.* The Commission must preserve its long tradition of outstanding investigative, economic, industry, technical, and legal expertise and its ability to conduct analyses and make judgments in an objective, independent manner. The agency must continuously focus on identifying and obtaining the necessary skill sets, which often cross cut between Strategic Operations, to meet customer needs.
- *Flexible workforce.* To support a mission that involves a variable workload, the Commission must continue to build a workforce that is flexible. Reaching this goal will require developing multiple skill sets and organizational structures so that more employees can quickly and seamlessly move from one type of assignment to another as the need arises.





- *Diversity.* By recruiting across the full spectrum of the labor market, the Commission will enhance its ability to acquire a qualified and diverse workforce. The Commission will develop plans for recruitment that will employ all available hiring authorities.

The Commission recognized in developing the Plan that the agency faces a number of other challenges. These include increasing requirements imposed by Congress and the executive branch in the areas of information and personnel security, and the need to respond to regular audits of human resources management, financial statements, and information security.

As indicated above, the Commission's workload is subject to significant fluctuations among the agency's various areas of responsibility. The agency has seen a very large increase in demand for resources in Strategic Operation No. 2, Intellectual Property-Related Import Investigations. Demand has fluctuated with respect to Strategic Operation No. 1, Import Injury Investigations, and Strategic Operation No. 3, Industry and Economic Analysis, while remaining relatively stable in Strategic Operation No. 4, Tariff and Trade Information Services, and Strategic Operation No. 5, Trade Policy Support.



## Strategic Planning Committee FY 2010 Staffing Plan

Office	CURRENT						FUTURE					
	FY 2008 Commission Plan			Current On Board December 1, 2009			FY 2009 Office Requests			FY 2009 SPC Proposed		
	Perm.	Term(s)	Total	Perm.	Term(s)	Total	Perm.	Term(s)	Total	Perm.	Term(s)	Total
Commissioners' Offices	31		31	28		28	31		31	31		31
Equal Employment Opportunity	2		2	2		2	2	1	3	2		2
Inspector General	4		4	1		1	3		3	3		3
General Counsel <sup>1</sup>	43	1	44	43		43	44		44	43		43
Administrative Law Judges <sup>2</sup>	16	4	20	18	3	21	18	4	22	18	4	22
External Relations	5		5	5		5	5		5	5		5
Secretary	7		7	7		7	7		7	7		7
<b>Subtotal Independent Offices</b>	<b>108</b>	<b>5</b>	<b>113</b>	<b>104</b>	<b>3</b>	<b>107</b>	<b>110</b>	<b>5</b>	<b>115</b>	<b>109</b>	<b>4</b>	<b>113</b>
Operations, Director	15		15	11		11	15		15	5		5
OARS <sup>3</sup>										12		12
Investigations	37	1	38	33		33	36	1	37	35		35
Unfair Import Investigations <sup>2</sup>	21		21	23		23	24	1	25	21		21
Economics <sup>4</sup>	45	3	48	37	6	43	45	4	49	38	6	44
Tariff and Trade Agreements	14		14	13		13	14		14	14		14
Industries	100		100	85		85	95		95	91		91
<b>Subtotal Operations</b>	<b>232</b>	<b>4</b>	<b>236</b>	<b>202</b>	<b>6</b>	<b>208</b>	<b>229</b>	<b>6</b>	<b>235</b>	<b>216</b>	<b>6</b>	<b>222</b>
Chief Information Officer	5		5	6		6	5		5	5		5
Information Technology Services	20	4	24	14	1	15	21	4	25	21	1	22
Enterprise Security Management	6		6	5		5	6		6	6	1	7
<b>Subtotal Chief Information Officer</b>	<b>31</b>	<b>4</b>	<b>35</b>	<b>25</b>	<b>1</b>	<b>26</b>	<b>32</b>	<b>4</b>	<b>36</b>	<b>32</b>	<b>2</b>	<b>34</b>
Administration, Director	5	1	6	6		6	6		6	6		6
Facilities Management	7		7	6		6	7		7	6		6
Human Resources	7		7	6		6	8		8	8		8
Finance	5		5	4		4	6		6	6		6
Procurement	4		4	3		3	4		4	4		4
Dockets (currently in CIO)	9		9	9		9	12	2	14	12	2	14
<b>Subtotal Administration</b>	<b>37</b>	<b>1</b>	<b>38</b>	<b>34</b>	<b>0</b>	<b>34</b>	<b>43</b>	<b>2</b>	<b>45</b>	<b>42</b>	<b>2</b>	<b>44</b>
<b>COMMISSION TOTAL</b>	<b>408</b>	<b>14</b>	<b>422</b>	<b>365</b>	<b>10</b>	<b>375</b>	<b>414</b>	<b>17</b>	<b>431</b>	<b>399</b>	<b>14</b>	<b>413</b>

<sup>1</sup> GC staffing on-board includes one overhire, OUII includes 2 overhires, CIO includes 1 overhire

<sup>2</sup> The SPC takes no position at this time with respect to the appropriate staffing levels for OALJ and OUII. A recommendation will be forthcoming upon completion and review of the OP 2 consultant's report.

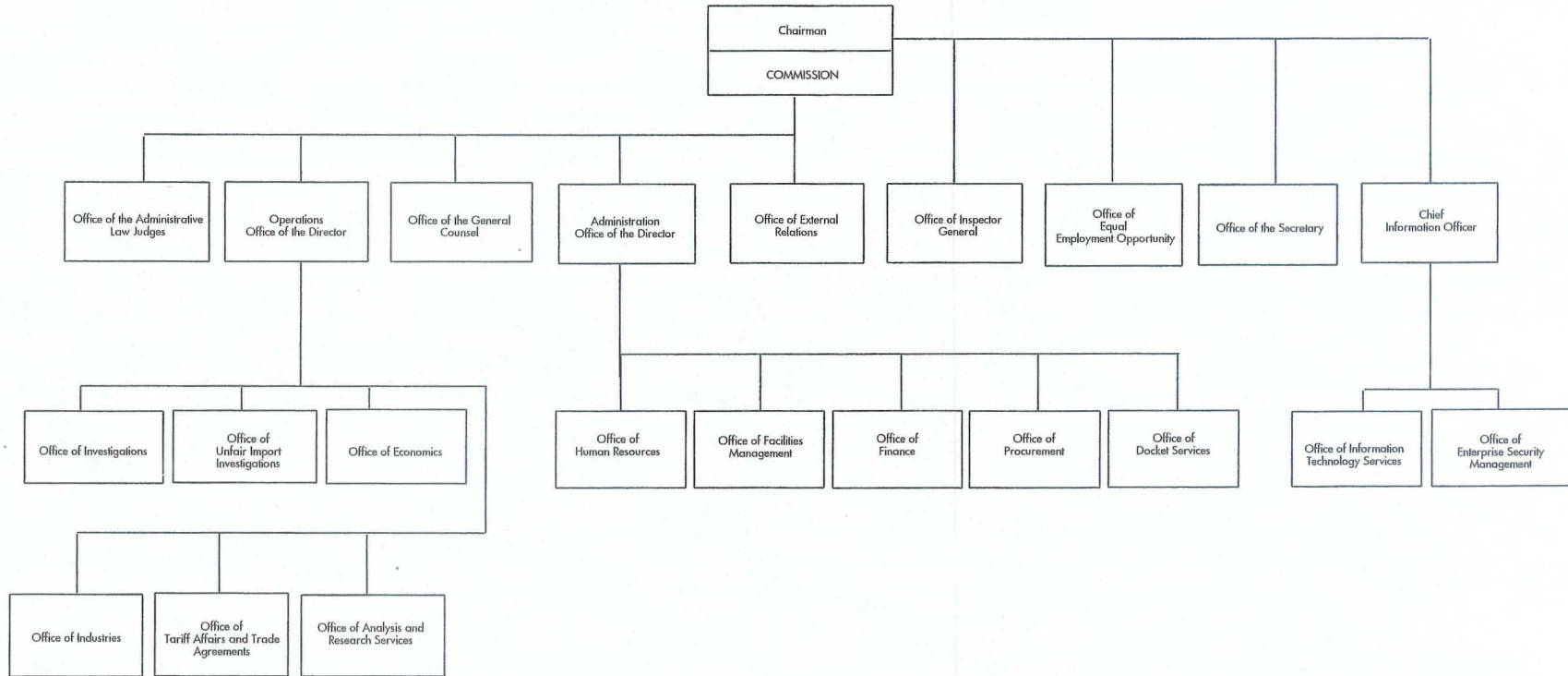
<sup>3</sup> OARS will be created in FY 2009 from staff in OP and vacant positions in OP, INV/SSD, and EC. Future growth in OARS will occur through attrition in SSD and reallocation of existing positions from other offices. The future size of OARS will be determined by workload demands. Future staffing levels shown above reflect the reallocation of positions in OP, INV/SSD, and EC. If OARS is not created, these positions will revert back to the originating offices.

<sup>4</sup> Economics requests 44 fulltime positions with varying composition of permanent and terms over time, but likely at least 6 terms.





## United States International Trade Commission's Office-Level Organization Chart





# Office of Operations

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2009 Human Capital Plan

## Introduction

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The work of the ITC and each office within Operations must adhere to the highest quality standard. Virtually all outputs of Operations are either (i) part of administrative proceedings that can result in federal litigation and will be examined by the courts or international tribunals under the most intense pressure and scrutiny, or (ii) inputs into trade policy decisions (e.g., AGOA, ATPA, Textiles, FTA's, Services and Agriculture negotiations) made by the highest level decision makers. Staff within Operations is directly accountable for all five of the Commission's strategic operations.

The legal and investigative responsibilities of the ITC require that skill levels must be state-of-the-art and anticipatory. The President/USTR and Congress must be able to rely on Commission findings without reservation, no matter the caliber or prestige of those who oppose them. Other contributions, such as negotiation support, trade and tariff analysis, proclamation preparation, and technical assistance, must also meet this standard.

For the ITC, staff is the key asset; our means of production. Many steps have been taken to ensure an expert and flexible workforce that can respond to workload shifts. Nevertheless, staffing efficiencies involve a trade-off in quality of product. The recommendations set forth in the plans of all offices within Operations focus on maximizing quality *and* efficiency, and relying on the many years of experience of the senior managers in Operations.

Projected staffing in the various offices in Operations is suggestive and depends on both future workload and on whether the proposed Office of Analysis and Research Services (OARS) is approved. As workload increases, decreases, or shifts, staffing will follow. However, the high quality required of the ITC dictates that certain knowledge, skills and abilities be maintained regardless of the vagaries of caseload. An absence of any current studies on sugar, as just one instance, does not mean we do not need a sugar expert.

## Office of the Director

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### Challenges

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The Office of the Director of Operations (D/OP) provides oversight and guidance on all matters within Operations. D/OP provides various types of research and administrative support to the subordinate offices. As such D/OP's workload correlates with workload fluctuations/shifts in the five strategic operations. In addition, D/OP manages or coordinates various agency-wide management and planning activities such as budget and strategic planning

documents. In addition to being a member of the budget and strategic planning committees, the Director of Operations is the ITC's Performance Improvement Officer.

A major challenge for all of Operations is how to most effectively acquire and utilize new technologies and staff resources to anticipate and meet changing demands from the Commissioners and the ITC's statutory customers. The proposed reorganization allows for improved integration and utilization of agency resources by:

- Creating a new Office of Analysis and Research Services, which consolidates agency research and investigative support (Knowledge Management, the Research Library, Editorial Services, and a new Statistical and Data Services Division).

These changes are discussed in more detail below.

## **Workload**

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The workload of D/OP, including its investigative and research support staff, is affected to varying degrees by changes in statutory and non-statutory workload (strategic operations (OPs) 1-5) and any new or substantially revised budgetary, planning, or performance improvement initiatives or requirements. Over the next few years, the ITC expects workload levels to increase somewhat, with the complexity of many requests likely increasing as requesters respond to the changing global economic environment. Such workload changes require additional oversight from D/OP related to staffing and other adjustments to meet demands. In addition, certain efficiencies have been identified that can improve this adjustment process and increase productivity. These are outlined below.

## **Solutions to the Challenges**

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The proposed adjustments to D/OP are intended, first and foremost, to enhance the efficiency and effectiveness of the several offices within Operations, and most particularly to foster greater productivity in OPs 1, 3, 4 and 5.

This plan identifies adjustments to be made immediately and hiring decisions to be implemented over the next two years. It is part of a longer plan to build a larger central investigation support system over the next five years. The two year plan is distinguished from the five year vision where appropriate.

### **Create the Office of Analysis and Research Services**

The Directors of Operations, ID, EC, OUII, INV, and TATA propose the creation of the Office of Analysis and Research Services. OARS, under the Director of Operations, will contribute directly to and support all of the ITC's investigative and research activities. It would comprise the Research Library, Editorial Services, and a new Statistical and Data Services unit



(SDS). In the long term (five years), Knowledge Management would be moved into this office as well.

It is anticipated that OARS will not add to the overall head-count of Operations over the next two years. Slots for the near-term (two years) will come from slots in existing offices. Through attrition and voluntary reassignment, slots and personnel may be reassigned to the new office as efficiency dictates.

## Statistical and Data Services

Enhancing and consolidating statistical services with data development into one division within OARS should generate important efficiencies for all of the operating units. The new unit would:

- ***Provide technical support to investigative and research teams in areas such as survey research, statistical analysis, and programming.*** In addition, staff within the unit would serve as resident experts on national and international data sources, much in the way that the Chief Librarian serves as an expert on sources of qualitative information. Currently, the way Commission staff utilizes data resources tends to be project-driven. Centralization and enhancement of knowledge in this area would generate efficiencies.
- ***Serve as an important element of Operations succession planning effort.*** Recent retirements and the likely retirement of key personnel must not compromise the provision of quality statistical and data services.
- ***Lead efforts to coordinate needs in Operations with provision of services from the OCIO and AD.*** This supplants no duties of the OCIO. It is intended to complement and to enhance coordination.

Initially, SDS would consist of three FTE's, drawn from current vacant slots within offices in Operations. These initial positions would likely include a statistician and two statistical reviewers or research assistants. Particular areas of expertise would include survey research, statistical analysis, and knowledge of data sources and data manipulation. Ultimately (the Five-year Plan), it is anticipated that SDS would become a division, broadening and improving the types of statistical analysis and data services available to staff, including:

- statistical analysis and development of statistical applications
- survey and sampling expertise
- mathematical programming and database design
- database construction and management
- table and graphics development
- statistical review
- data entry

The organization chart shows the division with six positions and two details from EC, for a total of eight. The detailed proposal that was developed for this division anticipates staffing of 8 to 13 FTEs. Although it is unlikely that there would be a need for 13 FTEs, it is likely that additional positions will be needed as the organization develops, assuming that workload demand exists.

These positions could be filled by details from other offices; new hires, which could be terms or temps, or contractors.

## **Editorial Services**

Editorial Services will provide hands-on technical support to project teams while reports are being developed, review of draft reports, and assistance with preparation for final posting or printing.

## **Research Library**

The Research Library has been, and continues to be re-engineered from a hard-copy, archive library into an electronically-based, integrated research support team. Research Library staff members are part of each major research project for investigation-specific research needs. They pro-actively and continuously develop new and comprehensive information sources, ensure wide distribution and use, and evaluate the value of sources for purchase/reject decisions.

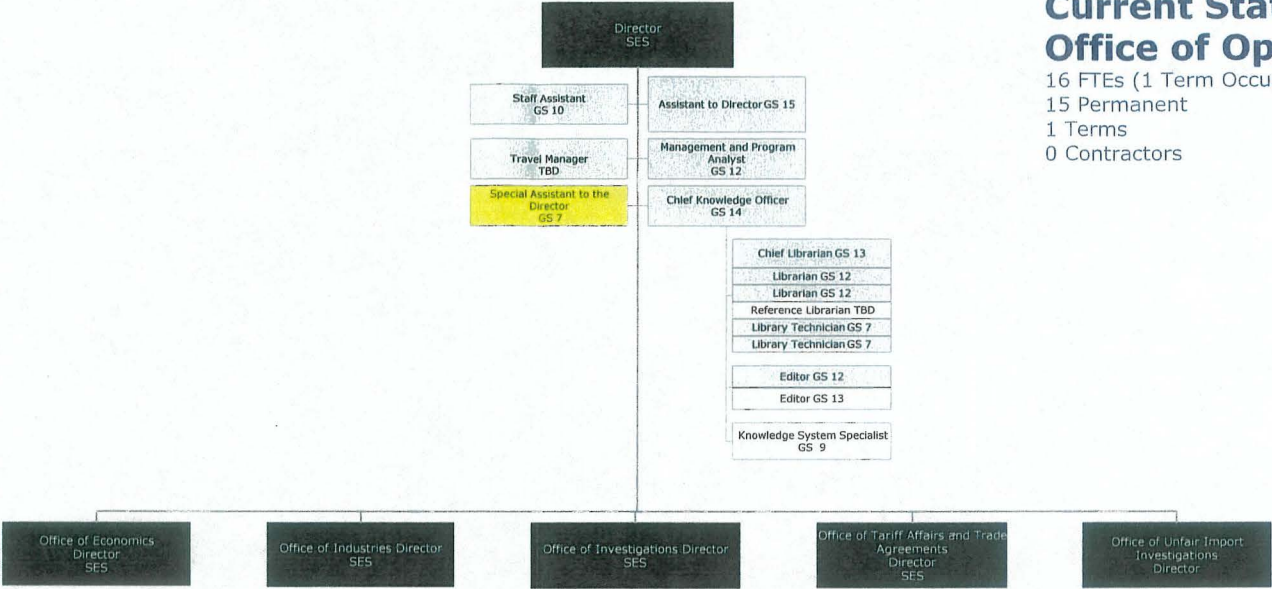
Integrating the Research Library into the work of the investigators, economists, and analysts dictates a close working partnership that is best supported by having the unit within Operations and responsive to all offices within Operations. Indeed, the more the Research Library converts from a hard-copy, archive-oriented institution to an electronically-based, integrated research support operation, the more compelling is the logic to keep it in Operations, incorporated directly and seamlessly into the research and investigative processes.

## **Knowledge Management**

In the short term, KM will continue to report to the Director of Operations. In the long term (three to five years), KM becomes part of OARS. KM will continue to manage the *Trade Negotiations Archive Pilot Project* if it continues. A place-holder for it is included within KM to indicate where it could be housed if it does continue beyond the pilot project.

# Current State: Office of Operations

16 FTEs (1 Term Occupies a Permanent Slot)  
 15 Permanent  
 1 Terms  
 0 Contractors



- Legend:
- Supervisor
  - Permanent
  - Term
  - Contractor
  - Vacancy

\*Current State\* organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.



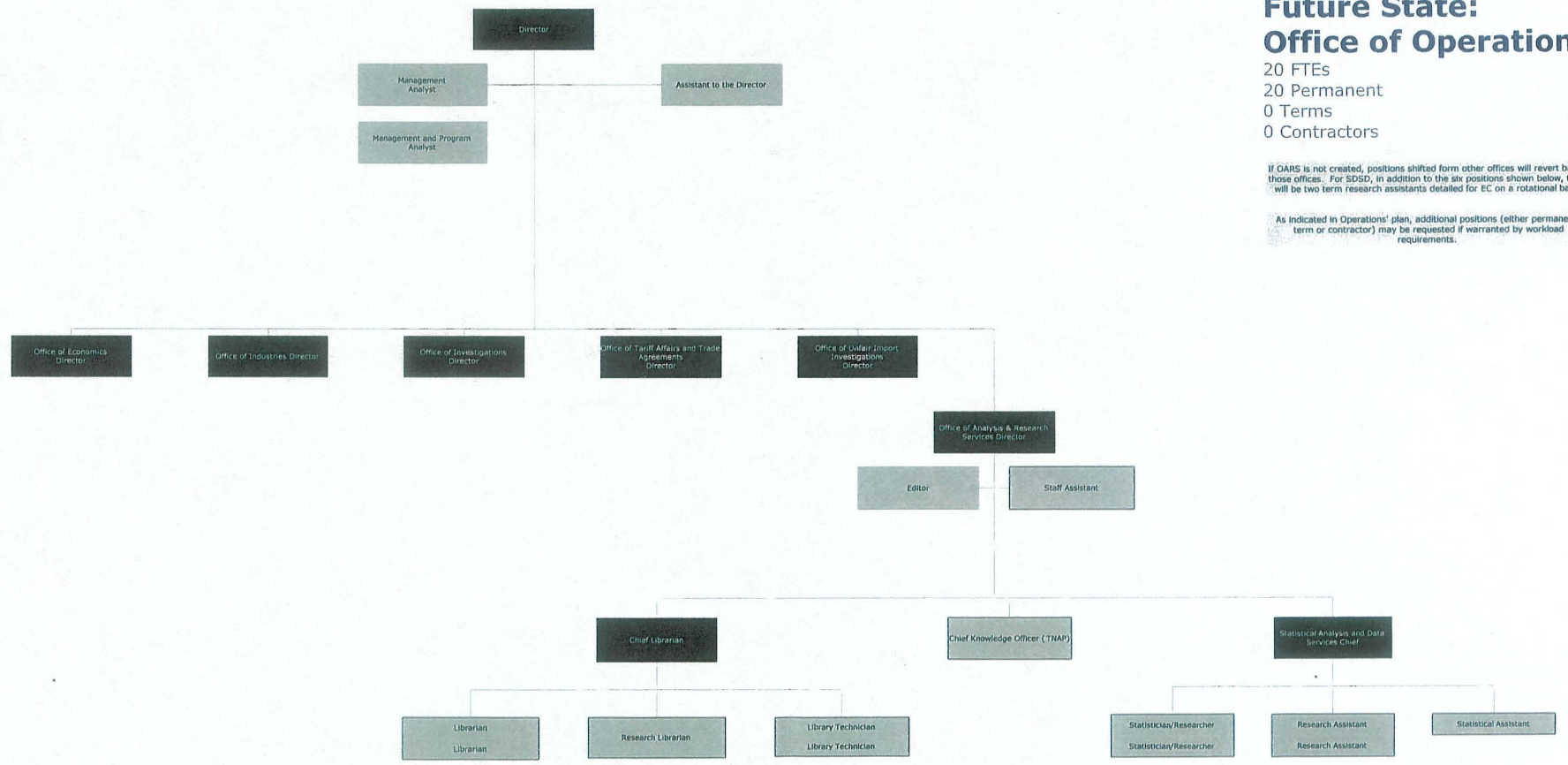
# Future State: Office of Operations

20 FTEs  
20 Permanent  
0 Terms  
0 Contractors

If DARS is not created, positions shifted from other offices will revert back to those offices. For SDS, in addition to the six positions shown below, there will be two term research assistants detailed for EC on a rotational basis.

As indicated in Operations' plan, additional positions (either permanent, term or contractor) may be requested if warranted by workload requirements.

- Legend:
- Supervisor
  - Permanent
  - Term
  - Contractor
  - Vacancy





# Office of Investigations<sup>1</sup>

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## Challenges

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### Staffing

#### *Office Director*

Following Robert Carpenter's January 2009 retirement, the Supervisory Financial Analyst has been the acting office director. A permanent replacement is expected to be chosen by mid-2009. If the permanent Director of Investigations (INV) is selected from among the supervisors heading the Office's five divisions, then a replacement must be found for that supervisor. Since the third round of sunset reviews has just begun and will begin to accelerate in mid-2009, INV could be short of key personnel as workload expands. As necessary, INV will depend upon GS-14 senior investigators and auditors to fill temporary management voids.

#### *Possible Retirements*

Key managerial/supervisory positions in INV will become vacant in the near future. Currently the following senior-level positions are held by employees who are eligible for immediate retirement:

- Supervisory Investigators heading Investigative Division A and Investigative Division B
- Chief of the Financial Analysis and Accounting Division
- Chief of the Statistical Services Division

A number of these individuals are expected to retire in the next 3-5 years. It is essential for continuity of operations that these positions are filled expeditiously with highly qualified individuals with the requisite technical expertise as well as managerial potential and training. In order to prepare for these eventual retirements, INV has and will continue to schedule developmental details and leadership training for qualified experienced GS-13 and GS-14 investigators, auditors, and statisticians.

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<sup>1</sup> This plan was originally developed by Robert Carpenter, Director of Investigations. Mr. Carpenter, however, retired in January 2009. The plan has been modified by the Acting Director of Investigations, with assistance from the supervisory staff that head INV's divisions. Readers should be advised that not every point in this document represents the consensus view of INV's current management. Moreover, the naming of a permanent Director of Investigations is imminent, and may require a reappraisal of the elements discussed within.

### *Turnover*

Turnover among recently hired staff is generally higher than among more senior staff, reflecting the changing dynamics of the labor market. International Trade Analysts typically reach the top of their career ladder in approximately three years, providing incentive for employees to look more broadly for advancement opportunities at that point in their careers. If such opportunities are limited in INV, or if opportunities exist but employees want to broaden their experience by moving to a different position in a different organization, this is the time when moves will often occur. This situation increases pressure on management to train new staff as quickly and efficiently as possible, and presents particular challenges in terms of finding and developing staff with management potential who are interested in longer-term management positions. Increased advancement potential and cross-discipline training (with AED, for example), might result in reduced turnover.

### ***Statistical and Data Services***

The Statistical Services Division (SSD) within INV has a current staffing level of eight (seven on board, one vacancy), following the recent loss of one vacant position. As described previously, Operations' plan envisions the creation of a new statistical group within Operations. There are no specific plans to shift current SSD staff out of INV. It is possible, however, that some SSD personnel may elect to pursue opportunities elsewhere in the agency or outside the agency. Operations' proposal regarding shifting, through attrition, statistical support positions within the Office of Operations is discussed in detail in Operations' human capital plan.

During a period of rising workload as well as increasing requirements for more complex and technical support activities, care must be taken to ensure that SSD, a crucial component in the Title VII investigative process, remains effective in all of its multiple roles. To that end, robust statistical support and analysis requires staffing at an adequate level (both in terms of personnel and expertise) to accommodate a shift toward more independent functions, greater workload variety and complexity, and increasing demand for IT skills to handle security and technical demands (including expanded electronic government initiatives).

### ***Database creation/management and web management***

INV is charged with maintaining many different websites and statistical databases. Heretofore the tasks associated with these duties, individually mundane but collectively quite important to INV and the agency, were carried out by the office director. INV is reviewing its websites, procedures, and data files, consistent with the evolving records management requirements, and is in the process of documenting, centralizing, and streamlining these tasks and functions. The goal is to delegate them to INV personnel and shift the responsibility for day-to-day review, updating, and critical quality control from the office director to a senior investigator.



## Workload

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### Present workload

- Title VII workload, in terms of original investigations, is currently lower than the peak FY 2007-08 level but is expected to increase beginning in April 2009 as firms are able to quantify the effects of import competition during the ongoing economic slowdown in their trade and financial data. Additionally, because of the change in administrations, it is possible that firms may file global (section 201) or China-specific (section 421) safeguard petitions. Further, the Department of Commerce's decision to accept petitions alleging subsidies conferred by nonmarket economy countries (China in particular) continues to increase the possibility of new petitions. Lastly, the ruling by the Court of Appeals for the Federal Circuit in *Bratske Aluminum Smelter v. United States* and subsequent related rulings have increased significantly the need for the collection and analysis of data related to nonsubject imports, placing a substantially greater burden on investigative teams.
- Five-year (sunset) reviews are and will continue to represent a significant share of the overall OP 1 workload. There are close to 300 outstanding antidumping (AD) and countervailing duty (CVD) orders currently in existence. The review caseload has both cyclical and permanent elements to it (driven by transition and non-transition reviews, respectively). The cyclical element typically has required additional staff resources for about a 2-1/2 year period every 5-6 years, although the cycle is gradually flattening out as transition orders are revoked in each cycle, while new non-transition orders increase the overall review workload. The third round of transition reviews is now underway; workload related to those reviews will be heaviest in FY 2010-12, and will reflect the new reporting requirements instituted in January 2009 (revised procedures and requests for information during adequacy phase of five-year reviews). Reviews of non-transition orders represent a permanent increase in caseload that did not exist prior to 2000 and have grown appreciably over the last few years.

### Future workload

- Title VII workload has averaged approximately 13 active cases per month over the past two fiscal years. Given the downturn in the economy and the third round of sunset reviews that will continue through FY 2011, it is expected that in FY 2010 the average caseload of active investigations will approach the FY 2005 level of 20 investigations per month (FY 2005 being the period when the last round of sunset reviews peaked), and remain elevated for a couple of years. A prolonged economic downturn could lead to an increased number of new cases. Also, should a section 201 or 421 safeguard action result in an affirmative determination and remedy recommendation by the Commission and the granting of relief by the President, additional section 201 and 421 petitions can be expected.
- Beyond the next few years, the active case workload likely will resemble the historical average, but with less year-to-year volatility. The Title VII workload does vary from year to year based upon changes in the economy, trade flows and other conditions of competition; court decisions; and policy decisions by the Department of

Commerce. However, these factors have always affected the workload. The continued rise of mergers and acquisitions of producers that cross national borders might result in fewer new investigations, but we have not seen any positive indication that that is the case. Finally, we expect five-year reviews to continue to represent a permanent increase in workload, though likely with a less-pronounced cyclical tendency as non-transition reviews continue to replace transition reviews.

## **Workforce Skill Set Requirements**

### **Technical Expertise**

INV requires a core of trained investigators, auditors, and statisticians. These individuals must possess skills in a variety of areas, including:

- Knowledge of international trade, economics, accounting, finance, and statistics.
- Independent research.
- Rapid development of a thorough knowledge of products, industries, and markets.
- Questionnaire design.
- Compilation, correction, and summarization of questionnaire data.
- Strong computer skills in word processing, spreadsheet, and database software.
- Familiarity with web site design and management.
- Preparation of clear, comprehensive, objective, and analytically sound staff reports on a timely basis.
- Effective communication of complex technical issues, both orally and in writing.
- Conducting on-site verifications of questionnaire data.
- Leading investigations.
- Organization, time management, and multi-tasking.
- Working collegially in an interdisciplinary team environment.

### ***Flexibility***

INV is continuing to develop an increasingly flexible workforce with multi-disciplinary skills and experience, and encourage cross-office developmental assignments, to enable employees to move seamlessly throughout the Commission to the areas of greatest need. Temporary surges in Import Injury caseload will be met with internal details and term appointments. The frequency of these surges creates a substantial burden on the supervisory staff to constantly train detailed and term employees. With basic developmental leadership training, much of this burden can be shared with GS-14 Senior Investigators as well as experienced GS-13 Investigators.

## ***New and Enhanced Skills***

INV will continue to provide training to develop new skills in employees that will enable them to fulfill their responsibilities more efficiently and effectively in a rapidly changing business and legal environment. Special emphasis will be placed on leadership and management training, information technology training, and cross-discipline training to develop a qualified pool of prospective supervisors and managers to replace those near retirement, to best utilize advances in information technology to enhance productivity, and to maximize flexibility in assignments across offices.

## **Solutions to the Challenges**

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### **Recruitment**

The office director, one investigator position (currently filled by a detailee), and one auditor position need to be filled in soon to ensure adequate investigative capability. In addition, support needs will require the recruitment of a (term) research assistant, as well as more systematic participation in the ITC's intern program. Given the expected increase in workload in the near term, INV expects that additional efforts will be needed to provide necessary statistical support (e.g., through recruitment to fill the existing vacancy in SSD with a mid-level statistical/research assistant).

Again, selection of a current supervisor as the office director would result in another vacancy. INV has recently filled two investigator positions and anticipates filling the remaining vacant investigator position this spring. Even after filling these vacancies, details from other program areas will be necessary from time to time to meet temporary surges in new investigations and transition sunset reviews (INV itself has two investigators currently on detail, one internally and one externally).

### **Opportunities for Advancement**

The use of detailed staff from other offices, supplemented by term appointments as necessary, to meet cyclical peaks or temporary surges in caseload has created a significant training burden that cannot be fully met by the supervisory staff under the current office structure. Some of this responsibility can be shifted to non-supervisory staff, most logically to Senior Investigators (those individuals with the experience and expertise to handle the most complex and/or high-profile investigations and can conduct investigations with minimal supervision). Further, the growing complexity of Title VII investigations and reviews, as well as the analytical expertise required, creates a greater need for more senior level positions. The Commission has been and continues to expand its import injury inquiries outside the United States, not just in global safeguard investigations but in original AD/CVD investigations and in five-year reviews, whether expedited or full. In addition, INV increasingly utilizes the resources of its senior and most experienced Investigators in training and mentoring, as well as in coordinating efforts to meet the needs of offices across different program areas, leveraging particular skills in questionnaire preparation, issuance, and review; data collection, manipulation, and presentation; and record security and management.

Senior Investigator positions are crucial not only to meet the critical functions noted herein but also to provide lower-graded staff a potential for promotion (see earlier comments regarding turnover). It is difficult to retain high-performing GS-13 Investigators if opportunities for advancement are perceived as rare. Notably, three GS-13 Investigators left the Commission in the past two years for higher paying jobs outside the agency, one in the private sector and two at another federal agency. To be clear, however, it is not the purpose of this document to advocate a change in the investigatory career ladder. Nonetheless, it would be remiss not to point out that the exodus of experienced Investigators compounds the significant training burden posed by the use of detailed staff from other offices, requiring an increasing devotion of resources to recruiting and training of new staff. Accordingly, a minimum of three and a maximum of five Senior Investigators are needed (there are currently three). Promotions would be based on work requirements, the ability to excel in the most complex assignments, and the demonstrated capacity to manage other duties as assigned.

## **Training**

As noted, a number of staff in supervisory and senior-level positions are currently at or near retirement age. Several senior GS-13/14 personnel have completed, registered for, or have expressed an interest in needed leadership and management development training and/or developmental details. Also, staff will need IT training to be familiar with current and future IT projects that are expected to facilitate the electronic submission and viewing of confidential documents by outside parties, reduce the volume of paper that flows between the Commission and parties, and speed the processing by staff of confidential questionnaire data.

## **Plans for Office Structure Going Forward**

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### **Front Office**

Convert the Staff Assistant position into an Office Coordinator position (GS-9). This would involve revising the duties of the position to provide deeper and broader administrative support to the Director, including position management, procurement, IT administration, and travel and training management. This position would require active collaboration with the Director, the heads of each division, and a GS-14 Senior Investigator whose duties would be expanded to include records management, IT and security coordination, and cross-office cooperation and support.

### **Investigative Divisions**

- Maintain the current division structure to conduct original investigations; five year reviews; and safeguard and other special investigations, with an increasing emphasis on managerial functions (including developmental and other performance management activities) at the division level.
- Maintain the core staffing structure of 3 GS-15 Supervisory Investigators, three to five GS-14 Senior Investigators, and 10-12 GS-9/11/12/13 Investigators (i.e., a total of 15 Investigator/Senior Investigator positions). This staffing level is the minimum needed to meet projected non-peak import injury workload levels for the mid term. Surges in workload would be met through internal details and terms.

- Maintain the GS-8 Investigations Support Assistant position. Locate the position in Investigative Division B.
- Institutionalize the Research Assistant position (2-year term GS-5/7) by continually renewing (filling) the position as a 2-year term appointment as soon as vacated. This position has proven immensely valuable and efficient in that it permits off-loading of lower level investigative tasks from Investigators to the Research Assistant. Locate the position in Investigative Division A.
- Institutionalize INV's participation in the ITC's intern program. These positions provide an ideal source of up-to-date IT experience that benefits the entire office and have, in the past, provided a training ground for future Research Assistants. Locate the (seasonal) positions in Investigative Division C.

## **Financial Analysis and Accounting Division**

Maintain the core staffing structure of one GS-15 Supervisory Financial Analyst and five GS-13/14 Auditors. This staffing level is the minimum needed to meet projected non-peak import injury workload levels for the mid term. Surges in workload would be met through internal details and terms.

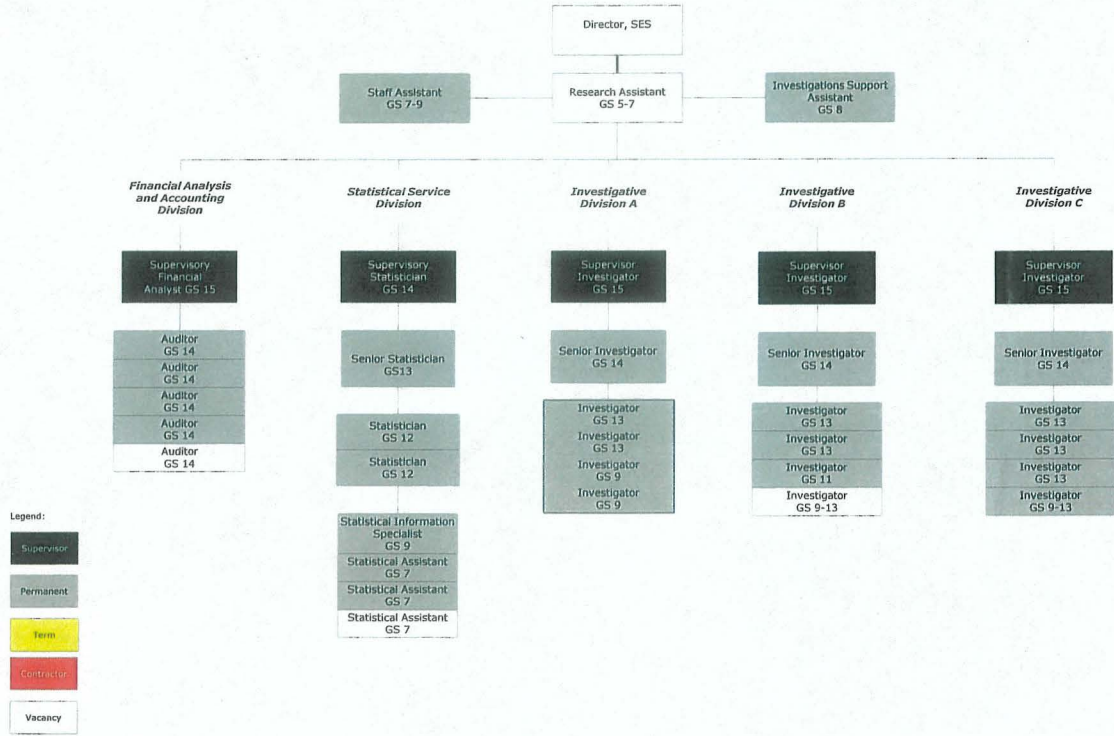
## **Statistical Services Division**

Because Title VII and Safeguard investigations and five-year reviews are so data intensive, and Commission determinations rely so heavily on the statistical accuracy of the data in staff reports, it is essential to maintain a core group of statisticians and statistical data professionals who have specialized expertise in compiling and verifying the accuracy of Import Injury data. The exact composition of the group (currently consisting of seven staffed positions and one vacancy, following the loss of a vacant position), may vary, in terms of the required mix of senior, mid-grade, and lower-graded staff necessary in this mission-critical area. However, given the dynamic workload of INV and other offices within the ITC, and other uncertainties (for example, evolving technology that could result in increased electronic filing and the status of Operations' previously-noted proposal) the size and composition of this core group will be assessed and amended periodically as warranted.



# Current State: Office of Investigations

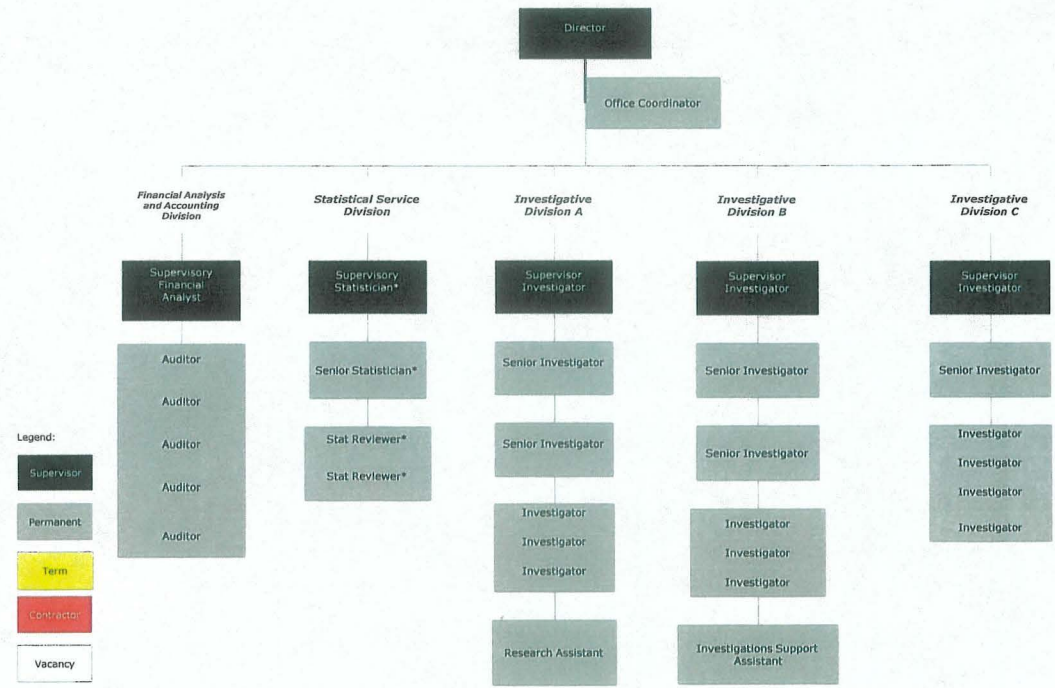
36 FTEs  
36 Permanent  
0 Terms  
0 Contractors



\*Current State\* organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.







## Future State: Office of Investigations

32 FTEs  
 32 Permanent  
 0 Terms  
 0 Contractors

This reflects the creation of OARS. If OARS is not created, four positions would revert back to the Statistical Services Division, resulting in a total of eight positions in that division and 36FTEs for the Office of Investigations.

\* Specific position titles and position descriptions for SSD staff will be determined as OARS develops.



# Office of Unfair Import Investigations

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2009 Human Capital Plan

## Challenges

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### Substantially increased Section 337 Caseload

In recent years, the section 337 landscape has changed dramatically. Since FY 2003 (when there were 19 new section 337 investigations), the number of new section 337 complaints has increased quite steeply – climbing to more than 30 in both FY 2006 and FY 2007, and still further to 43 new complaints in FY 2008. The increase in the number of section 337 matters active during the course of a year has also been dramatic – more than doubling in the last six fiscal years, from 41 active matters in FY 2003 to 88 active matters in FY 2008. This enhanced level of section 337 activity is expected to continue for at least the next several years. Indeed, the Commission has now become widely recognized as an important forum for the resolution of patent-based disputes involving imported goods, and both the relative speed of the proceedings and the nature of section 337 remedial orders are particularly attractive to many prospective complainants.

### Increasing complexity of the section 337 docket in terms of subject matter and number of respondents

Most section 337 investigations focus upon complex patented technology, often involving multiple patents and many asserted claims per patent. In FY 2008, nearly one-half of new patent-based section 337 complaints involved three or more patents. Patents in the electronic, computer and telecommunication areas, which have dominated the docket in recent years, are now the focus of approximately two-thirds of pending section 337 matters. Product and process patents in the chemical and medical fields, as well as patents covering a wide range of mechanical/industrial technologies, are also commonly asserted in section 337 investigations.

A substantial portion of section 337 investigations involve multiple unrelated respondents, which also adds to the complexity of the docket. In fact, all of the new investigations instituted so far this fiscal year except one include the products of more than one manufacturer, and all except one include six or more respondents (with four of these new matters involving 10 or more respondents). The presence of multiple manufacturing respondents in one investigation usually requires the examination and adjudication of multiple claim constructions and infringement analyses. Also, the presence of unaffiliated respondents often translates into heavy motions practice. Recent appellate rulings have not only militated toward an increase in the number of respondents in certain types of cases that previously involved relatively few respondents, but are also resulting in the development of more extensive evidentiary records on remedy issues. As the complexity of the section 337 docket continues to increase, the workload demands associated with that docket can only be expected to intensify.

## **Additional Demands Stemming from Increased Number of ALJs and Case Extensions**

As the number of ALJs has doubled, from three Judges in FY 2005 to six Judges in FY 2009, scheduling conflicts for OUII's attorneys have arisen more frequently, particularly with regard to the scheduling of trials, and these conflicts have made it increasingly difficult for OUII to cover the entire section 337 caseload. For example, with the increase in the number of Judges, more cases are slated for trial at or about the same time. However, because of the intense demands of late stage pre-trial discovery and motions practice, and pre- and post-trial briefing, a staff attorney is generally unable to handle more than one trial in any three to four month period. Additionally, some of the Judges now hold claim construction hearings several months prior to the violation hearing, which give rise to further scheduling conflicts for OUII's attorneys. Moreover, as the size and complexity of the section 337 docket has grown, the pendency periods for section 337 investigations before the Judges and the Commission have expanded such that the average length of time during which an assigned Staff Attorney must continue to work on each of his or her assigned matters has also increased. Thus, because of continuing responsibilities on pending matters, the frequency with which Staff Attorneys become available for assignment to new section 337 matters has declined in the last two years. Similarly, as Staff Attorneys remain responsible for matters during the period of Commission review, the frequency of short-term conflicting obligations in different matters has increased. As discussed further below, to help meet its additional workload demands, OUII proposes to add a small group of Junior Attorneys who would provide substantive legal support to OUII's existing Staff Attorneys.

## **Increased demands on OUII's Supervisory Personnel and a Shortage of Support Personnel**

The foregoing developments have not only placed great strains on OUII's Staff Attorneys, but they have also substantially increased the demands on OUII's Supervisory Attorneys and Office Director. Indeed, as the caseload swelled, each of OUII's Supervisory Attorneys shouldered Staff Attorney responsibilities on several cases for significant periods of time while they waited for Staff Attorneys to conclude their work on other matters that were in more advanced stages of litigation. In addition, OUII's Supervisory Attorneys have increasingly been called upon to stand in for Staff Attorneys on conferences with the ALJs and the private parties' attorneys. To alleviate some of the resulting strain on OUII's Supervisory Attorneys, in the last few years OUII's Director has also assumed direct supervisory responsibility for several section 337 matters. While the Supervisory Attorneys have continued to support OUII's Staff Attorneys by authoring all or part of some motions and responses, they have generally been too busy with other work to do so as often as they have in the past.

Notwithstanding the substantial growth in OUII's workload in the last five years, the size of OUII's support staff has remained exceedingly small. Only one clerical support staffer (who is tasked with a host of administrative responsibilities that are unrelated to individual case work as well as case-related support responsibilities), and one paralegal provide support to the 21 attorneys that are now in OUII. Because OUII lacks the level of clerical support required for a litigation operation of its size, much of OUII's sole paralegal's time is diverted from the type of

paralegal support work that would be helpful to OUII's attorneys in connection with various litigation-related tasks.

## **Workload**

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### **Present Workload**

The section 337 caseload remains at or near an historic high. In each of the past twelve months, there have been 50 or more pending section 337 matters. Fifty-five matters were pending in January 2009, and six new complaints are currently awaiting votes on institution. With regard to new matters, the Commission instituted 50 new investigations and ancillary proceedings during FY 2008, as compared to 33 new investigations and ancillary proceedings in FY 2007. In total, 88 section 337 matters were active during the course of the FY 2008, a 20 percent increase over the 73 matters that were active during FY 2007. During FY 2008, OUII authored more than a thousand documents in section 337 proceedings, and the ALJs held 20 evidentiary hearings (that ranged from 3 to 12 trial days in length).

### **Future Workload**

As noted above, the ITC is now widely recognized as an important forum for the adjudication of patent-based disputes involving imported goods. Moreover, factors that have been linked to the increase in section 337 filings in recent years, including specialized expertise, relatively speedy adjudications as compared to most district courts, and exclusion orders enforced by Customs at the border, remain in place, and a modest growth in the caseload is anticipated in FY 2009 and FY 2010. Specifically, the institution of approximately 55 new investigations and ancillary proceedings has been projected for FY 2009, and the institution of approximately 60 new matters has been projected for FY 2010. Further, it is anticipated that more than 100 section 337 proceedings will be active during both FY 2009 and FY 2010, and that more than 50 investigations and ancillary proceedings will be completed in each of these years. Inasmuch as 10 pending matters are now scheduled for completion in the fourth quarter of FY 2009 and another 24 pending matters are not scheduled for completion until FY 2010 (including five with target dates already extending into the third quarter of FY 2010), the 337 workload will presumably remain quite heavy for the foreseeable future and the concomitant demands upon OUII are not likely to abate for at least the next several years.

### **Workforce Skill Set Requirements to Meet Anticipated Workload**

In view of the complexity of the section 337 docket, the large volumes of commerce at stake in most section 337 investigations, the fast pace of 337 litigation, and the assignment of only one OUII Staff Attorney to an investigation (as compared to teams of partners and associates for the private parties, often numbering in the dozens per party), OUII has worked hard to assemble a corps of highly qualified intellectual property litigators. To ensure that OUII can continue to properly represent the public interest by, *inter alia*, making substantial contributions to the development of the record, formulating well-considered positions on substantive and procedural legal issues, and otherwise facilitating the section 337 process, OUII will need to

continue to retain experienced litigators who are both knowledgeable about intellectual property law and able to master complex technical subject matter relatively quickly. To this end, OUII will seek to fill its Staff Attorney positions with attorneys that have at least several years of intellectual property and litigation experience, and education or experience in technical areas such as engineering, computer science, and chemistry. With regard to Supervisory Attorneys, OUII will seek to retain and attract attorneys to oversee and support the work of OUII's Staff Attorneys who not only have substantial section 337 litigation experience, but who also possess, *inter alia*, strong editing, interpersonal, and problem solving skills. With regard to clerical and paralegal staff, OUII will seek to retain and recruit staff who possess, *inter alia*, the analytical, problem solving, and time management skills necessary to provide administrative and clerical support to OUII's attorneys for a wide range of tasks. Thus, these staff members will be expected to meet the operational requirements of a legal office engaged in litigation, and continuously update their skills in areas such as word processing, information collection and reporting, document and database management, and the use of relevant research tools.

Also, with regard to workforce skill set needs, feedback from both OUII's Staff and Supervisory Attorneys points to a substantial need for additional legal staff to meet the demands of section 337 litigation. To this end, during the next two years, OUII will seek to establish a small group of Junior Attorneys to support the work of OUII's litigators. These Junior Attorneys would possess the writing, legal research and analytic skills necessary to formulate, for example, discovery requests and responses to routine motions. Perhaps most importantly, during the intense pre-trial period, these Junior Attorneys would draft pre-trial motions and responses, and assist in the analysis and preparation of objections to witness statements and documentary exhibits. Then, during trial, these Junior Attorneys would assist the Staff Attorneys with their on-going motions practice. Because these Junior Attorneys would not be given primary responsibility for litigating complex case matters and would be heavily supervised, the experience and higher level litigation skills required of OUII's existing corps of Staff Attorneys would *not* be required of these Junior Attorneys. Hence, these Junior Attorneys would occupy lower grade levels than OUII's existing Staff Attorney positions.

## Solutions to the Challenges

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In the last few years, as the section 337 caseload has continued to climb and the workload associated with that caseload has escalated, OUII has added Staff Attorney positions so that the office could continue to effectively participate in section 337 investigations. With the addition of two Staff Attorneys in the first four months of FY 2009, OUII now has 17 Staff Attorneys on board.<sup>1</sup> Given the number of matters already slated to carryover into FY 2010 (and the recent filing of six more new complaints that have not yet been instituted), these Staff Attorneys will be fully occupied through FY 2010. In fact, OUII's Staff Attorneys are still stretched quite thin and many of these attorneys routinely work extra hours to master the issues in their investigations and meet the filing deadlines and other commitments in their cases.

OUII's staffing requirements for the years beyond FY 2010, however, are far less clear at this time. Indeed, there are a number of factors at work that could either raise or lower the overall

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<sup>1</sup> The FY 2008 approved Staffing Plan for OUII includes 15 Staff Attorney positions. The hiring of two additional Staff Attorneys in early FY 2009 was approved to ensure continued coverage of on-going section 337 investigations.

section 337 workload in future years. Such factors include the recent increase in the number of ALJs (which has already intensified the demands on OUII's attorney resources and could further exacerbate scheduling difficulties), the potential impact of recent Commission and appellate court decisions (which may well spur additional filings by non-manufacturing entities or complainants confronted with imminent importations), the new section 337 pilot mediation program (which, if successful, could lead to a reduction in the number of section 337 matters that proceed to trial), and the uncertainties of the current economic climate (which could impact the level of new filings and/or cause complainants to streamline their cases to achieve cost savings).

In light of these uncertainties, OUII is not seeking to add more Staff Attorney positions in either FY 2009 and FY 2010. OUII is instead focused upon providing adequate support to its existing Staff Attorneys so that OUII can cover the current and projected caseload, and maintain and enhance the quality of its work, while relieving some of the increased strains on Staff Attorneys *without* creating additional higher salaried Staff Attorney positions.

The staffing additions that OUII seeks in FY 2009 and FY 2010 are the establishment of several Junior Attorney positions and one clerical support position, both as two-year term positions, and the hiring of another Supervisory Attorney.

## **Junior Attorney Group**

As discussed above in Sections I and II, OUII proposes to add a small group of Junior Attorneys to provide substantive legal support to OUII's litigators. Historically, with few exceptions, OUII has assigned only one Staff Attorney and one Supervisory Attorney to each Section 337 investigation. However, because a substantial number of section 337 investigations now involve many complex patents and large numbers of respondents, and because all of OUII's Staff Attorneys normally have on-going responsibilities in multiple investigations that are at different stages in the section 337 process, this one attorney per investigation model places great strains on OUII's attorneys—strains which have intensified with the increase in the scope of the typical investigation and the addition of more ALJs, which has in turn resulted in the scheduling of more trials within a given period of time, as well as an increase in the number of claim construction hearings and/or briefings during discovery. Rather than seek to increase the number of experienced litigators in OUII so that some Staff Attorneys could concentrate their full attention on only one complex investigation at a time, or so that two Staff Attorneys could be assigned to certain more complex investigations, OUII proposes to establish a group of Junior Attorneys to provide support to OUII's experienced litigators. These Junior Attorneys would assist the Staff Attorneys during critical crunch periods, such as the period right before and during trial. They would also draft routine discovery requests and motion responses and provide legal research support. These Junior Attorneys would pitch in on other short term projects as well, such as the drafting of institution memoranda in those instances where attorney Case Managers in Docket Services are not available to prepare the initial drafts of such memoranda.

The provision of such additional legal support should help relieve the continuing strain on OUII's litigators and assist OUII in its efforts to retain experienced Staff Attorneys. The addition of a group of Junior Attorneys will also help to ensure that the quality of OUII's work remains high by affording OUII's experienced litigators more time to focus on more complex tasks in their assigned investigations.

OUII seeks to establish these junior attorney positions as two-year term appointments at the GS 11- 13 level. The higher level litigation skills required for OUII's Staff Attorney positions would not be required of these Junior Attorneys because they would not be given primary responsibility for litigating complex cases matters and they would be heavily supervised. Hence, these Junior Attorneys would occupy lower grade levels than OUII's existing Staff Attorney positions. With regard to the type of appointment, OUII believes two-year term appointments would be feasible for these positions because these are entry level positions that would provide relatively inexperienced attorneys with an opportunity to enhance their legal skills and build their resumes for the future. Two-year term appointments would provide OUII with the opportunity to assess the success of a Junior Attorney support group without locking the agency into a long-term commitment. OUII proposes to hire the first Junior Attorney in FY 2009 and then hire two more Junior Attorneys in FY 2010.

## **Supervisory Attorney**

OUII's Supervisory Attorneys are expected to not only provide continuous direction and oversight on the cases they supervise, but to function as an active team member on most, if not all, of these cases. Thus, for example, in addition to their supervisory duties (such as reviewing and editing large numbers of pleadings and providing guidance to Staff Attorneys at trial), the Supervisory Attorneys often stand in for Staff Attorneys on conferences with the ALJs and the parties' attorneys, and author all or part of motions and responses when the assigned attorney in a given case is on travel, occupied with other assignments, or otherwise unavailable. Thus, the role of OUII's Supervisory Attorneys as an active team member on cases they supervise has greatly contributed to OUII's ability to continue to assign only one Staff Attorney per investigation.

Unfortunately, as the size and complexity of the section 337 docket has grown, and the number of Staff Attorneys has increased to meet the challenges of the docket, the ability of OUII's Supervisory Attorneys to actively participate in individual investigations, as well as provide on-going supervisory oversight, has diminished. Certainly, the increase in the number of ALJs and trials has placed substantial additional burdens on OUII's three Supervisory Attorneys. For example, as the demands on OUII's Staff Attorneys have risen, the Supervisory Attorneys have taken on additional responsibilities for the assessment of new complaints and the completion of institution memoranda, and have assumed primary responsibility for certain investigations until Staff Attorneys became available for permanent assignment to those investigations. It is expected that the Supervisory Attorneys will retain their additional responsibilities regarding new complaints and institution memoranda and, although OUII now has more Staff Attorney positions, that the short-term assignment of primary case responsibilities to Supervisory Attorneys will continue to be necessary in some instances.

While OUII anticipates that the establishment of a small group of junior attorneys will provide valuable legal support to its Staff Attorneys, that group will not serve as a substitute for the higher level litigation support that has been provided by OUII's Supervisory Attorneys, and is still needed if all or nearly all investigations continue to be assigned to only one Staff Attorney. The presence of a group of Junior Attorneys, who will require close supervision, will also necessarily involve additional demands on OUII's Supervisory Attorneys. Moreover, these Junior Attorneys will in no way reduce the numerous, and time-consuming, administrative



responsibilities shouldered by each of OUII's Supervisory Attorneys that are not associated with specific case assignments.<sup>2</sup>

Thus, OUII seeks to hire a fourth Supervisory Attorney so that its Supervisory Attorneys can not only effectively guide and oversee section 337 investigations, but so they can also continue to serve as effective team members on their assigned investigations. Inasmuch as OUII has an immediate need for an additional Supervisory Attorney, OUII will seek to add this position during FY 2009.

## Clerical support

Given the volume of OUII's section 337 work (especially motion responses, briefs and other filings which often have to be filed and served in multiple cases on the same day), the fast pace of the work (turnaround times that are often a week or less), and the amount of confidential business information (CBI) that OUII handles on a daily basis (which has to be handled very carefully when serving outside parties), the addition of another full-time clerical support position in OUII is clearly warranted. The rise in the number of respondents named in section 337 investigations, noted above, can only be expected to place additional clerical demands on OUII. The addition of a clerical staff position would free up OUII's sole paralegal for more intensive paralegal support projects while providing the clerical support that OUII's enlarged attorney staff requires.<sup>3</sup>

A diagram depicting OUII's proposed "future state" Staffing Plan is attached.

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<sup>2</sup> There is no Deputy Director position within OUII and none is envisioned for the foreseeable future. Thus, OUII's Director has assigned each of OUII's Supervisory Attorneys key administrative responsibilities, such as oversight of OUII's paralegal and part-time interns, management of recruitment and hiring processes, fulfillment of budget preparation and reporting requirements, and on-going involvement in information management projects and other OP 2 and agency-wide initiatives. An additional Supervisory Attorney would also be given substantial collateral duties relating, *inter alia*, to strategic planning activities for OP 2.

<sup>3</sup> Given the nature of their work, both the additional clerical staffer and OUII's existing paralegal need to be located within the confines of OUII's office space. Thus, OUII intends to proceed with the recruitment of an additional clerical support member as soon as it appears that suitable work space for both of these positions will be available within OUII. OUII continues to seek to structure its additional clerical support position as a 2-year term appointment so that OUII will have the opportunity to assess whether such an additional clerical position will fulfil its needs or whether another paralegal position (with a clerical component) would be more effective in the long term.

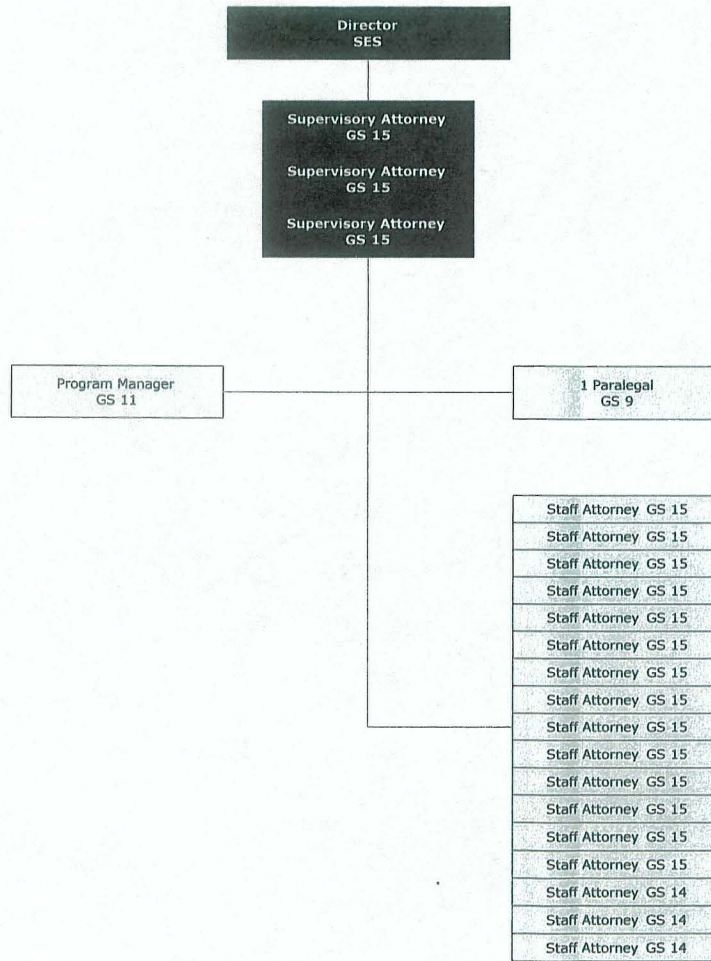




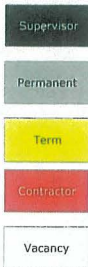


# Current State: Office of Unfair Import Investigations

21 FTEs  
23 Permanent (2 over-hires)  
0 Terms  
0 Contractors



Legend:



"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.



# Office of Economics

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## 2009 Human Capital Plan

### Introduction

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This plan addresses EC's (1) ongoing human capital challenges, (2) recent workload experiences and (3) proposed strategies for meeting ongoing human capital challenges.

### Challenges

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- Help refine and expand staff expertise in customer-identified priority areas (e.g. identification and quantification of non-tariff measures, services, foreign direct investment, and labor/environmental linkages to trade).

**Proposed Strategy:** Given statutory workload, facilitate allocation of sufficient staff time and resources to focus on developing and expanding frontier knowledge and skills in customer-identified areas of trade. Negotiate statutory requests with eye toward increased integration and emphasis of customers' strategic needs, while allowing enough lead time or study flexibility to incorporate comprehensive research goals.

- Maintain staffing flexibility and knowledge procurements to facilitate access to data and technical expertise.

**Proposed Strategy:** Focus on enhancing human capital, continuing to contract for distinguished researchers, and recruit experts in new areas using appropriate incentives (e.g., above minimum grade appointments, signing bonuses). Increase integration of Library research skills and the proposed Statistical and Data Analysis Unit into research design and implementation. To enhance technical expertise, maintain strong budgetary support for expanding hardware, software, and data requirements.

- Promote more widespread knowledge spillovers.

**Proposed Strategy:** Promote staff-to-staff information exchanges through technical seminars, continue to invite policy-oriented researchers to present research, spread awareness of contemporaneous external research, and create an effective research documentation mechanism. Encourage staff to attend conferences and other training opportunities to maintain state-of-the-art tools.

- Continue to develop and enhance the productivity of knowledgeable staff with unique, world class economics and analytical skills that are used to address increasingly complex and difficult economic questions facing our customers.

**Proposed Strategy:** Continue “budget-neutral” grade rebalancing efforts. This includes increased responsibilities for mission critical, and professionally renowned, senior staff and enhancing their productivity through recruitment of lower graded, term Research Assistants with superior technical skills.

- Enhance staff writing, briefing, and presentation skills to better showcase Commission expertise and capture the attention of busy customers.

**Proposed Strategy:** Create new forums for staff members to succinctly highlight their knowledge of important issues in contemporary trade (e.g., Executive Briefings on Trade), and continue emphasis on improving inverted pyramid presentation approach in existing forums (e.g internal briefings, technical assistance, statutory work).

## Workload

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Shifts in workload demands across operations over the past eight years have been managed with cross-assignments from OP 1 to OP 3 and vice versa as statutory workload varies. See examples below (Figures 1-1 and 3-1, from previous budget justification documents) that illustrate for a three year period how the number of active investigations across OPs 1 and 3 has shifted. Note that often the Operations’ workloads sometimes move in the same direction and sometimes in opposite directions.

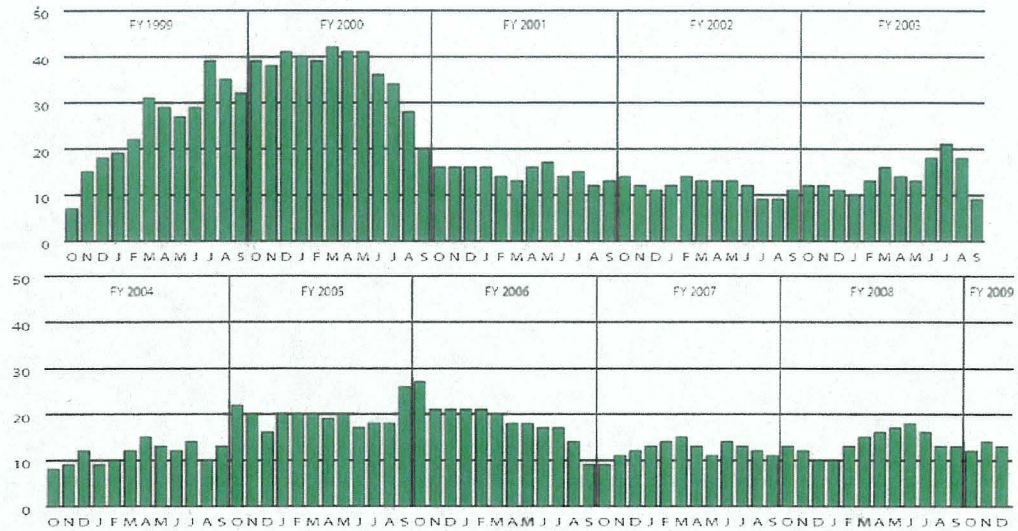
Between 2002-04 and 2006-2008, the total number of FTEs charged to OPS 1, 3, 4, and 5 by EC and ID staff declined from 100 to 86 FTEs (see table 1.) EC declined from 30 to 27 FTEs and ID declined from 70 to 59 FTEs. Average staff allocations to OP 1 remained fairly steady at 14 FTEs over the two periods, but with substantial year to year variation (ranging from 12 to 19 FTEs.) Average staff allocations to OP 3 declined from 74 to 62 FTEs, but with quite substantial variations in individual years, ranging from 78 to 59 FTEs.

Staff time allocated to OP 3 has declined in all major sub categories over the period FY 2002-08. FTEs charged to OP 3 statutory work declined substantially from highs of 78 and 77 in FY 2002-03, to an average of 61 from 2004 through 2008. FTEs charged to OP 3 corporate research dropped from a high of 20 in 2002, to an average of 13 from 2003 thru 2008. And finally, FTEs charged to OP 3 categories other than statutory or corporate research declined from 17 in FY 2002 to an average of 8 from 2003 through 2008. While FTE counts reflect the overall decline in



## Operation 1: Import Injury Investigations Caseload

Active\* Import Injury Investigations, by month, for October 1999 through December 2008

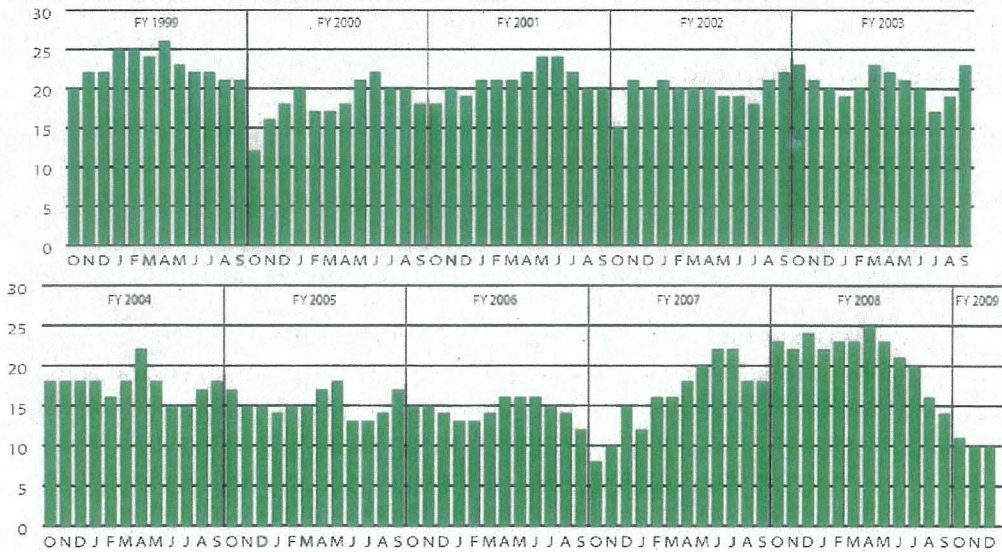


\* Active during the month

Source: Office of Investigations

## Operation 3: Industry and Economic Analysis Investigations Caseload- Completed, FY 1999-2009

Active\* Industry and Economic Analysis Investigations, by month, for October 1999 through December 2008



\* Active during the month

Source: Office of Industries

OP 3 staffing, the share data in table 1 reflect how the shares of EC and ID staff adjust to workload shifts in statutory investigations. Peaks in investigation numbers in OPs 1 and 3 tend to be associated with increased shares of staff time allocated to statutory studies in those OPs. Thus in FY 2007, which experienced a dramatic increase in the number of OP3 studies instituted, the share of staff time charged to OP 3 increased to 58 percent of all staff hours, up from a low of 36 percent in FY 2006, a year with a low number of OP 3 institutions. Similarly peaks in OP 1 institutions in FY 2004 and FY 2005 saw OP 1 FTEs increase to 21 percent, well above the long-term average of 14 percent.

**Table 1**

Shares of Total EC and ID LCC Hours for Major Operations  
Does not include leave

	2002				2003				2004				2005			
	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by
	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	
OP1	9	4	13	14	9	7	15	16	8	6	14	13	10	11	21	17
OP3 TOTAL	19	54	73	78	20	55	75	77	20	59	72	66	17	47	65	54
3A Statutory	11	28	38	41	15	38	53	54	13	34	47	43	11	34	45	38
3B Corporate	4	14	19	20	3	9	12	12	6	8	14	13	4	6	11	8
OP4		6	6	7		2	2	2	0	3	3	3	0	5	5	4
OP5	1	7	7	9	2	6	8	8	1	9	10	9	1	9	10	8
TOTALS	29	71	100	107	30	70	100	103	29	71	100	91	28	72	100	84
<b>FTEs by Office</b>	<b>32</b>	<b>76</b>	<b>107</b>		<b>31</b>	<b>72</b>	<b>103</b>		<b>27</b>	<b>65</b>	<b>91</b>		<b>23</b>	<b>61</b>	<b>84</b>	

	2006				2007				2008				Partial 2009			
	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by	EC	ID	TOTAL	FTEs by
	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	Percent	Percent	EC and ID	Operation	
OP1	11	10	21	19	9	6	15	12	9	4	13	12	10	5	15	4
OP3 TOTAL	19	46	64	59	23	53	76	60	18	57	75	66	23	54	77	21
3A Statutory	10	26	36	33	15	43	58	46	11	41	52	46	9	29	39	11
3B Corporate	5	13	19	17	6	14	21	16	5	8	14	12	11	16	27	7
OP4	0	6	6	6	0	3	3	2	0	6	6	5	0	1	1	0
OP5	1	7	9	8	2	4	6	5	2	3	6	5	2	4	7	2
TOTALS	32	68	100	92	34	66	100	80	30	70	100	88	35	65	100	27
<b>FTEs by Office</b>	<b>29</b>	<b>63</b>	<b>92</b>		<b>27</b>	<b>52</b>	<b>80</b>		<b>28</b>	<b>62</b>	<b>88</b>		<b>10</b>	<b>18</b>	<b>27</b>	

## Proposed Strategies for Human Capital Challenges

### Constrained Choices

Human capital in EC is limited by current staffing levels and financial resources for outside procurement. This limit means EC is regularly confronted with trade-offs between allocating human capital resources to meet customers' short-term statutory needs, and allocating resources to develop new knowledge that would expand human capital and possibly better meet customers' longer-term, more strategic needs. Such trade-offs are often important, since for many of our statutory requests, there is limited overlap between customers' immediate, study-related needs and their long-term interests in comprehensively understanding various issues. Examples of long-term issues include: foreign direct investment, non-tariff measures, trade-environment/labor linkages, and the distributional effects on workers and households of trade policy changes. Research into new areas that are likely to be of long term interest to customers, such as the intersectoral and distributional effects of potential FTAs, can be limited by short turn around requests that are often of immediate concern to our customers. Successful examples of integrating strategic customer interests into statutory requests include the ongoing investigation regarding India's agriculture non-tariff measures and the earlier ITC investigation on the dynamic effects of trade liberalization.

## Partial Solutions to the Challenges

To manage such trade-offs, the Directors of EC, ID, and Operations, try to negotiate one-off 332's to provide more research time and strategic knowledge generation for upcoming studies. Although helpful, practice has shown that time frames are often still constrained, and the research questions are too study-dependant, to make broad, comprehensive research discoveries that can broadly influence policy perspectives.

**Proposed Strategies:** Straddling the competing short and long-term demands of our customers can be effectively accomplished through targeted investments in OE human capital and technology. This is the philosophy underlying each of the five identified strategies below.

- **Help refine and expand staff expertise in customer-identified strategic areas (e.g. NTMs, services, FDI, labor/environmental linkages to trade).**

**Proposed Strategy:** One of EC's priorities is to generate new and deeper knowledge in subjects that are highly relevant to our customers. Many of these subjects, such as NTM identification and quantification, deepening our understanding of services trade, and expanding insight into the labor/environmental linkages to trade, require substantial investments in human capital, analytical techniques, and data. To meet this challenge, EC will continue to facilitate staff's efforts, when not committed to statutory studies, to focus on developing new knowledge and skills in the identified strategic research objectives. To supplement this, EC will continue to implement processes to raise the efficiency and effectiveness of research efforts in these areas.

- **Maintain staffing flexibility and knowledge procurements to facilitate access to data and technical expertise.**

**Proposed Strategy:** To enhance human capital, EC has regularly used contract research resources, particularly in the development of the USAGE model, strategic purchases of trade-related modeling and databases, and part-time visiting researcher appointments to ensure flexible approaches to staffing and specific human capital needs. For example, EC has engaged one of the world's leading single country, dynamic, general equilibrium modelers, Prof. Peter Dixon, to help develop the USAGE model of the U.S. economy. This effort has resulted in other U.S. Government agencies such as USDOC, USDHS, and ERS/USDA, adopting the modeling approach. In addition, USDOL and USEPA currently are considering adoption of USAGE. As part of this effort, EC also contracts with the Center of Policy Studies at Monash University for on-site research assistance (Ashley Winston). EC is also an active and influential member of the Global Trade Analysis Project advisory board, ensuring that ITC priorities are reflected in the projects tactical and strategic objectives. EC staff participates extensively at GTAP and other international trade related conferences and meetings (e.g. ECOMOD, AEA, Empirical Investigations in International Economics, OECD, UNCTAD's Multi Agency Support Team). These initiatives demonstrate how beneficial it has been to contract distinguished researchers. To further enhance knowledge spillover, these efforts should continue and be enhanced with effective measures to recruit new employees specializing in customer-identified strategic areas (e.g. advertising above minimum grade appointments, providing signing bonuses).

EC also has extensive data, research support, hardware, and software procurement needs, including data for NTM research, China and India research, high-powered computers and data analysis software. EC has very effectively utilized research assistants in gathering, developing and analyzing data. However, significant advancements in database development and management, as well as research and questionnaire design, would also be beneficial and could be generated by a statistical and data analysis focused unit providing broader support for EC, ID, and INV as outlined in the D/OP's OARS proposal. EC has also benefited greatly from enhanced research support contributions from the Library. EC has received strong support from AD, Procurement, and the CIO's office in implementing contractor, data, software and hardware purchases and looks forward to continued outstanding support and advice in these areas.

- **Promote more widespread knowledge spillovers.**

**Proposed Strategy:** Promoting knowledge spillovers is a natural part of a research and analysis organization. However, if knowledge spillovers are not appropriately encouraged and channeled, their effectiveness in stimulating productivity increases can be limited. While EC is viewed as a leading source of trade-related economic research and analysis, we feel that increased attention to intentional, well-designed and focused knowledge spillover processes can result in significant expansion of EC's human capital endowment. We propose focusing on three mechanisms to encourage greater knowledge spillover within EC and more broadly across the ITC.

First, research seminars will continue to be used to bring in policy-oriented academics who are studying topics salient to ITC strategic research initiatives. These efforts help stimulate research productivity, given the opportunity to bypass substantial investments in individual staff time discovering, reading and understanding new developments. In addition to internal seminars staff participation in professional conferences is critical to ensuring access to state-of-the-art knowledge.

Second, EC is developing mechanisms to ensure staff-to-staff knowledge spillovers. As part of the EC effort, individual lead researchers will present technical seminars that are useful in summarizing broad bodies of trade related research relevant to the ITC's mission, thus more efficiently conveying new knowledge and insights to a broader array of staff and saving significant staff time. EC will also hold brown bag discussions on specific new articles on issues most relevant to ITC strategic research, to ensure staff familiarity with important new work and the implications of such work for our research topics and methodologies.

Third, EC is working on knowledge spillover mechanisms with the Library, in the area of more effective organization of accumulated "grey literature" collected by staff members during the course of their investigations. This entails more effective ways of documenting individual research so that others can benefit from such efforts (including standardizing naming conventions and organizing documents more systematically). Combining these papers in a common location, creating a common naming convention, and procuring appropriate software to search across broad bodies of literature for specific topics will significantly enhance staff productivity. EC will also implement a similar project to

document and store the various public (eg non CBI or NSI) databases created during statutory and strategic research initiatives. The Statistical Analysis and Data Services Division proposed by Operations would also provide a likely source of knowledge spillovers.

- **Continue to develop and enhance the productivity of knowledgeable staff with unique, world class economics and analytical skills that are used to address increasingly complex and difficult economic questions facing our customers**

**Proposed Strategy:** In the face of flat staffing levels and ongoing recruitment challenges, a key element of EC's human capital plan is to ensure systematic increases in staff productivity. A key component to this strategy is to continue "budget-neutral" grade rebalancing efforts. This includes increased responsibilities for mission critical, and professionally renowned, senior staff. Other important elements to implementing this systematic productivity growth include providing Senior and Lead Economists with highly qualified and motivated Research Assistants to handle time consuming data manipulation and analysis, literature searches and reviews, and presentation material. To supplement this, enhancing staff access to hardware and software (including dual monitors), and increasing their access to online research and data resources (the Head Librarian, Bob Bauchspies, has made very significant positive contributions in this area) will also stimulate Lead/Senior Economist productivity. Finally, providing them with highly productive and effective administrative staff capable of handling a range of activities, such as procurement, travel, web posting, report preparation, and routine data and presentation activities, will no doubt buttress productivity gains.

EC has been implementing its strategic grade rebalancing efforts for the past three years with great success. We have hired a number of term Research Assistants during this period with exceptional quantitative and research skills. Senior and Lead Economists in all three EC divisions have enthusiastically endorsed the approach and report dramatic increases in productivity as they are able to focus on the broader conceptual research questions.

The budgeting of these efforts has been designed to be cost neutral in terms of salary and benefit costs in EC, allowing promotion of selected staff through the hiring of lower graded, term Research Assistants. Continued support from HR, AD, the Strategic Planning Committee, and the Commission for these efforts is needed, as EC needs regular position audits, flexible recruitment and position description development, and permission to promote highly productive and widely recognized staff to above the full performance level grades.

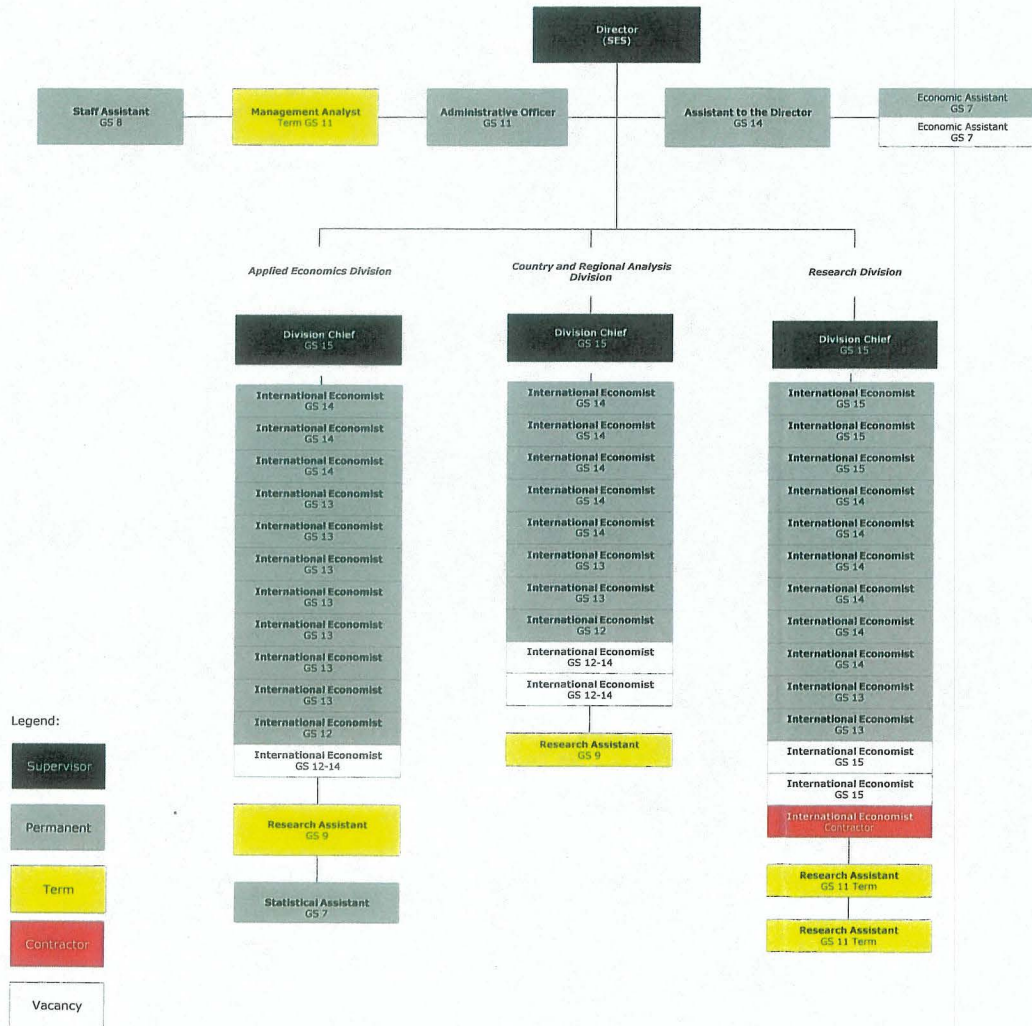
- **Enhance staff writing, briefing, and presentation skills to better showcase Commission expertise and capture the attention of busy customers.**

**Proposed Strategy:** An ongoing challenge for EC staff is to continue to improve writing, briefing and presentation standards to ensure that Commission-generated knowledge and insights can be easily digested and used by our internal and external customers. To meet this challenge, efforts in EC will be focused on a range of topics from the way statutory reports are prepared to staff presenta-

tions and briefings. The design and drafting of statutory reports will continue to move towards the “inverted pyramid” style, reflecting a conclusions-first approach in how we describe information. Staff will continue to be encouraged to focus on tight, focused presentations on various topics like those found in the Executive Briefings on Trade (EBOTs), which were designed to allow staff to share accumulated knowledge on relevant topics and practice using alternative methods of presentation. Staff will also be encouraged to improve public briefing and presentation skills, focusing on time-efficient presentations of relevant information. In most cases EC will implement these efforts through internal review and dissemination of “best practice” experience. However requests may be made for customized training on writing and presentation.

# Current State: Office of Economics

50 FTEs  
45 Permanent  
5 Terms  
1 Contractors



\*Current State\* organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.









# Office of Industries

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## 2009 Human Capital Plan

### Challenges

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- Increasing the analytic depth of work with a smaller, less experienced workforce
- Successfully operating with a broad span of management control
- Developing new cadre of analysts with outstanding project leadership skills
- Replacing significant technical and project leadership knowledge which has been lost due to retirements/resignations
- Retaining mid-career analysts with world-class expertise in whom the Commission has significant investment

Proposed tools to address these challenges:

- A modest increase in the number of GS-14 analyst positions to meet challenges associated with a broad span of control, the increasing complexity of analytic work, the 15 percent reduction in ID's size over the past few years, and competition for our most valuable analysts.
- Targeted recruitment efforts, using a variety of hiring authorities, with emphasis on quantitative and communication skills. ID will continue to hold positions until high-caliber candidates can be hired.
- Implementation of a robust training program to develop the knowledge needed to support the demanding mix of knowledge the mission requires, and to improve writing, briefing, and leadership skills.
- Increased use of purchased data, automated data collection technologies, the Library research staff and the Operations' proposed Statistical Analysis and Data Services Unit to increase productivity by allowing ITAs to focus on analysis vs. data generation.

### Workload

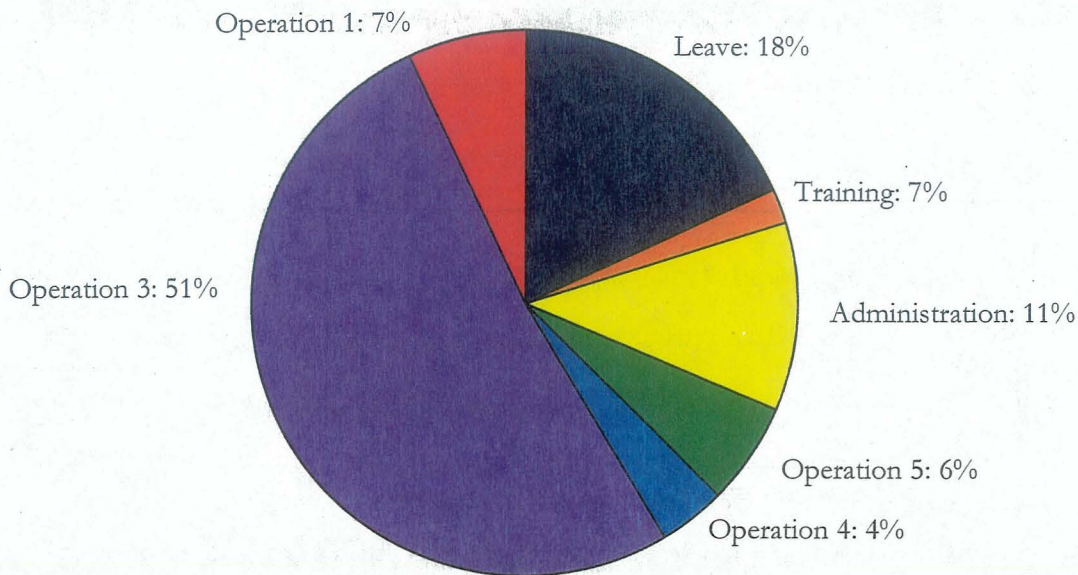
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#### Current

ID continues to provide unique technical knowledge and project leadership in support of the Commission mission, as addressed in Operations 1, 3, 4, and 5 (see figure).

## Average industries workyear distribution, FY 2004-2008

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These shares vary within a fairly narrow band from year to year (e.g., over the past 5 years OP 1 ranged from 4 to 10 percent, OP 3 ranged from 44 to 58 percent, OP 4 ranged from 3 to 6 percent, and OP 5 ranged from 4 to 9 percent) in response to the nature of incoming work.

Against this backdrop, there is an increasing level of complexity in the issues ID is asked to address in Title VIIs, statutory requests, and technical assistance (OPs 1, 3, and 5), e.g., the quantification of NTMs affecting services trade in the Colombia 2104 and the Property and Casualty Insurance 332. Requests for reports on miscellaneous tariff bills (OP 4) have trended upward and cyclicalities have been replaced by a steadier annual workload. In FY 2008, ID provided advice on 775 bills.

### Future

ID expects the trend of increasing complexity to continue, with additional emphasis on NTMs in the Services sectors and the nexus of trade and labor, investment, IPR, regulation, and the environment. ID's Services Division and Program Managers (IPR, Investment, Environment, and Labor) will continue to enhance their ongoing research programs and contributions to both statutorily requested work and Commission generated publications (working papers, *Journal of International Commerce and Economics* articles, Executive Briefings, etc). Continued Congressional interest in agricultural trade issues, preferential trade programs, and the textiles and apparel sectors suggest that the pace of sector-specific statutory requests is likely to continue. There also will be additional need to provide assistance in Title VIIs – both as analysts and investigators – as “sunset” review cases peak in FY 2010.

Interviews with the Administration's transition team indicated an interest in increased technical assistance requests. USTR has already begun using OP 5 to acquire information on rules of

origin, an area that requires painstaking work and extremely detailed product knowledge. ID is also resuming its practice of providing candidates for USTR (and Congressional) details, a practice that offers tangible benefits to the Commission by increasing understanding of customers' needs, by building stronger professional relationships with customers, and by providing opportunities for skill and career development for employees.

## **Skill set requirements**

To meet requirements of the Commission's mission, ID must develop and maintain deep, technical expertise in over 50 major service, agriculture, and manufacturing sectors. For an Industry Analyst to operate successfully at an expert level with unique microeconomic knowledge requires 3-5 years of training in addition to an advanced degree.

ID's goals are (1) to develop a team of expert analysts with excellent written and verbal communication skills, which are critical for concise analysis and for efficient, productive team efforts; and (2) to increase ID's pool of experienced project leaders, a role that requires leadership, foresight, organization, creativity, inspiration, and communication and collaborative skills.

## **Solutions to the Challenges**

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ID's challenges can be readily met with sufficient planning and consistent, sustained effort. ID proposes to implementing four complementary strategies, including an increase in the number of GS-14 positions, a strategic approach to hiring, a further emphasis on customized training and knowledge transfer, and increased application of electronic data processing tools and purchased data.

### **GS-14 ITA positions**

In the three years since elimination of mid-level (GS-14) supervisor positions, management has closely monitored the span of control in ID to ascertain the impact on quality of research and analysis, staff development, and supervisors. With the departure of more than a dozen highly experienced staff, the challenges associated with a large span of control have increased.

However, ID Division Chiefs and the Office Director are in agreement that the most important action to assist in managing a broad span of control and increasing productivity is to increase the number of GS-14 analyst positions for those who demonstrate thought leadership, initiative, consistently superior performance, and mentoring/teamwork skills. Promotion to a GS-14, ITA position depends both on the existence of complex work that justifies the grade and the existence of employees capable of independently performing such work.

ID has been conservative in its approach to such promotions and will continue to be. ID is not proposing a change in the ID ITA career ladder at this time. As noted, promotion to a GS-14 will depend on demonstrated, consistent excellence in a variety of skills including, *inter alia*:

- Outstanding analytical ability
- Outstanding written and verbal communication skills
- Highly developed project leadership ability, including demonstrated interpersonal and team building skills, especially cross-office teambuilding
- Advanced quantitative skills, i.e., the application of higher level statistics, data manipulation, and econometrics; and/or
- Recognized world-class expertise, as demonstrated by thought leadership, requests for public presentations, negotiating support or experience, or regular publications that advance understanding of trade-related, commodity or service issues.

ID currently has 15 non-supervisory employees at the GS-14 level or above. This plan proposes an additional eight GS-14 ITA slots in the long-term, although only about half of those positions would be filled over the next two to three years. Each Division will have two lead ITAs and an additional one or two senior technical experts. Most of the candidates for promotion to a GS-14 are already at the GS-13/10 level. The total additional cost (salary and benefits) of promoting four such analysts, for the entire two-year span envisioned in this plan, would be approximately \$64,544 (\$32,272/year).

### ***GS-14 Lead ITA***

Lead ITAs help supervisors ably handle a broad span of control by independently assuming responsibility for mentoring, leadership, review, administrative, and developmental activities, in addition to handling a commodity portfolio. These positions also provide opportunities for employees with a demonstrated aptitude for leadership and management to hone these skills under the direction of ID's supervisors, thereby developing a cadre of leaders who will be well prepared to step up to supervisory positions as they become available.

### ***GS-14 Senior ITAs***

These positions require initiative, thought leadership, and analytical collaboration with both other Commission employees and external experts. ID's current Senior ITAs either (1) oversee ongoing, cross industry research programs (IPR, investment, environment, labor, standards/technical barriers to trade), or (2) have expertise in important, complicated areas (e.g., chemicals, metals, advanced trade/tariff data skills, production sharing). The latter group represents former Branch Chiefs whose efforts have been refocused from performing supervisory duties to providing leadership on analytic products. The issue focus of the former group (program managers) is echoed by the Office of Economics' plan, which envisions development of expertise in several of these research areas as well. Close cross office collaboration, drawing from the strengths and focus of each office, will ensure that the Commission is at the forefront of knowledge in these areas that are of increasing interest to trade policymakers.

In addition to using Senior ITA positions to support programmatic expertise, ID will selectively (either through classification audit or competitive procedures) use these positions to promote

personnel with world-class knowledge and renown in complex product/industry sectors combined with a high level of initiative and independence in thought and action. Such personnel are valuable contributors to the Commission's mission and typically enhance the productivity of other employees (especially supervisors) due to their depth of knowledge and ability to act independently. They also often represent a substantial developmental investment by the Commission.

An added bonus to these benefits is that the availability of senior GS-14 ITA positions will both help retain self-directed, expert thought leaders, as well as better positioning the Office to compete when recruiting for highly qualified candidates at lower grades in the career ladder.

## Recruitment strategies

With consistent, sustained recruitment, ID can meet expected mission requirements with 91 FTEs during the next two to three years. With 20 analysts currently retirement eligible, ID expects the average experience level, and therefore grade, of its ITA workforce to continue to decline in the near term. A staffing level of 91 over the next two years should allow ID to:

- provide personnel flexibility for the Commission to meet its strategic goals;
- meet customer's needs for unique expertise and support in complex areas;
- continue analytical research in cross-cutting areas, including: the nexuses of trade and investment, the environment, and labor; the impacts of intellectual property regimes on competitiveness and trade; and the quantification of NTMs or productivity measures in services, agriculture and other sectors.

To meet recruitment needs for highly skilled individuals, ID will use a mix of standard recruitment tools, the career intern program, and Presidential Management Fellows (PMF). The PMF program is a critical component of ID's HCP. ID's goal over the next three to five years is to have one to two PMFs in each Division (ID currently has three in ID; one in CT and two in ATM). The very high quality of PMF candidates, coupled with their interest in government careers and management, offsets the higher initial costs associated with the program and meshes well with ID's need to develop project leaders, program managers, and lead analysts.

The plan also provides for re-skilling ID's Trade Information Specialist (TIS) positions as Research Assistants (RA) when these positions become vacant through attrition. Although the RA career ladder will top out at a slightly higher level than the TIS ladder (GS-11 vs. GS-9), ID will reduce the number of positions from five (one vacant since January 2007) to three. This should result in cost savings.

The RA positions are envisioned to be similar to those created in recent years in the Office of Economics and would require a mix of qualifications, including college level training in economics and strong quantitative skills. The exact mix will be somewhat dependent on the creation and evolution of the proposed Office of Analysis and Research Services, and RAs would supplement and support the work of that office.

## Technology, Training, and Development

ID is committed to continuous productivity improvement, in terms of process and depth of analytical knowledge. This HCP includes implementation of ongoing training programs, as well as continued acquisition and utilization of databases and other quantitative tools. For example:

- ***Resumption of details to INV during Sunset reviews.*** This cross-office training program increases efficiency within the Office of Operations and also develops questionnaire, briefing, and leadership skills.
- ***Continuation of project management training.*** The goal is to systematically increase productivity by improving the caliber of project leaders and, by extension, continue the high quality of OP 1, 3, 4, and 5 products.
- ***Development and implementation of e-learning training modules that can provide instruction to new analysts and serve as a reference for experienced staff.*** This training initiative, a result of partnership with the Department of Commerce, can provide consistency and greatly enhance productivity and efficiency throughout the Commission.
- ***New applications of information technology and purchased data resources allow ID to leverage analysts' skills, with concomitant increases in the quantity and complexity of both statutory work and research.*** ID will continue to evaluate and develop automated tools that reduce time to collect and manipulate data and will also rely on OP's Office of Analysis and Research Services (see Operations' HCP).
- ***Continued use of the Office's seminar series, ad hoc working groups, and working papers to target development of expertise in areas of current interest to policymakers.***











# Office of Tariff Affairs and Trade

## Agreements

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2009 Human Capital Plan

### Challenges

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The prospect of several pending bilateral free-trade agreements (e.g., Korea, Malaysia, Panama, Colombia) and an eventual Doha Round MTN agreement. On the basis of agreements negotiated by USTR, TATA prepares draft annexes, which the President includes in his proclamations to implement each agreement. In cases of bilateral agreements, TATA also prepares the respective annexes for publication by the Commission on USTR's behalf. While there are many facets to these agreements, the biggest challenge is interpreting complicated coding for negotiated staging of duty rates towards reduced or zero duty rates—no two agreements are alike in this regard—and generating detailed staging tables for thousands of HTS codes. This work has a long learning curve, and TATA has only one person with experience. A permanent assistant is critical for future succession planning.

An increasing number of miscellaneous tariff bill reports that are required with each successive Congress. TATA is integral to this process from beginning to end, previewing proposed bills before their introduction, retrieving bills from congressional web sites and organizing them for assignment to ID for report preparation, tracking and reviewing all bill reports and finalizing them for Commission approval, transmitting approved reports to the Congress, reconciling the reports with those of other government agencies (especially Customs and Commerce), reviewing omnibus legislation at mark-up, and finally incorporating new provisions in the HTS. This work presents many challenges, but one of the most critical is previewing literally hundreds of proposed bills in a short amount of time before they are introduced. If a badly drafted bill is introduced in the Congress, it is difficult to straighten out afterwards. Filling TATA's long-standing vacancy for a Nomenclature Analyst would help ease this problem.

### Pending Section 1205 Studies

At least one major Section 1205 study is foreseen to begin in the Fall 2009; the incorporation in the Harmonized Tariff Schedule (HTS) of numerous changes resulting from the recommended 2012 amendments to the international Harmonized System (HS), which serves as the basis for our national tariff. In addition, TATA expects in early 2009 at least two other limited Section 1205 requests from U.S. Customs and Border Protection. Each of these studies entails a long-term process and requires Nomenclature Analyst expertise. Here again, filling TATA's long-standing vacancy for a Nomenclature Analyst becomes very important.

### HTS Online Reference Tool

When this project began a few years ago, the intent was that the Reference Tool would eventually replace the present way TATA prepares and publishes the HTS, while at the same time

providing a means to transfer key HTS information into and out of various databases used by the ITC, Customs and others. While TATA still anticipates making such a transition at some point, it is unable to do so now. The effect, at least for 2009, is that TATA's limited nomenclature staff now has a significantly increased workload maintaining two HTS systems—one for maintenance and publication of the legal document we call the HTS, and the other, an unfinished reference tool that needs work before it can be used as an official version of the HTS. It bears repeating that TATA needs to fill HS's longstanding Nomenclature Analyst position.

## **Potential Retirements**

Six of the 13 employees now working in the TATA are retirement eligible, and a seventh has indicated that she would be interested in taking early retirement, when and if that option is again offered by the Commission. Given the present economic situation, there is a good possibility that retirements will be postponed for the time being, but when the economy improves again, the potential for a substantial exodus will increase, which could hamper the TATA's ability to meet all of its usual obligations.

## **Workload Assessment**

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### **Trade Agreements**

It is unclear how the Trade Agreements Program will be dealt with in the economic uncertainty of 2009, but USTR has been in various stages of negotiations on several bilateral FTAs, and work on the Doha Round of Multilateral Trade Negotiations could begin again in earnest. As indicated above, TATA prepares draft implementing annexes for all such agreements on the basis of USTR's negotiations. It is very difficult to predict how many agreements will be implemented in the coming year, or when, but the potential is there. The Commission is an observer on the GSP Subcommittee of the Trade Policy Staff Committee; in this context TATA attends meetings of the Sub-Committee and provides statistical and drafting support to USTR in preparation for Presidential proclamations implementing annual changes to the GSP program. TATA also contributes assistance, formal or otherwise, to USTR on an ongoing basis, as requested.

### **Miscellaneous Bill Reports**

The 111<sup>th</sup> Congress has just begun, so activity in this area has yet to warm up. However, during the second half of the 110<sup>th</sup> Congress, the House alone requested Commission reports on some 800 miscellaneous tariff bills. Since the Senate did not move on tariff bills, those 800 bills did not get enacted. Experience suggests that those 800 bills will be re-introduced (possibly as a package) in the 111<sup>th</sup> Congress and that additional bills will be introduced by both the House and the Senate. It is not possible to predict how many new bills will require Commission reports.

## **Section 1205 Studies**

These are not regularly occurring investigations, but are instituted in response to a major amendment of the international Harmonized System (HS), which provides the underlying structure of the HTS, or at the request of other Customs or interested private concerns. Major amendments to the HS occur about every five years, and the next recommended amendments will be promulgated in June 2009. TATA expects two other Section 1205 requests from Customs presently.

## **HTS Publication**

By statute, the ITC is required to publish the HTS, which occurs usually on an annual basis, in order to reflect annual staged rate reductions affecting most of the tariff. This includes preparing a hard copy for printing by GPO, as well as posting electronic files on the ITC website. In addition, TATA generally publishes a hard-copy Supplement at mid-year to reflect changes arising from the annual GSP Review and any other changes arising in the interim from legislation or Presidential proclamations. In the meantime, TATA updates the online version with electronic updates whenever it is required. This is a relative constant in TATA's workload.

Related to this work is the chairing and administration of the inter-agency Committee for Statistical Annotation of the Tariff Schedules, which meets at least twice a year to address requests—by industry, other Government agencies and even foreign governments—for creation of new statistical reporting numbers in the HTS and the Schedule B for Exports. The workload is expected to remain steady at 30 to 40 new requests each calendar year.

## **Online Reference Tool**

TATA's input into keeping the present HTS Reference Tool up-to-date is expected to be critical to its future success. This means that much input that is now going into the HTS will need to be re-entered in the Reference Tool for the foreseeable future. As the Reference Tool reaches a higher plateau of development, TATA will be able to concentrate all its input efforts directly into the Tool, but for the time being two systems must be maintained.

## **Participation in international organizations**

TATA participates in the U.S. Delegation to the Harmonized System Committee and the Scientific Sub-Committee of the World Customs Organization in Brussels. In addition, TATA leads the Delegation to the HS Review Sub-Committee. This workload is relatively constant, entailing preparation of U.S. positions, in consultation with U.S. industry, and defending those positions at the WCO. In addition, at the request of USTR, TATA is called upon from time to time to participate in technical committee meetings at the World Trade Organization in Geneva or in international talks concerning specific trade agreement programs.

## Solutions to the Challenges

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As already suggested above, the ideal solution to the challenges facing TATA would be to (1) recruit and hire a second international trade analyst—to assist in the preparation of implementing annexes for free trade agreements—and (2) recruit and fill the longstanding vacancy for a Nomenclature Analyst. In the imperfect world that exists, a compromise solution would be to fill our existing vacancy with someone who has both tariff expertise and the specialized software knowledge to assist with the trade agreements annexes.

The number of TATA staff (14) has not changed since the last Human Capital Plan was developed in 2004, but the organization within the office has been altered somewhat.<sup>1</sup> TATA does not foresee any change in the overall number of staff budgeted for at present, but does envision a small shift in resource allocation. Specifically, it will be necessary to rewrite the position description of one Nomenclature Analyst position, in order to enhance TATA's ability to deal with the trade agreements work.

TATA now has six Nomenclature Analyst positions (one of them currently vacant), each requiring commodity expertise for maintaining and updating the HTS and contributing to the work of the WCO committees. TATA has had an SF-52 on the Chairman's desk to fill that vacancy since 2006. However, given the efficiencies expected gain once the HTS Reference Tool is fully operational, TATA can probably continue to operate with the five incumbents and reallocate the vacancy to a hybrid function, still supporting the nomenclature work, but focusing also on providing backup to the International Trade Analyst working full-time on this function.

In the past, there was a separate Commission office with at least eight employees to carry out the trade agreements work TATA now does. In the late 1980s those functions were transferred to TATA, and over the years the staff responsible for that work eventually dwindled to just two, and finally to just one (Terry O'Brien). Because of his long experience and many years of storing up institutional knowledge, Mr. O'Brien was able to keep up with the work on his own, but only he knew what he did and how he did it. Before he retired in 2007, TATA recruited and hired Naomi Freeman as an over-hire to work with Terry for six months prior to his departure. In addition, she took it upon herself to get formal and informal training in MS Access, Excel, Oracle and other software needed to meet the demands for data development from USTR and the ITC Tariff Database manager. However, the workload has proven to be more than one person can comfortably handle and, given the critical nature of the work to the trade agreements program, it is really necessary to have a trained, permanent backup for this work. It is TATA's intention to recruit, as soon as possible, someone to train in HS matters to help with nomenclature work, but who also has a strong background in spreadsheet software, such as Excel, MS Access and others. As most of the U.S.'s trading partners have been negotiating bilateral trade agreements around the world, TATA foresees that this work will only increase for the U.S. Government, as well, even in the current economic climate.

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<sup>1</sup> Specifically, (1) the position of Special Assistant to the Director was converted back to a Nomenclature Analyst position; (2) the position of International Economist was converted to an International Trade Analyst position, since that role is better covered by that job description, though the functions in TATA's context are unique; and (3) the Secretary position has been converted to a Staff Assistant position, because of the broader duties expected in that role.



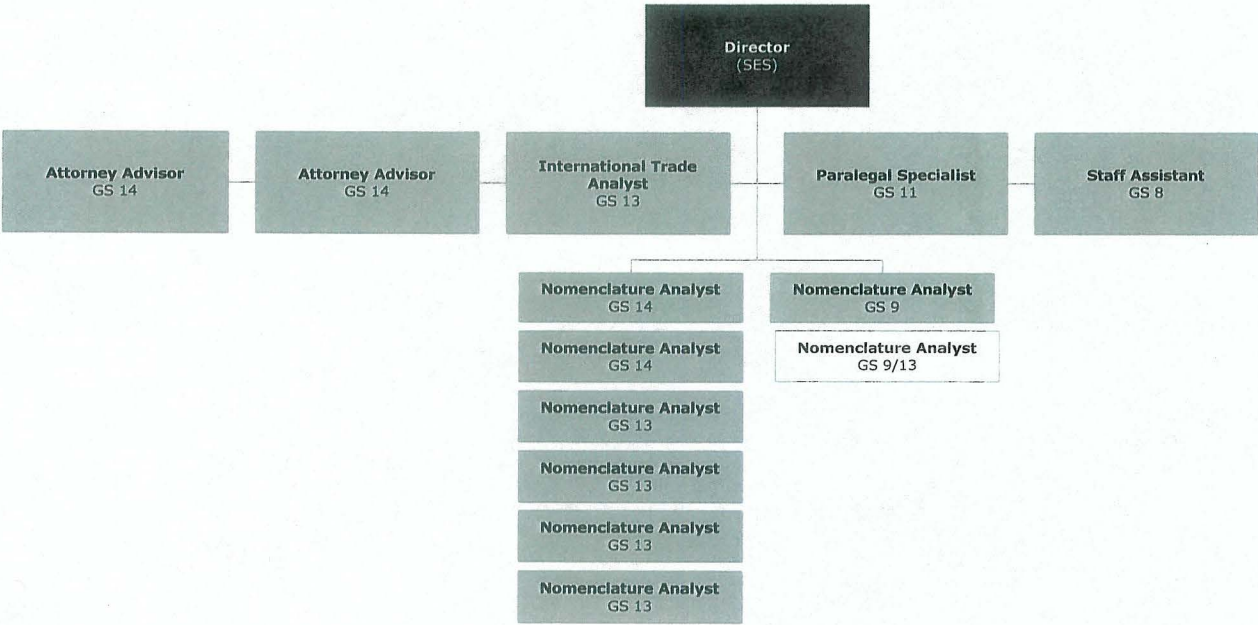
TATA's priorities for the next year, therefore, are as follows:

- Fill analyst vacancy, requiring, in addition, expertise in use of Excel, MS Access, and other spreadsheet software.
- ***Succession planning.*** TATA lost one staff member to retirement in FY 2006 and two more in FY 2007. Two of those three have been replaced (one through recruitment, the other through transfer from the ALJ's office), but the third vacancy remains unfilled after more than two years. Six incumbents are eligible to retire now, and another four will be retirement eligible in the next five years. Of thirteen incumbents on board, two had mentioned informally that they might retire in FY 2008; clearly, that appears to extend now to FY 2009 or later, but the possibility remains strong. A third has expressed an interest in early retirement, in the event that option is offered by the Commission.
- ***Developing Customs and classification knowledge.*** As the number of emails requesting tariff advice increases, it becomes clear that staff responding to those emails should gain further knowledge of Customs classification, entry procedures, and related issues. Clearly, commodity expertise is key—without a clear understanding of what the imported product is, it is not possible to classify the product accurately for tariff purposes. Though Customs has official Government responsibility for tariff classification, TATA nevertheless fields thousands of requests for classification and other tariff-related inquiries each year. One Nomenclature Analyst recently visited (on his own volition) the Customs National Import Specialists Division in New York, and others will be encouraged to do the same as part of future training.
- ***Retaining attorney-advisers and upgrading their compensation.*** At one time, there were at least six attorney advisers in TATA, though that has been pared to two over the past 20 years as the Office has shrunk. In the present state, it is apparent that two is a good number for TATA and should be the minimum number required in the future. The incumbent attorney-advisers are well experienced in trade law, especially with regard to the HTS and trade agreements program. Owing to the wide variety of important functions and specialized knowledge required in this role, their positions should be upgraded to GS-15 eligibility. This would also provide incentive for new legal talent to apply when either of the incumbents reach retirement or depart for other reasons.



**Current State:  
Office of Tariff Affairs and Trade Agreements**

14 FTEs  
14 Permanent  
0 Terms  
0 Contractors

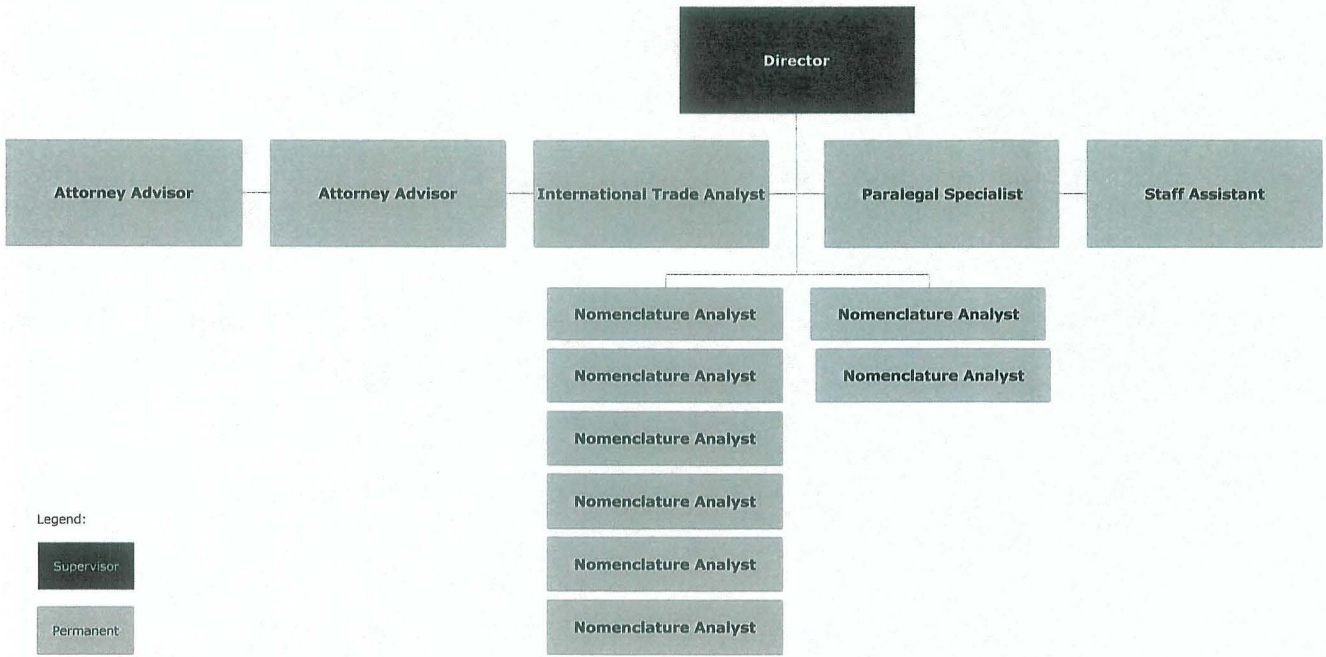


Legend:

- Supervisor
- Permanent
- Term
- Contractor
- Vacancy

"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.





**Future State:  
Office of Tariff Affairs and Trade Agreements**

14 FTEs  
 14 Permanent  
 0 Terms  
 0 Contractors

- Legend:
- Supervisor
  - Permanent
  - Term
  - Contractor
  - Vacancy



# Office of External Relations

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2009 Human Capital Plan

## Introduction

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The Office of External Relations (ER) acts as the Commission's liaison with its external customers and the public. ER provides the interface between the ITC and the Office of the United States Trade Representative (USTR) and other federal agencies, the Congress, state and local governments, foreign governments, and international organizations. It also manages the public information activities of the Commission. ER houses the Commission's Trade Remedy Assistance Office (TRAO), which provides information and technical assistance to small businesses concerning the benefits available from the Commission under the trade remedy laws, and responds to public inquiries about the Commission.

Each ER staff member must possess broad knowledge of the trade remedy laws, comprehensive familiarity with the current and past activities of the ITC, and familiarity with which agency offices and personnel are responsible for those activities. The Executive Liaison and Congressional Affairs Officer each also require a comprehensive knowledge of the organizations with which they interact, their procedures and cultures, and the ability to develop excellent working relations with key personnel. They require tact, negotiating skills, and refined and informed judgement. The Public Affairs Officer requires training and experience in journalism and public affairs and the ability to adapt to the fast evolving electronic media environment. The TRAO Director requires a comprehensive knowledge of the trade remedy laws and procedures, good writing skills, and excellent personal communication skills required to provide aid to those seeking assistance. The Staff Assistant requires the ability to learn and utilize the evolving State Department computer information, communications, and clearance systems. The intern requires security clearance to access confidential materials.

## Challenges

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The activities of ER are performed by four full time permanent staff members, and a part time intern. The Director/Executive Liaison, the Public Affairs Officer, the Congressional Relations Officer, and the Trade Remedy Assistance Director have responsibility for liaison with specific external customers. While each of these staff members has specific responsibilities, given the small staff, there regularly are times when any one of the four has demands that require additional resources. As a consequence, each member of the staff has developed a working knowledge of the responsibilities, tasks, and procedures of the other three, and all office members provide support when the demands of each others' programs require. Each of the four also provides backup for the other three during absences. The Staff Assistant provides support to each on a daily basis, and has developed detailed knowledge of the State Department cable systems.

The Director and the TRAO Officer will be eligible for retirement in the next few years, although neither currently has retirement expectations. If either were to retire, succession would pose a challenge.

## Workload

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The workload of ER cannot be firmly predicted, reflecting as it does the general workload of the ITC. Thus, ER workload is commensurate with the number and nature of requests for studies, information, and technical assistance from the Commission's statutory customers, and from the public. There are also a number of annual tasks which can be projected such as work associated with the Commission budget and the Annual Report.

The number of staff members has not changed since the last Human Capital Plan was developed in 2004. ER does not anticipate any changes in the number of staff positions during the period in question. However, the responsibilities of the staff members have evolved and position descriptions should be updated to reflect the amended responsibilities and evolving technology. This is especially true for the Public Affairs Director who must stay ahead of the curve of rapidly evolving communications technology, the TRAO Director whose duties have expanded to include arranging programs and assuring appropriate protocol for foreign and domestic agency visitors (including Ambassadors and Congressional hearing witnesses) and responsibility for drafting written responses to questions received by [www.usitc.gov](http://www.usitc.gov), and the Staff Assistant, whose duties now include mastering the evolving State Department computer systems for communication with Embassies, information gathering, and country clearances.

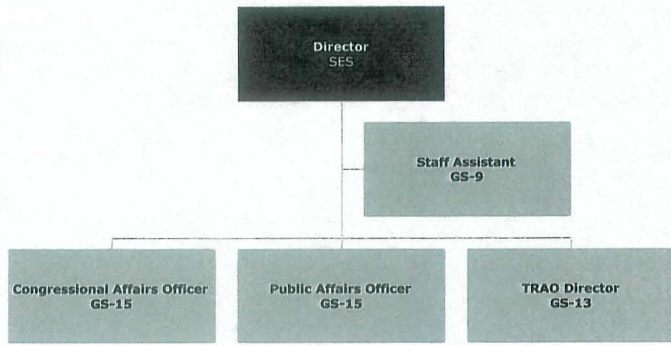
## Solutions to the Challenges

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Should either the Director/Executive Liaison or the TRAO Director choose to retire, given their broad mixed skills sets, the most likely successors would come from other offices within the ITC.

The Executive Liaison requires broad and deep knowledge of both the trade remedy and the research work of the agency; this mix of skills can be found in some long-serving ITC employees. A successor would then have to develop the knowledge of and relationships within USTR and other executive branch agency personnel (as well as Capitol Hill). In the case of the TRAO Director, his mix of responsibilities require substantial working knowledge of the law and procedures of the trade remedies, a body of knowledge most likely possessed by a trade attorney or perhaps an ITC investigator. However, that person would also need to be willing to take on other less familiar tasks, especially the skills associated with support and backup of the Public Affairs Officer and other office professionals and the staff assistant. Because the professionals within ER all have a working knowledge of the work of the other professionals, a successor in either of these positions would need to expand his or her knowledge to all ER areas. Some period of overhire for purposes of orientation would be very useful.

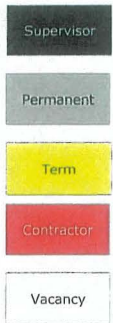




**Current State:  
Office of External Relations**

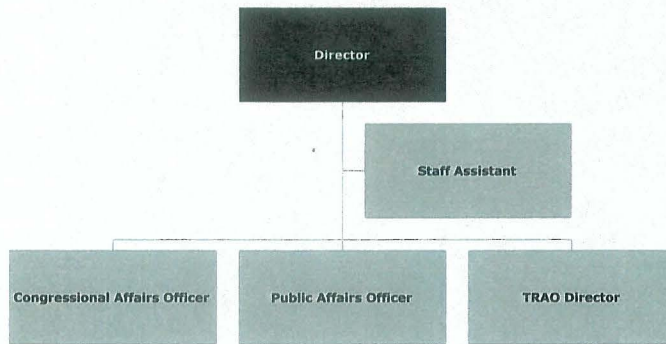
5 FTEs  
 5 Permanent  
 0 Term  
 0 Contractors

Legend:



"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.





**Future State:  
Office of External Relations**

5 FTEs  
5 Permanent  
0 Term  
0 Contractors

Legend:

Supervisor

Permanent

Term

Contractor

Vacancy



# Office of the General Counsel

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## 2009 Human Capital Plan

### Introduction

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GC's mission seems unlikely to change in the foreseeable future. GC's primary work includes import injury investigations (antidumping, countervailing duty, five year sunset review, safeguards, and China safeguards), section 337 investigations, the defense of the Commission in various domestic court proceedings and in international fora, administrative law, and review of draft section 332 reports.

### Challenges

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- Maintaining at least current levels of expertise in the substantive legal areas necessary to support the Commission's mission. Particularly critical during the next five years will be succession planning associated with anticipated retirements by OGC supervisors and staff with specialized expertise.
- Ensuring staffing levels adequate to meet Commission time-lines for investigations and other work. The frequency of scheduling conflicts is increasing with more section 337 work, the increase in the number of judges, and the frequency of court challenges. The timing of judicial decisions and scheduling change requests by litigants, that are beyond GC control, can wreck havoc on staff assignments. Variability in the scheduling of oral arguments in all courts likewise is a frequent problem that has required reassignment of other staff responsibilities.
- Training and integrating newly recruited staff. GC filled a considerable number of vacant attorney positions in the last three years—a total of 14 hires (three of whom have left) or almost one-half of staff attorney positions. This has placed an additional burden on supervisory staff both in terms of training and quality control.
- Enhancing and improving overall professional performance to achieve consistently high quality work product. As in many organizations, all personnel are not performing at the same level in terms of both productivity and quality. To optimize GC's ability to meet client needs, these short-comings need to be addressed through improved training, mentoring, better alignment of skills and assignments and, when necessary, performance based personnel actions.
- Improving internal procedures and databases to enhance productivity. Short-staffing for a number of years in both paralegal positions and clerical support has impeded efforts to establish internal systems and data bases that would enhance productivity as well as improve the information available to allow better informed managerial decision-making.

## Workload

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GC has experienced a significant overall increase in workload as the number of section 337 investigations has increased more than two-fold from pre-2001 levels, and litigation caseload has increased as the percentage of Commission determinations challenged also increased. On the other hand, import injury proceedings have stabilized at a mid-range level, with recurring spikes in workload associated with periodic five year reviews.

Work in other areas has been more episodic. Byrd Amendment litigation continues at a high level, but is considerably less resource intensive than other litigation because the Byrd cases involve a high volume of cases that present largely the same issues. Whether the Byrd litigation comes to a relatively quick end will depend on whether an expected petition for *certiorari* is granted and the outcome of any review by the Supreme Court.

WTO litigation remains at reduced levels and WTO Doha negotiation work on rules related matters has been erratic over the last year in terms of resource requirements. The latter work would likely increase significantly, even if temporarily, in the event of a breakthrough in the overall trade negotiations and would be staffed, as in the past, by some of the most experienced attorneys in the office. A serious resumption of negotiations does not appear imminent, but is likely sometime in the next two to three years.

Despite the relatively rapid increase in workload since 2001, GC's authorized staffing level has remained largely unchanged at approximately 42-44 permanent FTE positions.<sup>1</sup> The increase in section 337 work was met by a shift in attorney resources within the office—as vacancies opened, they were filled with few exceptions with applicants with Intellectual Property (IP) backgrounds. As recently as 2002, GC dedicated only five attorneys (or approximately 14% of GC attorney positions) to section 337 matters. Twelve attorneys, or approximately 33% of GC attorneys are now working on section 337 proceedings on a full-time basis. There has been a commensurate decline in the number of attorneys available to work on other matters, especially on antidumping and countervailing duty cases. The personnel available for non-section 337 work appears adequate, if sometimes stretched during those periods when five year reviews are active. However, the situation can become challenging when more than one GC attorney is on detail for a lengthy period to one or more Commissioners' offices. The recent spate of labor related matters during the last two years also has placed demands on non-section 337 attorneys as labor matters generally have been staffed from among lawyers otherwise doing Title VII work. Recruiting a full-time labor lawyer would enhance the expertise available in that field and contribute to improved customer support on the increasing number of labor matters that are arising lately.

Work is expected to remain at the currently high level for the foreseeable future as there is little indication of any abatement in section 337 or litigation activity and a new round of sunset cases is

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<sup>1</sup> The Human Capital Plan (June 2004) envisioned GC having a total of 44 FTEs within 3-5 years, which included the General Counsel, five other supervisory attorneys, 28 staff attorneys, six paralegals, two librarians, a staff assistant, and a legal assistant.

only about one year away. Given the expected workload, the hiring of additional personnel is necessary both to ensure that GC can deliver its work product to the Commission and other ITC clients on a timely basis and so that it can avoid overtaxing its personnel to the degree that GC becomes an unattractive place to work. GC has been able to attract talented personnel based on the nature of the work (particularly opportunity to litigate) and a better quality of life compared to that offered to those in private practice from where GC most often recruits. If that situation were to change, GC retention rates, which have been good, would no doubt decline.

## Solutions to the Challenges

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### *Increased Personnel*

The future permanent staffing level should increase modestly, by perhaps 10 percent and is projected to occur almost exclusively in connection with OP 2. How quickly the additional staff is needed will depend on the level of investigative activity generally and on whether the increase in the number of administrative law judges leads to a substantial increase in the number of final Initial Determinations issued concurrently. Because the number of ongoing section 337 investigations has just recently reached its unprecedented level, GC does not yet have enough experience to fully gauge the staffing level that will be required to handle the new level of activity. Whether mediation will lessen workloads is also an open question. GC projections of attorney needs therefore may prove to be conservative. Of course, if workload diminishes in volume or complexity, staffing levels can be adjusted accordingly. Since GC expects some retirements from GC during the next few years as well as a normal rate of attrition, such adjustments would not be difficult.

Two other factors suggest that the increase in IP lawyers may be necessary sooner rather than later. First, the concurrent issuance of more Initial Determinations is likely to aggravate a bottleneck which is starting to occur in supervisory review for section 337. The GC supervisory attorneys have been able to meet deadlines only by working a considerable number of extra hours. Both section 337 supervisors had restored leave balances coming into FY 2008 and sought restoration of approximately 200 additional hours each at the end of CY 2008. Those types of supervisory workloads cannot be maintained indefinitely. To reduce this burden, GC is planning to reassign some supervisory responsibility to one or two of the staff lawyers on a case-by-case basis, at least initially. Taking on such responsibilities, however, will reduce their availability to do staff level work<sup>2</sup>.

Taking this approach is necessitated by a second factor, succession planning. GC expects to experience the onset of retirements among supervisory personnel in the next one to four years.

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<sup>2</sup> This might entail the addition of a number of senior level attorney slots (no grade changes) to allow for more defined opportunities for supervisory roles, both in the section 337 and Title VII area where supervisory succession is most likely to be necessary in the not distant future.

Five of the seven attorney supervisors are either retirement eligible or soon will be and some of them have indicated plans to leave the agency within the aforementioned period.<sup>3</sup>

### ***Training/Professional Development***

As indicated above, approximately one-half of all staff attorneys (a higher percentage in the section 337 area) were hired in the last three years. Training has by and large consisted of on the job training with some supplementation, but relatively limited, coming from attendance at conferences and programs made available by outside sources. In most cases, this approach has proven satisfactory, particularly with staff who are self-motivated and conscientious. With a few notable exceptions it has been inadequate and GC will be adopting a combination of more rigorous supervisory oversight together with additional mentoring, even for staff with many years in their current positions, in an effort to improve overall performance and make it more consistent across the office. The problem is almost totally confined to non-section 337 areas of responsibility and, accordingly, those areas will receive the most focused attention.

Additionally, GC was asked by other Office Directors to identify in its future plan a position for an attorney trained in labor law. GC believes that a position with such expertise is justified given the frequency of labor issues, including the resumption of collective bargaining with the union that is likely to require the dedication of substantial time by at least one attorney. GC, however, believes that there may not be sufficient work in labor matters on a regular basis to fully occupy all of a attorney's time so we would be looking for that individual to also be conversant in other administrative law matters freeing up other attorneys to work on Title VII and other matters.

### ***Possible Personnel Changes/Realignment of Responsibilities***

The Staffing Plan would ensure that GC continues to have a modestly flexible workforce. The staff attorneys are split among (1) those who work on import injury investigations and related litigation, (2) those devoted to section 337 proceedings and related litigation, and (3) those dedicated to working on administrative law issues (relatively few attorneys are in this last category). Due to the technical nature of the section 337 subject matter, the number of section 337 cases, and scheduling conflicts with deadlines in the Title VII area, there is little latitude to shift section 337 attorneys to work for any substantial period of time on non-337 matters. This situation is unlikely to change. For similar reasons, there is little opportunity to move the line attorneys who generally are devoted to handling injury investigations to all but the least technically complex section 337 work. However, some non-337 staff attorneys have expanded their areas of practice by working on section 337 cases for a substantial proportion of their time.

The preparation of court records and appendices should eventually become more automated when the Docket Services Division, with the assistance of an upgraded EDIS, takes on more responsibilities in this area. This will mean that a higher proportion of GC paralegal time can be devoted to higher skilled functions such as research, the checking of briefs for accuracy and legal citation, and the preparation of basic legal documents. However, GC already has achieved

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<sup>3</sup> There are only a small number of retirement eligible staff attorneys and none have indicated an approaching exit. Staff retention, otherwise, has been good with attrition rates remaining at approximately one to two staff attorneys per year. Both librarians are retirement eligible, as is the office's staff assistant.



higher efficiency levels in the paralegal group, operating with five positions (only four of which have been filled for some time) compared to as many as eight paralegals 10 years ago. Consideration also is being given to the identification of areas of responsibility that might be shifted from the attorneys to paralegals, such as more basic APO breach inquiries, so that attorney time can be devoted to assignments where their competencies are better utilized, and higher skilled paralegals are given opportunities for more interesting work.

Both the law librarians are also retirement eligible and might retire in the next two to three years. It is envisioned that only one of those positions would likely be filled with a FTE; the other position more than likely would be converted to a part-time position.

Additionally, to enhance the productivity of the General Counsel, and the office more generally, approval was obtained in CY 2008 for the establishment of an office administrator position (on a two-year term basis) in lieu of the existing lower graded legal assistant. Recruitment to fill that position is ongoing and responsibilities would be those of an executive assistant, including the maintenance office records and schedules, including budget, leave, work schedules and other administrative files, which the General Counsel has been compelled to maintain himself for the last few years. Consideration is also being given to whether the restoration of the Deputy General Counsel position is advisable. However, delegation of the responsibilities among first line GC supervisors has worked reasonably well and allowed for significant flexibilities.

### ***Improvement in Databases and Other Capabilities***

Increased reliance on electronic documents and storage also seems to be the only long-term solution for the organization of both files relating to ongoing matters as well as those that are archived. Time is regularly lost by all personnel working with voluminous hard copy documents by virtue of the need for individuals to organize their own personal copies of files. Much of this redundant activity would be reduced if the agency can create a dependable electronic system that is both accurate and comprehensive.

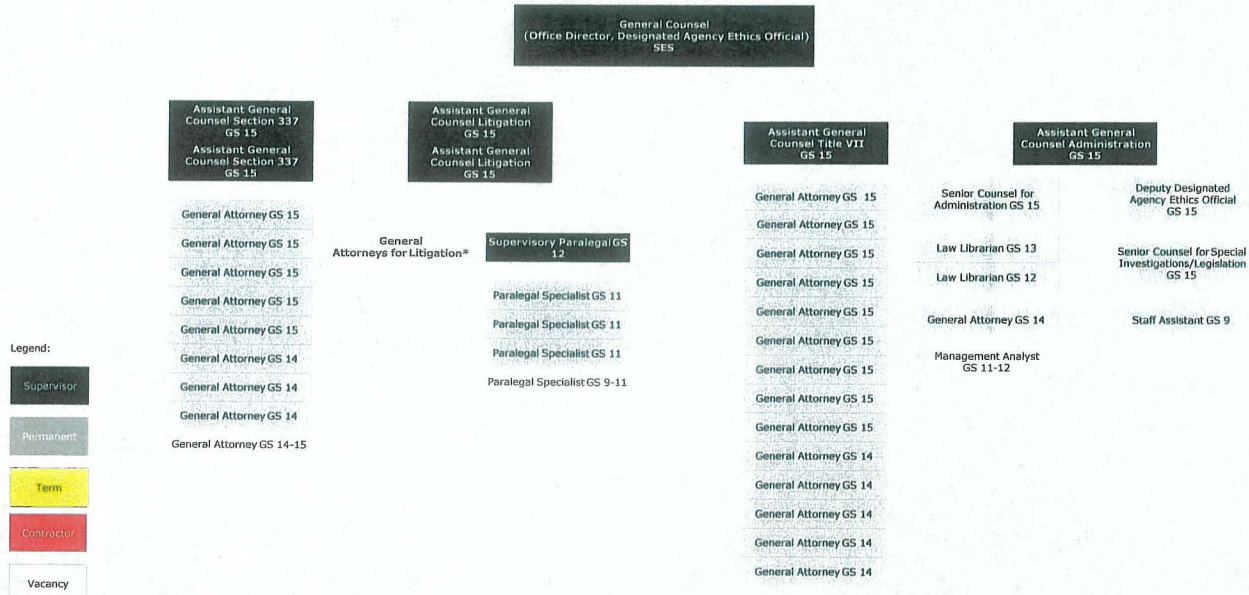
GC also will be evaluating whether EDIS 3 provides a suitable replacement for the document archival/retrieval system that GC has maintained separately relating to its memoranda and briefs. GC is also exploring other areas where the creation/refinement of databases, such as those relating to judicial decisions and the views of individual judges, may enhance the representation of the Commission and/or assist improvements in productivity.



## Current State: Office of the General Counsel

43 FTEs  
43 Permanent  
0 Terms  
0 Contractors

\* The General Attorneys working on the underlying substantive issues also generally are responsible for the pertinent litigation.



\*Current State\* organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.



# Future State: Office of the General Counsel

43 FTEs  
43 Permanent  
0 Terms  
0 Contractors

\* The General Attorneys working on the underlying substantive issues also generally are responsible for the pertinent litigation.

General Counsel  
(Office Director, Designated Agency Ethics Official)

Assistant General Counsel Section 337  
Assistant General Counsel Section 337

Assistant General Counsel Litigation  
Assistant General Counsel Litigation

Assistant General Counsel Title VII

Assistant General Counsel Administration

General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney

General Attorneys for Litigation\*

Supervisory Paralegal  
Paralegal Specialist  
Paralegal Specialist  
Paralegal Specialist  
Paralegal Specialist

General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney  
General Attorney

Senior Counsel for Administration  
General Attorney  
Senior Counsel for Special Investigations/Legislation  
Staff Assistant

Deputy Designated Agency Ethics Official  
Law Librarian  
Law Librarian  
Management and Program Analyst

Legend:

- Supervisor
- Permanent
- Term
- Contractor
- Vacancy



# Office of the Chief Information Officer

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2009 Human Capital Plan

## Introduction

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The role of the Chief Information Officer (CIO) within the ITC and most organizations is fluid, as workload and the resources required to support the organization are constantly shifting. The one constant thing that does not change is that the CIO must be business literate and lead the alignment of information technology (IT) with the overall strategic and business goals of the agency. Further, it is important that the Office of the Chief Information Officer (OCIO) does not fall into a reactionary mode of operation and management but rather maintains a proactive, strategic focus on information management activities.

## Challenges

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### **Developing a Comprehensive Approach on How to Meet Federal Information Security Requirements**

The OCIO has evolved from a highly-exposed and risk avoidance-based staff office, without a comprehensive approach to Federal mandates, to an organization focused to address the multi-faceted challenges of protecting the agency's information from unauthorized access, manipulation, and disclosure. Our future challenges fall into five main categories (1) resources, (2) governance changes, (3) continuous compliance monitoring and (4) role-based user training. These challenges are minimal requirements for an agency's information security program under the E-Government Act of 2002.

### **Providing Consistent High-Quality and Effective IT support**

Due to the changing nature of statutory and non-statutory workload requirements of the Operations units, the OCIO must be engaged with the Operations managers and their business processes so that it can proactively provide sound solutions that will facilitate a more productive work environment for the staff, and in which the Commission will recoup the greatest returns on its IT investments.

This challenge also requires an ability to recruit and retain top IT talent.

### **Building a Customer-Focused Organization.**

As the Commission moves to a more mobile workforce, the OCIO is challenged with providing support services that meet the needs of the remote worker. This will include: (1) helpdesk support for home users, (2) the deployment, administration, and monitoring of 2-factor

authentication tokens, (3) supporting the increased reliance on and functionality of BlackBerry and other secure communication devices, all while (4) continuing to enhance the applications, and the speed and efficiency of the workplace's automation environment.

### **Opening access to data and providing enhanced data analysis and enterprise collaboration tools.**

The ITC produces abundant amounts of data and has an elevated reliance on industry repositories. The OCIO faces the challenge of building data management solutions that provide access to Commission data and developing business analysis tools that make the information useful for the business needs of the Commission.

### **Increased mobility and access to information.**

The "next-generation" workforce is accustomed to having technological tools that allow access to information from anywhere. The OCIO faces the challenge of protecting an increasingly mobile workforce, while complying with federal mandates that are designed to secure government information, systems and data repositories.

The release of EDIS 3 will enable ITC staff to remotely access sensitive information filed in EDIS through a secure CITRIX connection. This will increase the opportunities for telecommuting and mobility for over 25 percent of ITC staff who previously had to work on site to access sensitive information in EDIS.

## **Solutions to the Challenges**

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The OCIO has developed plans to address these challenges using various solutions, ranging from leadership training, effective recruitment and talent management to more innovative technical solutions.

### **Establishing the Information Security and Infrastructure Management Division as the Office of Enterprise Security Management**

To meet the increasing requirements of Federal mandates and to allow for effective administration of the agency's security program as mandated in Public Law, (H.R. 2458 Section (3) (A) (iv), "Designating a senior agency information security officer who shall...head an office with the mission and resources to assist in ensuring agency compliance with this section..."), this plan elevates the Information Security and Infrastructure Management Division to the Office of Enterprise Security Management.

This restructuring would not only bring the OCIO in compliance with the Federal mandate, but would also position the CISO as a peer to the Director of IT Services within the OCIO and peer to senior managers outside the organization. The oversight and enforcement responsibilities of the CISO and the CISO's reporting requirements outside the agency require that the organizational position is one of authority consistent with its level of accountability.



## **Establish a Continuity of Operations Planning (COOP) Officer in the Office of the Chief Information Officer**

Federal departments and agencies are under a FISMA mandate to develop and implement Continuity of Operations (COOP) plans and capabilities. COOP planning is an integral part of an overall process, assessing and managing risk, allocating resources, and documenting appropriate responses, to ensure continuity of a functional government in the event of a natural or man-made disaster. ITC's COOP planning contemplates a phased approach to implementation of actionable COOP plans. As both initial setup and ongoing operations are incremental to the agency's routine operations, taking a phased approach permits spreading the burden of expenses and resource commitments over time. The COOP officer will be managed by the Director if ITS and compliance with the FISMA mandate will be evaluated by the Office of Enterprise Security Management.

## **Training and Development**

A priority for the OCIO is to develop a comprehensive management training program for mid-level IT managers. Often at the mid-manager level, there is a tendency to recruit and hire the best technically skilled individuals. The downside to this is that there tends to be a gap in the level of managerial experience. The OCIO will work with Human Resources to develop a program that focuses on: enhanced communication and negotiating skills, management of diverse staff, fulfillment of customer expectations, project management and resource planning. All "new" IT managers will be required to take this training, and management refresher training will be required of all OCIO leadership.

With the ever-evolving changes in technology, OCIO anticipates challenges in matching our available resources with the latest advancements in technology, which are necessary to meet the requests of our users. While OCIO has a strong staff in place, to further mitigate this challenge the OCIO plans to prioritize training and utilize contract resources. Training and other opportunities for staff to keep up-to-date on the latest technologies will be a priority. These methods of professional development include attending classes, trade shows, and participating in beta tests and trials of new technology tools. In addition, the OCIO will continue to make use of contract staff who are skilled in the specific technologies that the agency decides to use.

Over the next few years we will also focus on functional user and awareness training as we adapt to advancements in technology and new regulatory requirements.

## **Outsource Helpdesk Support**

Two years ago, the CIO engaged in a pilot program to determine if it was more cost-effective and productive to bring helpdesk services in-house. The services of the onsite helpdesk contractor had significantly deteriorated, and ITC staff was being re-focused into engaging in increased user needs.

There were two main reasons outsourcing helpdesk support deteriorated while being outsourced to Nortel (formally, PEC Solutions); the mismatch between large company and

small agency environment and the need for dedicated ITC personnel. While large IT companies such as Nortel were good for performing the 2002 network migration, large companies are not always optimally suited to perform help desk solutions to small agencies such as the ITC. PEC/Nortel was a good fit for the migration project because of its experience, specialized expertise and redundancy in key positions. But unless a company focuses solely on helpdesk functions, larger companies tend to place their best technicians on the high-dollar contracts and place less-experienced staff on smaller contracts, like ITC. This was the case with Nortel. Therefore, the ITC had difficulty competing with large Federal agencies for Nortel's top talent. In hindsight, the task should have been split into the migration task and a separate solicitation for ongoing helpdesk services. The ITC would have had more leverage in selecting a contractor who would have been more attentive to our smaller, yet complex environment.

Outsourcing the helpdesk will require a full-time Contracting Officer's Technical Representative (COTR). To ensure that the contractor provides agreed upon and guaranteed service levels for helpdesk services and all other technical support needs, a government resource should have been dedicated to monitor the performance of the contractor to ensure that all performance metrics and service level agreements were being consistently met. Under the old contract, we had no such resource focusing on this critical aspect of outsourced services.

Using term employees to support the helpdesk over the past two years caused CIO management more time focusing on HR and performance issues related to the term employees than focusing on the core competencies of helpdesk services, such as anticipating and recommending training needs, increasing responsiveness to internal and remote customers' needs, performing effective asset management, and deploying timely application upgrades. Because of the combination of a term-status and the "dead-end" nature of helpdesk positions, after three to six months most of the term employees spent more time trying to move up within the organization or outside the agency for their next opportunity. This led to a lack of commitment, and a very contentious, competitive environment, as several employees competed for one or two permanent internal opportunities.

## **Divide Network Services into Two Divisions**

After much deliberation, OCIO management has determined that because there is relatively no relationship between the helpdesk services and the system administration tasks, the two functions should be split so that the appropriate amount of focus can be applied to both. With the direction some new IT solutions will take, the span of oversight and project management will be paramount. Likewise, administrative oversight of the helpdesk will increase significantly. The proposed split will group helpdesk services with composition and printing under one manager as the Customer Services Division. Network systems administration, telecommunications and audio/visual services will be under the other manager as the Network Solutions and Planning Division. This split will require no additional positions, or changes in grades, and will position both managers to be proactive in their management roles.

The separation of functions will allow, for the first time, a dedicated focus on the systems development and administration portion of the IT organization. The Network Services Division in its current form is an assorted mix of duties, including helpdesk and customer support services. The criticality of the network side is often overlooked as most of the agency is

familiar only with the customer-oriented tasks. The current manager of the Network Services Division is more experienced in service support than technical application of IT solutions. With the proposed split, a manager of the network side would bring a more technical skill set to the team and would be better positioned to provide direct concentration on the needs and status of topics related to the servers, network infrastructure, storage, etc. Additionally, a manager dedicated to the network infrastructure will be able to more effectively prioritize and direct the numerous responsibilities of the team. While there will still remain a staffing issue after the split, it would at least provide more focus for the network. With sufficient staff and the direction of a dedicated manager, the network side will be able to work more efficiently on projects like desktop/server lifecycle refreshes and implementing security throughout the lifecycle by following FISMA requirements, which have significantly increased with respect to the number of technical security controls that need to be maintained and monitored, as technologies advance.

As outlined above, the OCIO anticipates a significant increase in administrative overhead related to new IT offerings such as the distribution of token-based authentication devices, managing and supporting docking stations for frequent telecommuters, and deploying a more effective asset management tool. Those tasks coupled with overseeing the helpdesk contractor will require a dedicated resource to manage the customer-centric requirement of the staff.

### **Implement an Integrated Test Environment for the Systems Engineers and Application Developers**

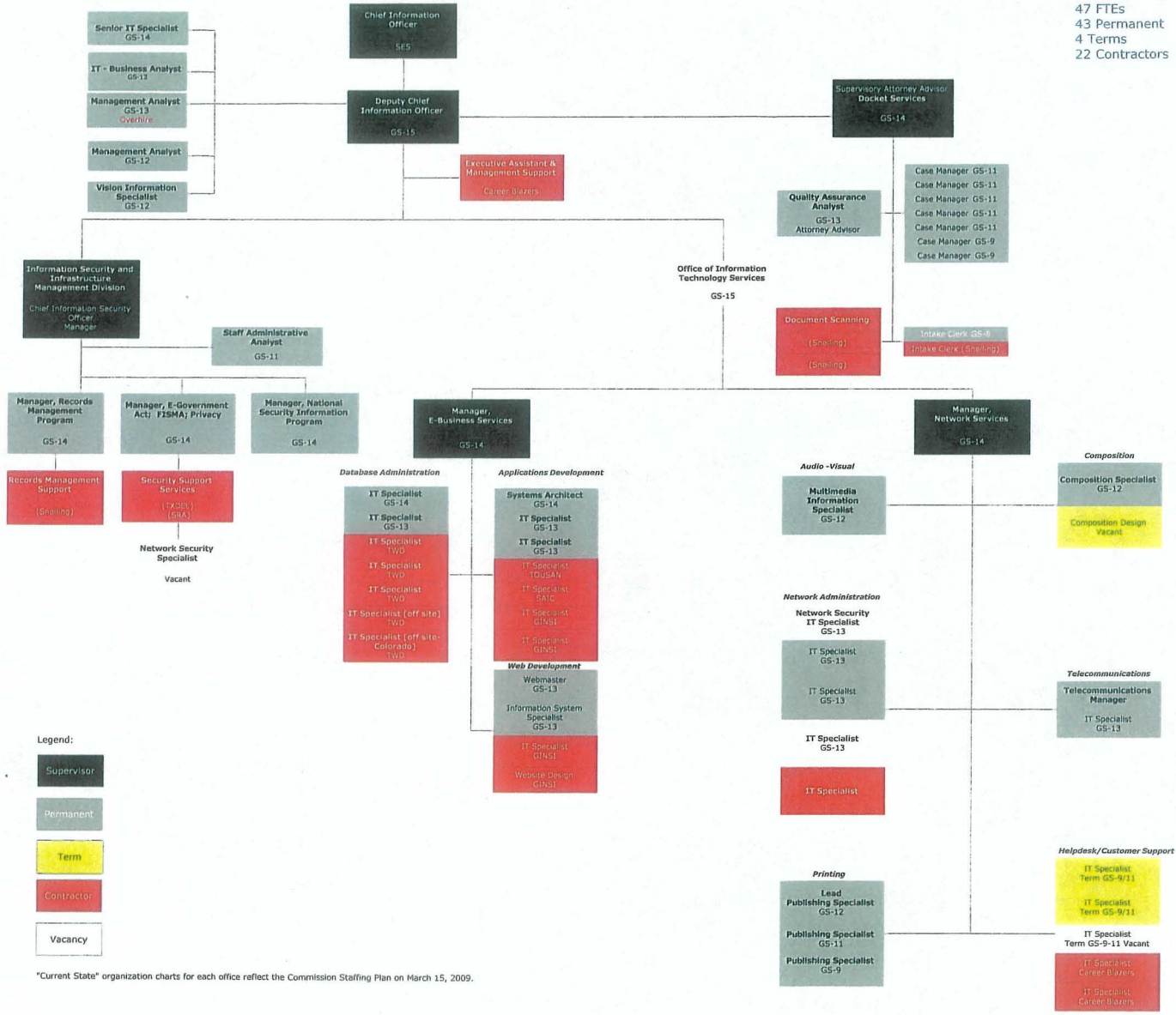
It is imperative that the OCIO invest in the construction and implementation of a test and development environment that is representative of ITC-Net and its subordinate applications. This environment would allow for advanced testing of software applications and system configuration under the same conditions (i.e., hardware, security, systems software) as the production environment. For example, software bugs, data migration and other risks to deploying applications can be resolved early to avoid costly delays in the implementation of the required solution.

Test environments are not inexpensive and require the same amount of effort to maintain as the production network. However, the benefits of a replica test environment are enormous. Further, the Commission may want to consider housing the test environment at the alternate processing facility, which would also be used for COOP. This would satisfy both requirements and would leverage our limited resources. We must continue to make significant strides in refining our system development life cycle and change control methodologies to ensure we minimize system disruptions and maintain the highest levels of availability possible.



# Current State: Office of the Chief Information Officer

47 FTEs  
43 Permanent  
4 Terms  
22 Contractors



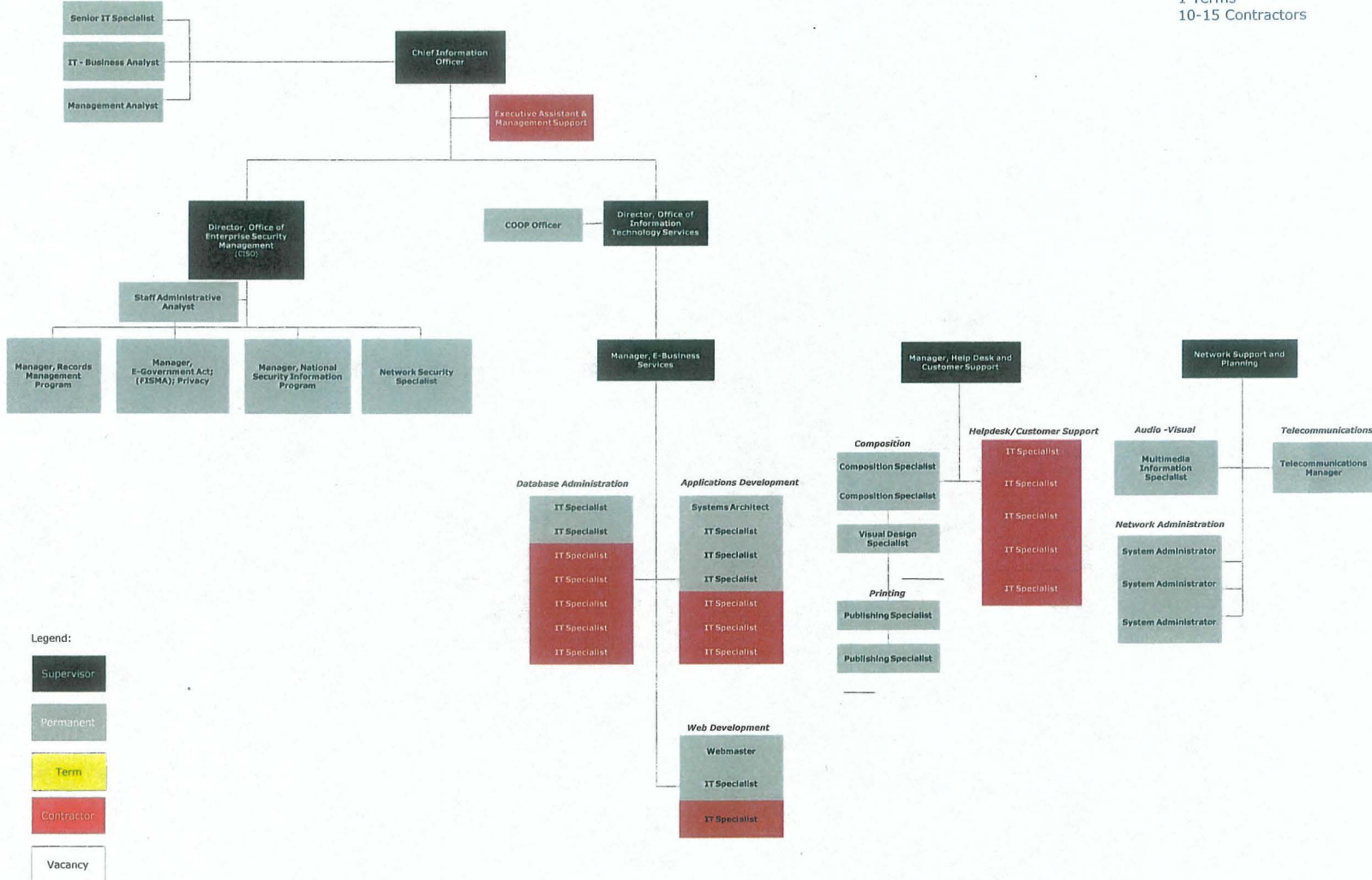
- Legend:**
- Supervisor
  - Permanent
  - Term
  - Contractor
  - Vacancy

\*Current State\* organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.



# Future State: Office of the Chief Information Officer

33 FTEs  
32 Permanent  
1 Terms  
10-15 Contractors







# Office of Administration

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## 2009 Human Capital Plan

### Executive Summary

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The final Human Capital Plan for the Office of Administration (AD) is designed to comply with the standard format requested by the SPC and to respond to the issues raised in the SPC evaluation of prior proposals regarding AD. AD proposes that AD will be separated from OCIO and there will be no Executive Director or any other supervisor between the Director of Administration and the Chairman. I have also agreed that Docket Services will become part of Administration. What follows is an explanation of the plan for those units that will report to the Director of Administration

### Management Challenges

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AD will comprise its current functions plus Docket Services. There will be five offices within AD: Finance, Procurement, Human Resources, Facilities Management (without Procurement), and Dockets. See attached organization charts for the details. This new organization plan will allow the ITC to meet its strategic challenges more effectively.

### Principal Challenges Confronting Administration as a whole:

#### Organizational Challenges

- The offices within the Office of Administration each pose significant management challenges. In Facilities Management, there is no real successor to the current Director and his retirement is anticipated in early 2010. Morale is low at the staff level in FM and their collective performance reflects that. Procurement is a new office and needs better coordination with its customers and may need additional resources. Human Resources has undergone substantial staffing changes in the last few years and developing continuity and customer service has been difficult. Both the budget and security functions in Administration have inadequate staffing levels, although the existing staff perform at a high level.
- In addition, recent audits and reviews of various administrative functions and new mandates from OPM and OMB highlight the need for additional resources. However, there does not appear to be support from Commission management for additional staff and contract resources cannot be obtained without increased funding. In the absence of additional funding or additional staffing, changes in the organizational structure of the Office of Administration are unlikely to lead to significant changes in organizational performance.
- Balancing the wide scope of authority and responsibility with the depth of expertise and the amount of staff work required of management; and

- Managing the after effects of the reorganization, especially the consolidation of a new unit (Dockets) and assumption of the new Travel functions without generating personnel issues (EEO or grievances).

### **Implement New Systems & Document and Revise Existing Programs**

- Implementing new financial system and developing a procurement system that works with it;
- Developing a comprehensive physical and personnel security program, developing backup resources and succession plan;
- Planning work processes and document procedures while continuing to get the day-to-day work done; and
- Developing, implementing, and maintaining an active continuity of operations program and coordinating activities agencywide.

### **Emphasis on Customer Service**

- Identifying and prioritizing the key services AD provides to its customers, establishing performance metrics for those services, and demonstrating to agency managers that AD adds value to the organization; and
- Improving customer service/breaking out of the “death spiral” – the general perception that various administrative functions are designed to prevent operating officials from efficiently getting what they need, leads to a desire to reduce resources for administrative functions so as to increase front line resources, which lead to further declines in customer service.

### **Develop Staff Capabilities and Providing Adequate Support**

- Balancing the lack of resources available to accomplish the mission with the need to do more in terms of program documentation, review, and analysis. Staffing levels are less than 50 percent of what they were in 1990 but the mission and function are the same.
- Insuring that AD has the right capabilities matched to the right jobs. AD has professional staff doing clerical duties, clerical staff performing program management functions, and managers doing too much staff work
- The AD staffing plan only provides for a limited amount of internal staff support. It is hard to provide backups when the staffing plan only provides for one position for a number of jobs. The difficulty in identifying and training backups is compounded by the requirement for separation of duties. AD needs to insure separation of duties within a variety of administrative functions, such as personnel security, procurement, and financial processing.

## Workload and Requisite Skill Sets

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Workload for most of AD has been essentially unchanged in the last 20 years and is unlikely to change significantly in the future. The basic functions of personnel, accounting, budgeting, procurement, facilities support service, and security are the same as they have always been. The workload is predictable both in terms of overall level and the ebb and flow during the year. The one exception to this statement may be Dockets, as that workload varies according to the level of somewhat unpredictable case filings and there may be some rebalancing of staffing and duties between case managers and the ALJ as the result of the OP 2 review process.

The variable component of the workload, other than just sheer volume, is the distribution of the overall administrative workload burden between the administrative offices and the operating units. Almost all administrative functions require staff in operating units to participate, whether that is a recruitment action or a procurement action or a request for supplies or equipment. What needs to be more clearly defined for each administrative function is what part of the process is the responsibility of AD staff and what part is the responsibility of the requesting office. That requires better documentation of the various administrative processes than is currently the case. The greater the resources provided to an administrative functions, the more we should be doing within that functions.

Automation has not changed these functions significantly. We have always had an automated accounting system and an automated procurement system. EDIS, if anything, has increased the need for staff in Dockets as we now have to scan submissions, verify their accuracy, and manage a large database of case filings and user accounts. None of this existed prior to EDIS. We have not had any significant automation of any of our other systems. However, we have seen a steady reduction in the staffing levels devoted to these administrative functions. Automation generally increases costs and increases staff requirements, but makes more information available to more people in more useable formats. Processes get qualitatively better, but not cheaper.

## Solutions to the Challenges

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Most of the personnel in AD have the requisite technical skills to perform the tasks they are assigned. Keeping those skills current is not a major problem, as training funds are readily available for that purpose. The skill sets that are missing in AD and will be needed in the future are analytical skills and writing skills. At the lower grades, little critical analysis of AD's business processes occurs. AD staff needs to do more, but most of the staff focus on moving things along, getting today's job done. Most of AD staff get things done, but too often they do not critically evaluate what they do and come up with process improvements. No one is stopping to ask why they do things the way they do or suggest ways AD could do things better or more efficiently. Since AD has documented very little of its business processes, this is no great surprise.

AD also needs to develop a stronger customer service attitude. Staff need to change the approach from moving paper to owning the customer's problem and helping to solve it. This

can be done by empowering staff to make programmatic decisions and giving them a sense of ownership of their customer's problems. This approach was at the base of the case management model successfully implemented in Dockets. Too many staff have no real understanding of the broader context within which they operate. This applies across the board to procurement staff, facilities staff, HR staff, and financial staff. Whether AD just needs to re-orient its focus or whether it needs additional staff so that they have the time to review, evaluate, and plan is not clear at this point.

AD has several gaps in its current staffing. Procurement, does very little procurement planning or contract administration, yet it procures almost \$10M worth of service contracts annually, triple the rate of 10 years ago. In FM no staff person is responsible for emergency planning. For basic things, such as acquisitions of supplies and equipment and the provision of support services, several people are assigned with overlapping duties, but there is no one point of contact for customers. In HR, none of the senior level staff have been with the Commission for more than two years. The turnover in that office has made coverage of key requirements problematic. Thus, the Director of Administration has been principally responsible for developing the SES and general schedule performance system and for the collective bargaining process and labor relations. In Finance, AD needs to hire a travel manager and another financial technician.

Given the lack of support for additional resources in AD and the inability of AD management to generate support for proposed organizational changes for the long term, we need an independent evaluation of all AD functions and offices, similar to the OP 2 review. What are we doing well? What are we doing poorly? How do other agencies function? Do we have the right staffing levels and job descriptions? Do we need additional resources? If so, is that permanent staff or contract support? Do we have the right people/skill sets in those jobs? What functions are best performed by contractors? How do our staffing ratios compare to other agencies? Consultants would need to survey customers, meet with managers and staff, research other agency practice, draft a report, and present it to the Commission.

## Solutions to the Challenges

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The proposed changes to the HCP for AD are designed to meet the principal challenges AD faces now and in the future.

### Develop Staff Capabilities and Providing Adequate Support

- The new HCP provides no additional staff support resources for subordinate managers. If additional resources prove necessary, AD understands that it will have to demonstrate that those additional resources will be deployed strategically to benefit the operating units or they will not be forthcoming.
- The senior policy advisor in HR, and the staff under the Director of Administration, together with contract resources as necessary, will be deployed to review and document processes and procedures while clerical staff focus on getting the day-to-day work done.
- The problem of adequate backup will be met with cross-training of staff and clerical support so that they are mutually reinforcing. The difficulty with separa-

tion of duties remains. Each office should have sufficient staffing levels to provide for separation of duties. If that remains a problem in the future, and AD is able to demonstrate that additional staff would benefit the agency, then AD may need to add positions to the staffing plan at that later date. Cross-training is problematic in that personnel need to perform duties on a regular basis in order to do an adequate job. In the absence of regular performance, skills atrophy, service declines, and cross-training becomes a hollow response to chronic staff shortages.

### **Manage Organizational Challenges**

- The split from OCIO will help alleviate the breadth of authority and responsibility that contributed to a lack of oversight and in-depth supervision of administrative functions by the Director.
- The assumption of the travel management function should be relatively painless, assuming the recruitment of a strong candidates for that position.

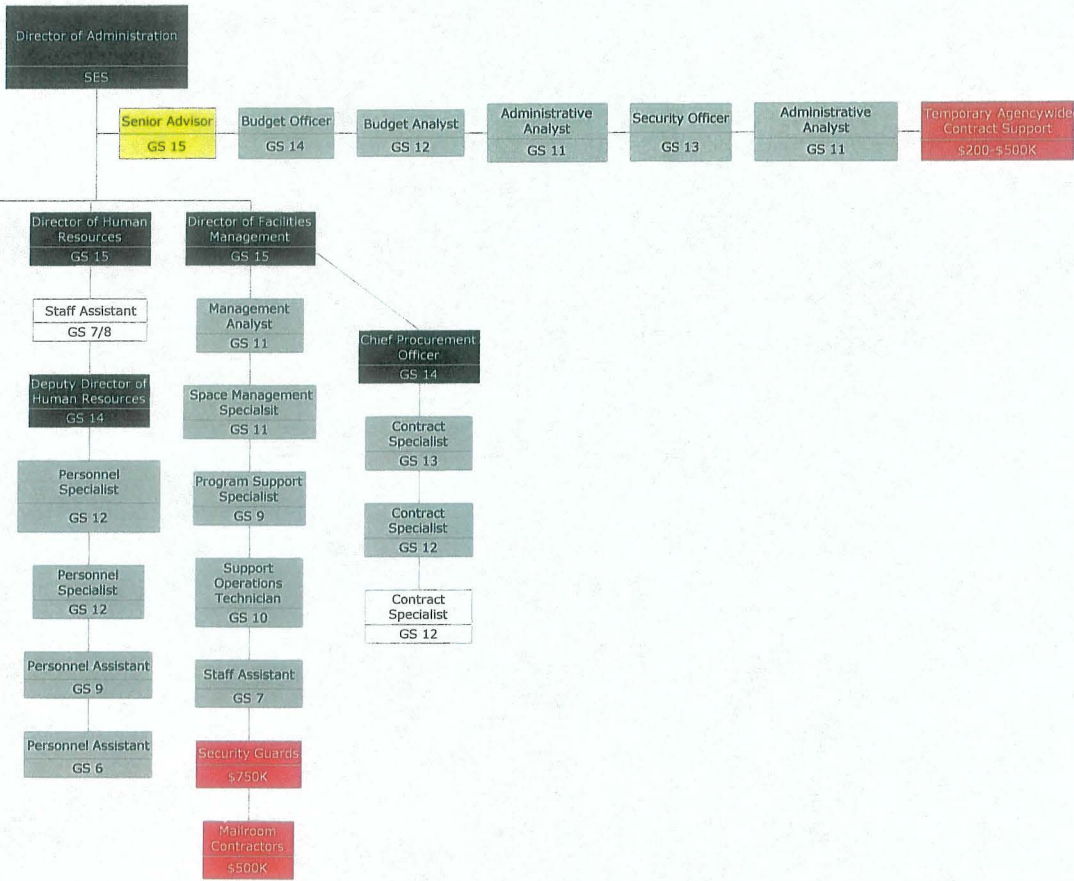
### **Implement New Systems & Document and Revise Existing Programs**

- Getting the new financial system to work properly and developing a procurement system that works with it will be a serious challenge. It can be met with assistance from procurement (make DOI perform and help the development of the procurement component). That will largely come from the Chief Procurement Officer. It will also require assistance from Oracle programmers who work with OCIO.

### **Emphasis on Customer Service**

- This plan incorporates the need to identify and prioritize key services AD provides to its customers and establish performance metrics for those services in the performance plan of all managers in AD.
- Improving customer service will require group training and teambuilding exercises.

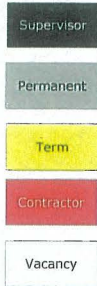




## Current State: Office of Administration

28 FTEs  
27 Permanent  
1 Terms  
23 Contractors

Legend:



"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.





**Future State:  
Office of Administration**

50 FTEs  
48 Permanent  
2 Terms  
12? Contractors

There are two new positions in this plan. One is the **Travel Manager** and is a position reassigned from Operations. The other is a **Senior Policy** person in HR.

Increase to 49 positions due to the transfer of SE (7) and Docket Services (12) to AD, plus the two positions above.



- Legend:
- Supervisor
  - Permanent
  - Term
  - Contractor
  - Vacancy



# Office of the Secretary

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2009 Human Capital Plan

## Introduction/Recommendation

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The Secretary has full authority to take actions required to fulfill assigned duties and responsibilities and is expected to exercise independent judgment and authority in carrying out assignments. Performance is reviewed in terms of accomplishments of policy and program objectives. The Secretary is not supervised by other agency officials, other than the oversight provided by the Commissioners through the Chairman.

The Secretary, both directly and indirectly through Dockets, executes Commission rules and regulations relating to filing documents with and obtaining notice of decisions from the Commission. The Secretary speaks for the Commission on certain matters and works intimately with the Commission in scheduling and conducting Commission meetings and hearings and maintaining Commission voting records. The merged office will also have agency-wide responsibilities for case management, investigative records management, and other services.

While a collaborative approach to many of these actions is necessary, none of them lend themselves to a stovepiped executive structure. It is appropriate for agency-wide projects, with cross-cutting interests at stake, to be reviewed by the Commission directly, rather than through a static chain of command.

## Challenges

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Responsibility for policy formulation and interpretation of rules and regulations governing information and document flow have remained with the Secretary who in the current organization structure provides guidance and interpretation to Dockets Services regarding maintenance of the official investigative record. The Secretary's staff work closely with Dockets to assure compliance with agency rules and regulations as well as Federal and legal requirements and to recommend actions and procedures inherent to both offices' functions.

**Skill Set:** Office of the Secretary (OSE) staff members require a comprehensive knowledge of Commission procedures and practices as well as technical expertise related to disclosure of information and executive activities related to scheduling, conducting, and documenting Commission activities. Each staff member must have a comprehensive knowledge of the current work of the agency and the identity of the personnel who are responsible for specific tasks. The staff has extensive contact with external persons including members of the general public, executive, congressional, and diplomatic personnel, and the trade bar. Excellent personal communication skills are required as is the utmost tact and discretion.

A new structure is needed to handle the critical disclosure and executive activities of the OSE. The staff must demonstrate utmost tact and "need to know" discretion in performing duties and to ensure compliance with strict deadlines in the handling of actions.

**Workforce Requirements:** Within the office of the Secretary, day-to-day work is being accomplished but with inadequate planning for developing policies and procedures to handle new activities, or to provide adequate checks on work product within the office. Although the Secretary has been able to delegate some executive and disclosure responsibilities, this has not included the more analytical aspects of these responsibilities. Similarly, the Secretary has not been able to delegate many of the responsibilities in the areas of annual reporting, FOIA denial, Privacy Act, and records disclosure and disposition. There is a clear need for development of mid-level personnel with both analytical and writing skills to fill these functions behind the Secretary.

**Succession Planning:** The Secretary is retirement eligible and plans to retire in two (2) years. As currently structured, there is no continuity of operations possible with the Secretary's retirement.

## **Workload Assessment**

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The immediate office has experienced significant overall increases in workload as section 337 investigations have increased substantially and import injury proceedings and Industry and Economic Analysis fact-finding and probable economic effects studies have risen to substantial levels. Further, because Section 337 investigations have become more complex the nature of the support provided by the office has increased. For example, the Secretary issues seizure and forfeiture orders, receives bonds, and handles rescissions of orders. Historically these events were rare but have become regular occurrences.

The office has been required to handle more administrative questions and coordinate actions across organizational lines, and it has absorbed the increase in hearings and meetings, court reporting and transcript issues, and issuance of Commission notices. In FY 2007 the Secretary filed 2952 documents in EDIS; in FY 2008 that number had increased to 3,670 documents.

The Secretary's office is fully staffed. Additionally, contractor support, one full-time-equivalent person, has been added to assist with development of new programs (forms and content management) as well as procedural documentation (administrative orders, directives, and handbooks).

Focus has become identification and implementation of staff developmental training and activities.

## **Solutions to Challenges**

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The following discussion is provided for insight into the challenges facing the office.

### **Confidential Information**

Significant process re-engineering opportunities related to service of Commission documents, granting confidential status to documents, and approving requests for disclosure of confidential business information under protective order.

## **Service Lists**

One anticipated efficiency relates to maintaining service lists and tracking persons under protective order in both section 337 investigations and antidumping and countervailing and safeguards investigations. Regarding Section 337 investigations, not only is there a multiplicity of efforts between the Secretary, the Administrative Law Judges, and Docket Services, there is a need to re-engineer the process to separate service lists from protective order lists and to conform to new rules regarding the designation of a lead attorney in Section 337 investigations. The real benefits include less churn for Dockets, the Secretary, and the ALJ: in FY 2008, these three offices handled the same 2,930 documents multiple times. Long-term re-engineering of this process positions the agency for the eventual electronic filing of confidential documents and electronic service of Commission documents.

## **APO Releases**

Similar efforts need to be undertaken regarding approval for disclosure of information under administrative protective orders in Title 7 investigations. Currently, Dockets, OINV, and the Secretary have overlapping duties for preparation and service of APO materials. Different but similar service list requirements add confusion and diminish efficiency. The processes need to be conformed and timely availability of updated information must be assured within the office, to OINV, and to the practitioners. Merging of the office offers potential efficiency gains as well as enhanced security in the handling of sensitive APO information.

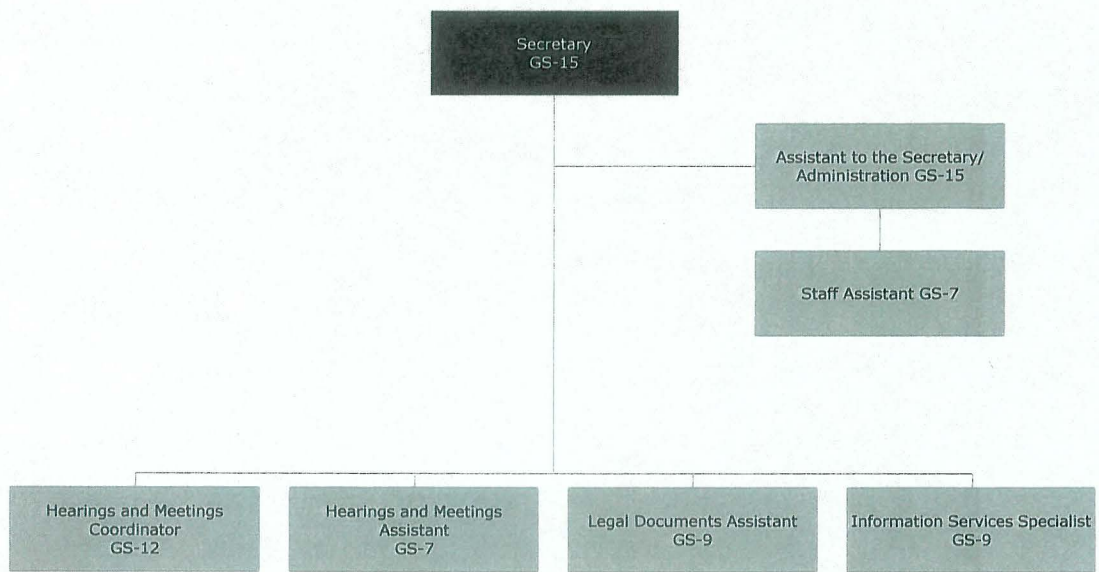
## **Requests for Confidential Treatment**

There are also significant process re-engineering opportunities relating to granting requests for confidential treatment of information submitted during the investigative process. These procedures were developed based on paper filings and manual logs and require several handshakes between the Secretary, Dockets, OINV, and (sometimes) the General Counsel. In FY 2008 a total of 1,270 documents were processed under paper-based procedures. The process needs to be streamlined and technological solutions considered.

## **Content Management**

Additional staff may be needed to manage the web content for the office. The Secretary provides a significant percentage of the documents on the website (Commission notices, service lists, rules packages, and publication), and she also the FOIA and Privacy pages. As web-posting responsibilities are being assumed by the program offices, the impact on a small office can not be underestimated. There is a need for developing procedures for checks to assure proper, accurate, and current posting of documents. Obsolete documents will either be removed or replaced, and older documents will be moved to the inactive area of the pages. It will also be possible to better address the bibliographical, cataloguing, indexing and related functions that will enhance access to public information while retaining better control over sensitive content.





**Current State:  
Office of the Secretary**

7 FTEs  
 7 Permanent  
 0 Terms  
 0 Contractors

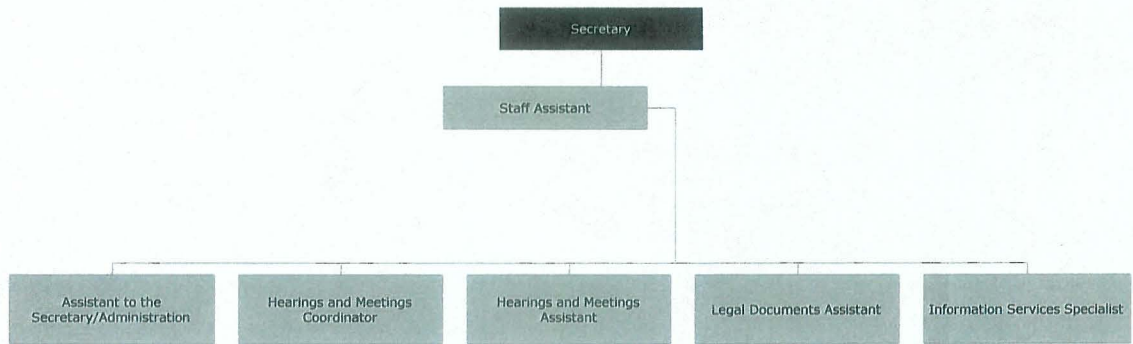
Legend:

- Supervisor
- Permanent
- Term
- Contractor
- Vacancy

"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.







**Future State:  
Office of the Secretary**

7 FTEs  
 7 Permanent  
 0 Terms  
 0 Contractors

Legend:

Supervisor

Permanent

Term

Contractor

Vacancy



# Office of Equal Employment Opportunity

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## 2009 Human Capital Plan

### Introduction

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The mission of the OEEO is to advise the Chairman and Agency managers relative to all EEO matters; and, to recommend programs, policies, and procedures that will most effectively allow the USITC to fulfill its legislative mandates while maintaining compliance with rules of merit, affirmative action, and fairness.

This revision to the OEEO Human Capital Staffing Plan is designed to achieve full compliance with the mandates of EEOC Management Directives 110, Complaints Processing, 715, EEO Program Status Report, and related Federal laws and regulations.

EEO managers are tasked by MD-715 to develop and implement a “model” EEO program by establishing proactive, strategic initiatives that demonstrate (a) commitment to EEO goals by Agency leaders and managers; (b) the integration of affirmative processes into the Agency’s strategic plan; (c) both management and program accountability; (d) proactive prevention of discriminatory acts and workplace harassment; (e) efficiency in the conduct of EEO processes and methods of resolution; and, (f) responsiveness and compliance with all legal requirements.

Achievement of the aforementioned requirements must be documented by assessment data—statistics, trend analysis, and barrier analysis. These analyses must be conducted on a regular, recurring basis and reported annually. Progress must be monitored, impediments to competition and workplace advancement must be identified, and strategic plans must be developed to eliminate them. MD-715 anticipates a full partnership and collaborative effort between and among EEO and HR staff, managers, and supervisors to assure that all employment decisions are free from discrimination. Each is responsible for contributing to the Program’s success.

### Challenges

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Significant challenges continue for the OEEO in its effort to effectively accomplish its goals and objectives and to fulfill the mandates of MD-715 and related legislative requirements.

- The primary issue for the office is to eliminate inefficiencies due to lack of sufficient staffing.
- An employee with no previous EEO experience was reassigned to the OEEO. Significant training (on-the-job and courseware) has been provided in an effort to assist the employee to achieve the performance level for her current grade,

acquire the skills necessary for promotion, and to assume the duties of the Agencywide Special Emphasis Program Manager (SEPM). This initiative has been less than successful.

- To meet the intent of the MD 715 directive, full attention must be given to data analysis from both an EEO and HR perspective. Such information is necessary to both offices on a regular, recurring basis as a primary means of providing management with critical knowledge of trends, historical, current, and rational projections in hiring, promotions, and separation of staff, especially in the core occupations.
- Procurement of needed software programs and assistance is underway and expected to be accomplished by the end of FY '10. Thus, this problem is being met.

## Workload Assessment and Requisite Skills

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- EEO counseling and complaints processing are coordinated by the EEO Director through the use of contract counselors and investigators. Thus, this aspect of the OEEEO workload is manageable even during periods of multiple complaint filings. (This means was undertaken to promote neutrality and objectivity given the small size of the USITC and the general familiarity of employees with each another.) However, the “paperwork” is clerical/technical in nature. Once the Director has determined the needs of a particular case, the processing arrangements can be handled by a clerical/administrative staff member with supervision of the EEO Director.

The goal of “zero” formal filings was accomplished during FY 2009; this allowed the Director to spend time and resources managing and overseeing informal processes to alleviate workplace issues that resulted in resolution with little or no direct cost to the Agency. Employees and managers have embraced the opportunities offered by Alternative Dispute Resolution (ADR) procedures; and, numerous workplace complaints have been handled informally using this methodology.

- The Agency’s Special Emphasis Programs urgently need to be strengthened. The practice of using collateral duty assignments for SEPMs is ineffective and has been for a number of years. Employees designated as SEPMs have full-time professional assignments and the Agency’s mission-specific workload is such that they have no time to devote to a responsibility for which they are not compensated and which has no official influence on their performance evaluations. In fact, most supervisors of collateral duty staff are not receptive to allowing the time needed to plan and implement a quality commemorative program—even though such an event occurs only once a year. The nature of USITC work is wed to deadlines, as are EEO tasks; and, these employees must set their priorities based on mission-related duties.

The OEEEO would benefit from having the SEPMs responsibilities assigned to a single individual, with any interested member of the Affinity group, serving as

volunteer Committee member or Chairperson. Plans to accomplish this will be introduced in the form of a reorganization request of the OEEO. The most effective, efficient use of FTEs would include the position of Director, a part-time clerical position (GS-05 to 07), a full-time SEPM to coordinate and oversee all Agency affinity programs (GS-09 to 12 EEO Specialist), and a full-time GS-12 to 13 to be shared with the HR Office to prepare and coordinate data analysis—perhaps titled Human Resources/EEO Data Analyst.

- Today, and into the future, the MD-715 and NO FEAR Act assessment requirements noted above are and will be the driving force in work productivity for the OEEO. They are the engines that dictate and form the foundation of the Agency's EEO work products. Data generated will establish the baseline of information on which fair employment decisions, projections, and plans are made. Strategically, these reports and analyses will influence HR and management staffing goals as well as diversity recruitment planning. Federal EEO priorities are shifting to emphasize collaborative efforts with HR and unions to eliminate workplace conditions that lead to formal complaints.

Appropriate use and presentation of Agency employment data will not only serve to fulfill reporting requirements, it has the potential to be an invaluable tool for both managerial planning and accountability, especially in recruitment and outreach initiatives that are gaining higher priority in goals for agency accomplishment. Trend and barrier analysis will play a critical role in the proper and adequate application of Agency efforts toward achieving a workforce that reflects the available skilled population.

While the primary reports are due annually or quarterly, the intent of the regulatory issuance(s) is to monitor, query, and review the data at least monthly. (Other agencies have a full-time employee, or small staff if justifiable, who manages and prepares data presentations each pay period. These are then used by Agency managers to plan for succession and all recruitment efforts to prevent hiring gaps, especially for critical and mission-related occupations and positions.) The USITC does not yet have this capability due to lack of a staff member, with the requisite expertise, to assist the EEO Director in recurring preparation, analysis, and presentation of such data. An additional position to accommodate this need will significantly enhance the effectiveness of the OEEO and fulfill the compliance mandate of MD-715 for management and program accountability. It should be noted that the collaborative efforts between the OEEO and the Office of Human Resources will be substantially assisted and enhanced by the addition of this position as the position could serve the data analysis needs of both offices.

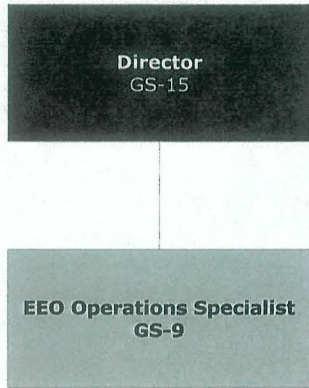
- EEO records have a longer retention period under National Archives and Records Administration (NARA) rules than most other categories. Currently, all case records are maintained in paper form. The OEEO needs to convert these records to electronic format (with one paper copy retained). In addition, the OEEO wants to establish an electronic archive of cases from the year 2000 for historical purposes. This initiative will be delayed until the office is relocated into permanent space.
- The OEEO must update Agency EEO policy statements to incorporate the requirements of legislation enacted in the past several years and provide them in

Handbook form for employee access. It is hoped that this task will be accomplished through use of a short term contract before the middle of FY 2010.

## **Solutions to Accommodate Challenges**

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- Continue use of ADR and mediation methodologies to resolve/eliminate workplace concerns;
- Continue acquisition of software for data collection and analysis;
- Acquire software and implement electronic complaints tracking system;
- Contract preparation of EEO Directives/handbook to assure completion and publication by the middle of the 2010 fiscal year.



**Current State:  
Office of Equal  
Employment Opportunity**  
2 FTEs  
2 Permanent  
0 Term  
0 Contractors

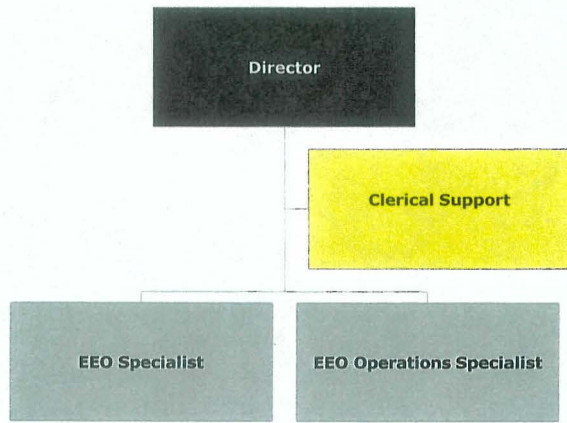
Legend:

- Supervisor
- Permanent
- Term
- Contractor
- Vacancy

"Current State" organization charts for each office reflect the Commission Staffing Plan on March 15, 2009.







**Future State:  
Office of Equal  
Employment Opportunity**

4 FTEs  
3 Permanent  
1 Term  
0 Contractors



