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TRADE POLICY AGENDA AND 1999 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE 2000 TRADE POLICY AGENDA AND 1999 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM, PURSUANT TO 19 U.S.C. 2213(a)

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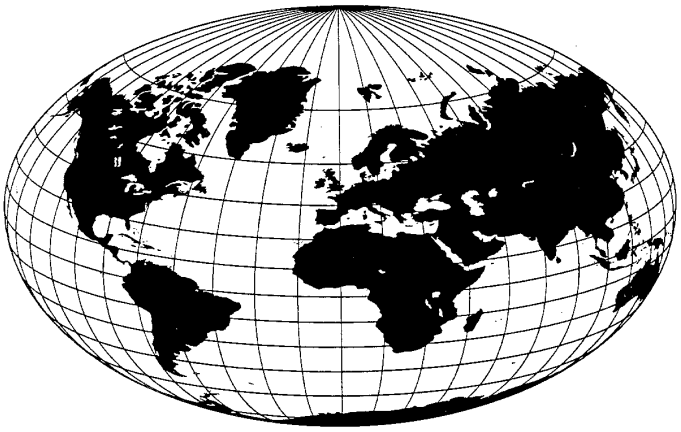
To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2000 Trade Policy Agenda and 1999 Annual Report on the Trade Agreements Program. The Report, as required by sections 122, 124, and 125 of the Uruguay Round Agreements Act, includes the Annual Report on the World Trade Organization and a 5-year assessment of the U.S. participation in the World Trade Organization.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 1, 2000.*

2000 TRADE POLICY AGENDA AND 1999 ANNUAL REPORT



OF THE PRESIDENT OF THE UNITED STATES ON THE TRADE AGREEMENTS PROGRAM

UNITED STATES TRADE REPRESENTATIVE

Foreword

This 2000 Trade Policy Agenda and 1999 Annual Report of the President of the United States on the Trade Agreements Program is submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). It also includes, in Chapter II, the Annual Report on the World Trade Organization as required by Sections 122 and 124 of the Uruguay Round Agreements Act. In addition, this year's report contains the first five-year assessment of the U.S. participation in the World Trade Organization as required by Section 125 of the Uruguay Round Agreements Act. Finally, the report includes in Annex III a listing of trade agreements entered into by the United States since 1984, which afford increased foreign market access or reduce foreign barriers and other trade distorting policies and practices by other parties to those agreements.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report, which was written by USTR staff. U.S. Trade Representative Charlene Barshefsky gratefully acknowledges the contributions of the U.S. International Trade Commission; the Agency for International Development; the Council of Economic Advisers; the Environmental Protection Agency; the National Economic Council, the National Security Council; the Office of Management and Budget; and the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Interior, Justice, Labor, State, and the Treasury.

March 2000

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LIST OF FREQUENTLY USED ACRONYMS

AD	Antidumping
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATPA	Andean Trade Preferences Act
BIT	Bilateral Investment Treaty
BOP	Balance of Payments
CACM	Central American Common Market
CARICOM	Caribbean Common Market
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CFTA	Canada Free Trade Agreement
CTE	Committee on Trade and the Environment
CTG	Council for Trade in Goods
CVD	Countervailing Duty
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
EU	European Union
EFTA	European Free Trade Association
FTAA	Free Trade Area of the Americas
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GEC	Global Electronic Commerce
GSP	Generalized System of Preferences
IPR	Intellectual Property Rights
ITA	Information Technology Agreement
LDBDC	Least Developed Beneficiary Country
MAI	Multilateral Agreement on Investment
MERCOSUL/MERCOSUR	Common Market of the South
MFA	Multifiber Arrangement
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
NAFTA	North American Free Trade Agreement
NIS	Newly Independent States
NTR	Normal Trade Relations
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
PFCF	Private Foreign Country Practice
ROU	Record of Understanding
SADC	Southern African Development Community
TAA	Trade Adjustment Assistance
TEP	Transatlantic Economic Partnership
TIFA	Trade and Investment Framework Agreement
TRIMS	Trade Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights

URAA	Uruguay Round Agreements Act
USDA	U.S. Department of Agriculture
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
WTO	World Trade Organization

THE PRESIDENT'S TRADE POLICY AGENDA

I. Overview and the 2000 Agenda

I am pleased to submit to Congress the Trade Policy Agenda for the year 2000, and the 1999 Annual Report of the President of the United States on the Trade Agreements Program.

This will be the final such report of the Clinton Administration, and the first as we open the new century. As we report on the next year's trade policy initiatives, I would therefore like to put the body of the Report in some perspective. The 2000 Report reviews in detail the record of the past seven years, including a special report on the WTO pursuant to our statutory requirement under Section 125 of the Uruguay Round Agreements Act; and looks ahead to the challenges of the future.

The Clinton Administration's trade policies have built on a record, built since the era of Franklin Roosevelt, in which Americans have promoted a strong and confident trade policy premised upon open markets under the rule of law. We have done so in the understanding that by creating an open world economy under the rule of law, we can promote economic growth, development and rising standards of living for Americans and our foreign trading partners; create a more decent and just world economy; and build a stronger peace. As we celebrate the opening of a new century, we therefore also mark a half-century of American leadership toward a more open, fair and free world economy, beginning with the foundation of the General Agreement on Tariffs and Trade (GATT) in 1948, and capped by the nearly 300 separate trade agreements completed under President Clinton.

The Clinton Administration's achievements reflect these principles and touch every part of the world, based from the outset of the Administration on commitment to a policy which, as the President recently said in Davos, will yield "more growth and more trade, with better protection for working people and more sensible environmental policies."

These accomplishments stretch from the early days of the Administration, with the North American Free Trade Agreement and the Uruguay Round, through the multilateral agreements on Information Technology, Basic Telecommunications and Financial Services; 38 market-opening agreements with Japan, 17 with the European Union, 20 with Canada, and 20 with China; 22 Bilateral Investment Treaties around the world; a broad improvement in protection of intellectual property rights worldwide; the launch of new initiatives in Africa, Asia, Europe, Latin America and the Middle East; the opening of the first major discussions on the links between trade policy, environmental and labor issues; and most recently, our historic agreement on China's WTO accession, which will dramatically open the world's largest nation to American exports.

This effort rests on the understanding that open markets and freer trade are good for both Americans and our trading partners overseas. This is true in economic terms, because with market opening comes growth, opportunity and rising standards of living: producers can sell to wider markets; consumers have greater choice and quality; technological progress accelerates; businesses become more efficient and competitive.

Open markets abroad offer the opportunity to export; and exports are essential to a strong economy. Almost 80 percent of world economic consumption, and 96 percent of the world's population, is outside the United States. And foreign tariffs and other trade barriers are still substantially higher than ours. If these markets are opened more fully to Americans in the years ahead, our farmers will face less risk of gluts that drive down prices, workers will find new opportunities for higher-wage employment, and American businesses will gain the economies of scale that enable them to invest in plants, research, and hiring.

Open markets at home are equally important. Imports create the choice, price and competition that raise family living standards – for all families, but most especially the poor – and help to dampen inflation. Imports, accompanied by a commitment to education and job training, also help American workers specialize in the most technologically sophisticated and financially rewarding fields. And they give businesses access to inputs – raw materials, parts, business equipment – that reduce overall costs and therefore improve efficiency and competitiveness.

These economic benefits rest in turn on a foundation of broader aspirations: the rule of law; a more stable international economy; a stronger peace. With a rules-based trading system that keeps markets open, trading nations rely on law and contract rather than on coercion in good times; and in moments of crisis – as we saw very clearly in the Asian financial crisis of 1997-99 – the world has a shield against cycles of protection and retaliation, and the "beggar-thy-neighbor" policies of the 1930s. And as countries trade more with their neighbors, they gain an interest in prosperity and stability beyond their borders, strengthening the chances of peace.

These policy achievements, in turn, have helped to catalyze an expansion of American goods and services exports, which have increased by 55 percent since 1992 despite the export-dampening effects of the Asian financial crisis. With exports of goods and services reaching $958.5 billion in 1999, the United States has regained its position as the world's largest exporting nation. This is especially important, as export-related jobs typically pay 13-16 percent above the average U.S. wage. (A statistical appendix at the end of this Report includes a more detailed review of trends over the past years.) Together with domestic policy measures such as the improvement of fiscal discipline since 1993 and increased investment in education, American trade policy has thus made a remarkable contribution to our prosperity in the past five years. By opening markets, advancing the rule of law, and promoting competition, our trade policy has contributed to a record of:

- Growth: The U.S. economy has grown by $2.1 trillion or 28.6 percent, from $7.1 trillion in 1992 to $9.2 trillion in 1999. To put this figure in context, only two countries in the world apart from the United States have a GDP totaling $2 trillion or greater.

- Jobs: U.S. employment has grown by nearly 21 million jobs, as unemployment levels dropped from 7.3 percent to 4.0 percent. This is the lowest unemployment rate since January 1970.

- Rising Living Standards: American living standards are rising, as hourly wages for nonsupervisory workers are up by 6.5 percent. At the same time, openness to imports has helped to keep inflation low, broaden choice and improve consumer prices especially for basic household necessities. This is especially important for the poorest families.

- Investment and Industrial Growth: Since the mid-1990s, U.S. non-residential business investment has risen by 10.4 percent per year. And since 1992, U.S. industrial growth is up 40.5 percent,

including growth in manufacturing production of nearly $400 billion. By comparison, Germany's total industrial growth in the same period was only 6.3 percent and Japan's 3.6 percent.

- Shared Benefit: Americans have broadly benefitted from our expansion, with poverty rates falling to the lowest level measured since 1979, and unemployment at record lows for African-Americans and Hispanics.

A final, and very important, point to note is that in the past seven years, the United States' share of world foreign direct investment has sharply increased, with foreign countries investing well over $500 billion in America between 1994 and 1998. Many had expressed fears that a more open world would promote investment in countries with lower wages or weaker labor and environmental standards. In fact, it appears that the United States – with our high standards – remains a very attractive investment destination.

Our responsibility now is to build upon these achievements as we look ahead to America's place in the world economy of the 21st century. Expansion of trade will remain crucial to growth and technological progress for our nation and rising living standards for our people, and a strong trade policy will in turn be essential to expand trade and advance the principles of fairness, transparency and opportunity which allow us to succeed. In this work, critical goals include:

- Continue our progress toward open and fair world markets, through leadership in the World Trade Organization, and broad, substantial initiatives with all our major trading partners in each region of the world;
- Continue an active bilateral agenda, to solve trade problems and enhance exports;
- Advance the rule of law and defend U.S. rights by ensuring full compliance with trade agreements and strongly enforcing our trade laws;
- Encourage the full participation of all economies, including economies in transition and developing nations, in the world trading system on an equitable basis;
- Ensure that the trading system helps lay the foundation for the 21st-century economy by offering maximum incentives for scientific and technological progress;
- Ensure that trade policy complements and supports our efforts to protect the world environment and promote core labor standards overseas; and
- Advance basic American values including transparency and accessibility to citizens and involvement of civil society in the institutions of international trade.

With the United States better prepared for economic leadership than any other nation, we look forward both to a successful and productive year and to further advances in our nation's economic strength and our people's standard of living in the years ahead. A detailed look at our record and priorities follows.

A. GROWTH AND RISING LIVING STANDARDS

1. The World Trade Organization

A strong and healthy trading system, exemplified by the World Trade Organization, is crucial to America's economic and security interests, and thus central to our trade policy.

American leadership in development of the trading system dates back over 50 years, to the Administrations of Presidents Franklin Roosevelt and Harry Truman. The leaders of the time acted in the light of their personal experience: they had seen the Smoot-Hawley Act in America and similar protectionist policies overseas deepen the Depression and contribute to the political upheavals of the 1930s. Fifteen years later, they believed that by reopening world markets they could promote growth and raise living standards; and that as open markets gave nations greater stakes in stability and prosperity beyond their borders, a fragile peace would strengthen.

The work they began has proceeded through five decades through eight Rounds of global trade negotiations, and decisions by 112 new members to join the 23 founding members. As we and others abandoned the closed markets of the Depression era, we have strengthened peace by integrating diverse nations into a modern economic world. And we have fostered what amounts to a fifty-year economic boom during which the world economy grew six-fold, per capita income nearly tripled, and hundreds of millions of families escaped from poverty. Perhaps the greatest tribute to the success of this work is the fact that virtually all the nations once governed by communist central planning techniques now see WTO entry as essential to successful reform and long-term growth.

America, as the world's largest exporter and importer, benefits perhaps most of all: the efficiency of our industries and the high living standards of our families reflect both the gains we receive from open markets abroad and our own open-market policies at home, as well as from a framework of rules designed to ensure that American products receive fair and predictable treatment around the world.

a. WTO Since 1995

The adoption of the World Trade Organization on January 1, 1995 was the next significant step in this work since the foundation of its predecessor, the GATT itself. In ratifying the Uruguay Round Agreements which created the WTO, the United States and other WTO members expanded the rule of law, through a system applicable to all members. We also created a strong dispute settlement mechanism, strengthening our ability to enforce our trading partners' commitments; and broadened those commitments both to further open industrial markets and to cover areas covered only partially or not at all, including agriculture, services, and intellectual property; and lowered barriers to create new opportunities for our industries and workers.

Since then, our work at the WTO has been central to some of our most important strategic trade policy goals. This Report contains, per our statutory responsibility under Section 125 of the Uruguay Round Agreements Act, a comprehensive review of the WTO's record thus far. Briefly speaking, it has been crucial to goals including:

Building the 21st-Century Economy – The WTO has been at the leading edge of our strategy to capitalize on American technological leadership as we build the economy of the 21st century. Through landmark agreements on Information Technology Products, Basic Telecommunications, and Financial Services, as well as the electronic commerce "duty-free cyberspace" commitment WTO members made in 1998, we have opened markets and preserved freedoms in areas where the United States is the world's most competitive nation, helping to spur investment, reduce costs to consumers and foster technological advance. These are discussed in more detail in the "21st-Century Economy" section below.

End of the Cold War – Ten years after the fall of the Berlin Wall, the transition economies – those nations in Asia and Central and Eastern Europe

making the transition from communist central planning regimes to market economics – have made remarkable progress, and this owes a great deal to our work in the WTO. As we help these countries integrate into rules-based world trade, we both support internal reform and strengthen peace by giving their people better economic prospects, and their governments greater interests in world prosperity and stability.

Those nations which have completed the transition – for example, Poland, Hungary and the Czech Republic – have found that the WTO's principles of transparency, open markets and rule of law are also those which help economic reform succeed. Since 1995, six more transition economies have had the same experience: Slovenia, Bulgaria, Mongolia, the Kyrgyz Republic, Latvia, and Estonia. The work is likely to accelerate this year, as Georgia is soon to enter and the accessions of Albania and Croatia are near completion. We also have made significant progress with Armenia, Lithuania and Moldova; and held fruitful discussions with Russia and Ukraine. And (as is discussed in more detail below) in 1999 we completed an historic bilateral agreement on WTO accession with China.

This work extends well beyond the transition economies, of course. In the Middle East, for example, Jordan has completed its negotiations to enter the WTO. We have made significant progress with Oman, and held important discussions with Saudi Arabia. In Asia, we have completed our negotiations with Taiwan. And we also have made significant progress with Vanuatu in the Pacific.

Promoting Development and Economic Opportunity in the Poorest Countries – Our work at the WTO is also of crucial importance to the promotion of economic growth and sustainable development in the world's poorest nations. We have worked intensively, for example, with African and CBI nations to ensure that they can participate fully in the trading system, and to offer these nations new opportunities for market access.

World Economic Stability: The WTO also has strengthened the world's ability to address economic crises. During the financial crisis of 1997 and 1998, for example, the respect WTO members showed for open market commitments helped to prevent a cycle of protection and retaliation similar to that of the Depression era, ensuring affected countries the access to markets they needed for recovery, and minimizing damage to American farmers and manufacturing exporters.

b. Next Steps

The coming year marks an important turning point for the multilateral trading system. Three areas in particular will be central to our agenda.

First of all, we are developing the negotiating agenda of the future. The issues it will address are challenging and difficult, as the WTO's inability to launch a new Round at its Ministerial Conference in Seattle showed. But as in the past, we believe the most challenging tasks are those with the largest potential rewards for growth, the rule of law, and a more open and equitable world economy.

In this we are pleased that WTO members, per the existing commitment made in the Uruguay Round, have agreed on the opening of formal negotiations on agriculture and services, as well as continuing with a work program to ensure the long-term effectiveness of the WTO and its Agreements. The core elements of the negotiating agenda are before us, in the opening of talks on agriculture and services, as required under the "built-in agenda" WTO members agreed upon in 1995. These are the sectors in which world markets remain most distorted and closed, and in which the opening of trade will mean perhaps most to future prospects for rising living standards, technological progress, and sustainable development across the globe.

In agriculture, the WTO Agreement on Agriculture, with binding commitments on market access, export subsidies and domestic support,

provides the basis on which to pursue further agricultural reform. We are now working with other countries to ensure negotiations in Geneva focus on substantive reform proposals such as eliminating export subsidies; reducing tariffs; expanding market access opportunities for products subject to tariff rate quotas (TRQs), including better disciplines on the administration of those TRQs; reducing trade-distorting domestic support levels; and ensuring that the operation of agricultural state trading entities are more market-oriented. We also want to ensure access for biotechnology products by ensuring that regulatory regimes are open, transparent, science-based and subject to due process.

In services, we are developing negotiating proposals for a wide range of sectors where our companies have strong commercial interests, including energy services, environmental services, audiovisual services, express delivery, financial services, telecommunications, professional services, private education and training, private healthcare, travel and tourism, and other sectors of great importance to the American economy and in particular its high-tech sectors. Broadly speaking, our objectives are to further remove restrictions on services trade and ensure non-discriminatory treatment. We also need to ensure that the commitments we obtain accurately reflect our companies' rapidly changing range of commercial activities, and reflect the many different means U.S. service providers use to meet the needs of their foreign customers, in particular as electronic commerce and the Internet develop and change international commerce.

Beyond these mandated negotiations, we have pressing needs to address market access concerns in non-agricultural products, electronic commerce, issues related to trade and the environment, trade and labor, trade facilitation, transparency in government procurement, and perhaps other topics as well. Thus, while there are a number of different options for proceeding with trade liberalization beyond agriculture and services, we are working to build consensus for a new Round.

To build such a consensus will not be a simple task. However, the outlines can be drawn, if WTO members prove willing to focus more fully on the shared benefits of success, and find the balance that allows us to move ahead. As the President has said, we will keep working toward consensus; we are willing to be flexible, but to succeed our trading partners must be flexible as well.

At the same time, we are focusing intensely on implementation of agreements. With the WTO now five years old, the transformation from the General Agreement on Tariffs and Trade is nearly complete, as commitments and concessions agreed in the Uruguay Round on such areas as Intellectual Property Rights Protection, Customs Valuation, Trade-Related Investment Measures and Industrial Subsidies near full implementation. As noted in the next section, we are monitoring WTO members' implementation of these commitments closely, and will not hesitate to use our dispute settlement rights when necessary to ensure compliance.

Finally, we are working towards institutional reform of the WTO. Our agenda here will center on the need for greater transparency – both externally, in terms of citizen access, and internally, in terms of the ability of all WTO members to participate fully in the work of the system.

The United States has been at the forefront of efforts to ensure that the WTO is open and accessible to the public. We have made progress and seek additional action by WTO members to provide better and more ready access to WTO documents, including dispute settlement documents. We also are building upon reforms to date to foster greater interaction with the NGO community and more effective outreach. Strengthening transparency in dispute settlement proceedings is also a very high priority. More generally, the United States will continue to urge its trading partners to make additional progress in enhancing the accountability and openness of the

institution, and to promote transparency. And we will continue to work to ensure that the system does all it should to promote environmental protection and respect for internationally recognized core labor standards.

2. Regional and Bilateral Agenda

Together with and complementing our focus on the World Trade Organization has been a bilateral and regional agenda covering each part of the world and our major trading partners. Our record and future priorities in this flow from a general view that as we strengthen our trade relationships overseas, we create opportunities for growth, higher-wage employment and technological progress at home; sustainable development overseas; and broadly speaking, greater stability and stronger chances for peace.

a. China

One of the most challenging such initiatives, and also one in which we have made truly historic progress, is our trade policy with China. As we look to the year 2000, our top trade policy priority is the completion of China's WTO accession, and the approval of permanent Normal Trade Relation (NTR) status for China.

Our trade policy goals have been to open China's markets to American exports, support Chinese domestic economic reform, and integrate China into the Pacific and world economies. We have used a variety of means to achieve these goals, including commercially meaningful agreements that open opportunities for Americans.

This culminated last November in our historic bilateral agreement on China's accession to the WTO. When implemented, this agreement will open the Chinese economy to the world more fully than at any time: reducing and eliminating barriers to the American exports and strengthening guarantees of fair trade for American businesses and working people. It is an agreement, as the President has stressed, in the fundamental American economic and national security interest, and also in the interest of reform in China.

Our bilateral agreement is comprehensive. It covers tariff and non-tariff barriers to U.S. exports of industrial goods, agricultural products and services. China will also apply specific rules to address import surges, anti-dumping and subsidies practices and requirements for export performance, local content, offsets, and technology transfer. Market opening will begin from day one once China completes its accession. The phase-in of China's commitments will be limited to five years in almost all cases, and in many cases to one to three years. These commitments are specific and enforceable through WTO dispute settlement, U.S. trade laws, and other special mechanisms.

We will work closely with the U.S. Congress to secure permanent Normal Trade Relations treatment for China on the basis of this agreement. This is essential for our own interests.

WTO accession for China requires no substantial concessions by the United States. We make no change whatsoever in our current market access policies, and preserve our right to withdraw market access for China in the event of a national security emergency. Likewise, we amend neither our laws controlling the export of sensitive technology, nor our trade laws. But we must grant China permanent NTR or risk losing the full benefits of the agreement we negotiated, including broad market access, special import protections, and rights to enforce China's commitments through WTO dispute settlement.

All WTO members, including ourselves, pledge to give one another permanent NTR to enjoy the benefits available in one another's markets. If Congress were to refuse to grant permanent NTR, our Asian, Latin, Canadian and European competitors will reap these benefits but American farmers, businesses and workers may well be left behind.

Finally, of course, the full benefits of this agreement will require extensive monitoring and enforcement. With permanent NTR in place, WTO accession will substantially strengthen our enforcement capability with respect to China, for example through WTO dispute settlement, our ability to work with 134 other WTO members instead of acting alone, multilateral monitoring, and our own trade laws. We also are preparing for the largest monitoring and enforcement effort ever given to any trade agreement, as part of President Clinton's request for new enforcement and compliance resources at the USTR, the Commerce Department, USDA and other branches of government with enforcement responsibilities. This effort will cover China's obligations in the WTO and also import issues such as dumping and countervailing duties.

As we worked toward this bilateral agreement, we built upon a record of bipartisan support for a market-opening China trade policy, dating to the lifting of the trade embargo in 1972 and our Bilateral Commercial Agreement in1980, and including 17 specific agreements in the Clinton Administration. Three of the most significant of these agreements include:

Intellectual Property – In the early 1990s, China's status as the world's largest exporter of pirated CDs and CD-ROMs was one of the most problematic aspects in our trading relationship. This led to trade confrontations with China, including invocation of sanctions on two occasions. The United States ultimately negotiated agreements in 1995 and 1996 that led China to close the vast majority of pirate production facilities; cease the export of pirated products and significantly improve enforcement – the principal focus of the agreements.

Textiles – Textile transshipment and market access barriers have also historically been a problem in our textile trade relationship with China. While problems remain, two separate agreements, in 1994 and 1997, combined with sustained enforcement efforts by the U.S. Customs Service and the Administration, as well as imposition of triple charge penalties, have helped to mitigate these problems. Growth in China's textile exports to the United States also has slowed, a function of the textile agreement. The 1997 agreement also committed China for the first time to significantly reduce its textile import restrictions.

Agriculture – Most recently, our Agreement on Agricultural Cooperation in April of 1999 lifted long-standing bans on exports of American citrus, meats and Pacific Northwest wheat, imposed without a sound scientific basis. As in the cases of intellectual property and textiles, we are holding frequent consultations with the Chinese authorities charged with implementing the agreement.

b. Japan

With Japan, our largest Asian trading partner and the world's second-largest economy, we have worked throughout the Administration to promote reform, market-opening and deregulation that will both create opportunities for Americans and help to restore health to the Japanese economy. Thus, the Clinton Administration's comprehensive approach to economic relations with Japan, established under the United States-Japan Framework Agreement at the beginning of the Administration in 1993, addresses sector-specific barriers and underlying structural obstacles in the Japanese market, as well as macroeconomic issues.

Since 1993, the United States has concluded 38 market-opening agreements with Japan in such sectors as telecommunications, medical technology, autos, flat glass, agricultural products and insurance. The Administration has placed top priority on monitoring Japan's implementation and enforcing U.S. rights under these agreements. In 1997, the Administration complemented this approach with the launch of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy to address the regulatory

obstacles that impede market access in key sectors of the Japanese economy. The initiative has made substantial progress in deregulating and opening to competition the telecommunications, housing, energy, financial services, pharmaceuticals and medical devices sectors.

The Administration's multifaceted approach to Japan, has resulted in a 20 percent increase in U.S. exports to Japan. Between 1993 and 1997, before the onset of Japan's recession, U.S. exports to Japan increased by more than a third, with exports in those sectors covered by bilateral agreements growing twice as fast as overall exports to Japan. Japan was also the largest purchaser of U.S. private services exports in 1998 (latest data available), accounting for 12.5 percent of total U.S. private services exports. These gains are particularly significant given Japan's continued economic recession.

The United States and Japan reached three new trade agreements in 1999. In May 1999, the United States and Japan announced a package of new Japanese deregulation measures that substantially expands on the progress made in the first year of the Enhanced Initiative. In addition, the United States and Japan concluded a new bilateral telecommunications procurement agreement in July 1999 that ensures open, non-discriminatory, and transparent procurement by the four successor Nippon Telegraph and Telephone (NTT) companies, which together are the largest purchaser of telecommunications equipment in Japan. The two countries also entered into a series of agreed-upon measures to reform Japan's structural and regulatory policies which ultimately will make Japan a more attractive place for U.S. firms to invest.

Finally, in order to explore the underlying causes of the 1998 steel surge, the United States and Japan initiated a bilateral dialogue on steel. While import levels have fallen recently, the Administration remains concerned with structural issues in Japan, such as possible obstacles to competition and restructuring in Japan's steel market, which may have contributed to the oversupply of steel.

This work will continue in the year 2000, as we place a high priority on greater access for U.S. goods and services, promoting deregulation and structural reform, and advocating greater use of pro-competitive policies throughout the Japanese economy. We will continue to utilize bilateral consultations, WTO negotiations and dispute settlement, and the Asia-Pacific Economic Cooperation forum (APEC) to achieve our market opening objectives.

c. Other Asia-Pacific Trading Partners and APEC

Over the past seven years, the Clinton Administration has worked toward the creation of a broadly more open and vital regional Asia-Pacific trading environment, through regional negotiations beginning with the historic Asia-Pacific Economic Cooperation forum (APEC) Leaders Meeting in Seattle in 1993; the opening of markets in Korea, ASEAN, India, Australia and other major trade partners; work toward full normalization of trade relations with the three nations and 100 million people of Indochina; strengthened rule of law regionwide, with a special focus on intellectual property; and economic liberalization in the aftermath of the 1997-99 Asian financial crisis.

Specific accomplishments here include the landmark Information Technology Agreement begun in APEC and adopted by the WTO in 1997; 13 bilateral agreements to open markets to beef, automobiles, pharmaceuticals and other products in South Korea; 20 bilateral agreements with the members of the Association of Southeast Asian Nations (ASEAN); completion of Bilateral Commercial Agreements with Cambodia and Laos (with NTR still pending for Laos but granted for Cambodia) and our negotiation of an agreement in principle on market access in Vietnam last year.

The APEC Leaders Meeting also inaugurated a program of regional discussions on trade liberalization. This has included sectoral initiatives as well as a broader commitment to regional liberalization under the Bogor Declaration of 1994, calling for "free and open trade in the region" by 2010 for developed countries and 2020 for developing countries; programs on trade facilitation, electronic commerce, and other issues; and the building of consensus on tariff liberalization in 15 other industrial sectors

These efforts have been complicated by the unprecedented economic crisis which struck Asia between 1997-1999. The region has begun its recovery, with all countries in the region beginning to register positive growth in 1999. This rapid recovery was in no small part due to the structural reforms undertaken in many of the economies most affected by the crisis, as well as the region's abiding commitment to retain open market policies as agreed in WTO commitments and national policies as well. This enabled trade in the region to expand in 1999, and avoided a destructive spiral of protectionism such as characterized the world economy in the 1930s.

As the region emerges from this crisis, it is crucial that economic and structural reform proceeds. Our trade policies will generally support this goal. We will work to ensure that APEC continues making specific and concrete strides toward achieving its goal of open markets in the region, and just as importantly, to continue to play a leading role in the global trading system, by acting as a catalyst for multilateral trade liberalization. We also will continue working with our individual trading partners, and closely monitor the trade and investment reforms set out in the International Financial Institutions (IFI) stabilization programs in the region. Effective implementation of these reforms are not only central to continued recovery in a number of Asia Pacific economies, but have implications for a number of areas critical to regional trade, such as improved market access, transparency, economic deregulation, attracting investment efficiently, and allocating public and private resources based on market disciplines.

d. Western Hemisphere

The 1990s marked a revolutionary shift in our trade relations with our neighbors in the Western Hemisphere. As nations throughout the Americas strengthened consensus on democratic government and open markets, we have fundamentally strengthened our trade relationships with our closest neighbors and built consensus for a long-term vision of hemispheric unity and shared prosperity.

At the outset of the Clinton Administration, we completed negotiation of, and secured Congressional approval for, the North American Free Trade Agreement (NAFTA). This created the world's largest and most comprehensive free trade area, and is the first agreement to mandate cooperation to protect the environment and workers' rights, and to provide sanctions for ineffective enforcement of labor and environmental commitments.

Since the NAFTA, trade among the three signatories has expanded by more than 85 percent, exports to Canada are up 66 percent, and U.S. exports to Mexico have doubled, making Mexico our second largest trading partner after Canada. And as this agreement has gone into effect, we have made additional gains in our relationships with Canada and Mexico, including agreements on softwood lumber, magazines and agricultural market access for cattle, wheat and other products in Canada. Today, a third of all America's exports are to these two countries.

At the same time, we will continue to attach a high priority to the full and effective implementation of the North American Free Trade Agreement. Here we maintain oversight and management of the Agreement through a comprehensive trilateral work program involving more than 25 different committees, working

groups and their subsidiary bodies. The Department of Labor and the Environmental Protection Agency respectively coordinate the work of implementing NAFTA's side agreements on labor and the environment. Overall direction to NAFTA implementation is provided by the annual NAFTA Commission.

And we continue, of course, to pursue active bilateral agendas with both our NAFTA partners. This will include implementation of our bilateral agreements on agriculture, lumber, tourism and sport fishing, and magazines with Canada; in Mexico, enforcing intellectual property rights and building a cooperative enforcement program; gaining greater access for U.S. telecommunications service providers; addressing the dispute over the NAFTA transition to open trade in sugar; pursuing greater market access for U.S. high fructose corn syrup exporters; effectively addressing barriers to U.S. agricultural exports as they may arise; and ensuring that Mexico's customs valuation procedures are not unfair impediments to trade or inconsistent with the WTO. Likewise, we have pursued a strong market-opening policy throughout the hemisphere, including agreements to open markets to autos in Brazil, strengthen intellectual property protection regionwide, and promote the rapid development of electronic commerce.

With respect to our neighbors in the Caribbean and Central America, we are working with Congress for legislation to enhance the Caribbean Basin Initiative or CBI, by extending its scope and product coverage. For fifteen years, CBI has been fundamental to growth, economic diversification, and strengthening trade ties with Central America and the Caribbean island nations. It has made a substantial contribution in particular to the support of peace in Central America, and also has helped to make the beneficiary nations the destination for $19 billion in American exports. Its enhancement is of fundamental importance to help the Caribbean countries maintain their competitiveness and growth, and continue strengthening this relationship.

Most broadly, at the Summits of the Americas in Miami and Santiago, we embarked upon a historic mission, launching negotiations – including every hemispheric democracy – to create a Free Trade Area of the Americas (FTAA). This would eliminate tariffs and non-tariff barriers to trade in goods and services throughout the Hemisphere and establish a single set of rules for fair trade in the region, and fulfill a two-century old dream of a hemisphere united by shared commitment to democracy, shared prosperity and mutual benefit.

This commitment has already led to the implementation of specific business facilitation measures, easing trade with all our major hemispheric partners. Despite a period of economic stress in the aftermath of the financial crisis, the negotiations have moved forward on schedule, as evident in the unanimous decision of the 34 trade ministers at the Toronto Ministerial meeting of the Free Trade Area of the Americas in November 1999 to adopt an ambitious negotiating agenda for the next 15 months. The region also joined at Toronto in seeking the global elimination of agricultural export subsidies in the agricultural trade negotiations occurring in the WTO.

With the Third Summit of the Americas scheduled for April 2001 in Quebec, Canada, we are intensifying the FTAA negotiations this year. Our agenda concentrates in four areas: negotiating draft texts of the chapters of the Agreement by April 2001; carrying out a continuing program of business facilitation; addressing the views and concerns of civil society; and deepening our region's understanding of the implications and benefits of electronic commerce for our societies.

Among the most prominent issues raised by elements of civil society is that of ensuring that our trade liberalization policies and our environmental protection policies are mutually supportive. On November 16, 1999, the Administration issued the White House Policy Declaration on Environment and Trade, along with an Executive Order (13141) in which the

President directed USTR and the Council on Environmental Quality to conduct environmental reviews of negotiations of certain trade agreements. Accordingly, this year the Administration will initiate its environmental review of the FTAA. This review will serve to inform both the public and our negotiators of the environmental considerations that must be taken into account as we formulate our negotiating positions. As we implement the principles of the Declaration on Environment and Trade, we also will work with other stakeholders to address concerns including issues of worker rights, transparency, and consumer protection.

e. Africa

The past seven years have been one of the most innovative and productive periods in the history of our trade relationship with Sub-Saharan Africa. While at present, our trade relationship with the continent is relatively small (with two-way goods trade totalling $19.6 billion last year, and a market share of less than 8 percent), sub-Saharan Africa, with a population of approximately 640 million people, over 10 percent of the world's population, represents a market of great potential for the United States.

As many countries in Africa are institutionalizing new democratic governments and economic reforms aimed at creating more competitive, market-oriented economies, President Clinton has opened a strategic initiative which helps promote these reforms, strengthens our ties to Africa's leading reformers, promotes regional economic integration, and ultimately will help create a new and far deeper American economic partnership with Africa. This has included initiatives at the USTR to create an Office of African Affairs, and to expand the Generalized System of Preferences by over 1700 tariff lines for the least developed nations.

In 1999, this initiative led to our first Trade and Investment Framework Agreements (TIFAs) with African partners. TIFAs with South Africa and Ghana established permanent mechanisms for addressing trade and investment issues and for identifying and eliminating or reducing barriers to trade and investment. We signed a third TIFA with Nigeria in February of 2000, and hope to build on this success through a similar agreement with the West African Economic and Monetary Union (WAEMU). The TIFAs will be used to address market access barriers to U.S. trade and investment and to identify means to expand and diversify trade between the United States and sub-Saharan Africa.

Our principal policy goal for the year 2000 is passage of the African Growth and Opportunity Act (AGOA). The Act has received bi-partisan Congressional support and passed the House of Representatives in July 1999 and the Senate in November 1999, and now is awaiting action by a House-Senate Conference Committee. Enactment of AGOA would provide increased market access for products from reforming sub-Saharan African countries, institutionalize an annual U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum, and encourage the establishment of funds and guarantees to support private sector and infrastructure development in Africa.

Other U.S. Government agencies are working under the Partnership initiative or other programs to provide debt forgiveness, technical assistance and expanded opportunities for transportation and energy services, Internet and electronic commerce capacity, support for combating HIV/AIDS and other diseases, and promotion of enhanced business and economic relations. These programs complement each other by helping to create an environment for trade and investment-based economic growth. This in turn will contribute to sustainable development, help promote more stable and democratic governments and will make countries better able to combat serious cross-border threats such as infectious diseases, environmental degradation, narcotics trafficking, and terrorism.

The United States also will continue to intensify its efforts to assist sub-Saharan African countries to increase institutional capacity to participate more fully in the multilateral trading system, as part of a general commitment to ensure that the least developed countries have both greater access to markets and more ability to take advantage of the opportunities the WTO offers. We are working directly with a number of African partners in this, for example in our joint submission with Nigeria, Lesotho, Senegal, Zambia and Bangladesh of a proposal to revitalize the capacity-building and technical assistance efforts of the WTO and other international institutions. This new approach will begin with the Integrated Framework, which requires cooperation between the IBRD, IMF, UNCTAD, UNDP and donor countries. We also are sponsoring regional workshops on WTO issues, with one to be held shortly in Nigeria.

f. Middle East and North Africa

In the Middle East, the advances in the peace process, together with a broad regional momentum towards reform have enabled us to develop an innovative set of duty-free programs to help stimulate investment, growth and regional economic integration. By opening regional markets, and helping to spur greater trade and investment among the Middle Eastern nations, trade policy will help to give participants in the peace process greater concrete stakes in its long-term success.

The foundation of our work is our existing Free Trade Agreement with Israel, under which bilateral trade has quintupled to over $17 billion since 1985. We are, of course, working to further strengthen this relationship as we address bilateral intellectual property, agricultural market access, and telecommunications issues; and we are seeking opportunities to extend the area of prosperity and open trade it has created.

In 1996, for example, the Administration strengthened the trade and peace process by extending duty-free treatment under the U.S.-Israel FTA to products from the West Bank and Gaza Strip. Under this arrangement, the United States has received assurances from the Palestinian Authority of reciprocal duty-free treatment of U.S. products entering those areas.

We also in 1998 initiated a "Qualifying Industrial Zone" program, with the cooperation of the late King Hussein of Jordan and then-Israeli Trade Minister Natan Sharansky. Under this program, several specific Israeli-Jordanian industrial projects employing nearly 10,000 people now receive duty-free treatment in the United States. In the coming year, we intend to build on this under the umbrella of the Middle East Peace Process by extending the Qualified Industrial Zone (QIZ) program in Jordan to the Aqaba-Eilat area, and by working to enlist Egyptian cooperation in establishing QIZs.

At the same time, we will continue to deepen our bilateral relationships with countries in the region, such as Egypt, Jordan, Turkey and Morocco through our established Trade and Investment Councils. The U.S. Government aims in 2000 to complete a Trade and Investment Framework Agreement (TIFA) with Tunisia and begin TIFA negotiations with Algeria in the next year. And we are promoting WTO accession for a number of Middle Eastern nations, supporting Jordan's successful accession to the WTO in 1999, significant progress with Oman, as well as negotiations with Saudi Arabia and soon Lebanon. In each case, the Administration will seek to ensure that the trade regimes of these economies are consistent with WTO requirements, and that commitments are implemented upon accession.

g. Western Europe

Our trade relationship with Western Europe is of fundamental importance to America's economic and national security interests. It is the largest regional trade and investment relationship we have anywhere in the world: bilateral goods and services trade likely reached $500 billion last

year; 44 percent of our foreign direct investment is in the EU; and likewise 59 percent of the EU's FDI is in America. In this relationship we have opportunities to find new areas in which we can open markets and create export opportunities. At the same time, we have very substantial disputes with the EU, in which we vigorously assert American rights and interests.

Our work with the European Union since 1993 has addressed both of these areas. In our disputes, we used all means at our disposal to protect our rights and interests. We have, for example, used WTO dispute settlement, including retaliation as authorized by panel decisions, to enforce our rights in agricultural disputes over bananas and beef hormones. We also have strongly asserted American interests in cases of discriminatory regulation such as those relating to hushkits. In these cases and in others, we will remain steadfast in ensuring that the EU meets its commitments. By the same token, we also have responded strongly when the EU has challenged U.S. measures or practices, such as its WTO dispute against the Foreign Sales Corporation (FSC) provisions of U.S. tax law. This is a matter of high priority for us. We need to find a constructive solution to the Appellate Body's recent decision against certain provisions of the FSC. We respect our WTO obligations, and will seek a solution that ensures that U.S. firms and workers are not at a competitive disadvantage with their European counterparts.

Notwithstanding our disputes, we have also found common ground and shared interest on a broad range of interests. We have negotiated 17 specific trade agreements with the EU, in areas from government procurement to electronic commerce, regulatory policy and other issues. These have enabled us to capitalize on areas of common interest, notably through our conclusion of a Mutual Recognition Agreement (MRA) which improves market access, reduces costs and shortens the time required to market many U.S. products in the EU, while maintaining our current high levels of health, safety and environmental standards. Product sectors covered by the US-EU MRA now represent over $50 billion in annual two-way trade. The MRA will eliminate duplicative testing and certification for products in the following sectors: telecommunications and information technology equipment; network and electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft. Altogether, this work has helped spark a $44 billion increase in goods exports to the EU since 1992, and a $32 billion increase in exports of services between 1992 and 1998.

We took this work further at the U.S.-EU Summit of May 1998, launching the U.S.-EU Transatlantic Economic Partnership (TEP), which is designed to reduce barriers to bilateral U.S.-EU trade and to improve U.S.-EU cooperation on a range of trade issues. The TEP has enabled us to address seven broad areas, including technical standards; agriculture; intellectual property; government procurement; services; electronic commerce; and shared values in fields such as trade-related labor and environmental issues. In the year 2000, we and the EU intend to bring as many TEP activities to fruition as possible. We will aim in particular for early results in areas involving transatlantic regulatory cooperation, including such specific steps as a mutual recognition agreement on marine safety equipment; a pathbreaking series of mutual recognition arrangements for insurance, architect services and engineering services; and full implementation of a pilot project to highlight areas of congruence and difference in how U.S. and EU authorities regulate bioengineered products.

h. Central Europe and the New Independent States

A central focus of Administration trade policy since 1993 has been support for efforts by new democracies to make a successful transition away

from communist central planning practices. Thus, we have sought to develop strong, healthy trade and investment relations with the countries of Central Europe and Eurasia, and encourage them to join the WTO.

In pursuit of these goals, we have negotiated trade agreements and investment treaties throughout Central Europe and Eurasia. These agreements – Bilateral Investment Treaties with such nations as Albania, the Baltic States, Georgia, Romania and others; agreements on intellectual property with Bulgaria, Hungary, Latvia, Lithuania and others; Bilateral Commercial Agreements and other measures – have led countries of the region to take key steps in liberalizing their trade regimes and removing barriers to investment. In addition, the Administration has encouraged these countries to join the WTO, thus deepening economic reform and supporting the development of markets and the rule of law.

Since 1993, eight countries in the region have become members of the WTO and another 14 states – including Russia and Ukraine – applied for WTO membership. Cases such as that of Bulgaria show how important this has been for lasting reform. More recently, Estonia, the Kyrgyz Republic and Latvia have entered the WTO; Albania, Croatia and Georgia are expected to join in 2000.

We also have supported the efforts many of these nations have made to join the European Union. However, we also have insisted that EU accession take into account our concrete trade interests. As a priority in 2000, we are thus pursuing consultations with the ten Central European countries in accession negotiations with the EU, seeking to address the problem of tariff differentials faced by U.S. exporters vis-a-vis EU exporters to those countries.

The Administration also will work with Congress to achieve passage of the "Southeast Europe Trade Preference Act" (SETPA). This bill, creating trade and export opportunities for countries in the Balkans committed to peace and reform, is an integral part of the commitments made by the United States at the Sarajevo Summit in July 1999 to help bring stability and economic development to Southeast Europe.

B. BUILDING THE 21ST CENTURY ECONOMY

Given America's leading position in the high-tech industries, and the importance of a strong high-tech sector to our national competitiveness, the Clinton Administration has made a special focus of protecting the results of our research and development, and opening markets for the high-tech sector through a program of strengthening respect for intellectual property, opening markets across the spectrum of high-tech industries, helping countries develop pro-competitive regulations in fields like telecommunications, and facilitating technological advance in new fields through initiatives on emerging fields such as electronic commerce and biotechnology.

Major specific achievements include:

Intellectual Property Rights – Respect for intellectual property rights is central to technological innovation. Creative and innovative products that rely on intellectual property protection, such as computer programs and motion pictures, are typically very costly to develop but relatively cheap to copy. Our use of the "Special 301" law and the Uruguay Round's TRIPS agreement has helped fundamentally to improve intellectual property standards worldwide. Today, the vast majority of our trading partners have passed modern intellectual property laws and are improving their enforcement of these laws.

We are now monitoring WTO members' implementation of their TRIPS Agreement obligations and will enforce these commitments in the most effective way. We also are implementing campaigns against worldwide piracy of new optical media technologies, and against end-user piracy of software. These issues

are integral parts of our regional negotiating agenda in Asia, Latin America, Europe, Africa and the Middle East, together with development of compliance plans, technical assistance and other measures.

At the same time, we are ensuring that trade policy remains sufficiently flexible to respond to public health crises such as AIDS. In 1999, we developed an arrangement to ensure more direct interaction between USTR and HHS on health-related intellectual property issues. When a foreign government expresses concern that U.S. trade law related to intellectual property significantly impedes its ability to address a health crisis, USTR will seek substantive information from HHS on the health conditions prevailing in that country. This enables the Administration to respond fully and appropriately to public health crises, within the context of the TRIPS Agreement.

Sectoral Market-Opening – We also have an active sectoral high-tech agenda. This opened with a series of bilateral high-tech agreements with Japan, covering semiconductors, cellular phones, medical technology and other products, and moving on to such areas as basic telecommunications, wireless cable, direct-to-home satellite services and cable TV, medical equipment and pharmaceuticals, financial services, energy and other fields. This led to major achievements and goals including:

- *Semiconductors:* Beginning with implementation of the 1991 U.S.-Japan Semiconductor Agreement and its successor agreements in 1996 and 1999, we have helped to raise the foreign share of the Japanese market, which had averaged 16.7 percent in 1992, to over 30 percent since the first quarter of 1997. Moreover, the European Union and Korea's elimination of semiconductor tariffs to become participants in the 1996 agreement fulfilled longstanding U.S. goals, paving the way for the Information Technology Agreement which substantially eliminated semiconductor and most other information industry tariffs worldwide.

- *Information Technology Agreement:* Using the Semiconductor Agreement as a base, we reached a landmark multilateral agreement in the much broader Information Technology Agreement (ITA) of 1997. By 2000 for the majority of countries, it will eliminate all tariffs on $600 billion worth of goods: 95 percent of the world production of semiconductors, computers, telecom equipment, integrated circuits and other goods associated with the Information Superhighway. This is a step important for its vast size – these products make up about one in every thirty dollars of world GDP – and its potential to promote economic growth and freedom of information. We are now seeking consensus on an expansion of this agreement – the "ITA II" – to include even more products, and to address problems related to trade in the sector, including standards and non-tariff measures.

- *Agreement on Basic Telecommunications Services.* This Agreement, which came into force in February, 1998, opened up 95 percent of the world telecommunications market to competition, promoting pro-competitive regulatory principles in all participants and covering the vast majority of nearly $1 trillion in telecommunications trade. In just two years, the ability of dominant carriers in foreign countries to keep rates artificially high and depress demand for telecommunications services and electronic commerce has been significantly eroded, helping to bring down rates dramatically, to levels as low as 10 to 20 cents per minute, for calls between the United States and countries

such as Japan and Mexico. And as a result of the broader market access and increased investor stability provided by WTO commitments, new investment in undersea fiber optic cables may result in a fifty-fold increase in capacity by the end of 2001, compared to mid-1999. The rapid expansion of the Internet into more and more parts of the world, at higher capacities and faster speeds, is due in significant measure to the market-opening path on which this agreement has placed the world's trading nations.

- *Agreement on Financial Services:* This Agreement was concluded in December 1997 and came into effect in March, 1999. Covering nearly $60 trillion in banking, insurance and securities transactions each year, it has already helped U.S. service suppliers expand commercial operations and find new market opportunities across a wide spectrum of developed country and emerging markets, through both investment in foreign banking institutions, brokerage and insurance sectors and cross-border trade. Growth potential for competitive U.S. financial services suppliers is high, including helping emerging markets modernize their financial services systems and improving their infrastructure for trade in goods and services.

Global Electronic Commerce – In accordance with the President's Global Electronic Commerce initiative, the Administration seeks to preserve electronic transmissions over the Internet as duty-free. At the Second WTO Ministerial Conference, in May of 1998, we won agreement on this duty-free-cyberspace initiative, and we will push for its further extension, with a goal of making it permanent at the earliest possible time.

We also have begun a longer-term work program, whose goals include ensuring that our trading partners avoid measures that unduly restrict development of electronic commerce; ensuring that WTO rules do not discriminate against new technologies and methods of trade; according proper application of WTO rules to trade in digital products; and ensuring full protection of intellectual property rights on the Net. In addition, the United States has initiated a capacity-building program, the Internet for Economic Development Initiative, to help developing countries improve their ability to use the Internet.

Likewise, in our negotiations toward the Free Trade Area of the Americas, at APEC and in the Transatlantic Economic Partnership, we have created special committees to advise us on ways to ensure all participants can take maximum advantage of electronic commerce.

Biotechnology – American agriculture and medicine are among the chief sources of innovation in this emerging field. These technologies have remarkable potential, for example, to reduce the use of pesticides and ease pressure on land, water and other natural resources. USTR thus seeks to ensure that farmers and ranchers can use safe, scientifically proven techniques to make agriculture both more productive and friendly to the environment, without fear of encountering trade discrimination. However, such advances also raise consumer concerns which must be met through fair, transparent, timely and science-based regulatory policies that ensure the strongest protection for public health and the environment in the United States and worldwide. This is a priority for us in the Transatlantic Economic Partnership negotiations and in developing our agenda for future WTO negotiations.

C. ENFORCING THE RULE OF LAW IN TRADE

All of our negotiations and agreements since 1993, and each of the initiatives now underway, are predicated on full implementation of commitments. This ensures confidence in trade

policy, and allows both the United States and our trading partners to gain the full benefit of our agreements. The Administration has respected our own commitments in this regard, and we expect the same of our trading partners.

Consequently, we have devoted more attention and resources than ever before to monitoring and enforcement. We reach our goals through a variety of means, including:

- We assert U.S. rights through the World Trade Organization, including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO Committees and Bodies charged with monitoring implementation and surveillance of agreements and disciplines.
- We vigorously monitor and enforce our bilateral agreements.
- We invoke U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance.
- We provide technical assistance to trading partners, especially in developing countries, to implement key agreements like the Agreement on Basic Telecommunications and TRIPS.
- Through NAFTA's trilateral work program and use of NAFTA's dispute settlement mechanism, we seek to promote America's interests under that Agreement, as well as using its labor and environmental side agreements to promote fairness for workers and effective environmental protection.
- Through the Special 301 law, we identify priorities for intellectual property enforcement each year;
- The Generalized System of Preferences also contains conditions for beneficiary countries, including respect for intellectual property rights and core labor standards, which we have used with respect to a number of developing countries.

In the course of these monitoring efforts, the United States focuses in particular on foreign practices that could pose serious problems to the international trading system if they were to proliferate in many markets. Therefore, the Administration has adopted a strategic enforcement plan – aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. This has enabled us to succeed in more than 100 enforcement actions over the past seven years.

In this work, we have used the combination of formal dispute settlement and U.S. trade laws to enforce the agreements we have negotiated. With respect to our domestic laws, we have aggressively used Section 301 of the Trade Act of 1974, "Special 301" for intellectual property rights enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications issues, and Title VII of the 1988 Act for enforcement of procurement agreements.

At the WTO, the United States has been the world's most frequent user of dispute settlement procedures. In the last 5 years, we have filed 49 complaints at the WTO, thus far settling favorably 10 cases and winning 13 others through WTO panels and the Appellate Body. We have won favorable settlements and panel victories in virtually all sectors, including manufacturing, intellectual property, agriculture and services.

The accomplishments of the WTO dispute settlement mechanism in the last five years particularly stand out when compared to the

record of the prior mechanism under the GATT. Under the GATT, panel proceedings took years, the defending party could simply block any unfavorable judgment, and the GATT panel process did not cover some of the agreements. Under the WTO, there are strict timetables for panel proceedings, the defending party cannot block results unfavorable to it, and there is one comprehensive dispute settlement process covering all of the Uruguay Round agreements. The first five years have demonstrated that a WTO Member cannot violate its obligations without consequences. Moreover, if a WTO Member violates its intellectual property or trade in services obligations, another Member can be authorized to retaliate against the goods of the violating Member. The Administration has demonstrated its commitment to enforce this in practice by imposing retaliatory trade measures against the European Union for its failure to comply with WTO rulings on bananas and on beef from cattle treated with hormones.

To carry out this work as effectively as possible, in particular with the prospect of enforcing our bilateral agreement with China on WTO accession, we have added new personnel to carry out a larger enforcement workload, without compromising our efforts to negotiate further market access in key markets. Specifically, we have created an Enforcement unit headed by an Assistant U.S. Trade Representative, and in FY 1998 Congress provided us with funds to hire seven new attorneys to handle the added volume of work at the WTO and elsewhere. We also work closely with the Departments of Commerce, Agriculture, State, Treasury, the Customs Service and other agencies involved in enforcement of trade laws and agreements. President Clinton's FY 2001 budget request will give the USTR, together with these other agencies, critical additional resources for enforcement.

D. HONORING OUR VALUES

The Clinton Administration has sought to ensure that the trading system honors our values even as it raises living standards. This includes high standards of environmental protection, the observance of core labor standards, and high levels of consumer protection. Our record at home over the past thirty years has shown clearly that as we open trade and promote economic growth, we also can ensure strong and rising standards of protection for our air and water, strengthen observance of core labor standards, and protect consumers. That is a principle we advance in the world economy as well.

1. Trade and Environment

Our commitment to this principle was made clear at the outset of the Administration, with the creation and effective implementation of the North American Agreement on Environmental Cooperation in conjunction with the NAFTA. Cooperative activities under this agreement have improved environmental protection in a number of different areas – for example, in conservation of North American birds; creation of a North American Pollutant Release Inventory; development of regional action plans for the phase-out or sound management of toxic substances, including DDT, chlordane, PCBs and mercury; and creation of a trilateral working group that has improved the enforcement of environmental protection laws. We also benefitted from the US-Mexico agreement which established the Border Environment Cooperative Commission (BECC), and from the North American Development Bank (NADBank) created in conjunction with NAFTA. While much work remains ahead, the BECC has fifteen environmental infrastructure projects under construction today, funded in part by the North American Development Bank, including the first wastewater treatment plants in Juarez.

We also have led at the WTO. Our work in the Uruguay Round ensured that the WTO Preamble cites sustainable development as a fundamental goal of the system, explicitly recognizes the right of all its members to set levels of environmental protection and consumer safety, including at even

higher levels than common international standards, and helped to create the creation of the Committee on Trade and the Environment. This focus on environmental issues at the WTO has continued ever since, with discussions in the Committee on Trade and the Environment; last year's convening of a first-ever WTO High Level Symposium on Trade and Environment in Geneva; and the encouragement of closer collaboration between the WTO and the UN Environmental Program, which reached a cooperation framework agreement in December of 1999.

In the future, as President Clinton emphasized in November 1999, in issuing the White House Policy Declaration on Environment and Trade, our efforts to expand trade are consistent with our strong commitment to promoting environmental protection world wide. Our participation in the work of the WTO, as well as in other fora, will be guided by the principles in the declaration. We also will implement the November 1999 Executive Order on Environmental Reviews of Trade Agreements. In this connection, the Office of the U.S. Trade Representative and the Council on Environmental Quality, in consultation with other agencies, are developing guidelines for the implementation of the order.

In this work, cooperation with our trading partners on trade and environment issues is essential, given the importance of these issues in attaining a more sustainable and prosperous global economy. We will continue this through our active participation in the Free Trade Area of the Americas negotiation, APEC, the Transatlantic Economic Partnership, the relevant committees of the WTO (such as the Committee on Trade and Environment), and other multilateral and regional fora. In these efforts we will continue to emphasize the importance of ensuring that trade rules are supportive of high environmental standards, and we will pursue opportunities where trade liberalization can yield direct environmental benefits as well as trade benefits. For example, we will continue to work to address the problem of fishery subsidies that contribute to over-fishing, as well as agricultural export subsidies and barriers to trade in environmental goods and services.

2. Trade and Labor

Our trade policy also has complemented and supported efforts to ensure respect for internationally recognized core labor standards.

In the year ahead, the Administration will continue the effort to focus the WTO's attention on the relationship between trade and labor. At the Singapore WTO Ministerial Conference in 1996, the WTO for the first time recognized the importance of labor standards and cooperative work with the International Labor Organization, while clearly separating protectionist trade policies that would, among other things, harm development prospects in poorer countries. We wish to build on this to ensure that the trading system works more effectively with the International Labor Organization, with businesses and with citizen activists to help ensure observance of internationally agreed core labor standards – banning forced labor and exploitive child labor, guaranteeing the freedom to associate and bargain collectively and eliminating discrimination in the workplace.

Thus, and in conformity with our statutory mandate under the Uruguay Round Agreements Act, we have proposed closer collaboration between the WTO and the International Labor Organization and the establishment of a Working Group on Trade and Labor at the WTO. We also have raised labor standards in country policy reviews under the Trade Policy Review Mechanism, which examine each WTO member's trade regime and offers other members an opportunity to raise questions.

We also are enforcing provisions of existing U.S. law that provide for withdrawal of U.S. trade preferences in the case of clear violations of worker rights, notably through enforcement of the

provisions in the recently reauthorized Generalized System of Preferences, which make benefits conditional on respect for core labor standards. One example is the case of Pakistan, where we partially removed GSP trade preferences from Pakistan over child labor concerns. In addition, we also worked through the Labor Department and the ILO to assist countries in developing long-term solutions to the problem, by addressing specific Pakistani industries. As a result, 7,000 children have been removed from jobs stitching soccer balls and 30,000 children from jobs knotting carpets. We also have used GSP to achieve substantial progress on labor issues in Swaziland, Honduras and several other countries.

Several specific agreements also have offered us new ways to address labor issues. For example, the North American Agreement on Labor Cooperation under NAFTA has generated our largest cooperative effort on labor anywhere in the world. It covers occupational safety and health, employment and training, industrial relations, worker rights and child labor and gender issues, and allows citizens to draw attention to labor practices and improve working conditions. This has contributed to important tangible benefits. For example, a labor tribunal reversed itself and granted a union registration in the Maxi-Switch case; a secret ballot union representation vote was conducted for the first time in Mexico in the GE case, and by government employees in the Fisheries Ministry. Mexico's Federal Government intervened in a positive effort to resolve the very contentious Han Young case; and the Mexican Supreme Court struck down state and federal restrictions on union organizing as unconstitutional. Mexico also has taken other steps to advance the rights of workers, including promulgating new safety and health regulations and increasing significantly funding for enforcement of worker rights, including in child labor.

A similar recent case is our textile agreement with Cambodia, which includes provisions encouraging improved enforcement of its labor laws in the apparel sector, in exchange for certain increases in textile market access.

3. Trade and Consumer Concerns

Likewise, trade policy contributes substantially to consumer policy goals. Our open-market policy at home brings fundamental consumer benefits, including the creation of competition which dampens inflation and leads to better prices, quality and choice. This openness to imports is important for all American families, but most of all the poorest among us.

To build upon these fundamental principles of trade policy, and to ensure that they fully harmonize with high standards of consumer protection, we have engaged consumer groups and representatives in broad policy discussions. A principal venue for this is USTR's participation in the Transatlantic Consumer Dialogue (TACD). Created a year ago to give advice to the United States and the EU on the Transatlantic Economic Partnership, the dialogue comprises approximately 65 consumer groups from 16 countries. On both sides of the Atlantic, the groups have long track records of achievement in the consumer protection and safety fields.

In its short history, the group has met three times, focusing on three issue areas: food safety, electronic commerce and trade. Both the EU and the United States have benefitted from the dialogue on these complex issues and from the policy resolutions put forward as consensus positions of the consumer groups. In addition to this interaction, the U.S. Government drew important lessons from its meetings with the U.S. TACD Steering Group. At four such meetings last year, the group discussed policy positions, attendance at the U.S.- EU Summit, and the government's responses to policy recommendations.

At the last TACD meeting, held in Washington in February 2000, consumer organizations noted government progress in areas such as access to essential medicines in developing countries, eco-labeling, fair-trade labeling and regulatory cooperation. A continued priority will be ensuring that trade rules address consumer concerns including maintaining the highest standards of public health and safety.

E. TRANSPARENT AND ACCESSIBLE INSTITUTIONS

Finally, U.S. trade policy has sought to advance basic American concepts of good governance, by making the institutions of trade more transparent, accessible and responsive to citizens, including, as the President has said, new voices.

One principal forum here is the WTO, where we are seeking agreements on more rapid release of documents, ensuring that citizens and citizen organizations can file amicus briefs in dispute settlement proceedings, and that dispute settlement proceedings be open to public observers. In the interim, President Clinton has made a standing offer to open any dispute panel involving the United States to the public, if our dispute partner agrees.

Absent such changes, public confidence in the system will erode. Last year, and most recently at our US-EU Summit in December, we proposed that we and the EU, as the largest users of WTO dispute settlement, immediately agree in our transatlantic disputes to open the panel hearings to public observers. We hope that the EU will accept this proposal promptly.

Likewise, we are working to improve the WTO's internal processes to ensure that all members, including the smallest and least developed, can fully participate. Since 1986, when the Uruguay Round opened, the WTO has grown by over 50 percent, from 90 to 135 members, with more to follow this year. It is not only larger but more diverse, ranging from the world's most developed to its poorest countries, and covering each point of the spectrum in between. Each of these members has different priorities and interests, adding to the complexity of negotiations. Over time we should develop a more effective means of ensuring both participation and efficient consensus-building. Director-General Moore has begun consultations with WTO members toward this end. However, as we address the issue, we must be careful not to alter the principle of consensus for decision-making in the WTO. And we also must ensure that such procedural discussions do not distract us from taking immediate action on core policy issues.

A second forum is the FTAA negotiations, in which two years ago we created a Civil Society Committee to give business associations, labor unions, environmental groups, student associations, consumer representatives and others a formal means of conveying concerns and ideas to all of the governments involved in the talks. This Committee has received 69 submissions from all over the hemisphere, including from labor organizations, environmental groups, Chambers of Commerce, professional associations, academics and individual citizens. These submissions were reviewed by the FTAA Ministers in Toronto, contributing to our overall development of policy for the FTAA. The Committee will remain a feature of the FTAA talks as they proceed in the coming year.

And we have worked throughout the Administration to increase the participation of small and minority enterprises (SMEs) in trade policy. Especially as electronic commerce grows, trade offers these firms substantial new opportunities. Thus, we are seeking opportunities to ensure that the issues of greatest importance to these businesses are integrated into trade policy formulation and multilateral and regional trade negotiations. One example is the development of the APEC Working Group on SMEs. We also proposed last year that the WTO recognize the unique needs and contributions of SMEs to the international trading system. In 2000, the

Administration plans to work with Industry Sector Advisory Committee for SMEs to find new ways to educate small and minority enterprises on the WTO and to create an opportunity for their more active engagement in multilateral trade negotiations.

F. CONCLUSION

This is, and has been, an ambitious and far-reaching agenda. It ranges from integrating China, the world's largest nation, into a global economy of open markets under the rule of law; to opening world services and agricultural markets through a new round of negotiations at the WTO; building a hemispheric community of market democracies; promoting expanded market access and inter-regional trade in Africa and the Middle East; fostering technological progress; fostering sustainable growth and development in the poorest nations; ensuring that trade policy supports environmental protection and core labor standards; and advancing the core concepts of transparency and accessibility in the institutions of trade. These are difficult and complex issues, and progress on them may at times be slow, difficult and marked by controversy.

But the most difficult and complex tasks are also those with the greatest rewards. As we look out to the challenges of the new century, we are aware that others have shouldered equally difficult tasks in the past. And the record of both the past seven years and the past half-century of trade policy gives us a great deal of confidence in our nation's capacity to meet them today.

Taken as a whole, the record Americans have built since the Roosevelt Administration, and which President Clinton's Administration has greatly extended, has fulfilled its core missions. It has promoted the rule of law. It has created new opportunities worldwide and here at home, contributing to a record of growth and employment with few parallels in American history. It has helped us to build a more prosperous and stable world. And as deeply changed as today's world may be, these remain goals to which new generations of Americans can aspire in a new century.

Charlene Barshefsky
U.S. Trade Representative
March 1, 2000

THE PRESIDENT'S 1999 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

II. World Trade Organization

Overview[1]

The World Trade Organization is the result of fifty years of American leadership and commitment to an open world trading system, governed by the rule of law. This work dates back to the foundation of the General Agreement on Tariffs and Trade, or GATT, in 1948: an event reflecting the personal experiences of Presidents Roosevelt and Truman and their European counterparts in the Great Depression and World War II. These leaders had seen the Smoot-Hawley Act in America and similar protectionist policies overseas deepen the Great Depression and contribute to the political upheavals of the 1930s. Fifteen years later, they realized that by reopening world markets they could promote growth and raise living standards. In tandem with a strong and confident security policy, as open markets gave nations greater stakes in stability and prosperity beyond their borders, they believed a fragile peace would strengthen.

The work they began has now entered into its sixth decade, and the faith they placed in open markets and the rule of law has been abundantly vindicated. Through eight Rounds of negotiations, and as 112 new Members joined the 23 founders of the GATT, we abandoned the closed markets of the Depression era and helped to foster a fifty-year economic boom, during which the world economy grew six-fold and per capita income tripled. The United States, as the world's largest exporter and importer, benefits perhaps most of all: the efficiency of our industries and the high living standards of our families reflect both the gains we receive from open markets abroad, and the benefits of our own open-market policies at home.

The creation of the World Trade Organization on January 1, 1995 was the next step in the evolution of the multilateral trading system since the GATT's founding. The WTO was established as part of the results of the Uruguay Round, the last set of trade negotiations conducted under the auspices of the GATT. The Uruguay Round was completed with President Clinton's leadership at the end of 1993. Extension of the GATT to the WTO was part of the President's broader overall strategy to strengthen the American economy, to help create higher-wage jobs and to raise living standards. The record shows how successful this strategy has been: we are now celebrating the longest economic expansion in American history, with 14.4 million new jobs since the WTO entered into force in 1995.

Congress debated and then approved the results of the negotiations in the Uruguay Round Agreements Act (URAA), which was signed into law on December 8, 1994. This Act required a series of annual reports on the operation of the WTO, culminating in a review after the fifth year. The five-year review contained in this chapter confirms how vital U.S. participation in the global trading system is to America's long-term economic and strategic

[1]This Chapter and Annex II to this report are provided pursuant to the reporting requirements contained in sections 122, 124 and 125 of the Uruguay Round Agreements Act.

interests, continued prosperity and strengthening the rule of law around the world. This chapter describes the WTO's operations in 1999 and its activities and accomplishments since its creation in 1995.

While work remains – both to create new economic opportunities through trade liberalization and to improve the WTO itself – the WTO is the continuation of 50 years of successful trade policy. It is fundamentally important to the remarkable record of growth and job creation America has built in the past five years. Continued U.S. participation and leadership in the WTO is essential to safeguard U.S. interests in the future.

The WTO is a crucial vehicle for maximizing the advantages from, and managing our interests in, a global economy. To ensure that Americans receive fair treatment in the global economy, the United States has negotiated a framework of clear, transparent rules that: prohibit discrimination against American products; safeguard Americans against unfair trade; and afford commercial predictability. As the world's largest exporter and importer, we need such a system more than any other country. Consider the alternative – no one would suffer more than America's workers, businesses and farm families in a world of closed markets, abusive trade practices, and the rising international tensions trade conflicts can cause in difficult times.

Thus, over the past fifty years, through eight negotiating Rounds, Americans have led in opening markets and developing the rules of today's WTO. And the past five years since the creation of the WTO have clearly demonstrated its benefits. American exports have risen by well over $200 billion, contributing to the economic growth we have enjoyed and expanding high-skill, high-wage job opportunities.

Key WTO Accomplishments in the Past Five Years Include:

- *Market Access*: The Uruguay Round negotiations cut tariffs substantially, by a full third in the manufacturing sector. It offered agricultural exporters opportunities through the first enforceable commitments to reduce barriers and limit the use of export subsidies. U.S. services providers, from accounting and other professional services to finance, telecommunications and others, gained real export opportunities for the first time in the history of the trading system. New entrants into the global marketplace, particularly small and medium-sized enterprises, also benefit from these new market openings and innovations.

- *Intellectual Property Rights Protection*: In the 21st century, economies will rely on innovation and ingenuity to promote economic development and investment – both human and capital. This is why WTO Member governments agreed to a far-ranging set of rules to protect and enforce intellectual property rights, including copyrights, patents and trademarks. To ensure that innovation and technology continue to serve as engines of growth in rich and poor countries alike, the WTO provides strong protection and a system of rules that applies to all.

- *Dispute Settlement*: The WTO created a set of procedures that can settle trade disputes promptly, eliminating many of the shortcomings of the earlier GATT system where the process could be prolonged indefinitely. Improvements to the system are still warranted, notably with respect to the transparency of the dispute procedures. Since the WTO's creation in 1995 the United

States has filed more complaints – 49 to date – than any other WTO Member, and we are involved as a third party in a number of other cases. Our overall record of success is very strong. The United States has prevailed in 23 of the 25 complaints acted upon so far, either by successful settlement or panel victory. These favorable rulings and settlements have involved an array of sectors within manufacturing, agriculture, services, and intellectual property.

- *Expansion of the Rule of Law*: In the past five years, the 50 year-old trading system has been transformed from a limited set of rules and disciplines that applied to the United States and a few of our trading partners, to a system with specific rules applicable in full to *all* Members. Thus the WTO eliminates the potential for "free riders" on the benefits of an open trading system.

- *Creation of a Dynamic Forum for Trade Liberalization*: The WTO is a system responsive to rapid changes in the 21st century world economy. After its creation in 1995, the WTO first set in motion and then realized agreements in financial services, basic telecommunications services and information technology. These opened new markets and produced gains larger in scope than the results of the Uruguay Round. The WTO has laid the groundwork for further advances by setting a built-in agenda to continue to liberalize and reform areas like agriculture and services, and initiating further work on electronic commerce and other emerging trade issues.

- *High Technology and Telecommunications*: The WTO has kept the trading system at the cutting edge of technological development, benefitting both business and consumers – whether in electronic commerce, or telecommunications goods and services. According to the FCC, rates paid by U.S. consumers for international service have declined significantly since the Agreement on Basic Telecommunications came into effect. From 1996 to 1998, the average price of an international long distance call dropped from 74 cents per minute to 55 cents per minute. On highly competitive routes, such as the U.S.-UK route, prices fell even more dramatically, to as low as 10 cents per minute. Although aggregate data for 1999 are not yet available, all indications are that the trend toward lower rates has continued and that the current average price is well below 55 cents per minute.

- *Global Membership*: Growing in membership from 119 in 1995 to 135 in 1999, with another 30 applicants seeking to negotiate entry, the WTO is becoming more universal. The fall of the Berlin Wall brought new urgency to integrate former command economies into the trading system. Despite much more stringent requirements for membership than were used in the GATT, acceptance of WTO rules has become an integral part of a country's successful strategy for growth and development – making WTO membership a key element in the reformist policies of newly emerging market economies in Central and Eastern Europe, and of countries in Asia and in the Middle East. Consistent with the Administration's initiatives for Africa, an important new dimension is that many more African nations now participate meaningfully in the system.

- *Force for Global Economic Stability*: The WTO has also strengthened the world's ability to address economic crises. During the financial crisis of 1997 and 1998, for example, the respect WTO members showed for open market commitments helped to prevent a cycle of protection and retaliation similar to that of the Depression era, ensuring affected countries the access to markets they needed for recovery, and minimizing damage to American farmers and manufacturing exporters.

- *Greater Openness and Accountability*: In its first five years, the WTO has taken steps to ensure greater transparency in its operations, by making a majority of its documents available to the public, by creating a user-friendly Internet website, and by reaching out to the non-governmental community (through symposia and other means) to solicit their views. All WTO Ministerial meetings held thus far – in Singapore, Geneva and Seattle – have included participation by non-governmental organizations (NGOs). These initial steps lay the foundation for further enhancing the openness and accountability of the WTO, which remains a critical U.S. objective, including in particular for WTO dispute settlement.

As these points indicate, the WTO – including the 50 plus years of the trading system it represents – has become an important institution for managing our interests in the global economy. Other institutions, such as the World Bank, International Monetary Fund and International Labor Organization, as well as domestic policies also play an important role in addressing the variety of issues arising from globalization. As the challenges of globalization have increased in all facets of economic activity, the WTO and its system of rules have become much more vital for securing, managing and promoting America's interests in the world economy. That makes it imperative for the United States to exercise leadership and vision to strengthen and improve the WTO and to utilize its provisions to open markets and safeguard America's trade interests and economic future in the 21st century.

As trade has become more important to the U.S. domestic economy and in our relations with other countries, it is only natural that the WTO should be subject to greater scrutiny. In 1970, trade (exports + imports) was valued at 13 percent of U.S. GDP; in 1999 it exceeded 30 percent of GDP. While the WTO can respond by doing a better job in explaining its practices and procedures to the public, and by reforming procedures outmoded in this era of rapid communication, it is also not surprising that a new organization such as the WTO encounters some misconceptions.

Contrary to the criticisms that have been made:

- ***The WTO has not*** *eroded the sovereign right of the United States to pass its own laws*: The United States benefits by having a set of rules to hold other countries accountable for their trade actions. But neither the WTO nor its dispute settlement panels have any power to compel the United States to change its laws and regulations. Only the United States can decide how it will respond to WTO dispute settlement reports; and only the Congress can change U.S. law. In the relatively few cases where the United States has defended one of its statutes or regulations and has not prevailed, we have responded in a manner that did not infringe upon U.S. sovereignty, or alter any statute.

- ***The WTO has not*** *limited the ability of the United States to set its own high*

environment and health standards: The WTO agreements explicitly recognize the right of all WTO Members to establish the levels of environment, health, safety and consumer protection they deem appropriate, even when such levels of protection are higher than those provided by international standards. No WTO panel has ever declared that a U.S. environmental or health or safety statute is inconsistent with a WTO agreement. Generally, all the WTO's rules require is that authorities opt for a less trade-restrictive regulation when they can, and avoid discriminating by imposing a higher standard for foreign products than for domestic products.

- ***The WTO has not** relegated U.S. interests to a bloated international Secretariat of faceless bureaucrats:* The WTO is a "member-driven" organization. WTO Members like the United States take responsibility for monitoring compliance with the Agreements and setting the course for the Organization. The WTO is staffed by a Secretariat of international civil servants headed by a Director-General. Unlike many other institutions, the Secretariat does not operate with a high degree of independence, and serves at the direction of the membership. The WTO is not a specialized UN agency, reflecting the strong views of its Members that it should not be included in the UN structure. And like the earlier GATT, the WTO takes decisions by consensus, despite the fact that there are highly-limited provisions for voting in certain instances.

- ***The WTO has not** hindered the development prospects of poorer countries:* The WTO's system of rules helps countries to move from failed inward-looking policies of import substitution and protectionism to policies based on openness, competition and outward-oriented growth. The former policies perpetuated poverty and inequality, and indirectly abetted anti-democratic forces. With the WTO, trade has become a key part of the solution to long-term structural problems resulting from decades of mismanagement. The record is clear: developing nations that have adopted an outward orientation and abided by the rules-based system have been most successful.[2]

Much work lies ahead, of course. We intend to work at the WTO to further open markets to American goods and services; to enforce the commitments our trading partners have made; reform the WTO to improve transparency and access to civil society; and to ensure that it contributes to our work to promote environmental protection and internationally recognized core labor standards worldwide. Much of this work will be complex and difficult. WTO Members were, for example, unable to launch a new Round of trade negotiations in 1999, reflecting the fact that these issues are complex and often lead to negotiating deadlock.

But after five years, the record of the WTO is one of success. American workers and companies depend on open markets around the world; American living standards, especially for the poorest, depend on our own open market policies. The WTO is our strongest guarantee that these policies will remain in place. The United States is the world's largest exporter – which in turn accounts for 11.7 million American jobs. The institution and its rules

[2] See in particular, the World Bank World Development Report 1987 and 1997. See also the IMF's World Economic Outlook, May 1993.

provide the best possible foundation for a world which is open, responsive to the rule of law, and able to offer new opportunities and higher living standards to its people.

The record of the past fifty years should give us a great deal of confidence. Taken as a whole, the multilateral trading system has promoted the rule of law, created new opportunities for worldwide economic growth, and created opportunities for Americans. This amply justifies the decision Congress took five years ago to support creation of the WTO as a successor to the GATT. It should remind us how significant will be the rewards of success as we take up the challenges of the new century.

A. Economic Assessment

Aided by more open markets and the expansion of trade, including through the WTO, the U.S. economy has flourished during the first five years of the World Trade Organization and implementation of the Uruguay Round results. From the fourth quarter 1994 through the fourth quarter 1999, real U.S. GDP grew at a strong average annual rate of 3.9 percent. Likewise, real industrial production in the United States has increased by nearly 29 percent in the last 5 years, more than in any of the other country of the G-7 grouping. According to World Bank data, U.S. average per capita GDP has been rising relative to the handful of other high income countries, exceeding the average for that group by over 40 percent in 1998. This excellent growth of the economy has, in part, reflected the strong role of investment in this expansion with real gross domestic investment having risen at an annual rate of 7.9 percent, or double the rate of GDP growth. Increases in such investment accounted for over 30 percent of GDP growth between 1994 and 1999.

Nearly 14.4 million new jobs were created between December 1994 and January 2000 and the unemployment rate dropped from 6.1 percent in 1994 to 4.0 percent in January 2000 – the lowest level since 1969. The growth in the productivity of U.S. workers accelerated from 1.8 percent annually in the 1990-1994 period to 2.2 percent in 1994-1998, hitting 3.3 percent between third quarter 1998 and third quarter 1999. After stagnating in the earlier part of the 1990s, real hourly labor compensation, in part reflecting stronger productivity growth, rose at an average annual rate of 2.5 percent from the first quarter of 1996 to the third quarter of 1999. In addition, a recent Council of Economic Advisers and Department of Labor study found that (1) the strong growth of employment since 1993 has been dominated by jobs that the evidence suggests are higher paying; and (2) the benefits of enhanced compensation for U.S. workers have been widely shared.

Open markets in general, and the World Trade Organization and Uruguay Round Agreements in particular, have acted in a number of ways to help the U.S. economy achieve such success over the last five years. The lowering of foreign barriers to U.S. exports contributed to the 36 percent increase in U.S. exports between 1994 and 1999, despite the effects of the Asian financial crisis and slow growth and recessionary conditions experienced by many U.S. trade partners. The number of U.S. jobs supported by exports increased by 1.4 million from 1994 to an estimated level of 11.7 million in 1998 (latest year available), and jobs supported by goods exports in the United States are estimated to pay between 13 percent and 16 percent more than the U.S. national average wage.

The more open markets that the Uruguay Round supported at home and abroad also helped American workers by stretching further the purchasing power of pay checks with high quality, competitively priced imports and by increasing the range and quality of goods available in our markets. As domestic demand surged in the United States in 1998 and 1999, open markets and the availability of high quality

imports also helped stem any incipient inflationary pressures.

Finally, market opening agreements under the WTO helped expand demand for the products of America's high-tech and other competitive sectors beyond levels that could be supported by the U.S. market alone – thus helping raise the revenues and level of investment in many of the United States most technologically advanced sectors, and contributing directly to the remarkable growth of the economy in recent years.

Academic studies recently reviewed by the Council of Economic Advisers (in its report "America's Interest in the World Trade Organization: An Economic Assessment," November 16, 1999) confirm the economic benefits of the Uruguay Round Agreements to the United States. These studies estimate an annual income gain to the United States of between $27 billion and $37 billion (1992 dollars), with full implementation of the Round's results. While sizeable, these figures only partially estimate the economic benefits deriving from the Uruguay Round. These studies take incomplete or no account of reductions in non-tariff barriers to trade in goods and services, of beneficial rules changes, such as the WTO's strengthened dispute settlement mechanism, or of the growth effects of more open markets because such benefits are difficult to quantify.

Other aspects of the Uruguay Round and the WTO, likewise not readily quantifiable, also have proven beneficial to the United States. We draw attention to three such areas where recent agreements achieved since conclusion of the Uruguay Round have strengthened the system globally and provided benefits to American interests. Much of the fastest growth in the U.S. economy is occurring in information technology products, telecommunication services and financial services where productivity and output has been greatly enhanced by advanced computer and telecommunications equipment and services. Favoring the rapid advance of these technologies and industries, and the jobs that they support, is the ability to finance research and development on a sales base that is global, rather than national, in size. Unquestionably, developments in the WTO –and in particular the landmark agreements covering these three sectors – expand market access and help the United States to finance research and investment and to achieve or maintain preeminence in many high technology sectors.

The Information Technology Agreement (ITA), for example, includes 52 countries representing over 95 percent of trade in the ever expanding $600 billion global market for information technology products. Under the ITA, participants will eliminate tariffs, largely by the year 2000, on products of interest to the United States such as computers, computer equipment, semiconductors, telecommunications equipment, semiconductor manufacturing equipment and computer based-analytical instruments. The Agreement on Basic Telecommunications has opened up over 95 percent of the world telecommunications markets. The market access opportunities opened up by this Agreement cover the full range of innovative services and technologies pioneered in the United States that continue to propel growth in this sector. The Financial Services Agreement, covering an overwhelming share of the global trade from 102 countries, is opening world financial services' markets encompassing $38 trillion in global domestic bank lending, $19.5 trillion in global securities trading and $2.1 trillion in world wide insurance premiums. Financial services is one of the United States' most competitive industries, contributing importantly to the growth of U.S. employment opportunities. Also, more recent work on electronic commerce has included an agreement to a moratorium on the imposition of customs duties on electronic transmissions. Such market opening agreements expand the

sales base for U.S. high-tech and high-tech related sectors, helping the firms involved to better finance the large outlays of capital required to sustain technology-based growth.

A more detailed discussion of the economic benefits of the Uruguay Round and WTO for the United States in the last five years is found at the end of this chapter.

B. Work for 2000

The WTO will remain at the center of the formation and execution of U.S. trade policy. It provides a strong foundation of rules and disciplines on which the United States will continue to build the trade agenda for the future – bilaterally, regionally and multilaterally.

The WTO faces a number of challenges in the coming year, from proceeding on the built-in agenda for agriculture and services, to implementing prior agreements, bringing in new Members, improving the ability of the least developed countries to participate, reforming its institutions, and expanding the scope of negotiations in pursuit of a new Round. Meeting these challenges is a responsibility that all WTO Members share. None of these are easy or simple; but others have shouldered equally difficult tasks in the past.

Pursuit of the Built-In Agenda Negotiations: The core elements of the negotiating agenda are agriculture and services. These are the sectors in which markets remain most distorted and closed, and in which the opening of trade will mean perhaps most to future prospects for rising living standards, technological progress, and sustainable development. The WTO General Council set the initial negotiating meetings for the mandated negotiations in the first quarter of 2000, starting with special sessions of the Committee on Agriculture and the Council for Trade in Services. Work will include the development of negotiating proposals this year, a matter on which the United States will be consulting the private sector in the days ahead. The work has just begun, and the Administration will soon publish a notice in the *Federal Register* seeking comments from all interested parties as we begin the process of developing proposals for these negotiations. But our view of the initial steps are as follows:

In agriculture, the WTO Agreement on Agriculture, with binding commitments on market access, export subsidies and domestic support, provides the basis on which to pursue further agricultural reform. Useful preparatory work has already been accomplished through the WTO Committee on Agriculture over the last three years, where countries have identified key issues and their interests.

We are now working with other countries to ensure discussions in Geneva focus on substantive reform proposals. Our work last year enabled us to identify general negotiating objectives, such as eliminating export subsidies; reducing tariffs; expanding market access opportunities for products subject to tariff-rate quotas, including better disciplines on the administration of those TRQ's; reducing trade-distorting domestic support levels; and ensuring that the operation of agricultural state trading entities are more market-oriented. We also want to ensure access for biotechnology products.

The Administration is in the process of developing proposals to implement these objectives. While specific negotiating time lines have not been established by the Uruguay Round, the expiration of the agricultural "peace clause" in 2003, and continued domestic farm reform efforts in the United States, Europe and other countries, should help to move the negotiations forward.

In services, the Administration has started to develop negotiating proposals for a wide range of sectors where our companies have strong commercial interests, including energy services,

environmental services, audiovisual services, express delivery, financial services, telecommunications, professional services, education and training, private healthcare, travel and tourism, and other sectors. U.S. companies are poised to be among the primary beneficiaries from stronger services commitments in the WTO.

Broadly speaking, U.S. objectives are to remove restrictions on services trade and ensure non-discriminatory treatment. We also need to ensure that the commitments we obtain accurately reflect our companies' range of commercial activities. For example, the GATS definition of environmental services does not include recycling services, an area where U.S. companies are leaders. We will address this issue in the new negotiations.

U.S. proposals must also reflect the many different means U.S. service providers use to meet the needs of their foreign customers. This includes U.S. companies that establish operations overseas – for example, as a branch or subsidiary; that deliver their services electronically by phone, fax, or the Internet; or that depend on individual personnel to "export" services – for example, Americans that perform short-term consultancy services in a foreign country.

Implementation: Monitoring and compliance of existing agreements will remain a high priority for the Administration. The year 2000 marks the end of transitions in some Agreements central to the functioning of WTO rules in areas such as intellectual property rights protection, customs valuation, trade-related investment measures and industrial subsidies. Certain WTO Members, particularly less advanced countries, had been given extra time to bring their trade regimes into compliance with the rules agreed in the Uruguay Round.

For market access as well, the bulk of market access opportunities agreed in the Round is nearing full implementation, culminating in the largest global tax cut in history, through which tariffs on manufacturing products were cut by one-third. Thus, implementation of, and compliance with, the Uruguay Round Agreements will remain a central part of the U.S. agenda in the WTO for the coming year.

Expanding the Agenda: Beyond the mandated negotiations and implementation, the United States has pressing needs to address market access concerns in non-agricultural products, electronic commerce, issues related to trade and the environment, trade facilitation, and perhaps other topics as well. For this reason, we will continue to work with our trading partners to build the necessary consensus for a new Round. However, to be successful, all countries must be flexible.

The WTO also must look ahead and respond to the challenges of a new economy that is driven by rapid technological developments and growth in the high technology sector. Since the conclusion of the Uruguay Round, the WTO has made impressive gains in this field. Beginning in 2000, as a result of the Information Technology Agreement concluded in 1996, tariffs fall to zero on a range of information technology products valued at over $600 billion (e.g., semiconductors, computers and telecommunications equipment) in 52 countries that account for well over 90 percent of world trade in such products.

In 1997, the WTO successfully complemented this breakthrough on the equipment side of information technology by concluding the Basic Telecommunications Services Agreement, which has led to dramatic reductions in the costs of such services around the globe and covers more than 95 percent of the global market for telecommunications. Also in 1997, the WTO completed historic negotiations in trade in financial services covering $18 trillion in global securities assets, $38 trillion in global domestic

bank lending and $2.2 trillion in world wide insurance premiums.

With these Agreements in place, the WTO began to focus carefully on the promise of electronic commerce to enhance development and growth prospects. In 1998 WTO Members signaled the importance of preventing the establishment of barriers to electronic commerce by agreeing to a moratorium on duties for electronic commerce transactions. In a relatively short period of time, WTO Members have seen the importance of electronic commerce to their trade regimes, particularly for the less advanced Members, and to leveraging the benefits of the trading system for small and medium-sized enterprises.

Strengthening the WTO and its Ability to Address Citizens' Concerns, including on Labor and the Environment: Another element for the WTO's agenda must be to maximize public confidence in the WTO's ability to address the issues of trade and the environment and trade and labor in a manner that is compatible with broader U.S. objectives. Ministers have tackled these issues in a variety of ways during the WTO's short tenure. In establishing the WTO, the United States sought, and Members agreed, to create a Committee on Trade and Environment. Since 1995, the Committee has provided an important venue for discussion between representatives of government and the trade and environment communities regarding the intersection of trade and environment issues.

Similarly, on trade and labor, at the WTO's first ministerial meeting in Singapore in 1996, trade ministers for the first time committed to the observance of core labor standards and to encourage continued collaboration between the WTO and the International Labor Organization. The issues of trade and environment and trade and labor will continue to command attention in the year ahead. As part of the broader efforts to launch a Round, the United States will continue efforts to build a consensus on addressing these issues in the WTO's work program.

Institutional reform, particularly the need for greater transparency – both internally and externally – also will be an important agenda item for the WTO in the coming year. Thus, the year ahead will continue to find the United States urging its trading partners to make additional progress in enhancing the accountability and openness of the institution, and taking actions to promote transparency.

The United States has been at the forefront of efforts to improve public understanding of and access to the WTO. The United States has made progress and seeks additional action by WTO Members to provide better and easier means to obtain access to information and documents from the WTO, including dispute settlement proceedings; greater interaction with the NGO community; and an extended range of opportunities to ensure more effective outreach to citizens and consumers. We have argued that transparency provides all countries a means of addressing problems of corruption in areas like customs and procurement.

The WTO and its Members will have to find additional ways to explain the value of what makes the WTO different – i.e., unlike other international institutions, the WTO is and should remain an inter-governmental, member-driven institution, whose Members take decisions on the basis of consensus.

As the WTO has become a much larger institution, with membership expanding from 119 in 1995 to 135 in 1999, suggestions have been renewed to improve the WTO's internal consultative processes. The United States will work with its trading partners to improve the WTO's operation in this regard, without disturbing the fundamental requirement of decision-making by consensus. It is clear that improvements can be made to ensure that the WTO remains an inclusive institution reflecting

the concerns and interests of its Members at varying levels of development.

Expanding WTO Membership: One of the WTO's remarkable achievements over the past five years has been the steady effort of countries at all levels of development to negotiate entry into the WTO. Nine accession negotiations have been completed since the WTO was established in 1995. The former Soviet Republics of Latvia, Estonia and the Kyrgyz Republic are now WTO Members. Accession to the WTO takes hard work and commitment. In the coming year, the United States looks forward to expanding the membership of the WTO further, from bringing in major economies such as China, to making substantial progress with a range of partners from the Middle East and Eastern Europe and Asia. Early in 2000, the United States looks forward to Jordan and Georgia joining the WTO once their respective parliaments have ratified their accession agreements.

Conclusion: The WTO has given the world a crucial source of economic stability in a very difficult time. During the recent financial crisis, often overlooked is the fact that countries' binding WTO commitments served to help resist a protectionist response to the crisis. This helped avert the cycle of protection and retaliation of the sort that occurred in the 1920s and 1930s, a cycle which would have denied affected countries the markets they need to recover, and hurt our own farmers and workers as well.

The system of WTO rules has repeatedly demonstrated its worth in helping governments respond to rapid changes in the global economy, as the recovery from the recent financial crisis has shown. The Clinton Administration will continue to pursue a vigorous agenda in the WTO to fashion a trading system that keeps pace with rapid developments in the 21st century; one that responds to the concerns of citizens about the WTO's accountability, and its proper role in the global economy.

C. The WTO's 3rd Ministerial Conference, November 30 - December 3, 1999

In May 1998, President Clinton joined other leaders in celebrating the 50th anniversary of the post-World War II trading system. In his speech, he challenged U.S. trading partners to liberalize world trade further on terms better suited to the fast-paced global economy. His address focused on the need to continue to open markets around the world and to further develop the WTO as an institution that is responsive to and responsible for the needs and interests of various constituencies; one that works effectively with other international institutions like the international financial institutions and other international organizations such as the ILO. One option for reaching these goals, favored by most of the WTO's Members in 1999, was to begin a new Round of multilateral trade negotiations at the WTO's 3rd Ministerial Conference.

The United States hosted and chaired the WTO's 3rd Ministerial Conference in Seattle, Washington, from November 30 - December 3, 1999. A total of approximately 3,000 delegates, 2,700 members of the press and 1,500 NGO representatives were accredited to the 1999 Ministerial Conference.

Most WTO Members agreed that the Round to be launched at the Ministerial would consist, at a minimum, of the mandated negotiations to further liberalize trade in services and agriculture, along with other to-be-specified topics. Delegations approached this task with good will but did not reach a consensus on the launch of a new Round.

At various points since the creation of the GATT, governments have made politically difficult choices to serve the greater good. At

times, they also have reached deadlocks. Creation of the GATT in 1948, for example, built on a failure to set up an "International Trade Organization" in 1947. The creation of the WTO five years ago followed a failed attempt to launch a Round in 1982, a mid-term breakdown in 1988, and failures to conclude the Round in 1990 and 1992. The more recent negotiations on financial services and telecommunications also broke down in 1996 and 1997, in all cases to be followed by success. In each instance, governments reviewed their positions, and were ultimately able to move the agenda forward.

A preparatory process for the 3rd Ministerial Conference was organized in Geneva. WTO Members agreed on the need to proceed with the mandated negotiations from the built-in agenda. Most also agreed that the negotiations needed to be relatively short and that the scope of the negotiations needed to be broadened beyond the built-in agenda. WTO Members were near consensus on the proper treatment of electronic commerce, the agenda for negotiations on services, and several issues relating to trade and the environment.

Even in the late stages, however, the preparatory process did not narrow the differences between WTO Members on a number of other important issues. These differences contributed to a difficult preparatory process in Geneva. However, the prevailing view at the conclusion of the preparatory process was that once Ministers convened and political decisions were made on the basic features of the negotiations, agreement to launch the Round could be reached. Ultimately, of course, the differences could not be bridged in the preparatory process or in the time available to ministers during the Conference, with divisions on agriculture proving to be the litmus test for broader agreement to launch negotiations.

Major points of disagreement included:

- Agriculture: The EU, Japan and Korea resisted a commitment to thorough reform of agricultural trade. The built-in agenda negotiations envisioned further reductions in export subsidies, strengthened rules on domestic support, reductions in tariffs and the expansion of market access opportunities for products subject to tariff-rate quotas.

- Implementation of Existing Agreements: A number of developing countries, including some of the most advanced, requested broad exemptions from previous commitments. Likewise, certain of our trading partners sought to use the debate on implementation to reopen agreements like textiles or antidumping, confusing in some cases the problems with implementation with a more basic dissatisfaction over the results of the Uruguay Round.

- Market Access: Questions here centered on the breadth of negotiations on market access, whether they could be supplemented with early provisional results as was suggested by the APEC sectoral initiatives in the industrial sector, and to what extent industrial market access would result in improvements in current or existing market access.

- Investment and Competition Policy: The EU and Japan in particular argued for negotiation of broad new rules in the areas of investment and competition policy, but found relatively little support.

- Labor: Extensive consultations were held at the Ministerial on various ways to address this issue in the WTO's work program. The United States called for

establishment of a Working Group in the WTO; others proposed a broader forum engaging other international organizations such as the ILO.

- Environment: Broad agreement emerged to confirm sustainable development as a guiding principle for the negotiations, to pursue trade liberalization in areas that hold particular promise for yielding both trade and environmental benefits and to use the Committee on Trade and Environment to identify and consider the environmental implications of the negotiations. Differences emerged however regarding proposals to address subsidies that contribute to over-fishing, and others to modify WTO rules.

The issues outlined above remain to be resolved. With the launch of the built-in agenda negotiations, we will continue to work with our WTO partners in an effort to build consensus toward the launch of a new Round.

D. Preparations for the 1999 WTO Ministerial Conference

Preparations for the Ministerial meeting were the responsibility of the WTO's General Council, meeting in special session, under the direction of Chairman John Weekes of Canada, followed by Chairman Ali Mchumo of Tanzania, and Director-General Mike Moore, after his appointment on September 1, 1999. All WTO Members were free to participate in the preparations. The Council received 235 submissions from Members during the course of its preparations for the Ministerial, covering all the major trade issues of concern to Members.

The General Council then systematically reviewed the issues, as called for in the Ministerial Declaration of May 1998, focusing on: (i) implementation of existing agreements; (ii) the mandated negotiations; (iii) work mandated under existing agreements and decisions taken; (iv) any recommendations on the work program agreed at the Singapore Ministerial Meeting in 1996; (v) recommendations on the follow-up to the High Level Meeting for the Least Developed Countries; and (vi) other matters proposed and agreed by Members.

These preparations were conducted in three phases. First, from September 1998 to February of 1999, WTO Members engaged in an issue identification process. Second, from February 1999 through July, they tabled specific negotiating proposals. Finally, from September 1999 to the actual Ministerial Conference, they worked to draft a Ministerial Declaration for consideration and adoption by Ministers. In order to conduct the preparations in a much more open and transparent fashion, the WTO for the first time used its website to publish proposals submitted by delegations (169 of the 235 proposals were submitted by delegations as derestricted documents).

The United States was an active participant in the preparations for the Ministerial, submitting proposals in phases one and two, and drafting proposals for Declaration text in the course of informal consultations that began in the fall of 1999.

Proposals Tabled by the United States

- Advancing the WTO's Contribution to Trade Facilitation
- Agriculture-Biotechnology
- Agriculture-Domestic Support
- Agriculture-Export Competition
- Agriculture-Market Access
- Agriculture- Objective and Overall Framework
- Fisheries Subsidies
- Further Negotiations As Mandated by the General Agreement on Trade in Services (GATS)
- Implementation Issues (two proposals)

- Mandated Negotiations and the Built-in Agenda
- Non-industrial Market Access
- Singapore Work Program Issues and Other Issues of Concern to Members: Industrial Market Access, Trade and Labor, Trade and Environment, Transparency and Openness, and Technical Assistance
- Technical Assistance/Capacity Building (original and revised proposals)
- Trade and Sustainable Development
- Trade and Labor
- Transparency in Government Procurement (proposal and draft text)
- Transparency in WTO Work

E. Consultations on the Agenda for the Third Ministerial

U.S. Domestic Consultations: The 1998 Annual Report called attention to a Trade Policy Staff Committee (TPSC) solicitation for public comment on the elements for the Third Ministerial agenda. The Administration received nearly one hundred replies to this solicitation, copies of which are available in the USTR reading room. These submissions, along with an extensive process of consultations that extended beyond the private sector advisory committees established pursuant to Section 135 of the Trade Act of 1974, provided the initial views used by U.S. negotiators in setting the U.S. priorities. These views were supplemented in 1999 by three important events. In the spring, the Trade Policy Staff Committee held hearings in Atlanta, Chicago, Dallas, Los Angeles, and Washington D.C. and solicited public comments about the development of the agenda. The comments filed for these hearings are also available in the USTR reading room. The Department of Agriculture and the Office of the U.S. Trade Representative also held hearings around the country to solicit views on the upcoming agriculture negotiations. Cities visited included: Winterhaven, Indianapolis, Austin, Richland, Kearney, Des Moines, Sacramento, Newark, Burlington, Bozeman, Memphis, and Minneapolis. Information from these hearings is available at the USDA website (www.fas.usda.gov). Finally, the U.S. International Trade Commission (ITC) was requested to provide advice to the U.S. Trade Representative for the market access negotiations. Such advice is required before the United States can engage in negotiations. The ITC published a notice for comment and held hearings to prepare its report to the U.S. Trade Representative.

Meetings Hosted by the WTO: In addition to the discussions held in the General Council, the United States and other WTO Members sought to broaden the debate on the WTO's forward agenda by calling for WTO-sponsored meetings with the NGO community. In the lead up to the Ministerial meeting, there was a high-level meeting on trade and the environment and another on trade and development. Details from these meetings can be found on the USTR website, and the simulcast remains available from the WTO. Finally, on the eve of the Ministerial meeting, the WTO convened a meeting with NGO participants in Seattle. Notwithstanding that the start of this meeting was disrupted as a result of demonstrations, once convened, it provided non-governmental representatives a day-long opportunity to share their views on the full range of pressing matters before the WTO Members.

High Level Symposium on Trade and the Environment: In his speech to the WTO in May 1998, President Clinton called on the WTO "to provide strong direction and new energy to the WTO's environmental efforts in the years to come." As a result of U.S. leadership, the WTO held a High Level Symposium on Trade and Environment on March 15 -16, 1999. A high-level delegation of 22 U.S. officials participated in the symposium, which brought together senior officials from trade and environment ministries, as well as representatives from non-governmental organizations, the business

community, academia, and other international organizations such as the World Bank and the United Nations, to engage in an open dialogue on the trade and environment relationship. Specifically, the agenda addressed the linkages between trade and environmental policies, the interaction between the trade and environment communities, and the synergies between trade liberalization and sustainable development. This was the first meeting of its kind, and represented to the United States a recognition by many WTO Members of the role that sustainable development must play in the global trading system. Details of the meeting, including submissions and presentations, can be located on the WTO website.

High Level Symposium on Trade and Development: The WTO sponsored the High Level Symposium on Trade and Development on March 17-18, 1999, immediately following the High Level Symposium on Trade and the Environment, to provide informal high-level dialogue among senior officials of WTO Members, senior officials of international organizations, and representatives of non-governmental organizations from developed and developing countries. The symposium offered the opportunity for an exchange of views on issues such as the development dimension of international trade issues and trade-related concerns of developing countries, including least developed countries, and the role of the WTO in promoting developmental objectives set out in the preamble to the Marrakesh Agreement establishing the WTO.

NGO Symposium: Immediately prior to the formal opening of the Third Ministerial meeting, the WTO sponsored a symposium designed to encourage an informal dialogue among WTO Members and NGO representatives on issues likely to affect the international trading system in the next century. Participants included representatives of the more than 700 NGO organizations which had been accredited to the Ministerial Conference. Topics included: "Trade and Development Prospects for the next Twenty Years: The Role of International Trade in Poverty Elimination; Effects of Globalization on Developing Country Economies; Integration of Developing Countries into the Multilateral Trading System" and "Evolving Public Concerns and the Multilateral Trading System: Public Concerns Towards 2020, Trade and Sustainable; Development Trade and Technological Developments." The meeting was simulcast and details are available on the WTO website.

F. Dispute Settlement

1. The Dispute Settlement Understanding

The Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding or DSU), which is annexed to the WTO Agreement, provides a mechanism to settle disputes under the Uruguay Round Agreements. Thus, the DSU is key to the enforcement of U.S. rights under these Agreements.

Assessment of the First Five Years of Operation

The accomplishments of the WTO dispute settlement system in the last five years particularly stand out when compared to the record of the prior system under the GATT. Under the GATT, panel proceedings took years, the defending party could simply block any unfavorable judgment, and the GATT panel process did not cover some of the agreements. Under the WTO, there are strict timetables for panel proceedings, the defending party cannot block findings unfavorable to it, and there is one comprehensive dispute settlement process covering all of the Uruguay Round Agreements. The first five years have demonstrated that when a WTO Member violates its WTO obligations, there will be consequences. Moreover, if a WTO Member violates its

intellectual property or trade in services obligations, another Member can be authorized to retaliate against the goods of the violating Member.

In setting negotiating objectives for the Uruguay Round, Congress placed dispute settlement reform high on the list, as it saw effective enforcement as an essential precondition for agreeing to be bound by new rules. Five years later, WTO dispute settlement has begun to pay the dividends that Congress sought. The existence of effective WTO dispute settlement means that U.S. trading partners are on notice that they have to be serious about living up to their obligations. Like any other form of law enforcement, dispute settlement in the WTO creates a stable and law-abiding climate that U.S. businesses and workers can depend on, aiding the Administration's unparalleled record of economic growth. The WTO dispute settlement mechanism also provides the United States with a means to raise and to solve particular bilateral trade problems.

While the DSU has been an effective tool so far, its procedures need to be strengthened – particularly with respect to the procedures for monitoring compliance with WTO rulings and facilitating swift action in the event of non-compliance. The United States has been working over the past year to clarify the dispute settlement procedures to prevent protracted litigation where there is a disagreement about the WTO-consistency of measures taken to comply with a panel ruling, and to preclude a party that has lost a case from gaming the system and delaying the exercise of WTO rights by the complaining parties. Even though the number of cases in which WTO Members have complied with adverse rulings far outweighs the cases where they have failed to comply, it is nevertheless critical to improve the DSU to ensure better implementation. The United States will continue to seek these and other improvements to the DSU, including more openness of the dispute settlement proceedings. (See below for a discussion of the DSU Review conducted in 1999.)

During its first five years in operation 185 requests for consultations (25 in 1995, 40 in 1996, 50 in 1997, 40 in 1998, and 30 in 1999) concerning 144 distinct matters were filed with the WTO. During that period, the United States filed 49 requests for consultations, and received 35 requests for consultations on U.S. measures.

Disputes Brought by the United States

The United States has been the world's most active user of the WTO dispute settlement process. The Administration has used WTO dispute settlement both as a means of vindicating rights in particular cases, and as a way to communicate to U.S. trading partners that the United States expects them to be as serious as it is about complying with WTO rules. The United States has been successful in litigation both by prevailing in the cases it has brought, and by negotiating agreements that settled cases "out of court" in its favor. So far 25 of the complaints that we have filed with the WTO have reached resolution, and we prevailed on 23 of them – winning 13 cases in panel proceedings and successfully settling 10 others. And in two cases the United States has been authorized to retaliate against a non-complying WTO Member, without fear of counter-retaliation. Highlights of our litigation successes include:[3]

- Elimination of discriminatory taxes on U.S. exports of distilled spirits to Japan and to Korea – U.S. exports to Japan in

[3] Other cases where the United States prevailed in panel proceedings include challenges to the EU banana import regime; the EU ban on U.S. meat; Argentina's restrictions on textile imports; Australia's export subsidies on leather; and Mexico's antidumping duties on high-fructose corn syrup (which has not yet reached the implementation stage).

the year after Japan began implementing the WTO rulings were up 23 percent over the previous year ($14 million), and grew faster than exports to other markets, in spite of the Japanese recession;

- Elimination of barriers to U.S. magazines in the Canadian market, and the creation of new tax and investment benefits and opportunities for U.S. publishers to sell and distribute magazines in Canada;

- Compliance by India with its WTO intellectual property rights obligations prior to providing patent protection for pharmaceutical and agricultural chemical inventions;

- Elimination of Indonesia's 1996 National Car Program and its local content requirements which discriminated against imports of U.S. automobiles;

- Elimination of Japanese restrictions on the imports of certain varieties of fruit, including apples and cherries – Japan's compliance with the WTO rulings will help our growers export more than $50 million a year of apples and other products to Japan;

- Elimination of India's import bans and other quantitative restrictions on 2,700 tariff lines of goods – as a result of the WTO ruling, India has already liberalized trade in hundreds of these items for the first time, and when India complies with this ruling for the remaining tariff lines, it will open new markets for U.S. producers of consumer goods, textiles, agricultural products, petrochemicals, high technology products and other industrial products; and

- Reduction of Canada's subsidized exports of dairy products – Canada will comply immediately with its WTO export subsidy commitments on butter, skimmed milk powder, and an array of other dairy products; beginning in the 2000-2001 marketing year, Canada will not be able to export more than 9,076 tons of subsidized cheese, which is less than half of the volume exported in recent years.

Each of these cases provides concrete economic benefits to the United States. And in each case, we have insisted that our partners act rapidly to address the problems. This will remain the case in all our disputes; and in most cases our partners have taken their responsibilities seriously.

In two longstanding cases involving the European Union, however, the United States, after protracted litigation, had to exercise its right under the DSU to suspend concessions with respect to certain products from the EU as a result of the EU's failure to lift its ban on imports of U.S. meat, as well as its adoption of a new banana import regime that perpetuates WTO violations previously found by a WTO panel and the Appellate Body. In both of these disputes, talks aimed at a positive resolution are continuing. (Both of these cases are more fully described below.)

As important as favorable WTO rulings are early settlements, achieved without having to pursue litigation to completion. In the past 5 years we have obtained favorable settlements in cases involving:

- Korea's unfair shelf-life standards for agricultural imports;

- Hungary's agricultural export subsidies;

- Market access for pork and poultry in the Philippines;
- Market access for U.S. rice in the EU;
- Full copyright protection for sound recordings in Japan (which the Recording Industry Association of America estimated was worth half a billion dollars annually);
- Full enforcement of intellectual property rights in Sweden;
- Improved patent protection for U.S. inventions in Portugal;
- Pakistan's provisions for exclusive marketing rights for pharmaceutical and agricultural chemicals;
- Elimination of tax discrimination against imported movies in Turkey; and
- Trade-related investment measures on autos in Brazil.

In addition to the 13 disputes that the United States has successfully pursued through WTO litigation, we also pursued two other complaints involving measures that, in our view, denied U.S. rights under the WTO agreements, but we did not obtain rulings in our favor. One case involved Europe's reclassification of local-area computer network equipment from one tariff category to another. The WTO ruling in that case, however, had no effect because we succeeded in negotiating the elimination of tariffs on such equipment in the multilateral Information Technology Agreement (ITA). The products at issue now enter the EU duty-free no matter where classified, and the ITA has ensured against any repetition of the problem. In the other case, we challenged various Japanese laws, regulations, and requirements affecting Japanese imports of photographic film and paper, but the WTO panel did not find sufficient evidence that Japanese Government measures were responsible for changes in the conditions of competition between imported and domestic photographic materials. While the United States did not prevail in the film dispute, Japan made a number of representations during the course of the panel process regarding the openness of its photographic film and paper market, and we have been actively monitoring Japan's actions to ensure that they are in line with Japan's representations. (See Japan section in Chapter V.)

Disputes Brought Against the United States

During the past five years, 35 complaints were filed in the WTO against U.S. measures. Seven of those cases have completed all phases of the litigation process, including an appeal where one was filed. In one case, a WTO panel upheld the WTO-consistency of a U.S. law: Section 301 of the Trade Act of 1974. Section 301 is the principal U.S. statute for addressing foreign trade barriers. In the other six cases, some aspect of U.S. practice was found inconsistent with U.S. WTO obligations.

When we have defended a U.S. statute or regulation and have not prevailed, we have respected our WTO obligations – just as we expect the same of our trading partners – and responded in a manner that did not diminish U.S. sovereignty. For example:

- In a dispute regarding an Environmental Protection Agency (EPA) regulation on conventional and reformulated gasoline, a WTO panel found against one aspect of the regulation that treated domestic companies differently than their foreign competitors. In that case, the WTO Appellate Body took a broad view of the WTO's exception for conservation measures and affirmed that clean air is an exhaustible natural resource covered by that exception. The WTO ruling recognized the U.S. right to impose

special enforcement requirements on foreign refiners that sought treatment equivalent to U.S. refiners. The ability of the United States to achieve the environmental objective of that regulation was never in question, and EPA was able to issue a revised regulation that fully met its commitment to protect health and the environment while meeting U.S. obligations under the WTO.

- In a dispute involving U.S. restrictions on imports of shrimp harvested in a manner harmful to endangered species of sea turtles (the "Shrimp-Turtle" law), on appeal the Appellate Body agreed that our law was within the scope of the WTO's exception for conservation measures. Although the Appellate Body found problems in the U.S. implementation of the law, these issues could be addressed in a manner that did not weaken, and in fact promoted, our sea turtle conservation efforts. In particular, the Appellate Body found that the procedures for determining whether countries meet the requirements of the law did not provide adequate due process, because exporting nations were not given formal opportunities to be heard, and were not given formal written explanations of adverse decisions. The Appellate Body also found that the United States had unfairly discriminated between the complaining countries and Western Hemisphere nations by not exerting as great an effort to negotiate a sea turtle conservation agreement with the complaining countries and by not providing them the same opportunities to receive technical assistance. The United States informed the WTO of its intention to implement the ruling in a manner consistent not only with WTO obligations, but also with the firm commitment of the United States to protect endangered sea turtles. In July 1999 the State Department revised its procedures to provide more due process to countries applying for certification under the Shrimp-Turtle law. The United States is also engaged with the complaining countries in the process of negotiating a comprehensive sea turtle conservation agreement, and is providing them with additional technical assistance. Throughout the case, U.S. import restrictions on shrimp harvested in a manner harmful to sea turtles have remained fully in effect.

- We also failed to prevail in two cases involving U.S. import measures on textiles and apparel – on underwear from Costa Rica and on wool shirts and blouses from India. The measure on underwear from Costa Rica was imposed in March 1995 for a two-year period. It ran to the full length of its term and expired in March 1997, one month after dispute settlement proceedings had concluded. The measure on wool shirts from India was unilaterally terminated by the U.S. interagency Committee on Implementation of Textile Agreements (which oversees the U.S. textile import program) due to changed commercial conditions. U.S. production in this category had increased and imports from India in this category had plummeted. The WTO panel did not recommend that the United States make any changes, and no action by the United States was necessary.

- In a dispute involving a Commerce Department antidumping order on Korean dynamic random access memory chips (DRAMs), we prevailed on all but one of the claims raised by Korea. Specifically, Korea won on one

claim that the standard in Commerce's regulation on review of antidumping orders should have been whether it was "likely" that dumping would continue or recur if an antidumping order were revoked instead of "not not likely." Commerce amended the regulation in question and has made a redetermination retaining the DRAMs antidumping order under the revised regulation.

- Finally, in a case challenging the Foreign Sales Corporation (FSC) provisions in U.S. tax law, the WTO Appellate Body ruled on February 24, 2000 that the FSC tax exemption constitutes a prohibited export subsidy under the WTO Subsidies Agreement, and also violates the WTO Agreement on Agriculture. The Appellate Body report is due to be adopted in March.

The WTO dispute settlement system does not give panels any power to order the United States or other countries to change their laws. If a panel finds that a country has not lived up to its commitments, all a panel may do is recommend that the country begin observing its obligations. It is then up to the disputing countries to decide how they will settle their differences. The defending country may choose to make a change in its law. Or it may decide instead to offer trade "compensation" – such as lower tariffs. The countries concerned could agree on compensation or on some other mutually satisfactory solution. Alternatively, the defending country may decide not to change its measure and the country that lodged the complaint may retaliate by suspending trade concessions equivalent to the trade benefits it has lost.

2. Dispute Activity in 1999

a. Disputes Brought by the United States

The United States continues to be the most active user of the WTO dispute settlement process. In 1999, eight new complaints were filed by the United States. This section includes brief summaries of dispute settlement activity in 1999 with respect to those cases in which the United States was a complainant. These cases involve a variety of different WTO-inconsistent trade barriers maintained by several different governments. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in many instances, the United States has been able to achieve satisfactory outcomes invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel procedures.

New complaints filed by the United States in 1999:

The United States filed the following eight new complaints under WTO dispute settlement procedures in 1999, covering a broad range of sectors and various WTO Agreements:

Republic of Korea – Measures affecting imports of fresh, chilled, and frozen beef. The Republic of Korea has established a regulatory scheme that discriminates against imported beef by confining sales of imported beef to specialized stores, limiting the manner of its display, and otherwise constraining the opportunities for the sale of imported beef. In addition to challenging the regulatory scheme, the United States contends that the Republic of Korea imposes a markup on sales of imported beef, limits import authority to certain so-called "super-groups" and the Livestock Producers Marketing Organization (LPMO), and provides domestic support to the cattle industry in the

Republic of Korea in amounts that cause the country to exceed its aggregate measure of support as reflected in its WTO schedule. These restrictions appear to be inconsistent with the GATT 1994, the Agreement on Agriculture, and the Import Licensing Agreement. Consultations were held March 11-12, 1999, and a panel was established on May 26, 1999. Australia also brought a dispute against the Republic of Korea on the same measures; the Australian and U.S. panels have been consolidated.

Republic of Korea – Measures affecting government procurement. The United States is challenging certain procurement practices of Korean entities responsible for the procurement of airport construction in the Republic of Korea. The United States believes these practices, which include domestic partnering requirements, the absence of access to challenge procedures, and inadequate bid deadlines, are inconsistent with the Republic of Korea's obligations under the Agreement on Government Procurement (GPA). While the Republic of Korea contends that the entities responsible for the procurement of airport construction are not covered under its GPA obligations, the United States maintains that such entities are in fact within the scope of the country's list of covered central entities as specified in its GPA concessions. Consultations with the Republic of Korea were held March 17, 1999. On May 11, 1999, the United States requested the establishment of a panel. A panel was established on June 16, 1999.

Argentina – Certain measures affecting imports of footwear. In November 1998 Argentina adopted Resolution 1506 modifying an existing safeguard measure on imports of footwear from non-MERCOSUR countries. This resolution imposes a tariff-rate quota (TRQ) on such imports, in addition to safeguard duties previously imposed. Moreover, the resolution postponed any liberalization of the original safeguard duty until November 30, 1999, and liberalized the TRQ only once during the life of the measure. On March 1, 1999, the United States requested consultations with Argentina on this measure, alleging violations of the Agreement on Safeguards. A panel was established on July 26, 1999, but work did not proceed pending the outcome of a dispute brought by the European Union involving the same matter. On December 14, 1999, the Appellate Body in the EU challenge upheld the panel's determination that Argentina violated the Agreement on Safeguards. The United States is currently monitoring Argentina's implementation of the panel and Appellate Body's rulings and recommendations.

Canada – Patent protection. The TRIPS Agreement obligates WTO Members to grant a term of protection for patents that runs at least 20 years from the filing date of the underlying application, and requires each Member to grant this minimum term to all patents existing as of the date of application of the Agreement to that Member. Under the Canadian Patent Act, the term granted to patents issued on the basis of applications filed before October 1, 1989 is only 17 years from the date on which the patent is issued. This provision is inconsistent with Canada's obligations under the TRIPS Agreement. The United States filed a request for consultations on May 6, 1999. Consultations were held June 11, 1999. The United States requested the establishment of a panel on July 15, 1999. The panel was established on September 22, 1999.

Argentina – Patent and test data protection for pharmaceuticals and agricultural chemicals. The United States is challenging Argentina's failure to provide a system of exclusive marketing rights for pharmaceutical products, pursuant to the TRIPS Agreement. In addition, the United States is challenging Argentina's failure to ensure that changes in its laws and regulations during its transition period do not result in a lesser degree of consistency with the provisions of the TRIPS Agreement. The United States filed a request for consultations on

May 6, 1999. Consultations were held on June 15, 1999 and again on July 27, 1999.

France and EU – Measures relating to the development of a flight management system. This dispute involved a French government loan – on preferential and non-commercial terms – in the amount of 140 million French francs, to be disbursed over three years, for a project in which a French company, Sextant Avionique, will develop a new flight management system (FMS) adapted to Airbus aircraft. The grant of the loan was approved by the EU. On May 21, 1999, the United States filed a request for consultations. Consultations were held on June 30, 1999.

EU – Protection of trademarks and geographical indications for agricultural products and foodstuffs. EU Regulation 2081/92, as amended, does not provide non-discriminatory treatment with respect to geographical indications for agricultural products and foodstuffs; it also does not provide sufficient protection to pre-existing trademarks that are similar or identical to such geographical indications. The United States considers that this measure is inconsistent with the EU's obligations under the TRIPS Agreement and requested consultations regarding this matter on June 1, 1999. Consultations were held on July 9, 1999.

India – Measures affecting trade and investment in the motor vehicle sector. In order to obtain import licenses for certain motor vehicle parts and components, India requires manufacturing firms in the motor vehicle sector to achieve specified levels of local content, to neutralize foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period, and to limit imports to a value based on the previous year's imports. Considering these requirements inconsistent with India's obligations under the GATT 1994 and the TRIMS Agreement, the United States requested consultations on June 2, 1999. Consultations were held on July 20, 1999.

Activity in 1999 on disputes that were commenced in prior years:

Argentina – Specific duties and other measures affecting imports of footwear, textiles and apparel. The United States prevailed when it challenged (with the EU, Hungary and India participating as interested third parties) specific duties imposed by Argentina on various textile, apparel and footwear items in excess of its tariff commitments; a statistical tax of 3 percent *ad valorem* on almost all imports; and measures requiring that each import of textiles, apparel and footwear be labeled with the number of a corresponding affidavit of product component filed with the Argentine government. On November 25, 1997, the panel found that the specific duties violated Argentina's tariff bindings under GATT Article II, and that the statistical tax violated GATT Article VIII. The Appellate Body then determined on March 27, 1998 that the structure and design of Argentina's specific duties resulted in the levying of customs duties at rates above Argentina's Article II tariff bindings. Argentina capped its specific duties on textiles and apparel at 35 percent in October 1998, and complied with the ruling on the statistical tax in February 1999.

Australia – Prohibited export subsidies on leather. The United States prevailed in this dispute concerning subsidies available to leather producers under Australia's Textile, Clothing and Footwear Import Credit Scheme (TCF scheme) and other subsidies granted or maintained, which are prohibited under Article 3 of the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). Under the original TCF scheme, exporters of eligible products could earn import credits. After consultations held October 31, 1996, the two sides reached a settlement announced on November 25, 1996, with an

agreement by Australia to excise automotive leather from eligibility for these export subsidies by April 1, 1997. However, soon after settling this dispute, Australia announced a new package of subsidies, granted to the sole Australian exporter of automotive leather. On November 10, 1997, the United States requested WTO consultations on the new measures; the consultations took place December 16, 1997. On January 22, 1998, a panel was established under the expedited procedures of the Subsidies Agreement. Further consultations were requested on May 4, 1998 and a replacement panel was established June 22, 1998.

On May 25, 1999, the panel circulated its report, ruling that the grant constituted a WTO-inconsistent export subsidy and recommending that Australia withdraw the subsidy within 90 days. Australia did not appeal to the WTO Appellate Body and the Dispute Settlement Body adopted the panel report on June 16, 1999. On September 14, 1999, Australia announced that it had taken actions to implement the findings of the panel report. The United States did not consider Australia's action as full and complete compliance and therefore asked the panel to review Australia's implementation of the recommendations. The panel recently ruled that Australia had not complied. If a satisfactory solution cannot be reached with Australia, the Dispute Settlement Body will authorize the United States to suspend concessions (i.e., retaliate) with respect to products of Australia.

Canada – Export subsidies and tariff-rate quotas on dairy products. The United States prevailed on its claim that Canada was providing subsidies to exports of dairy products without regard to its Uruguay Round commitment to reduce the quantity of subsidized exports, and was maintaining a tariff-rate quota on fluid milk under which it only permitted the entry of milk in retail-sized containers by Canadian residents for their personal use. On March 19, 1999, the panel issued its report upholding U.S. arguments by finding that Canada's export subsidies are inconsistent with the Agreement on Agriculture. Similarly, the panel determined that Canada's practice of restricting the import of milk to retail-sized containers imported by Canadian residents is inconsistent with its obligations under the GATT 1994. On October 13, 1999, the Appellate Body issued its report upholding the panel's finding that Canada's export subsidies are inconsistent with its GATT obligations. The panel and Appellate Body reports were adopted by the DSB on October 27, 1999. On December 22, the parties reached agreement on the time period for implementation by Canada. Under this agreement, Canada will implement the DSB's rulings and recommendations in stages; Canada has already implemented on some measures, and will complete full implementation no later than December 31, 2000.

Canada – Measures affecting split-run magazines. This dispute, in which we prevailed, concerned Canada's measures affecting "split-run" and other imported magazines, including a ban on imports of magazines with advertisements directed at Canadians, a special excise tax on split-run magazines, and discriminatory postal rates on imported magazines. The panel found that Canada's import ban violated the provisions of GATT 1994. Upon appeal, the Appellate Body rejected Canada's argument that the excise tax was a services measure and confirmed the panel's determination with regard to the GATT 1994. Canada abolished the excise tax, the postal rate discrimination, and the import ban in October 1998. However, the Canadian government proposed legislation which, if enacted, would have accomplished the same protectionist result. On May 26, 1999, the United States and Canada successfully reached an agreement that not only addresses U.S. concerns, but also provides commitments from Canada in the areas of investment, tax, and market access for U.S. periodicals carrying

advertisements directed primarily for the Canadian market. In return, the United States has committed not to take further action under the WTO.

Denmark – Measures affecting enforcement of intellectual property rights. The United States used the dispute settlement procedures in this case to encourage action by Denmark to implement its TRIPS obligations. The TRIPS Agreement requires that all WTO Members provide provisional relief in civil intellectual property rights enforcement proceedings. After numerous consultations with the United States in 1997 and 1998, the Government of Denmark agreed to form a special committee to consider amending Danish law to provide this type of remedy. The work of the committee appears to be proceeding in the right direction, and the United States expects Denmark to move toward amendment of its law in the near future. We continue to monitor Denmark's progress on this issue.

EU – Regime for the importation, sale and distribution of bananas. The United States, along with Ecuador, Guatemala, Honduras, and Mexico, successfully challenged the EU banana regime. The regime was designed, among other things, to take away a major part of the banana distribution business of U.S. companies. On May 22, 1997, the panel found that the EU banana regime violated WTO rules; the Appellate Body upheld the panel's decision on September 9, 1997. At the request of the complaining parties, the compliance period was set by arbitration and expired on January 1, 1999. However, on January 1, 1999, the EU adopted a regime that perpetuates the WTO violations identified by the panel and the Appellate Body. The United States sought WTO authorization to suspend concessions (i.e., retaliate) with respect to certain products from the EU, the value of which is equivalent to the nullification or impairment sustained by the United States. The EU exercised its right to request arbitration concerning the amount of the suspension and on April 6, 1999, the arbitrators determined the level of suspension to be $191.4 million. On April 19, 1999, the DSB authorized the United States to suspend such concessions, and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $191.4 million. Discussions with the EU to resolve this matter are continuing.

EU – Hormone ban. The United States and Canada successfully challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. The panel found that the EU ban is inconsistent with the EU's obligations under the SPS Agreement and that the ban is not based on science, a risk assessment, or relevant international standards. Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed. The EU's ban ignored a vast body of scientific evidence – including evidence produced by the EU's own reviews – that it is safe to consume meat from animals to which these drugs have been administered in accordance with good animal husbandry practice. Because the EU did not comply with the rulings and recommendations of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions (i.e., retaliate) with respect to certain products of the EU, the value of which represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the

level of suspension to be $116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions, and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $116.8 million. Discussions with the EU to resolve this matter are continuing.

Greece – Enforcement of intellectual property rights. The United States has obtained positive results through the pursuit of this dispute under the dispute settlement process. Prior to the United States initiating this case, a significant number of television stations in Greece regularly broadcasted copyrighted motion pictures and television programs without the authorization of the copyright owners; effective remedies against such copyright infringements were not provided. Copyrights owned by U.S. nationals were violated in this manner, despite efforts by the U.S. owners to enforce their rights in Greece. The United States considered the situation to be inconsistent with the TRIPS Agreement. Consultations were held on June 11 and September 28, 1998. In September 1998, the Greek government enacted new legislation to crack down on pirate stations. The U.S. industry has filed several test cases under this new law, the majority of which have been resolved. In addition, the rate of television piracy in Greece fell significantly in 1999. Discussions were held again in April 1999 and the United States continues to monitor the situation.

India – Import quotas on agricultural, textile and industrial products. The United States prevailed in its challenge to India's import restrictions on more than 2,700 tariff items. These restrictions are no longer justified under the balance-of-payments (BOP) exceptions of the GATT 1994. On April 6, 1999, the panel circulated its report, finding that India's quantitative restrictions on imports violate the WTO Agreement and rejecting India's claim that its BOP situation justified them. The Appellate Body confirmed the panel's determination on August 23, 1999. The DSB adopted the panel and Appellate Body reports at its meeting on September 22, 1999. The United States and India have agreed that India will implement the DSB's rulings and recommendations by April 1, 2000 for approximately 73 percent of the tariff items at issue in this case, and by April 1, 2001 for the remaining items.

India – Patent protection for pharmaceutical and agricultural chemical products. The United States successfully challenged India regarding its failure to provide a "mailbox" system for filing patents for pharmaceutical and agricultural chemical products, and for failing to provide a system of exclusive marketing rights for such products. Both a panel and the Appellate Body ruled in favor of the United States. The compliance period of April 19, 1999 was set by agreement with India. India announced at the April 28, 1999 DSB meeting that it had completed its implementation by enacting, among other things, amendments to its patent law and new regulations, to the satisfaction of the United States.

Indonesia – Certain measures affecting the automobile industry. The United States prevailed in this dispute affecting U.S. auto exports. Beginning in 1993, Indonesia granted tax and tariff benefits to automobile manufacturers based on the percentage of local content in a finished automobile. In 1996, the Indonesian Government established the "National Car Program," which granted "pioneer" companies luxury tax and tariff-free treatment if they met gradually-increasing local content requirements. On April 22, 1998, a WTO panel requested by the United States found that Indonesia's measures violated its obligations under the Agreement on Trade-Related Investment Measures (TRIMS Agreement) and the GATT 1994. Indonesia has already eliminated the 1996 National Car Program, and the 1993 program was to be

terminated by July 22, 1999, as determined through WTO arbitration. On July 26, 1999, Indonesia announced that it had fully implemented the rulings and recommendations of the DSB. The United States continues to monitor Indonesia's new automotive sector policy.

Ireland and EU – Measures affecting the grant of copyright and neighboring rights. In this dispute, the United States used WTO dispute settlement consultations to encourage Ireland to take further steps to implement its TRIPS obligations. Ireland has not comprehensively revised its copyright law to implement the TRIPS Agreement. Examples of TRIPS inconsistencies include the absence of rental rights for sound recordings and the lack of "anti-bootlegging" provisions. After consultations with the United States, Ireland committed in February 1998 to accelerate its implementation of comprehensive copyright reform legislation, and agreed to pass a separate bill, on an expedited basis, to address two particularly pressing enforcement issues. Consistent with this agreement, Ireland enacted legislation in July 1998 raising criminal penalties for copyright infringement and addressing other enforcement issues. The process of completing comprehensive copyright legislation is progressing, but is currently behind schedule. The United States continues to monitor Ireland's progress and to press for rapid implementation of the new legislation.

Japan – Measures affecting imports of agricultural products. The United States obtained a favorable ruling when it complained to the WTO that, when requiring quarantine treatment for agricultural products, Japan prohibited the importation of each variety of a product until the quarantine treatment had been tested for that particular variety (even though the same treatment was proven effective for other varieties of the same product). On October 6, 1998, a WTO panel found that Japan's testing requirement was not supported by scientific evidence, was more trade restrictive than required, and was non-transparent. Japan appealed certain panel findings and the United States cross-appealed. The Appellate Body decision, issued on February 22, 1999, broadly upheld the panel decision and accepted the U.S. cross-appeal (extending the scope of the findings to cover more products). The Appellate Body also reversed the panel finding that the requirement was more trade restrictive than necessary. As a result of this dispute, variety-by-variety testing must be eliminated, not just simplified. The DSB adopted these reports on March 19, 1999 and Japan agreed to implement the rulings and recommendations of the DSB by December 31, 1999. On July 30, 1999, Japan's Agriculture Ministry announced that it had lifted restrictions on the imports of certain varieties of fruit, including apples and cherries.

Republic of Korea – Taxes on alcoholic beverages. The United States, joined by the EU, prevailed in this case against Korean excise tax rates that discriminate in favor of the Korean distilled spirit soju and against whisky and other Western-type distilled spirits. On May 23, 1997, the United States requested consultations. On October 16, the DSB established a single panel to consider both the EU and U.S. complaints against the Republic of Korea. The final panel report, circulated on September 17, 1998, found that the Republic of Korea's liquor taxes violate Article III:2 of GATT 1994. The Appellate Body confirmed this finding on January 18, 1999. The reports were then adopted on February 17, 1999. The Republic of Korea confirmed to the DSB its commitment to meet its obligations under the WTO with respect to this matter, and an arbitrator determined that it had to comply by January 31, 2000. To comply with the rulings, the Korean Government has harmonized tax rates on Korean and imported alcoholic beverages and has reduced taxes on imports of whiskey by 28 percentage points.

Mexico – Antidumping investigation of high fructose corn syrup from the United States. At the panel stage of this dispute the United States prevailed. In 1997, Mexico had commenced an antidumping investigation, on the basis of a petition by the Mexican sugar industry, concerning the import of high fructose corn syrup (HFCS) from the United States. The United States successfully challenged the findings of this investigation under the WTO Antidumping Agreement. A WTO panel established on November 25, 1998, ruled that Mexico's imposition of antidumping duties on HFCS was inconsistent with the requirements of the Antidumping Agreements in several respects. Mexico did not appeal, and the panel report was adopted on February 24, 2000.

Sweden – Measures affecting enforcement of intellectual property rights. A satisfactory resolution of this dispute was reached through the use of WTO dispute settlement procedures, without having to resort to panel proceedings. The TRIPS Agreement requires that all WTO Members provide provisional relief in civil enforcement proceedings (see discussion of Denmark above). Sweden had not implemented this obligation. On May 27, 1997, the United States requested consultations with Sweden concerning Sweden's failure to implement this obligation. Consultations were held on June 27 and in September 1997. Settlement was then reached on November 25, 1998, when Sweden passed legislation addressing U.S. concerns. The legislation took effect on January 1, 1999.

b. Disputes Brought Against the United States

Section 124 of the URAA requires *inter alia* that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO, the status and matter at issue in each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law and for the status of the proceeding, and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 1999 with respect to those cases in which the United States was a defendant.

New complaints filed against the United States in 1999:

United States – Section 110(5) of the Copyright Act. As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act provides that certain retail establishments may play radio music without paying royalties to songwriters and music publishers. The EU claims that, as a result of this exception, the United States is in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999.

United States – 1916 Revenue Act. Title VII of the Revenue Act of 1916 (15 U.S.C. §§ 71-74, entitled "Unfair Competition"), often referred to as the Antidumping Act of 1916, allows for private claims against, and criminal prosecutions of, parties that import or assist in importing goods into the United States at a price substantially less than the actual market value or wholesale price. The EU claims that the 1916 Act is not in conformity with the GATT 1994 and the Antidumping Agreement. A panel was established on January 29, 1999 and will issue its final report in March 2000. Separately, Japan submitted a request for consultations on the same matter on February 10, 1999. Consultations with Japan took place on March 17, 1999. A panel pursuant to Japan's request was established July 26, 1999.

United States – Import measures on certain products from the EU. On March 4, 1999, the EU requested consultations regarding increased U.S. Customs bonding requirements on certain imports from the EU, alleging violations of the DSU and of the GATT 1994. The United States

had increased bonding requirements to preserve its ability to collect any increased duties which might ultimately be authorized by the DSB as a result of the EU's failure to comply with the DSB's rulings and recommendations in the dispute involving *Bananas* (see description above). Consultations were held on April 21, 1999, and a panel was established on June 16, 1999.

United States – Safeguard measure on imports of wheat gluten from the EU. By Presidential Proclamation 7103 of May 30, 1998, the United States imposed a safeguard measure in the form of a quantitative limitation on imports of wheat gluten from the EU. On March 17, 1999, the EU requested consultations concerning this safeguard measure, asserting that it is in violation of the Agreement on Safeguards, the Agreement on Agriculture, and the GATT 1994. Consultations were held on May 3, 1999. A panel was established July 26, 1999.

United States – Countervailing duty investigation with respect to live cattle from Canada. On March 19, 1999, Canada requested consultations regarding a countervailing duty investigation, initiated by the United States on December 22, 1998 concerning Canadian subsidies on live cattle. Canada contended that the initiation of this investigation was inconsistent with U.S. obligations under the WTO, and alleged that the countervailing duty petition was not "by or on behalf of" the domestic industry and that the information in the petition was insufficient as a basis for initiating such an investigation. Canada asserted that the initiation was inconsistent with the WTO Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture. Consultations were held April 22, 1999. On October 12, 1999, the Department of Commerce issued a final negative determination, thereby terminating the investigation.

United States – Section 211 of the 1998 Omnibus Appropriations Act. Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questions the consistency of Section 211 with the TRIPS Agreement and it requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999.

United States – Safeguard measure on imports of fresh, chilled, or frozen lamb. On July 22, 1999, the United States imposed a safeguard measure on imports of lamb meat from New Zealand and Australia, pursuant to section 203 of the Trade Act of 1974. New Zealand and Australia requested consultations on July 16 and July 23, 1999, respectively, claiming violations of the GATT 1994 and the Agreement on Safeguards. Consultations were held August 26, 1999. A panel was established on November 18, 1999.

United States – Antidumping measures on stainless steel from Republic of Korea. The Government of the Republic of Korea contends that several errors were made by the United States Department of Commerce in the Preliminary and Final determinations of *Stainless Steel Plate in Coils from the Republic of Korea* dated January 20, 1999 and June 8, 1999, respectively. The Republic of Korea claims that these errors resulted in improper findings and deficient consultations as well as the imposition, calculation and collection of antidumping margins which are incompatible with the obligations of the United States under the Antidumping Agreement and the GATT 1994. On October 14, 1999, the Republic of Korea requested the establishment of a panel. A panel was established on November 18, 1999.

United States – Tariff reclassification of sugar syrups. The Government of Canada requested consultations with the United States to review

the U.S. reclassifications of certain sugar syrups by the United States Customs Service. Canada believes that these measures are inconsistent with the GATT 1994 and the Agreement on Agriculture. Consultations were held on October 20, 1999, and no further action has been taken.

United States – Antidumping measures on certain hot-rolled steel products from Japan. Japan contends that the preliminary and final determinations of the United States Department of Commerce and International Trade Commission in their antidumping investigations of certain hot-rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claims that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement. Consultations were held on January 13, 2000, and Japan thereafter requested the establishment of a panel.

Activity in 1999 on disputes that were commenced in prior years:

United States – Measures relating to the importation of shrimp and shrimp products. The United States prevailed on the central points of a challenge brought by India, Malaysia, Pakistan, and Thailand to U.S. restrictions on imports of shrimp and shrimp products harvested in a manner harmful to endangered species of sea turtles, under a special "shrimp-turtle" statute. (This case did not concern and did not affect the Endangered Species Act.) A dispute settlement panel found that these import restrictions were inconsistent with WTO rules. However, the United States appealed, and on October 12, 1998, the Appellate Body largely reversed the panel's ruling. The Appellate Body confirmed that WTO rules allow Members to condition access to their markets on compliance with certain policies such as environmental conservation and agreed that the U.S. "shrimp-turtle law" was a permissible measure adopted for the purpose of sea turtle conservation. The Appellate Body also found that WTO rules permit panels to accept unsolicited *amicus curiae* briefs from non-governmental organizations. The Appellate Body, however, did find fault with certain aspects of the U.S. implementation of the shrimp-turtle law. In particular, it found that the State Department's procedures for determining whether countries meet the requirements of the law did not provide adequate due process, because exporting nations were not afforded formal opportunities to be heard, and were not given formal written explanations of adverse decisions. The Appellate Body also found that the United States had unfairly discriminated between the complaining countries and Western Hemisphere nations by not exerting as great an effort to negotiate a sea turtle conservation agreement with the complaining countries and by not providing them the same opportunities to receive technical assistance.

The United States informed the DSB of its intention to implement the rulings and recommendations of the DSB in a manner consistent not only with WTO obligations, but also with the firm commitment of the United States to protect endangered species of sea turtles. In this connection, the United States agreed to an implementation period of 13 months, which ended on December 6, 1999. After Congressional consultations and opportunities for input from all interested parties, in July 1999 the State Department revised its procedures to provide more due process to countries applying for certification under the shrimp-turtle law. In addition, the State Department is making progress in efforts to negotiate a sea turtle conservation agreement with the countries of the Indian Ocean region, including the complaining countries, and the United States is providing the complaining countries with additional technical assistance in the adoption of sea turtle conservation

measures. Throughout the case, U.S. import restrictions on shrimp harvested in a manner harmful to sea turtles have remained fully in effect.

United States – Rule of origin for textiles and apparel. This dispute has been settled through consultations. On May 23, 1997, the United States received an EU request for consultations concerning U.S. rules of origin for textile and apparel products provided for in section 334 of the Uruguay Round Agreements Act. The EU request stated that these rules adversely affect exports of EU fabrics, scarves and other flat products to the United States; it cited possible incompatibility with the ATC, the Agreement on Rules of Origin, GATT 1994, and the TBT Agreement. On July 15, 1997, the EU and United States reached agreement on a settlement, committing themselves *inter alia* to achieving a satisfactory resolution in the WTO negotiations on harmonization of rules of origin for textiles. On November 19, 1998, the EU again requested consultations concerning U.S. rules of origin for textiles. Consultations were held on January 15, 1999 and later the two sides reached an agreement to settle this case. A legislative proposal to implement that settlement was included in the Trade and Development Act of 1999 as approved by the Senate, which is currently awaiting action by a conference committee.

United States – Antidumping measures on DRAMs from the Republic of Korea. The Republic of Korea challenged the Department of Commerce's antidumping review of dynamic random access memory (DRAM) semiconductors from the Republic of Korea, alleging that Commerce's decision not to revoke the antidumping order was inconsistent with the Antidumping Agreement and the GATT 1994. The panel report was circulated on January 29, 1999. While the panel rejected almost all of the Republic of Korea's claims, it found that, technically, the "not likely" standard in Commerce's regulations (for determining whether dumping would continue or recur if an antidumping order were revoked) did not meet the requirements of Article 11.2 of the Antidumping Agreement. The panel report was adopted on March 19, 1999 and neither side appealed. On April 15, 1999, the United States indicated its intention to implement the ruling of the DSB. The parties eventually negotiated a "reasonable period" for implementation, in which the United States agreed to implement by November 19, 1999. The Commerce Department amended its regulations to comply with the panel report, and made a redetermination under the revised regulations retaining the antidumping order on DRAMs from the Republic of Korea.

United States – Foreign Sales Corporation (FSC) tax provisions. The EU challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the Subsidies Agreement, and that they violate the export subsidy provisions of the Agreement on Agriculture. A panel was established on September 22, 1998. The panel found that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, and also violates U.S. obligations under the Agriculture Agreement. The panel did not make findings regarding the FSC administrative pricing rules or the EU's import substitution subsidy claims. The panel report was circulated on October 8, 1999 and the United States filed its notice of appeal on November 26, 1999. The Appellate Body circulated its report on February 24, 2000. The Appellate Body upheld the panel's finding that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, but, like the panel, declined to address the FSC administrative pricing rules or the EU's import substitution subsidy claims. While the Appellate Body reversed the panel's findings regarding the Agriculture Agreement, it found that the FSC tax exemption violated provisions

of that Agreement other than the ones cited by the panel.

United States – Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom. This dispute is pending before the WTO Appellate Body. The EU is challenging several administrative reviews conducted by the Department of Commerce with respect to the countervailing duty order placed on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom, alleging violations of the Subsidies Agreement. The EU claims that the Department of Commerce improperly attributed the benefits of subsidies received by British Steel Corporation (BSC) to UES, a joint venture that acquired BSC's leaded bar facilities, and that the Department of Commerce also improperly attributed to the production of leaded bars the benefits of subsidies received by BSC prior to its privatization. Consultations were held on July 29, 1998, and a panel was established February 17, 1999. The panel report, circulated on December 23, 1999, found that the Department of Commerce's attribution of pre-privatization subsidies to the privatized UES and BSC was inconsistent with the Subsidies Agreement. However, the countervailing duty order in question was revoked by operation of law on January 1, 2000 under the Department of Commerce's "sunset review" procedures. The United States filed its notice of appeal on January 27, 2000.

United States – Sections 301 - 310 of the Trade Act of 1974. The panel in this case rejected the EU claims and upheld the U.S. law as consistent with WTO rules. In late 1998 the EU complained about these provisions of the U.S. trade law, especially sections 304 to 306, alleging that the law does not allow the United States to comply with the DSU. Consultations were held on December 17, 1998, and a panel was established on March 2, 1999. On December 22, 1999, the panel circulated its report rejecting the EU complaint. The panel concluded that the U.S. law was not inconsistent with U.S. WTO obligations and the panel found nothing to contradict evidence that the United States has in fact acted in accordance with its WTO obligations in every Section 301 determination involving an alleged violation of U.S. WTO rights. The panel concluded that neither the EU nor the third parties to the dispute had demonstrated otherwise. The EU decided not to appeal and the panel report was adopted on January 27, 2000.

G. The Dispute Settlement Body

The DSU is administered by the Dispute Settlement Body (DSB), which includes representatives of all WTO Members. The DSB is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB, and authorize the suspension of concessions where a defending party fails to comply with DSB recommendations and rulings. Further background on the WTO dispute settlement process can be found in Annex II of this Report.

Assessment of the First Five Years of Operation

In its first five years of operation, the DSB has addressed the ambitious agenda set for it by the negotiators in the Uruguay Round, and has put in place the rules and institutions required for a functioning dispute settlement system. It has established rules of conduct designed to keep the system free from conflicts of interest. It has elected the members of an Appellate Body that has become one of the most active and productive tribunals in the field of international law. Yet while the DSB has made some procedural decisions when required, the agenda of dispute settlement in the WTO remains member-driven. Any procedural innovations happen not because panels or the Appellate Body impose them on the parties, but because Member governments propose and agree to

them. The review of WTO dispute settlement rules and procedures conducted in the last two years was run as a member-driven process in which all proposals were generated by Members and agreed by consensus.

In January 1999, the DSB for the first time authorized measures in response to non-compliance by a WTO Member with panel and Appellate Body rulings. The United States invoked its WTO and DSU rights and proposed to suspend concessions in an amount equivalent to the trade damage caused to the United States by the EU's illegal banana import regime. Resisting repeated attempts at blockage by the EU, the DSB authorized the United States to proceed. This action by the DSB was a signal to agricultural exporters everywhere that compliance with WTO rules cannot simply be ignored. Later in 1999, the DSB again authorized suspension of concessions (retaliation) by the United States against the EU in the hormones case, again reinforcing WTO rules.

Major Issues in 1999

The DSB met 42 times in 1999 to oversee the dispute settlement process, to conduct informal meetings discussing the ongoing review of the Dispute Settlement Understanding, and to take care of tasks such as approving additions to the roster of governmental and non-governmental panelists.

DSU Review: A 1994 Decision taken by Ministers at Marrakesh provided for a general review of WTO dispute settlement rules and procedures, to be completed within four years after the WTO Agreement's entry into force, i.e., by January 1, 1999. USTR solicited input for U.S. positions in the Review through a Federal Register notice in June 1998, and drew on the comments received in formulating U.S. proposals and reactions to the proposals of other delegations. The U.S. paper tabled in the Review on October 30, 1998, emphasized two key goals: enhancement of compliance with WTO obligations, and enhancement of transparency in WTO dispute settlement. In December 1998, the DSB agreed to extend the deadline for completion of the DSU Review to July 31, 1999. However, after many informal negotiating meetings of the DSB in the early part of 1999, consensus for an amendment package did not emerge by the July deadline. Discussions have continued informally, and the DSU Review package of proposed amendments remains pending.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be "well-qualified," such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. The Secretariat maintained a roster of non-governmental experts since 1985 for GATT 1947 dispute settlement, which was available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and for expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information to be submitted by roster candidates, to aid in evaluation of candidates' qualifications and to encourage appointment of well-qualified candidates who would have expertise in the subject matters of the Uruguay Round Agreements. In 1999, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster. At the end of 1999, the DSB initiated a renewal of the roster, which was not completed as of December 31, 1999. The WTO panel roster as of December 31, 1999, appears in the background information in Annex II at the end of this Report. The roster notes the

areas of expertise of each roster member (goods, services and/or TRIPS).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and on December 3, 1996, adopted the *Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes*. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and due to its importance is reproduced in Annex II of this Report. (The Rules of Conduct are also available on the WTO and USTR websites.) There were no changes in these Rules in 1999.

The Rules of Conduct were designed to elaborate on the ethical standards built into the DSU, and to maintain the integrity, impartiality and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals participating in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts. The Rules of Conduct also provide parties to a dispute an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the Uruguay Round Agreements Act, which directed the USTR to seek conflicts of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also (i) arbitrators; (ii) experts participating in the dispute settlement mechanism (e.g., the Permanent Group of Experts under the Subsidies Agreement); (iii) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (iv) the Chairman of the Textile Monitoring Body (TMB) and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings or observations under the Agreement on Textiles and Clothing; and (v) support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure-based system. Examples of the types of information that covered persons must disclose are set forth in Annex 2 to the Rules, and include the following: (i) financial interests, business interests, and property interests relevant to the dispute in question; (ii) professional interests; (iii) other active interests; (iv) considered statements of personal opinion on issues relevant to the dispute in question; and (v) employment or family interests.

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body, with members serving four-year terms, except for three initial appointees determined by lot whose terms expire at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members, who took their oath on December 11, 1995, are: Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Professor Claus-Dieter Ehlermann of Germany, Dr. Said El-Naggar of Egypt, Justice Florentino Feliciano of the Philippines, Mr. Julio Lacarte Muró of Uruguay, and Professor Mitsuo Matsushita of Japan. The names and biographical data for the Appellate Body members are included in the annex to this report. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing December 11, 1997.

In September 1999, Messrs. El-Naggar and Matsushita announced their intention to retire at the end of their terms, on December 11, 1999. On November 3, the DSB agreed to reappoint Messrs. Bacchus and Beeby for a final term of four years commencing December 11, 1999. The DSB also agreed to extend the terms of Messrs. El-Naggar and Matsushita until the end of March 2000 and to initiate a process to ensure their timely replacement. The DSB agreed to request nominations by December 17, 1999 and to set up a Selection Committee composed of the WTO Director-General, together with the 1999 Chairs of the General Council, the DSB, and the Councils for Trade in Goods, Trade in Services and TRIPS, with a view to a recommendation being made to the DSB for a decision at its meeting in March 2000.

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two-year term for the first Chairman, and one-year terms for subsequent Chairmen. Mr. Lacarte Muró, the first Chairman, served until February 7, 1998; Mr. Beeby served from February 7, 1998 to February 6, 1999; Mr. El-Naggar served from February 7, 1999 to February 6, 2000; and Mr. Feliciano's term as Chairman runs from February 7, 2000 to February 6, 2001.

In 1999, the Appellate Body issued 10 reports, of which 4 involved the United States as a party and are discussed in detail below. The 6 other reports concerned Argentina's safeguard measures on footwear imports, Brazil's export subsidies for aircraft, Canada's export subsidies for aircraft, Chile's taxes on distilled spirits, the Republic of Korea's safeguard measures on dairy imports, and Turkey's quantitative restrictions on textiles. The United States was an active third party in all but one of those appeals.

Work for 2000

In 2000, the United States expects the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the Administration's litigation and negotiation strategy for enforcing U.S. WTO rights. The revised DSU Review package remains a pending item.

The United States has long sought an international trading system governed by enforceable rules. If WTO dispute settlement proceedings are to play the role of ultimate guarantor of the system, they must be open to observation by the public, and open to receiving input from the public. Openness of this sort is essential to assuring public support for the legitimacy of WTO dispute settlement. As the WTO takes on more complex and controversial cases, there is an ever-increasing need for transparency in dispute settlement.

The United States has taken many steps on its own to improve the transparency of the WTO dispute settlement process. USTR seeks public comment, through a *Federal Register* notice, on every dispute that goes to a panel where the United States is a party. USTR also makes its written submissions to panels and the Appellate Body available to the public as soon as they are submitted. The United States routinely requests the parties to *any* WTO case (even cases in which it is not a party) to provide it with a copy of their submissions or non-confidential summaries for release to the public.

USTR makes WTO panel reports available to the public upon receipt, and the WTO makes WTO panel and Appellate Body reports available on the Internet for downloading the day after they are circulated in Geneva, and sometimes the same day. This is also true of other WTO documents regarding disputes. The

consultation requests and panel requests in every dispute are circulated to all WTO Members in all three official languages (English, French and Spanish) as public documents, and immediately put on the WTO website. Any member of the public can access WTO documents through the Internet and follow the progress of WTO disputes on that website. In this way, members of the public can find out from these WTO documents that there will be a panel proceeding and what issues the panel will address, even before the panel is established.

The United States has proposed that the WTO include a mechanism to permit non-governmental stakeholders to present their written views on disputes, and that the WTO allow the public to observe WTO panel and appellate proceedings. The United States will continue to urge other WTO Members to work with the United States to enhance the transparency of the WTO dispute settlement process, through changes in the working procedures applied in individual disputes, and through an ongoing assessment of the operation of the DSU.

Implementation of the WTO Agreements

A. General Council Activities

Status

The WTO General Council is the highest decision-making body in the WTO that meets on a regular basis during the year. It exercises all of the authority of the Ministerial Conference, which is required to meet once every two years. The General Council and Ministerial Conference consist of representatives of all WTO Members. Three major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights. All subsidiary bodies report through this hierarchy; the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trading Arrangements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council. Ambassador Ali Said Mchumo of Tanzania served as Chairman of the General Council in 1999.

Assessment of the First Five Years of Operation

The General Council has successfully fulfilled the role envisioned when the WTO was created in 1995. It follows the pattern of the GATT Council – conducting the regular business of the WTO between meetings of the Ministerial Conference. Only the Ministerial Conference and the General Council are permitted to adopt authoritative interpretations of the WTO Agreements, submit amendments to the Agreements for consideration by Members, and to grant waivers of obligations. All accessions to the WTO must be approved by the General Council or the Ministerial Conference. Technically, meetings of both the Dispute Settlement Body and the Trade Policy Review Body (TPRB) are meetings of the General Council convened for the purpose of discharging the responsibilities of the DSB and TPRB.

The General Council has a heavy responsibility in following the work of the WTO, monitoring compliance and in the management of the institution, including the Secretariat. Over the past five years the General Council has served as the focal point of activity in the WTO, from dispensing with hundreds of regular business items to addressing the most difficult, complex

and contentious issues confronting the WTO. The Chairman of the General Council, who serves an annual term and is selected from the WTO Membership, plays an important role in working with the Director-General and Secretariat in managing the day-to-day work of WTO and addressing issues of concern to Members. The work of the General Council, in many cases, is all the more important because the WTO is a new organization and many rules and policies are new or must be developed.

The General Council is the body, beyond all others, that is most representative of the views of the 135 Members of the WTO. It attracts the highest level of attention and participation of WTO Members, and meetings are attended by Heads of Delegation, generally senior trade policy officials at the level of Ambassador. To the extent that there is disagreement within the membership on a particular issue, it will be reflected in the work of the General Council and resolved by the Chairman in consultation with the Membership. The General Council has worked effectively in achieving consensus on many issues ranging from making the WTO operational in 1995 to facilitating the entrance of new Members to providing a forum for all Members to be heard.

Major Issues in 1999

The General Council met 18 times during 1999 in regular session and seven times in special session, focusing on preparations for the third Ministerial Conference discussed earlier in this chapter.

Accessions: The General Council approves the terms of accession of Members when negotiations are complete. In 1999, the General Council approved the accession of Estonia, Georgia and Jordan. Estonia became a Member of the WTO on November 13, 1999, after depositing its instrument of ratification. Domestic ratification of the terms of accession for Jordan and Georgia are expected early in 2000. Additional details are discussed below in the section "Accession to the World Trade Organization."

Waivers of Obligations: As part of the annual review required by Article IX of the WTO Agreement, the General Council considered reports on the operation of a number of previously agreed waivers and decided by consensus to extend the waivers for specified periods. The Council agreed to extend three such waivers applicable to the United States concerning the Caribbean Basin Economic Recovery Act, the Andean Trade Preferences Act, and preferences for the Former Trust Territories of the Pacific Islands. (Annex II contains the list of waivers currently in force.) The General Council also approved two new waivers. One waiver allows developing countries to extend tariff preferences to least-developed countries without providing those preferences to other WTO Members. Developed countries, including the United States, generally provide preferential market access for least developed countries through their respective GSP programs. A waiver allowing Peru an additional three months to implement its obligations under the Agreement on Customs Valuation was also approved.

Review of Procedures for Circulation and Derestriction of WTO Documents: In 1996, the General Council adopted a decision on procedures for the circulation and derestriction of WTO documents which was designed to reduce the number of documents withheld from the public and to speed the circulation of WTO-origin information both to Members and to the public at large. The 1996 decision called for a review in 1998 and, beginning with the February 1998 meeting of the General Council, the United States introduced proposals designed to further the dissemination of WTO documents to the public. A proposal put forth by the U.S. delegation in the course of 1998 urged Members to agree to make unrestricted information on the outcome of dispute settlement panel proceedings available on a more expedited basis after dispute settlement rulings are made. Although the

various proposals put forth by the United States and others enjoy a wide degree of support among WTO Members, the General Council was not able to reach a consensus on modifications to the 1996 decision. Discussions of these issues continued throughout 1999 without resolution. Debate on the dispute settlement documents also took place in the DSU Review.

Selection of the Next Director-General and Senior Management Team: The General Council, in the person of its chairman, oversaw the consultations for selection of a new Director-General and senior management team. The previous Director-General, Renato Ruggiero, retired in April 1999. At the same time, the terms of the four serving Deputies Director-General expired and these officials left the organization. After intensive consultations among Members, on July 22 a consensus was reached to appoint Mr. Mike Moore of New Zealand as Director-General. Mr. Moore will serve a three year term, from September 1, 1999 to August 31, 2002. He will be succeeded by Dr. Supachai Panitchpakdi of Thailand, who will serve from September 1, 2002 to August 31, 2005.

At the October 6 meeting, following the appointment of the Director-General, the General Council agreed that a review of the WTO Secretariat and senior management structure would be carried out in conjunction with the review of the current Rules and Procedures for appointment of Directors-General, to be concluded by the end of September 2000.

After consulting with WTO Members, on November 3, Director-General Moore announced the selection of four Deputies Director-General: Mr. Ablasse Ouedraogo of Burkina Faso, Mr. Miguel Rodriquez Mendoza of Venezuela, Mr. Paul-Henri Ravier of France, and Mr. Andrew Stoler of the United States. The terms of service are until September 30, 2002.

Work for 2000

In addition to its regular responsibility of overseeing the work of the WTO, a significant focus of the Council will be devoted to follow-up activities from the 3rd Ministerial Conference, including the work on mandated negotiations in agriculture and services; developing a consensus on a broader negotiating agenda; implementation issues; transparency related issues (the internal operation of the WTO as well as outreach to civil society); and the program of action for least-developed countries and technical cooperation issues. The Council will be the venue for decisions to be taken on the expansion of negotiations or the preparation of decisions on a launch of a new Round.

The Council will continue to oversee work on revisions to the 1996 Decision on Circulation and Derestriction Procedures and oversight of the work program on electronic commerce will also feature importantly in the work of the Council, as will the likely consideration of potential new Members' accession protocols. Early in 2000, the Council will be expected to consider the mandates of the working groups on investment, competition policy, and transparency in government procurement that were established at the Singapore Ministerial meeting, and how work in these areas should proceed.

B. Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of twelve committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing Procedures, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing Measures, Technical Barriers to Trade and Trade-related Investment Measures (TRIMS)) in addition to the Textiles Monitoring

Body (TMB), the Working Party on State Trading, and the Working Party on Preshipment Inspection). In 1999, the CTG held five formal meetings.

Assessment of the First Five Years of Operation

At the conclusion of the Uruguay Round, the Council for Trade in Goods was established. It has proven to be a useful forum for discussing issues and decisions which may ultimately require the attention of the General Council for resolution or a higher-level discussion, and putting the issue in the broader context of the rules and disciplines that apply to trade in goods. The CTG serves as a place to lay the groundwork and to resolve issues on many matters that will ultimately require General Council approval. The use of the waiver provisions, for example, often are initiated in the Goods Council. One question that has been raised is whether the Council on Goods is needed given the fact that issues and recommendations are sent forward to the Ministerial Conference via the General Council. The Services and TRIPS Councils report to the General Council directly, so there may be value in reflecting on this question further.

Major Issues in 1999

As the central oversight body in the WTO for monitoring agreements related to trade in goods, the CTG addressed a number of important issues in 1999. Much of its attention was devoted to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for airing initial complaints regarding actions taken by individual Members with respect to the operation of agreements under its purview. Many of these were resolved by interested Members through consultations, although some were subsequently pursued through the Dispute Settlement Body.

The actions taken by the CTG in 1999 include:

- Approval of the Working Party Report on Preshipment Inspection.
- Referral of a number of newly notified regional agreements to the Committee on Regional Trading Agreements for consideration of their consistency with WTO obligations.
- Approval of the extension of a number of waivers, including those related to implementation of the Harmonized System and renegotiation of tariff schedules, tariff preferences by developing countries to least developed countries, and a short extension of the transition period for implementation of the Agreement on Customs Valuation by one country and referral of these to the General Council for final decision. (Annex II of this Report lists waivers currently in force.)

Work for 2000

The CTG will continue to discharge its responsibilities as the final approving body for decisions and recommendations made by its various subsidiary bodies. The Council will continue its work on waivers, as it did in 1999. The United States will continue to use the CTG as another means to draw attention to problems related to monitoring and compliance. Given the renewed attention to implementation of existing Agreements, expiry of transition periods in a number of rules agreements (e.g., Customs Valuation and TRIMS) and staging of market access commitments from the Uruguay Round, the CTG is poised to play an active role in the enforcement efforts of WTO Members. In light of experience to date, and the work of the General Council on implementation issues, the United States will assess suggestions to streamline the WTO Committee process and merge the functions of the CTG, which would require modification of existing Agreements.

1. Committee on Agriculture

Status

The WTO Committee on Agriculture oversees implementation of and adherence to the Agreement on Agriculture. It provides a vital forum for consultation and, in many cases, resolution of issues resulting from the commitments made in the Uruguay Round. The Committee is also charged with monitoring the follow-up to the 1995 Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food Importing Developing Countries.

During 1999, the Committee concluded its work on the Analysis and Information Exchange (AIE) that had been mandated by the WTO's 1st Ministerial Conference in Singapore. The AIE was charged with reviewing issues arising out of the implementation of the Uruguay Round Agreement and identifying possible areas to address in the continuation of the agriculture reform process, mandated as part of the WTO's built-in agenda.

Assessment of the First Five Years of Operation

The Agreement on Agriculture represents a major step forward in bringing agriculture more fully under WTO disciplines. The creation of new trade rules and specific market-opening commitments has transformed the world trading environment in agriculture from one where trade was heavily distorted and basically outside effective GATT disciplines to a rules-based system that quantifies, caps and reduces trade-distorting protection and support. Prior to the establishment of the Agreement, Members were able to block imports of agricultural products, provide essentially unlimited production subsidies to farmers, and dump surplus production on world markets with the aid of export subsidies. As a consequence, U.S. farmers and ranchers were denied access to other countries' markets and were undercut by subsidized competition in world markets.

The WTO Agreement on Agriculture set out a framework that imposed disciplines in three critical areas affecting trade in agriculture.

- First, the Agreement places limits on the use of export subsidies. Products that had not benefitted from export subsidies in the past are banned from receiving them in the future. Where Members had provided export subsidies in the past, the future use of export subsidies was capped and reduced.

- Second, the Agreement set agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into simple tariffs. Currently, trade in agricultural products can only be restricted by tariffs. Quotas, discriminatory licensing, and other non-tariff measures are now prohibited. Also, all agricultural tariffs were "bound" in the WTO and made subject to reduction commitments; a decision by a Member to impose tariff rates above a binding would violate WTO obligations. Creating a "tariff-only" system for agricultural products is an important advance, yet too many high tariffs and administrative difficulties with tariff-rate quota systems that replaced the non-tariff barriers continue to impede international trade of food and fiber products.

- Third, the Agreement calls for reduction commitments on trade-distorting domestic supports, while preserving criteria-based "green box" policies that can provide support to agriculture in a manner that minimizes distortions to trade. Governments have the right to support farmers if they so choose. However, it is important that this

support be provided in a manner that causes minimal distortions to production and trade.

As a result, farmers all over the world benefit from access to new markets and improved access to existing markets, face less subsidized competition, and now have a solid framework for addressing agricultural trade disputes. Yet it is clear that full agricultural reform is a long-term endeavor. Hence, the Agreement also called for new negotiations on agriculture beginning in 1999, as part of the "built-in" agenda of the WTO.

The Committee on Agriculture has proven since its inception to be a vital instrument for the United States in monitoring and enforcing agricultural trade commitments that were undertaken by other countries in the Uruguay Round. Members agreed to provide annual notifications of progress in meeting their commitments in agriculture, and the Committee has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

Under the watchful eye of the Committee, Members have, for the most part, been in compliance with the agricultural commitments that they undertook in the WTO. However, there have been important exceptions where clear violations of Uruguay Round commitments have adversely affected U.S. agricultural trade interests. In these situations, the Agriculture Committee has frequently served as an indispensable tool for resolving conflicts before they become formal WTO disputes. The following are some examples:

- Resolution of issues related to the use of export subsidies in Hungary, benefitting U.S. exports of grains, fruits and vegetables by nearly $10 million.

- Elimination of restrictions on beef imports by Switzerland that affected approximately $15 million in U.S. exports.

- Resolution of issues related to access for pork and poultry in the Philippines. In the case of pork, resolution of this issue meant additional U.S. exports of up to $70 million, and in the case of poultry, of up to $20 million.

- Resolving issues associated with Turkey's imposition of a tax on imported cotton, important to U.S. exports of more than $150 million.

- Resolution of issues related to the implementation of a tariff-rate quota on poultry in Costa Rica helped to triple U.S. exports to that country in 1998.

- Questioning Canada concerning a milk pricing scheme that appeared to be in violation of Canada's export subsidy commitments. Building on a process that began with the Committee's discussion, the United States eventually won a WTO dispute settlement case on this issue, benefitting U.S. exporters by reining in unfairly subsidized dairy exports from Canada.

Major Issues in 1999

In 1999, the Committee on Agriculture remained an effective forum for raising agricultural trade issues of concern to participating Members. The United States played a leading role in the Committee's activities, working with other countries to ensure broad-based compliance with WTO commitments on agriculture.

The Committee held four formal meetings, in March, June, September and November of 1999. Over the course of these meetings, WTO Members provided detailed notifications to the Committee on their adherence to the commitments they undertook in the Uruguay Round related to export subsidies, market access

and domestic supports. As a result of the Committee's strong history of vigilance on required notifications since the conclusion of the Uruguay Round, most Members conscientiously supply the required information. The United States and other Members also examined ways to streamline the notification requirements on market access commitments, export subsidies, and domestic support.

In November, the Committee conducted its annual monitoring exercise on the possible negative effects of agricultural reform on least developed and net food importing countries. In this review, the Food and Agriculture Organization (FAO) reported that the combined cereal import bill of least-developed and net-food importing countries in marketing year 1998/99 was down 15 percent from the previous year. This decline reflects a small reduction in the volume of imports but, more substantially, much lower average prices paid for imports.

The following are some of the more important specific issues that were raised in the Committee:

Notifications: The Committee reviewed more than 250 notifications detailing the implementation of market access commitments, particularly with regard to tariff-rate quota commitments and the special agricultural safeguard, and compliance with export subsidy and domestic support commitments. Generally, the rate of compliance with notification obligations and the scope of country participation has been good. Most major U.S. trading partners are in compliance with the notification obligations.

Member-specific issues: The Committee also provides the opportunity to clarify or resolve specific policies and issues of interest to Members. During 1999, issues raised included use of unused export subsidies from previous years in the current year, or the so-called "rollover" provisions (European Union, Turkey, United States); noncompliance with export subsidy commitments leading to modifications in the use of those measures (Poland, Thailand); domestic support programs (EU, the Republic of Korea, Thailand, Norway, United States, Czech Republic) inadequate implementation of tariff-rate quota commitments (Venezuela, South Africa, Czech Republic, the Republic of Korea, Japan); compliance with tariff bindings (Panama, Chile); and, inappropriate application of agricultural safeguards (Republic of Korea). The United States also questioned the Republic of Korea about market access restrictions on U.S. beef; this issue is now in formal dispute settlement.

Analysis and Information Exchange. In addition to its work on the specific trade issues mentioned above, the Committee continued its work in the informal AIE forum, prompting a wide-ranging exchange on topics of relevance to the built-in agenda negotiations on agriculture. More than 80 papers on issues affecting agricultural trade reform were presented during the AIE process. The United States submitted papers on a number of trade issues, including the administration of tariff-rate quotas and trade in products involving new technologies. Issues raised by other Members included non-trade concerns, special and differential treatment for developing countries, export credits, and domestic support. Although the forum was curtailed in September 1999, as mandated by the Singapore Ministerial, the AIE process proved vital in preparing and identifying areas of interest for the new negotiations on agriculture.

Work for 2000

The United States and other like-minded Members will focus considerable attention in 2000 on developing the procedures and framework for the mandated negotiations on agriculture. Work on agriculture negotiations will proceed in the Committee on Agriculture in Special Session, beginning on March 23-24, 2000. This situation does not mean, however, that the work and scrutiny of the Committee on Agriculture will be lessened, and its activities

during the year 2000 will complement the ongoing negotiations on agriculture. The main focus of the Committee, however, will continue to be ensuring timely notification and enforcement of Uruguay Round commitments. Members will give particular attention to problems revealed in the notifications covering market access, export competition, and domestic support. In addition to monitoring compliance with commitments, the Committee will continue reviewing the mechanisms and the processes Members use to implement their Uruguay Round commitments, monitoring the effects of implementation on net-food importing developing countries and will continue identifying emerging agricultural issues.

2. Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) provides detailed rules and disciplines which allow Members to impose antidumping duties in carefully circumscribed situations to offset injurious dumping of products exported from one Member country to another.

The Ad Hoc Group on Implementation is an important subsidiary body of the Antidumping Committee. The Group focuses on implementation of the Antidumping Agreement. Members meet to discuss specific topics, in order to understand similarities and differences in their policies and practices in implementing the terms of the Agreement. Members provide papers in advance of each meeting on the topics that will be discussed. This enhances the depth of the discussions, and gives all Members an opportunity to describe their own laws, policies and practices in writing and to put forward questions about operational and other practical aspects of conducting antidumping investigations. Since the inception of the Ad Hoc Group, the United States has submitted papers on most topics, and has been an active participant at all meetings. Where possible, the Ad Hoc Group endeavors to prepare draft recommendations on the topics it discusses which it forwards to the Antidumping Committee for consideration. To date, the Committee has adopted on Ad Hoc Group recommendation on pre-initiation notifications under Article 5.5 of the Agreement.

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anticircumvention. Per the framework, the Informal Group held meetings in April and October 1999 to discuss the topic of "what constitutes circumvention."

Assessment of the First Five Years of Operation

Antidumping rules provide a remedial mechanism which WTO Members have agreed is necessary to the maintenance and health of the multilateral trading system. Without this and other trade remedies, there could have been no agreement on broader GATT and later WTO packages of market-opening agreements, especially given the imperfections which remain in the multilateral trading system. While WTO rules ensure that antidumping actions are governed by objective and transparent standards and procedures, these rules continue to be founded on the principle set out in Article VI of the GATT 1994 that injurious dumping is to be condemned. The WTO, therefore, sets out rules and procedures that ensure the legitimate actions taken against injurious dumping are grounded in the rule of law and due process, building upon the standards that have been ingrained in U.S. antidumping statutes for decades.

Antidumping rules are necessarily complex. Yet they have come to be used by a growing circle of countries, especially in the developing world. Unlike the situation prior to entry into force of the WTO, when only a handful of countries were held to the relatively more rigorous requirements of the Tokyo Round Antidumping Code, the Antidumping Agreement resulting from the Uruguay Round sets the standard by which all WTO Members must act if they choose to take measures to combat injurious dumping. This means that developing countries and countries in transition from centrally-planned to market economies are, in essence, learning the rules as they implement them. This can understandably lead to frustrations with compliance, and concerns that the existing rules are too difficult or onerous for some to apply. The United States understands these concerns, which explains why we have chosen to place so much emphasis on improving the implementation of existing antidumping rules – including through technical cooperation and assistance – versus a reopening of those rules that would lead to ever greater complexities and difficulties of implementation.

In light of these needs, the work of the Antidumping Committee and its subsidiary bodies takes on even greater importance than it would otherwise have. Their work over the past five years has been essential in anchoring the importance and usefulness of multilateral antidumping rules for the world trade system. The Committee's work has helped ensure that Members understand their commitments under the Antidumping Agreement and can develop the tools to implement them properly. By providing opportunities to discuss Members' legislation, policies and practices, and views on controversial topics such as the need for rules on anticircumvention, the Committee's work assists all Members in conducting antidumping investigations and adopting antidumping measures in conformity with the detailed provisions of the Agreement. To date, Members have requested the establishment of dispute settlement panels to review the consistency of antidumping measures with the Agreement in relatively few instances. The work of the Committee has played a role in ensuring that Members take their commitments seriously.

The United States is a key actor in the work of the Antidumping Committee and its subsidiary bodies. This has had several important ramifications. First, U.S. participation has demonstrated the importance of the antidumping rules in the multilateral trading system. Second, U.S. participation has provided an opportunity to showcase the U.S. antidumping laws both for their detail and intrinsic consistency with the provisions of the Antidumping Agreement, and as a model for other Members to consider when adopting and amending their own antidumping rules. Finally, U.S. participation in the Committee and bilaterally with other Members has been successfully used to serve the interests of U.S. exporters whose products are subject to antidumping investigations by other Members. The Office of the United States Trade Representative, assisted by the Department of Commerce, regularly follows antidumping investigations ongoing in other countries that affect U.S. exporters. Where warranted, the United States engages other Members in bilateral discussions to resolve issues arising under the Antidumping Agreement that affect U.S. exporters. The United States has also raised other Members' antidumping investigations affecting U.S. exports for discussion in the Antidumping Committee. Finally, in one instance, the United States has successfully challenged the antidumping measure of another Member in dispute settlement proceedings, and remains prepared to take such action in the future if appropriate.

Major Issues in 1999

The Antidumping Committee's work remains an important avenue for ensuring Members' understanding of the detailed provisions in the Antidumping Agreement, and for providing opportunities for discussing Members' views on

the interpretation and application of the Agreement's provisions.

In 1999, the Antidumping Committee held two regular meetings, in April and October, as did the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Committee also reviewed the reports that the Agreement requires Members to provide of their preliminary and final antidumping measures and actions taken in each case over the preceding six months.

Among the more significant activities undertaken in 1999 by the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention are the following:

Notification and Review of Antidumping Legislation: The Antidumping Committee reviewed 14 notifications of new or amended antidumping legislation, and also reviewed one notification of legislation which had been previously reviewed. Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Committee meetings. The regulations of the U.S. Department of Commerce on procedures for sunset reviews were reviewed as a part of this process at the Committee's October meeting. Eight Members put forward written questions regarding these regulations which the United States answered in detail, both orally and in writing.

Notification and Review of Antidumping Actions: Twenty-five Members notified antidumping actions taken during the first half of 1999. These actions, in addition to outstanding antidumping measures currently maintained by WTO Members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion.

Ad Hoc Group on Implementation: At its April meeting, the Ad Hoc Group discussed seven of the topics which the Antidumping Committee referred to it for discussion: (i) treatment of confidential information under Article 6.5, (ii) sampling methods, (iii) "special circumstances" in Article 5.6, (iv) the provision for hearings in Article 6.2, (v) public notices under Article 12, (vi) content of affirmative preliminary determinations, and (vii) duty assessments under Article 9. Members submitted papers on these topics, and the WTO Secretariat compiled information that Members had provided for previous meetings on their practices concerning hearings and the disclosure of essential facts. The Group also gave consideration to draft recommendations on two topics: the period of data collection for a dumping investigation and the provision of essential facts and disclosure of findings under Article 6.9. Members offered views on these draft recommendations and agreed that further work on them was required. Finally, the Ad Hoc Group discussed suggestions for new topics and forwarded a list of these topics to the Antidumping Committee. The Committee agreed that the Ad Hoc Group should begin discussing six new topics: (i) practical issues and experience in applying Article 2.4.2, (ii) termination of investigations under Article 5.8 in cases of *de minimis* import volume, (iii) practical issues and experience in cases involving cumulation under Article 3.3, (iv) practical issues and experience with respect to questionnaires and requests for information under Articles 6.1 and 6.1.1, (v) practical issues and experience in providing opportunities for industrial users and consumer organizations to provide information under Article 6.1.2, and (vi) practical issues and experience in conducting "new shipper" reviews under Article 9.5.

At its October meeting, the Ad Hoc Group began discussing the six new topics that the

Committee referred to it. The United States submitted papers on all of these topics and participated actively in the discussion. Many other Members also submitted papers. The Group also discussed new drafts of the recommendations on the period of data collection for a dumping investigation and the provision of essential facts and disclosure of findings under Article 6.9.

The Ad Hoc Group has opened important opportunities for Members to examine issues relating to the implementation of the Antidumping Agreement, and the United States has been a key participant in the work of this Group. The annual report of the Antidumping Committee notes the satisfaction expressed by the Committee's chairman on the high level of participation by Members and the presence and participation in Geneva of experts from Members' capitals.

Informal Group on Anticircumvention: The Antidumping Committee's establishment of the Informal Group on Anticircumvention in 1997 marked an important step in taking up the Decision of Ministers at Marrakesh to refer this matter to the Committee. At its 1999 meetings, the Informal Group on Anticircumvention had productive discussions on the subject of "what constitutes circumvention." For the April meeting, the United States submitted a paper providing examples from U.S. practice of what types of facts have resulted in findings that circumvention of an antidumping order was or was not taking place. The United States also replied to questions from Hong Kong and Japan received at the October 1998 meeting. The Republic of Korea submitted a paper regarding the circumvention inquiry the United States conducted on color television receivers, which was ended with a withdrawal by the U.S. industry of its request for this inquiry. At the end of the October meeting, Members agreed that it was appropriate to consider the second item in the agreed framework: "what is being done by Members confronted with what they consider to be circumvention." The first topic, "what constitutes circumvention", will remain open for further discussion.

Work for 2000

Work in 2000 will continue in all of the areas that the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention addressed this past year. The Antidumping Committee will continue to review Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This on-going review process in the Committee is important to ensuring that antidumping laws around the world are properly drafted and implemented, thereby contributing to a well-functioning, liberal trading system. As notifications of antidumping legislation are unrestricted documents, it will remain possible for U.S. exporters to have access to the antidumping laws of other countries in order to better understand their operation and to take them into account in commercial planning.

The preparation by Members and review in the Committee of semi-annual reports and reports of preliminary and final antidumping actions will continue in 2000. The 1996 decision of the WTO General Council to liberalize the rules on the restriction of WTO documents has resulted in these reports also becoming accessible to the general public, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II.) This has been an important development in ensuring the merited degree of public awareness regarding Members' antidumping actions.

The discussions in the Ad Hoc Group on Implementation will continue to provide opportunities for the United States to learn in more detail about the administration by other countries of their antidumping laws, particularly

by those Members that have newly enacted legislation. This process is important because it sheds light on the operational practices of Members in implementing their obligations under the Antidumping Agreement. The process has led to the Committee's adoption of one Ad Hoc Group recommendation regarding notifications under Article 5.5 of the Agreement, and two more draft recommendations are in the final stages of consideration by the Group. As Members continue to submit papers on the topics being considered and participate actively in the discussions, it is anticipated that the Group's utility will continue to be confirmed.

The work of the Informal Group on Anticircumvention will continue to be pursued in 2000, according to the framework for discussion which Members agreed. Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision of Ministers at Marrakesh, who expressed the desirability of achieving uniform rules in this area as soon as possible.

3. Committee on Customs Valuation

Status

The purpose of the WTO Agreement on Customs Valuation is to ensure that the valuation of goods for customs purposes, such as for the application of duty rates, is conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the Agreement has become an increasingly important issue for U.S. exporters and a priority in the negotiations for all countries in the process of acceding to the WTO.

Assessment of the First Five Years of Operation

Achieving universal adherence to the Agreement on Customs Valuation in the Uruguay Round was an important objective of the United States dating back more than twenty years. The Agreement was initially negotiated in the Tokyo Round, but its acceptance was voluntary until mandated as part of membership in the WTO.

At one time, difficulties associated with customs valuation regimes in export markets were often generally characterized as mere technical irritants. However, since the completion of the Uruguay Round and the resulting dramatic growth in trade combined with the continuing shift to a faster-moving manufacturing and distribution environment, issues pertaining to how trade transactions are conducted are increasingly viewed as important systemic matters. U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology products – have experienced difficulties related to the conduct of customs valuation regimes outside of the disciplines set forth under the WTO Agreement on Customs Valuation. These difficulties – which can affect every single shipment of goods to a particular export market – generally are related to arbitrary and inappropriate "uplifts" in the transfer prices that are ultimately used by the importing country for the application of tariffs. If unchecked, such practices can sometimes result in a doubling or tripling of duties, undermining market access opportunities gained through tariff reductions. Other difficulties to exporters presented by customs valuation methodologies can pertain to an absence of transparency, delays in shipments, and improper handling of confidential business information. Finally, in a significant number of key U.S. emerging export markets, an arbitrary customs valuation methodology is often the genesis of corruption by customs officials entering the trade transaction process.

The means for squarely addressing many of these problems are provided by the Agreement's disciplines, which underscores the Administration's stance toward meeting the 20-year objective of bringing about implementation

of the Customs Valuation Agreement by the full WTO membership. A proper valuation methodology under the WTO Agreement on Customs Valuation, avoiding arbitrary determinations or officially-established minimum import prices, can be the foundation to the realization of market access commitments. Just as important, the implementation of the Customs Valuation Agreement also often represents the first concrete and meaningful steps taken by developing countries toward reforming their customs administrations and diminishing corruption, and ultimately moving to a rules-based trade facilitation environment.

Major Issues in 1999

The Agreement is administered by the WTO Committee on Customs Valuation, which met formally three times in 1999. The Agreement also established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO). The WTO Committee continued to follow through on an initiative generated by the United States in 1998, holding several informal sessions on implementation and technical assistance issues related to those developing country Members who will be implementing the provisions of the Agreement in the year 2000. The United States has led efforts within the Committee to impress upon Members the importance of timely implementation of the Agreement, both in terms of enhancing the trade facilitation environment and ensuring that market access gains are not otherwise diminished through customs valuation practices.

This Agreement only became applicable to all WTO Members in 1995. The Agreement provided special transitional measures for developing country Members, providing time to bring their respective regimes into compliance with the provisions of the Agreement. At the end of the Uruguay Round, more than 50 developing country Members opted for recourse to delayed application for up to five years from January 1, 1995, or the date of entry into force of the WTO Agreement. For approximately half these Members, the deadline for implementation was January 1, 2000, while for others the five year deadline expires at various dates throughout 2000 and into 2001.

While many developing country Members with a January 1, 2000 deadline undertook timely implementation of the Agreement, throughout 1999 the, Committee began to address individual requests either for transitional reservations as to how the Agreement would be implemented, or for further extensions of time for overall implementation. Working with key trading partners, the United States led consultations which resulted in the development of a detailed decision on each request, including individualized benchmarked work programs toward full implementation, along with reporting requirements and specific commitments on other implementation issues important to U.S. export interests.

Work for 2000

A high priority for the Committee will continue to be the adequate preparation for the remaining developing country Members which have deadlines to apply the Agreement's provisions. The Committee's work in 2000 will also include a review of the relevant implementing legislation and regulations submitted by those newly-implementing Members, along with monitoring progress of the benchmarked work programs that were the result of requests for transitional reservations or extensions of time. The Committee also will continue to provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Agreement to ensure that such Members' customs valuation regimes do not utilize arbitrary or fictitious values, such as "minimum reference prices."

Finally, reflecting the recommendation of the Working Party on Preshipment Inspection which was adopted by the General Council, the

Committee on Customs Valuation will provide a forum for reviewing the operation of various Members' preshipment inspection regimes and the implementation of the Agreement on Preshipment Inspection.

4. Committee on the Expansion of Trade in Information Technology Products

Status

The landmark agreement to eliminate tariffs by January 1, 2000 on a wide range of information technology products, generally known as the Information Technology Agreement, or ITA, was concluded at the WTO's first Ministerial Conference at Singapore in December 1996. As of this writing, the ITA has 52[4] participants representing over 95 percent of trade in the $600 billion global market for information technology products.

Assessment of the First Three Years of Operation

The ITA entered into force on July 1, 1997. The ITA was one of three post-Uruguay Round agreements essential to the new economy of the 21st century (the others were financial services and basic telecommunications services). The ITA confirms the potential for the WTO as a vehicle for ongoing trade liberalization. The multilateral benefits of the ITA are demonstrated by growth in participation. Twenty-eight participants launched the ITA in 1996 at the WTO Ministerial in Singapore. By March 1997, 39 participants agreed to implement the ITA and to establish the Committee to carry out the work program envisioned in the Ministerial Declaration. As of December 17, 1999, the number of participants has grown to 52, with several more countries in the process of WTO accession having agreed to join the ITA upon joining the Organization.

ITA product coverage includes computers and computer equipment, semiconductors and integrated circuits, computer software products, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments. The ITA participants will eliminate tariffs on these products by the year 2000. Some limited staging up to 2005 was granted on a country-by-country basis for individual products. The ITA, thus far, is the only global, sectoral agreement in which participating governments have agreed on a uniform list of products on which all duties will be eliminated.

In launching the ITA, Ministers agreed that the product coverage would be subject to periodic review and expansion to take account of the rapidly changing technology and differences in tariff nomenclature in the sector. Ministers further agreed consultations on non-tariff measures would be undertaken during the course of WTO work in this sector. Participants also established a Committee on the Expansion of Trade in Information Technology Products to carry out the work program identified at Singapore. The ITA is a special Agreement in many ways. Many countries in the process of accession have already negotiated and implemented commitments and joined the ITA, pending completion of their negotiations.

[4] ITA participants are: Albania, Australia, Canada, Costa Rica, Croatia, Czech Republic, El Salvador, Estonia, European Communities (on behalf of 15 Member States), Georgia, Hong Kong China, Iceland, India, Indonesia, Israel, Japan, Jordan, Republic of Korea, Krygyz Republic, Latvia, Lithuania, Macau, Malaysia, Mauritius, New Zealand, Norway, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey, and the United States. Additional countries, including China, Armenia, Georgia and Moldova, have indicated their intention to join the ITA.

The ITA, thus far, is the only global, sectoral agreement in which participating governments have agreed on a uniform list of products on which all duties will be eliminated. The ITA covers much of the hardware side of the innovations in electronic commerce and telecommunications services and the interactive software that underlies these innovations – products that represent over $600 billion in global trade.

United States producers and exporters receive significant benefits from the expansion of global markets through the ITA. Industry sources estimate that the Information Technology Agreement will save U.S. exporters of ITA products about $5 billion in tariffs, benefitting the 1.6 million workers in the information technology industry, including the 200,000 workers in the 1,000 U.S. computer hardware companies that produced equipment worth over $70 billion last year; the 200,000 workers in the over 7,000 firms that comprise the U.S. software industry, which is the largest in the world and one of the fastest growing high technology sectors in the U.S. economy; the 170,000 workers in the more than 5,000 firms that make the United States the largest single-country producer of telecommunications equipment in the world; the 400 or so U.S. manufacturers of semiconductor manufacturing equipment that account for 50 percent of world shipments; the 3,200 U.S. firms producing high technology measuring, testing and analyzing instruments that account for over 40 percent of global production; and the 190,000 workers in the U.S. semiconductor industry that alone produced about $40 billion in state-of-the-art semiconductors in recent years.

The WTO, through the activities of the Committee, is well-placed to respond to the dynamic nature of the information technology sector. The Committee, through its ongoing work on product expansion and non-tariff measures (including product standards, and product classification issues) offers the venue and interested participants to address these and other forthcoming issues, such as those related to the convergence of consumer and information technology product technologies.

Major Issues in 1999

The Committee examined all areas of its mandated work program during the six formal meetings of the Committee held during 1999. The Committee consistently reviewed the status of implementation of the ITA. All participants continued to lower tariffs on ITA products in 1999, and for the majority of participants, 1999 marked the final year where tariffs would be charged on these products. Consultations also continued throughout the year on the so-called ITA II product expansion list proposed in 1998, with certain participants noting the need for further time to continue domestic review of the package.

Pursuant to the provisions of the Singapore Ministerial Declaration, the Committee also continued its work to address divergences in classifying information technology products that had begun in 1998. The Committee agreed that an informal meeting of experts would be a useful way to move forward on this issues. As a result, experts from many Member countries met for a week of technical discussions in October to review a wide range of classification divergences for ITA products, particularly semiconductor manufacturing and test equipment. As a result of these discussions, certain participants revised their classification of some products to achieve more uniform and transparent classification. Participants agreed to continue this constructive discussion of classification issues in 2000. Participants also reviewed the product description for monitors in accordance with a provision contained in Attachment B of the Ministerial Declaration. There were no resulting decisions or changes to the product description.

The Committee continued its consultations on nontariff measures with many participants expressing a strong interest in work on

standards-related measures in the sector. Following a proposal initiated by the United States, the Committee had conducted a survey among participants of current regulations and conformity assessment requirements for information technology products as an initial project in this area. More specifically, the survey asked about current practices in the areas of safety (i.e., use of IEC 950), other standards (i.e., CISPR 22 which addresses electromagnetic interference) and reliance on suppliers' declaration of conformity for IT products. Further work in this areas is anticipated, utilizing a summary of replies to the survey requested by the Committee for this purpose as well as "national experience" papers by certain participants.

The importance of further work on standards and other non-tariff measures was one of the issues highlighted by private sector participants in an Information Technology Symposium held by the Committee on July 16, 1999 in order to ensure that the WTO and the trading system overall adequately address the challenges of the 21st century. The symposium consisted of issue-oriented panels that addressed the dynamism of the information technology sector and its future, to explain the role of information technology in promoting economic growth and development, and to highlight the value of the application of information technology. Each panel was followed by an interactive discussion and question and answer session. Speakers from 18 countries, with wide geographic representation, participated in the symposium.

One theme stressed by the speakers was the importance of information technology, its "enabling" quality, and the importance of trade. The convergence of computers, communication, consumers, and electronic commerce was a major theme of the presentations. Private sector representatives from Israel, Malaysia, Costa Rica, and Estonia highlighted the benefit of information technology trade for small and developing countries. Other speakers addressed the private sector's concerns that cumbersome regulatory procedures substantially slow the introduction of new products in this sector. Private sector speakers addressing this issue expressed their support for a regulatory regime that would leave it up to the product's producer to determine if the product conforms to required standards rather than requiring that testing be done by independent laboratories or government agencies. The presentations of all speakers can be found on the WTO website at www.wto.org.

Work for 2000

Bolstered by the enthusiasm expressed by the private sector at the July symposium for the Committee's work program, the Committee is expected to intensify its efforts to ensure that the WTO remains an important vehicle to address the dynamic nature of the information technology sector. The Committee will continue its mandated work program, including reviewing possibilities for product expansion ("ITA II"), classification issues, standards and other non-tariff measures that present barriers to trade in information technology products. In addition, the Committee will continue to monitor implementation of the Agreement, including undertaking any necessary clarifications.

5. Committee on Import Licensing

Status

The Agreement on Import Licensing Procedures establishes rules for WTO Members that use import licensing systems to regulate their trade. The Agreement covers both "automatic" licensing systems, which are intended only to monitor imports, not restrict them, and "non-automatic" licensing systems where certain conditions must be met before a license is issued. Governments often use non-automatic licensing to administer import restrictions, for quotas and tariff-rate quotas or to administer safety or other requirements (e.g., for hazardous goods, armaments, antiquities, etc.). Requirements for permission to import that act

like import licenses, such as certification of standards and sanitary and technical regulations, are also subject to the rules of the Agreement. A Committee was established to administer the Agreement and monitor compliance.

Assessment of the First Five Years of Operation

As tariff barriers have decreased, the rules governing non-tariff measures has grown in importance. The aim of the Agreement is to ensure that the procedures used by Members in operating their import licensing systems do not in themselves form barriers to trade. It sets guidelines for the administrative procedures importers must observe to obtain import licenses, and is designed principally to increase the transparency and predictability of such regimes while creating disciplines that protect the importer against unreasonable requirements or delays that block trade. The Uruguay Round codified changes to the Tokyo Round Agreement by setting firm deadlines for the publication of information on new or revised licensing requirements and places limits on the time for processing licensing applications. The Agreement also establishes a limit on the number of government agencies an importer must approach to obtain a license, and requires all information on the operation of the licensing system be available for importers and exporters. The results of the Uruguay Round expanded the application of rules on import licensing measures to the entirety of the WTO's Membership. This has been an important development in the evolution of trade regimes of trading partners because it has ensured a single set of procedures will be followed in the administration of licensing procedures. This expanded membership moves the benefits of the Agreement beyond the trade regimes of the mostly industrialized core of countries that negotiated the original Agreement to a more universal coverage. As a result, there is now broad acceptance of the requirement for transparency, certainty and predictability in the operation of licensing regimes, and of the need for the discipline of mutually agreed rules for the application of these widely used measures.

As tariffs have declined in relative importance as a means of trade regulation, and as licensing to monitor trade and to apply safety, quality, and other requirements to imports has increased, the Agreement's provisions have taken on added significance. The effect of licensing requirements also has increasingly impacted agricultural trade as most Members use licensing to implement tariff-rate quota provisions established during the Uruguay Round. It is expected that the Agreement will be invoked more frequently to minimize trade disruptions that could result from such requirements.

In the first five years of operation of the Agreement under the WTO, the Committee has received initial or follow-on information on import licensing requirements from about half the WTO Members, including the countries that account for the bulk of international trade. In addition, the provisions of this Agreement have been very important in review of the trade regimes of acceding countries. Many of the new Members are either transforming economies with broad mandatory licensing requirements or developing economies that have long relied on discretionary licensing to regulate trade flows. These countries' regimes have been closely scrutinized during the accession process. They are required to adopt the Agreement's provisions in law and immediately provide their initial notifications to the Committee for further review and discussion. Committee reviews of the notifications have allowed Members to identify specific procedures and measures that have the potential of blocking trade, and to focus multilateral attention on problems at an early stage. In addition, while the Agreement's provisions do not directly address the WTO consistency of the underlying measures that licensing systems regulate, they establish the base line of what constitutes a fair and non-discriminatory application of the procedures and in minimizing the procedures themselves as a

barrier to trade. This issue has been critical in at least one recent trade dispute involving injury to trading interests through the application of licensing procedures to administer tariff-rate quotas.

Major Issues in 1999

The main work of the WTO Committee on Import Licensing, which oversees the WTO Licensing Agreement, is to receive the official notifications on the licensing regimes of the Members, which includes responses to a questionnaire that lays out how the system works. Initial or new notifications or completed questionnaires were received from 23 WTO Members in 1999. The Committee also addressed specific issues raised by Members, such as Brazil's import licensing procedures and Malaysia's approval permit requirement on imports of heavy machinery and construction equipment. While not a substitute for dispute settlement procedures, consultations on specific issues allow Members to clarify problems and resolve possible potential problems before they become disputes.

Work for 2000

The Committee has issued an ambitious agenda to review of Members' regimes during 2000, and continues to be the point of first contact in the WTO for Members with complaints or questions on the licensing regimes of other Members. The Committee has also undertaken to increase the rate at which countries supply their initial and revised information for review. Additional attention will be given to the disciplines in this area as negotiations proceed in agriculture. Administration of tariff rate quotas, for example, is generally accomplished via licensing regimes. Where necessary, the United States will rely on the expertise of the Committee and consider notifications in devising appropriate options for the new disciplines in agriculture.

6. Committee on Market Access

Status

WTO Members established the Committee on Market Access in January 1995, consolidating the work of the Committee on Tariff Concessions and the Technical Group on Quantitative Restrictions and other Non-Tariff Measures from the GATT 1947. The Committee on Market Access supervises the implementation of concessions on tariffs and non-tariff measures (where not explicitly covered by another WTO body, e.g., the Textiles Monitoring Body) agreed in negotiations under WTO auspices. The Committee also is the working-level body responsible for future negotiations and verification of new concessions on market access in the goods area.

Assessment of the First Five Years of Operation

Since 1995, WTO Members have negotiated and implemented new tariff initiatives on pharmaceuticals (1997 and 1999), distilled spirits (1997) and information technology products (1997) under the Committees auspices[5]. In addition, in 1998 and 1999, the Committee has been the venue for introducing the Accelerated Tariff Liberalization initiatives on environmental goods and services, medical equipment and instruments, fish and fish products, toys, gems and jewelry, chemicals, energy sector goods and services, and forest products.

The Committee also has focused on developing the tools needed to monitor goods market access commitments and establish the technical foundation for any new market access

[5]A new WTO Committee on Trade in Information Technology Products was established to monitor implementation of the Information Technology Agreement.

negotiations, including the ongoing negotiations on agriculture. Specific achievements include:

- *Revitalizing the Integrated Data Base (IDB)* by restructuring the framework from a mainframe environment to a personal computer-based system and developing technical assistance projects to facilitate participation by developing countries. Once the new IDB framework had been developed, the Committee recommended that all WTO Members be mandated to supply tariff and trade information on an annual basis. After review by the Council on Trade in Goods, the General Council adopted the Decision in July 1997. As of September 1999, 65 Members and three acceding countries had provided IDB submissions; in contrast, only three Members (including the United States) supplied IDB information in 1994 under the old mainframe system.

- *Ensuring implementation of the 1996 updates to the harmonized system nomenclature (HS96) did not adversely affect existing tariff bindings of WTO Members.* This activity has required more time than initially anticipated due to the scope of changes required under HS96 and the lack of foresight in 1991 (when the HS96 implementation procedures were developed) as to the potential value of detailed, electronically-based data requirements and verification methods. Despite these difficulties, most WTO Members are now using HS96 nomenclature. The lessons learned from the HS96 experience should yield procedures for the HS2002 updates that maximize the new innovations in computer software.

- *Establishing procedures and technical assistance projects to ensure the development in 2000 of an up-to-date schedule in current tariff nomenclature of the tariff bindings* for each WTO Member that reflects Uruguay Round tariff concessions, HS96 updates to tariff nomenclature and bindings, and any other modifications to the WTO schedule. These consolidated schedules will be the vehicles for conducting future tariff negotiations in the WTO.

Major Issues in 1999

During 1999, WTO Members continued implementing the ambitious package of tariff cuts agreed in the Uruguay Round with the Committee having responsibility for verifying that implementation is proceeding on track. The Committee held four meetings in 1999 to discuss the ongoing review of WTO tariff schedules to accommodate updates to the Harmonized System (HS) tariff nomenclature; the WTO Integrated Data Base; and procedures for preparing a consolidated schedule of WTO tariff concessions in current HS nomenclature, including technical assistance that could be provided to developing country Members. The Committee also was the venue for reporting on tariff initiatives, such as the Accelerated Tariff Liberalization initiative.

Expansion of the Product Coverage for the Zero-Duty Initiative on Pharmaceuticals. The United States and most of the other 22 participants to the second expansion of pharmaceutical products initiative begun under the Uruguay Round zero duty initiative implemented the additional tariff concessions on July 1, 1999. The new initiative covered 642 finished pharmaceutical products and related chemical intermediates, including products for the treatment of breast cancer, AIDS, diabetes, asthma, and Parkinson's disease. As a result of WTO actions on pharmaceutical tariffs in the Uruguay Round and thereafter, nearly 7,000 pharmaceutical items in participating countries are duty-free.

The industries affected by this initiative employ over 400,000 American workers. The

elimination of tariffs on these products will further expand U.S. producers' overseas market access opportunities in Europe and Asia, and will help to reduce costs and improve productivity in this leading high technology sector. Moreover, U.S. and other consumers will benefit from lower costs and, potentially, a wider choice of product.

Accelerated Tariff Liberalization initiative (ATL) and other market access proposals. In March, New Zealand in its role as APEC Chair provided additional information to the Committee on the sectoral liberalization initiatives that Malaysia, on behalf of APEC members, had introduced into the Committee following the November 1998 APEC Leaders' meeting. APEC Leaders agreed to seek multilateral participation in sectoral liberalization initiatives on environmental equipment, medical equipment and instruments, fish and fish products, toys, gems and jewelry, chemicals, energy sector goods and services, and forest products. The eight ATL sectors are of major importance to U.S. exporters, accounting for 29 percent of total U.S. merchandise exports in 1998. Approximately 2.2 million jobs were supported by the $198 billion in exports in the eight product sectors, counting both direct employment in the ATL sectors and employment in other sectors of the economy that indirectly depend on exports of ATL products.

Throughout the year, New Zealand and other APEC coordinators for the various proposals, including the United States, held numerous informal discussions on the ATL sectors in Geneva and in capitals with over 40 WTO Members. The proposals for new negotiations on the broad area of non-agricultural tariff and non-tariff measures also were discussed as part of the preparatory process for the 1999 Ministerial under the auspices of the General Council.

Updates to the Harmonized System nomenclature. In 1993, the Customs Cooperation Council (now known as the World Customs Organization, or WCO) agreed to approximately 400 sets of amendments to the HS, which were to enter into effect on January 1, 1996. These amendments result in changes to the WTO schedules of tariff bindings. In keeping with their WCO obligations, most WTO Members have implemented the HS96 changes in their national customs nomenclature. The Committee previously had developed procedures for identifying possible effects on the scope of WTO tariff bindings due to the HS96 updates. Members have the right to object to any proposed nomenclature affecting bound tariff items on grounds that the new nomenclature (as well as any increase in tariff levels for an item above existing bindings) represents a modification of the tariff concession. Unresolved objections can trigger a GATT 1994 Article XXVIII process.

Most WTO Members were unable to carry out the procedural requirements related to the introduction of HS96 changes in WTO schedules prior to implementation of those changes. Waivers have been granted until the procedures can be finalized. These waivers, which currently affect 32 Members, were extended by successive decisions of the General Council until April 30, 2000, at which time issues related to the adoption of HS96 are expected to be completed for all WTO Members. The Committee also examined issues related to the transposition and renegotiation of the schedules of certain Members which had adopted the HS in the years following its introduction on January 1, 1988. Technical assistance is being provided to some Members to assist in the transposition of their pre-Uruguay Round schedules into the HS and in the preparation of documents required for the HS96 updates.

Integrated Data Base (IDB). The Committee addressed issues concerning the IDB, which is to be updated annually with information on the tariffs, trade data and non-tariff measures maintained by WTO Members. The U.S.

objectives are to achieve full participation in the IDB by all WTO Members and, ultimately, to develop a method to make the trade and tariff information publicly available. In recent years, the United States has taken an active role in pushing for a more relevant database structure with the aim of improving the trade and tariff data supplied by WTO Members.

In 1997, the Committee agreed to a complete restructuring of the IDB from a mainframe environment to a personal computer-based system (PC IDB). The Committee also recommended that all WTO Members be mandated to supply tariff and trade information on an annual basis. After review by the Council on Trade in Goods, the General Council adopted the Decision in July 1997, with initial implementation to occur beginning in December 1997. As of September 1999, 65 Members and 3 acceding countries had provided IDB submissions. To facilitate the development and updating of the data, the Committee adopted guidelines on the operation and modalities for the IDB, in particular the submission and dissemination of the data. The Committee also continued its discussion of the technical assistance that might be provided to facilitate submission of the data.

Consolidated schedule of tariff concessions. The establishment of a PC-compatible structure for tariff and trade data also will facilitate the Committee's ongoing work to establish electronically each Member's consolidated "loose-leaf" schedule of tariff concessions. This highly technical task is essential in order to generate an up-to-date schedule in current tariff nomenclature of the tariff bindings for each WTO Member that reflects Uruguay Round tariff concessions, HS96 updates to tariff nomenclature and bindings, and any other modifications to the WTO schedule (e.g., participation in the Information Technology Agreement). The Committee also reviewed a technical assistance project undertaken by the Secretariat designed to facilitate the preparation of loose-leaf schedules by developing countries. The objective of the project is to develop draft consolidated loose-leaf schedules for all developing countries by spring of 2000. Developed countries will prepare their own schedules, within the same time frame. The consolidated schedule will be the vehicle for conducting future tariff negotiations in the WTO, such as the mandated negotiations on agriculture that are underway and any new negotiations on non-agricultural tariffs.

Work for 2000

The ongoing work program of the Committee, while highly technical, is the first step needed for any new negotiations on goods market access. The work program will provide the tariff schedules and data needed for new negotiations on agriculture or non-agricultural market access. The Committee will continue work on the consolidated tariff schedules so electronic schedules of tariff bindings for each Member will be forthcoming in current tariff nomenclature, including assistance to developing countries in preparing their schedules through the WTO's technical cooperation programs. Committee efforts to secure updated data on applied tariffs and trade also will continue. The United States also seeks analyses by the Secretariat on the structure of WTO bindings and applied tariff rates of WTO Members to assist in monitoring compliance with existing WTO commitments, assessing the current situation with regard to market access in goods and preparing for new negotiations on tariffs, such as negotiations underway in agriculture and possible new negotiations on non-agricultural market access. In addition to finalizing the HS96 updates, the Committee also needs to develop procedures to facilitate the adoption of updates to the harmonized tariff nomenclature in 2002, as agreed in the World Customs Organization. The United States will seek to ensure that the new HS2002 procedures will be electronically-based, transparent and easy to implement, in order to minimize disruptions to any ongoing negotiations on tariffs (e.g., in agriculture).

7. Committee on Rules of Origin

Status

The objective of the WTO Agreement on Rules of Origin is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. In addition to setting forth disciplines related to the administration of rules of origin, the Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade regimes.

The Agreement establishes a WTO Committee on Rules of Origin to oversee the work program on harmonization. The Committee also served as a forum to exchange views on notifications by Members concerning their national rules of origin, along with those relevant judicial decisions and administrative rulings of general application. The Agreement also established a Technical Committee on Rules of Origin in the World Customs Organization to assist in the harmonization work program.

Assessment of the First Five Years of Operation

Virtually all issues and problems cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices such as non-transparency, discrimination, and a lack of certainty. The Agreement on Rules of Origin provides important disciplines for conducting preferential and non-preferential origin regimes-- such as the obligation to provide binding origin rulings upon request to traders within 150 days of request. For the past five years the Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the Committee has been active in its review of the Agreement's implementation.

The ongoing work program leading to the multilateral harmonization of nonpreferential product-specific rules of origin has attracted a great deal of attention and resources. Significant progress has been made toward completion of this effort, despite the sheer volume and magnitude of complex issues which must be addressed for literally hundreds of unique specific products.

Major Issues in 1999

The WTO Committee on Rules of Origin met formally six times in 1999, and also conducted numerous informal consultations and working party sessions related to the harmonization work program negotiations. As of the end of 1999, 72 WTO Members had made notifications concerning non-preferential rules of origin, and 75 had made notifications concerning preferential rules of origin.

Much of the focus of the WTO Committee on Rules of Origin continued to be on conducting the harmonization work program. Work proceeded throughout 1999 in accordance with a July 1998 Committee decision, endorsed by the General Council, to continue the harmonization effort. The Committee has been assisted in this work by the Technical Committee on Rules of Origin that was established at the World Customs Organization. The Technical Committee has been responsible for developing technical interpretations and opinions on harmonization proposals for consideration by the WTO Committee on Rules of Origin. In June 1999, the Technical Committee finished this phase of its work, forwarding to the WTO Committee several hundred product-specific issues that could not be resolved on a technical basis. In 1999, the WTO Committee on Rules of Origin also began addressing several complex issues of broad application to the harmonization work program, including undertaking important work toward a common understanding as to the implications of applying harmonized rules consistent with the rights and obligations under other WTO agreements.

Work for 2000

U.S. proposals for the WTO origin harmonization negotiations are developed under the auspices of a Section 332 study being conducted by the U.S. International Trade Commission pursuant to a request by the U.S. Trade Representative. The proposals are formulated utilizing the input received from the private sector, with ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the WTO Committee on Rules of Origin.

The harmonization program will continue to be conducted by the Committee through a sector-by-sector approach, in accordance with the Agreement, as defined in various HS chapter groupings in the Harmonized Tariff Schedule. The work will continue on the development of product-specific rules by focusing primarily on methodologies involving change in tariff classification, although, where appropriate, the work program has also been giving consideration to other possible requirements, beyond a change of tariff classification methodology. The Committee will maintain momentum toward completing the work program while also ensuring results that are sound from both a technical and policy standpoint. Progress in the harmonization work program will be contingent on obtaining appropriate resolution of several complex issues concerning the overall structure and operation of the harmonized rules, as well as their future application consistent with the rights and obligations under other WTO agreements.

Increased attention will continue to be given to the implementation of the Agreement's important disciplines related to transparency, which are recognized elements of what are considered to be "best customs practices."

8. Committee on Safeguards

Status

The Committee on Safeguards was established to administer the WTO Agreement on Safeguards. The Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994.

The Agreement on Safeguards incorporates into WTO rules many concepts embodied in U.S. safeguards law (i.e., section 201 of the Trade Act of 1974, as amended). The Agreement requires all WTO Members to use transparent and objective procedures when taking emergency actions to prevent or remedy serious injury to domestic industry caused by increased imports.

Among its key provisions, the Agreement:

- requires a transparent, public process for making injury determinations;
- sets out clearer definitions of the criteria for injury determinations;
- requires safeguard measures to be steadily liberalized over their duration;
- establishes an eight year maximum duration for safeguard actions, and requires a review and determination no later than the mid-term of the measure;
- allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and,
- prohibits so-called "grey area" measures, such as voluntary restraint agreements and orderly marketing agreements, which had been utilized by countries to avoid GATT disciplines and which adversely affect third-country markets. Measures of this type in existence when the Agreement entered into force were required to be phased out over four years.

Assessment of the First Five Years of Operation

Effective safeguards rules are important to the viability and integrity of the multilateral trading system. Armed with the assurance that they can act quickly to help industries adjust to temporary import surges, the availability of a safeguards mechanism provides WTO Members a flexibility they otherwise would not have to open their markets to international competition. At the same time, WTO safeguards rules ensure that such actions are of limited duration and are gradually less restrictive over time. With the Uruguay Round Safeguards Agreement, the United States succeeded in raising multilateral procedural and substantive requirements for safeguard actions up to a level commensurate with U.S. standards, as embodied in section 201 of the Trade Act of 1974. Other important accomplishments of the Uruguay Round negotiations include clarifying that it is permissible to impose a safeguards measure in response to a *relative* increase in imports; permitting the imposition of a measure for an initial three years, in response to an *absolute* increase in imports, without having to worry about payment of compensation or facing retaliation; and the elimination of voluntary export restraint agreements and orderly marketing arrangements which had previously undermined the integrity of safeguards rules and disciplines.

Over the past five years, WTO Members have made increasing use of the safeguards provisions. Thirty-four safeguards investigations have been instituted since the Agreement came into effect, of which seven were initiated by the United States. The United States has actively used the provisions for bilateral consultation and Committee review to raise concerns about certain safeguard measures imposed and procedures followed by U.S. trading partners. By the same token, in certain cases where increasing imports into the United States have substantially caused or threatened serious injury to a U.S. industry, the injured U.S. industry has benefitted significantly from the provision of WTO-sanctioned relief that affords the time and opportunity needed to adjust to the emergency situation. Often, the causes and circumstances of an import surge are such that safeguard measures are the only or best-suited remedy available to address the situation. Thus, to date, the Agreement has generally operated so as to provide the combination of structure, balance and flexibility that a full defense of U.S. commercial interests requires. In the future, the United States intends to continue to make vigorous use of the Safeguards Committee both to defend U.S. actions and to ensure that the actions of U.S. trading partners conform to the applicable multilateral requirements.

Major Issues in 1999

During its two meetings in 1999, the Committee continued its review of Members' laws, regulations and administrative procedures, based on notifications required by Article 12.6 of the Agreement. As of early October 1999, 84 Members had notified the Committee of their domestic safeguards legislation. Thirty-five Members had not yet made Article 12.6 notifications. As in prior years, the Committee discussed the extent of non-compliance with the notification obligation and the implications of the situation during both meetings in 1999. Attention is also being paid to safeguard actions that are being initiated by Members who have not complied with their Article 12.6 obligation to notify their safeguards legislation.

The Committee was updated on the status of progress in phasing out previously notified pre-existing Article XIX measures, and measures subject to prohibition and elimination under Article 11.1 of the Agreement. As of late October 1999, the only such measures still in force were the use of minimum import prices for dried grapes and preserved cherries, and a voluntary export restraint on Japanese automobiles, by the European Communities, which were scheduled to be eliminated as of

December 31, 1999. Nigeria had notified, in 1998, that its import prohibitions on wheat flour, sorghum, millet, gypsum and kaolin were "pre-existing Article XIX measures," and asked the Committee for a waiver of its notification obligations under Article 12.7 of the Safeguards Agreement. The Committee did not act on that request in 1998 or 1999, and Nigeria had not provided any information, as of late October 1999, on the elimination date for these import prohibitions.

The Committee reviewed Article 12.1(a) notifications of the initiation of and reasons for an investigatory process relating to serious injury or threat thereof from: Colombia (taxis), the Czech Republic (sugar), Ecuador (sandals), India (phenol and acetone), Latvia (swine meat), the Slovak Republic (swine meat), and the United States (lamb meat, steel wire rod and line pipe). Some additional Article 12.1(a) notifications, to be reviewed in 2000, were received from: Chile (tires), Egypt (fluorescent lamps) and India (white/yellow phosphorous).

The Committee received Article 12.1(b) notifications of a finding of serious injury or threat thereof caused by increased imports from: Australia (frozen boneless pork), the Czech Republic (sugar), Egypt (safety matches), India (high density board, propylene glycol, slabstock foam and phenol), and the United States (lamb meat and steel wire rod). All but the Czech Republic (sugar) notifications were reviewed during the year.

The Committee received Article 12.1(c) notifications of a decision to apply (or, in the case of the U.S. measure on wheat gluten, modify) a safeguard measure from: the Czech Republic (sugar), Egypt (safety matches), India (acetylene black, carbon black, propylene glycol, and slabstock foam) and the United States (lamb meat and wheat gluten). All but the Czech Republic (sugar) notifications were reviewed during the year. The Committee received two notifications, from India (hard board) and Australia (swine meat), of the termination of a safeguard investigation with no safeguard measure imposed.

The Committee reviewed Article 12.4 notifications of the application of a provisional safeguard measure from: the Czech Republic (sugar), Latvia (swine meat), the Slovak Republic (swine meat) and Slovenia (swine meat).

Among other business taken up by the Safeguards Committee in 1999 were two items raised for discussion by Japan concerning possible amendments to U.S. safeguards legislation and the relationship of undertakings instituted pursuant to the Agreement on Subsidies and Countervailing Measures (e.g., U.S. suspension agreements in countervailing duty proceedings) and the provisions of Article 11 of the Safeguards Agreement concerning prohibited measures.

Work for 2000

The Committee has substantially completed its reviews of the laws and regulations of the 84 Members who have notified their safeguards regimes. With the December 31, 1999, expiration of pre-existing Article XIX and Grey Area Measures, the Committee's work in 2000 will focus on the reviews of safeguard actions that have been notified to the Committee and on the notification of new or amended safeguards laws.

9. Committee on Sanitary and Phytosanitary Measures

Status

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes rules and procedures to ensure measures are based in science and developed through systematic risk assessment procedures. At the same time, the SPS Agreement preserves every WTO Member's right to choose the level of protection it considers to be appropriate.

Sanitary and phytosanitary measures protect against risks associated with plant- or animal-borne pests or diseases, or with additives, contaminants, toxins or disease-causing organisms in foods, beverages, or feedstuffs.

The Committee on SPS Measures[6] serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This consultation includes discussion of specific SPS measures that are perceived to violate the Agreement and the exchange of information on implementation of the obligations in the Agreement. The Committee's work also encompasses an ongoing review of the Agreement's operational provisions related to transparency in the development and application of SPS measures.

Assessment of the First Five Years of Operation

The SPS Agreement was an important evolution in international rules and disciplines for agricultural products. The SPS Agreement serves as a compliment to the WTO Agreement on Agriculture by seeking to ensure that as tariffs, export subsidies and other more traditional measures affecting international trade in agricultural products are liberalized, governments do not replace the traditional tools of agricultural protection with capricious sanitary and phytosanitary barriers.

The SPS Agreement, for the first time, established multilaterally recognized rules and disciplines for the development and application of measures taken to protect human, animal or plant life or heath. The Agreement accomplishes this by requiring that SPS measures be transparent, based in science and developed through systematic risk assessment procedures.

At the same time, the Agreement preserves each WTO Member's right to choose the level of protection it considers to be appropriate with respect to food safety, animal and plant health, and other SPS risks, even if a Member's chosen level of protection is higher than the level of protection that would be provided by a comparable international standard. Since the Agreement was adopted, for example, the Administration has launched a number of important initiatives to ensure, in a manner that is fully consistent with the Agreement, that domestic and international food products sold to U.S. consumers continue to meet the highest standards in the world.

The Agreement's notification procedures are an important tool, allowing the Administration to identify and seek to resolve potential problems with new SPS measures before they are implemented. Members are required to provide information on proposed SPS actions for comment before they are finalized. Concerns regarding proposed or ongoing SPS actions may be addressed through bilateral consultations and/or raised for more general discussion and scrutiny in the SPS Committee. The most important benefits have been the result of steps that governments have taken, both independently and on the basis of consultations, to implement the Agreement and address particular concerns before potential international differences rise to the level of

[6]Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate as observers, in accordance with guidance agreed to by the General Council. Representatives of a number of international organizations are invited to attend meetings of the Committee as observers: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the FAO International Plant Protection Convention Secretariat (IPPC); the International Office of Epizootics (OIE); the International Organization for Standardization (ISO) and the International Trade Center (ITC).

formal WTO consultations and dispute settlement procedures.

In the cases brought to the WTO Dispute Settlement Body by the United States and other Members, the DSB's decisions have consistently upheld the Agreement's emphasis on science and risk assessment, further reinforcing the need for all WTO Members to ensure that their SPS measures are based on those principles and procedures. At the same time, these decisions have affirmed the right of WTO Members to determine what levels of protection are appropriate, even when they differ from the levels that would be afforded by international standards.

The Administration has pushed aggressively, in the SPS Committee, the WTO Dispute Settlement Body, and a wide range of bilateral and multilateral fora, for full implementation of the Agreement by all current Members and by countries that are in the process of acceding to the WTO. The combination of the SPS Agreement's framework of rules – with its strong emphasis on transparency, science and systematic risk assessment – and the efforts by the United States and other Members to ensure effective implementation of those rules has helped the Administration open up and preserve major export markets for U.S. agricultural products throughout the world.

Throughout the past five years, the WTO Secretariat has organized numerous seminars on the operation of the SPS Agreement in many regions of the world in order to assist WTO Members in complying with the provisions of the Agreement. The Administration also provides technical assistance to individual WTO Members and countries acceding to the WTO on the SPS Agreement. U.S. government agencies such as the Food Safety Inspection Service (FSIS) also provide information and training at permanent centers such as the FSIS facility in College Station, Texas.

Major Issues in 1999

The Committee held three meetings in 1999 to continue monitoring the implementation of the SPS Agreement.

Review of Implementation of the Agreement: Article 12.7 of the SPS Agreement provides that "[t]he Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia*, to the experience gained in its implementation." The report of the first triennial review contains a section-by-section analysis of the SPS Agreement, reflecting discussion that took place in the Committee during the review. The report identifies several areas for improvement in implementing the Agreement, as well as follow-up activities by the Committee. At no time during the triennial review did any Member suggest the reopening of the text of any Article or negotiation of any new text. The SPS Committee adopted by consensus the final report of the triennial review of implementation of the SPS Agreement on March 11, 1999.

Transparency: A key opportunity resulting from the SPS Agreement is the ability to obtain information on WTO Members' proposed SPS regulations, controls, and inspection and approval procedures, and to provide comments on those proposals before they are finalized. These opportunities have proved to be extremely useful in preventing problems associated with SPS measures before trade is affected. The United States continued to encourage all WTO Members to establish an official notification authority, as required by the Agreement, and to ensure that the Agreement's notification requirements are fully and effectively implemented.

The SPS Agreement requires each Member to establish a central contact point, known as an inquiry point. This inquiry point serves two primary functions. First, it provides notice to the SPS staff of the WTO Secretariat of a Member's proposed SPS measures and serves as a contact point for questions from other WTO Members. Second, the inquiry point receives notifications from the Secretariat of other Members' proposed SPS measures and circulates them to interested parties for comment.

Prior to the November meeting, the WTO Secretariat conducted a workshop on SPS inquiry points to provide technical assistance and information exchange on the operation of inquiry points. Approximately one-fourth of WTO Members have not yet designated an inquiry point and notified the Committee.

U.S. INQUIRY POINT

Office of Food Safety and Technical Services
Attention: Carolyn F. Wilson
Foreign Agricultural Service
U.S. Department of Agriculture
AG Box 1027
Room 5545 South Agriculture Building
14th and Independence Avenue, S.W.
Washington, DC 20250-1027

Telephone: (202) 720-2239
Fax: (202) 690-0677
email: ofsts@fas.usda.gov

Guidelines for the Practical Implementation of Article 5.5: The Committee also was charged with developing guidelines to further the practical implementation of each Member's obligation to avoid arbitrary or unjustifiable distinctions in the levels of SPS protection that the Member considers to be appropriate in different situations (Article 5.5). The Committee has held extensive consultations and Members have generally been satisfied with the considerable progress that has been made on draft guidelines.

In 1999, the Committee continued to discuss practical issues associated with implementation of Article 5.5 regarding consistency in the application of appropriate levels of protection. The Committee informally reviewed suggestions by Members and various drafts of the Secretariat. While progress has been made, discussions continue on three important issues: the role of international standards in the implementation of measures versus in decisions related to the appropriate level of protection; the differentiation between disciplines related to decisions on the appropriate level of protection and the disciplines related to its application through measures; and the differentiation between approaches for food safety and human health, and approaches for animal and plant life and health. Discussions will continue on these issues.

Monitoring Procedures for the Use of International Standards. The Committee also was given responsibility for developing procedures to monitor international harmonization and the use of international standards, guidelines or recommendations (Articles 3.5 and 12.4). Accordingly, there was an exchange of information on national regulatory procedures and the use of risk assessment in the development of SPS measures. The Committee also established a provisional procedure, which was extended in 1999 for two years, to monitor the use of international standards. The procedure additionally seeks to identify international standards that may have a major impact on trade and that may warrant review because they are out of date, or otherwise technically inappropriate, or because they have not, for other reasons, been adopted by WTO Members. The Secretariat's report (document G/SPS/W/94/Rev.2 at www.wto.org) details specific international standards considered under this review.

Specific Trade Concerns. The Committee reviewed a number of specific trade concerns,

including several related to individual notifications. These included measures related to dioxin; measures related to maximum levels of afaltoxins in food; measures related to antibiotics in feed; and measures affecting raw milk cheeses, other dairy products, beef, poultry products, bovine semen, horses, gelatine, potatoes and milled rice. A number of these matters were resolved following discussions in the Committee or bilaterally.

Work for 2000

In 2000, the Committee is expected to continue discussions on the guidelines called for in Article 5.5 of the Agreement. The Committee also will continue to monitor implementation of the SPS Agreement by WTO Members. The increase in disputes in this area is evidence of the importance which Members place on the effective operation of the Agreement.

10. Committee on Subsidies and Countervailing Measures[7]

Status

The Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action – to address subsidized trade that causes harmful commercial effects.[8] The Agreement divides subsidy practices among three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted, non-actionable (green light) subsidies. Export subsidies and import substitution subsidies are prohibited. Green light subsidies consist of certain circumscribed government assistance granted for industrial research and development (R&D), regional development, or environmental compliance purposes. All other subsidies are permitted, yet are actionable (through CVD or dispute settlement action) if they are (i) limited to a firm, industry or group thereof within the territory of a WTO Member (i.e., "specific" subsidies) and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another WTO Member. However, certain subsidies, referred to as dark amber subsidies, are presumed to cause serious prejudice: subsidies to cover an industry's operating losses; repeated subsidies to cover a firm's operating losses; the direct forgiveness of debt (including grants for debt repayment); and when the *ad valorem* subsidization of a product exceeds five percent. In such cases, if challenged in a WTO dispute settlement proceeding, the subsidizing government has the

[7]For further information, see also the Joint Report of the United States Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to the Congress*, February 2000.

[8]Another WTO body which carried out work of relevance to subsidies disciplines in 1999 is the Committee on Trade and Environment (CTE). The United States played a leading role in the CTE, and elsewhere, in identifying areas where reduction or elimination of subsidies can yield both trade and environmental benefits. A clear example is in the fisheries sector, where subsidies have played a major role in exacerbating the problems of overcapacity and over-fishing. The United States has worked closely with like-minded countries to build a consensus for the development of stronger WTO disciplines to address this problem. The United States will continue to pursue this initiative, as well as to explore other opportunities where strengthened subsidies disciplines can yield trade and environmental benefits.

burden of showing that serious prejudice has not resulted from the subsidy.[9]

In 1999, a review was conducted under Article 31 of the Agreement with respect to whether to extend beyond 1999 the application of Article 6.1 (the dark amber subsidies) and Articles 8 and 9 (the green light subsidies). Because a consensus could not be reached on whether or how these provisions might be extended beyond their five-year period of provisional application, they expired at the turn of the year.

Assessment of the First Five Years of Operation

Rules and disciplines covering industrial subsidies have evolved over time in the multilateral trading system to ensure that the artificial competitive advantages which they can confer do not disrupt the market signals which guarantee the most efficient allocation of resources, both within and among countries – forces at the heart of the generation of wealth for producers, consumers and workers. The WTO disciplines subsidies in order to prevent the erosion of comparative advantage and the undermining of market access expectations conferred through reciprocal concessions to reduce tariffs and other barriers at the border. In short, subsidy rules help to make the field of competition more even, so private actors need not worry about having to compete with government treasuries. At the same time, however, WTO subsidy rules recognize that all governments do – indeed, must – intervene in their economies in some fashion to pursue legitimate objectives for the society at large. The WTO rules, accordingly, are intended to prohibit or discourage the most distortive kinds of subsidies, and to encourage governments to use less distortive subsidies in order to achieve the broader social or economic objectives of interest to them.

This historical balance has served U.S. interests well. The orientation of multilateral subsidy rules has tended to reflect the balances struck within the United States on these same issues: a low toleration for the more distortive types of government intervention, yet with a flexibility which permits a variety of approaches to address the different social, economic, technological, developmental and environmental needs of a Member. It is also a balance that has served the multilateral system well, e.g., during the financial crisis, it provided a model which discouraged the kind of targeted industrial policies and non-commercial government support that exacerbated the crisis, but saved room for the broadly available industry and worker assistance that could be important in overcoming the crisis. Finally, it is a framework which holds promise for creating greater complementarities between the goals of trade policy and environmental policy, as the United States identifies sectors in which the reduction or elimination of subsidy practices can alleviate both adverse trade and environmental effects.

The Uruguay Round Subsidies Agreement brought important new disciplines to address the more egregious subsidy practices, and for the first time extended the coverage of disciplines from the 25 to 30 signatories of the Tokyo Round Subsidies Code to all 135 Members of the WTO. Its remedies and methodological concepts reflect, in most instances, the very concepts and standards which the United States developed over the course of decades in administering its own anti-subsidy trade statutes. With some exceptions, the outcome of subsidy-based disputes brought since entry into force of the WTO has tended to reinforce the strict standards which the United States believed at the conclusion of the Uruguay Round were embodied in the Agreement. Even with the expiration last year of certain important

[9]As explained below, the green light and dark amber provisions mentioned here are no longer in effect.

elements of the Agreement, it continues to offer a strong yet balanced solution to the impact of subsidies on international trade.

Major Issues in 1999

The Committee held two regular and two special meetings in 1999. In addition to its routine activities concerned with clarifying the consistency of WTO Members' domestic laws, regulations and actions with Agreement requirements, the Committee gave special attention to reviewing general subsidy notifications and to the process by which such notifications are made to and considered by the Subsidies Committee. Particular attention was devoted to the review of 1998's new and full subsidy notifications, including that of the United States,[10] which is the second series of such notifications made since entry into force of the WTO. Pursuant to its own "built-in agenda," as set forth in Article 31, the Committee also conducted its review of the operation of the green light and dark amber rules. Further information on these various activities is provided below.

Review and Discussion of Notifications: Throughout the year, Members submitted notifications of (i) new or amended CVD legislation and regulations; (ii) CVD investigations initiated and decisions taken; and (iii) measures which meet the definition of a subsidy and which are specific to certain recipients within the territory of the notifying Member. Notifications of CVD legislation and actions, as well as updating subsidy notifications, were reviewed and discussed by the Committee at both of its regular meetings. New and full subsidy notifications for the 1998 reporting period were, in turn, considered at the two special meetings. In reviewing notified CVD legislation and subsidies, the Committee procedures provide for the exchange of written questions and answers to clarify the operation of the notified measures and their relationship to the obligations of the Agreement. For the first time, the Committee agreed to special procedures for conducting its review of full subsidy notifications in order to allow adequate time for a written exchange of questions and answers prior to the meeting, thereby permitting a more probing and free-flowing discussion of issues at the meeting itself.

Among the notifications of CVD laws and regulations reviewed in 1999 were those of Argentina, Australia, Dominica, Egypt, the European Union (EU), Fiji, Ghana, Indonesia, Jamaica, Latvia, Maldives, Trinidad and Tobago and the United States (including the most recent substantive CVD regulations of the Department of Commerce). As for CVD measures, reports were submitted by 68 Members last year, and the Committee reviewed actions taken by Argentina, Barbados, Canada, the EU, Egypt, Mexico, Peru, South Africa, Sri Lanka, the United States, and Venezuela. With respect to subsidy notifications, the Committee examined the notifications of 36 Members (counting the 15 member states of the EU as one). Most were new and full notifications submitted for 1998, the beginning of the second triennial notification cycle under the Agreement, but update notifications for 1997 and 1999 were also reviewed. The table contained in Annex II shows the WTO Members whose subsidy notifications were reviewed by the Committee in 1999.

The United States has long pressed not only for better compliance with subsidy notification obligations, but also for improvements aimed at streamlining the notification process. In 1999,

[10]As noted in last year's report, the 1998 notification of the United States included for the first time information on over 200 measures at the sub-federal level. This innovation was welcomed by many other Members, and has permitted the United States to probe for or provide information about similar measures maintained at the sub-central government level in other WTO Members' territories.

the Subsidies Committee considered an EU proposal drawn from earlier suggestions of the United States and other Members that new and full notifications be made biennially rather than triennially, and that updating notifications be eliminated. Such a change, the United States has argued, would not only lessen administrative burdens, but would rationalize the review process by permitting a Member to shift resources from preparing its notification in one year to reviewing notifications in the next. This would, in fact, heighten transparency through better organization and fewer delays. Whereas many delegations expressed interest in or support for this proposal, a number of developing countries requested additional time to study the idea. The Committee will continue to consider this and other proposals for streamlining the notification process in 2000.

Sunsetting of Green Light & Dark Amber Rules: When the Subsidies Agreement was negotiated, the green light and dark amber rules were considered to be the most novel, and therefore unpredictable, aspects of the Agreement. As a result, the Agreement provided that these rules should apply only for the first five years. Under Article 31 of the Agreement, the Subsidies Committee was charged with reviewing their operation with a view toward extending them for a further period, with or without modifications, but the Agreement made clear that the provisions would expire at the end of 1999 unless an explicit decision was made to keep them in force.

Pursuant to the URAA, the Administration conducted extensive consultations on this issue with a broad spectrum of interested U.S. parties throughout 1998 and 1999. On the basis of those consultations, the United States took the position that it could join a consensus to extend the application of Articles 6.1, 8 and 9, as written, for another reasonable period of time (e.g., up to another five years). This was consistent with the vast majority of the advice that the United States had received from its statutorily-mandated advisory committees, other private sector and state/local government representatives and interested members of the Congress. It reflected the mixed views which the United States has always held about the value and danger of these provisions, and the relative lack of experience with their use since establishment of the WTO.

Although many WTO Members supported an extension, a number of developing country Members asserted that the provisions worked exclusively to the advantage of developed countries, and opposed an extension unless certain modifications were made to these provisions, other parts of the Subsidies Agreement and even other WTO agreements. The United States argued that the Article 31 issue had to be judged on its own merits, and the United States could not accept changes which would substantively dilute subsidy or other WTO disciplines as a price for extension. Other Members expressed similar views, while a handful of developing countries voiced doubts that there could be any basis acceptable to them for extending the application of Articles 6.1, 8 and 9. Accordingly, the Committee was unable to take a decision on this matter by the end of 1999, and the provisions automatically lapsed as of January 1, 2000.

Pursuant to the requirements of the URAA, USTR plans to submit by no later than June 30, 2000, a separate report to the Congress identifying the provisions of U.S. law that are affected by these developments. As set forth in section 251 of the URAA, the green light provisions of U.S. CVD law will no longer have effect as of July 1, 2000, unless new legislation is enacted before that date which alters that status.

Work for 2000

Implementation will continue to be the hallmark of Subsidies Committee work this year. First, as noted above, the United States will continue

to work towards agreement on ways to streamline the burdens of subsidy notification for all WTO Members without taking away from the substantive benefits of that obligation. Second, certain developing country Members raised concerns in both the Committee and the Third Ministerial preparatory process last year about the problems of Subsidies Agreement implementation. The United States agrees that the Committee should assume a more active role in addressing the variety of pending, and impending, implementation issues. Among these, from a U.S. perspective, are certain leading examples:

- *IMPLEMENTATION OF ARTICLE 27.3:* On January 1, 2000, the phase-out period ended for all developing countries except the least-developed with respect to "subsidies contingent . . . upon the use of domestic over imported goods," measures which are prohibited under Article 3.1(b) of the Agreement. Without prejudice to any Member's dispute settlement rights, the United States believes that the Committee should monitor Members' implementation efforts in order to ensure compliance with this obligation.

- *IMPLEMENTATION OF ARTICLE 27.2/27.4:* In the course of the past year, many developing countries have raised concerns about their ability to meet the transitional obligations in various WTO Agreements by the prescribed deadlines. Under the Subsidies Agreement, the transition period for most developing countries to phase out their export subsidies expires on January 1, 2003. Although the United States and other Members have asked certain developing countries to report on the status of their phase-out plans during the review of general subsidy notifications under Article 26, little information has typically been supplied in response. Notwithstanding that the deadline is roughly three years away, and individual requests for extension need not be made until January 1, 2002, the Agreement does prescribe that these subsidies are to be phased out "in a progressive manner" and within a shorter period where "the use of such . . . subsidies is inconsistent with [a country's] development needs." Given this, there are reasonable grounds for the Committee to consider this year creating a special reporting and monitoring process to facilitate these phase-outs.

- *ARTICLE 27.6 REVIEW:* The Subsidies Agreement provides that a developing country which has reached 3.25 percent of world trade in a given product over two consecutive years must accelerate the phase-out of its export subsidies on that product. The product scope is defined as a section heading of the Harmonized System nomenclature, and application of this provision can be triggered either by a notification made by the developing country or a computation done by the WTO Secretariat at the request of another Member. Pursuant to Article 27.6 of the Agreement, the Subsidies Committee began reviewing the operation of this provision at the end of last year. Although the provisions have yet to be invoked, the United States believes that a number of issues relating to the scope, structure and likely operation of these provisions are topics worthy of more rigorous consideration.

- *OPERATION OF ANNEX VII:* Annex VII to the Agreement identifies two specific groups of developing countries which receive treatment more generous than that given to other developing countries with respect to both export

subsidy obligations and the application of CVD rules.[11] Over the past year, a number of developing countries have raised concerns about the scope and operation of Annex VII. While there is no justification for arbitrarily expanding the scope of this Annex, in terms of either countries covered or the exceptions provided from normal Agreement rules and disciplines, some legitimate questions have been raised about the manner in which Annex VII (as it is currently written) may have operated or been interpreted. The United States agrees that the Committee could profitably review the status and operation of this Annex, with the possibility of drawing up recommendations for improvements and clarifications should any be identified.

[11]If a developing country WTO Member is identified in Annex VII, Article 27 of the Agreement provides it with more generous treatment than is provided for other developing countries, *i.e.*, they are not immediately subject to export subsidy phase-out requirements and, for a limited remaining period, their exports benefit from higher *de minimis* subsidy rates in countervailing duty investigations. Annex VII identifies two groups of the poorest developing countries: (i) the least developed countries as designated by the United Nations and (ii) certain other specifically named countries whose annual GNP per capita was below $1000 at the conclusion of the Uruguay Round negotiations. The specifically named countries are: Bolivia, Cameroon, Congo, Côte d'Ivoire, the Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, the Philippines, Senegal, Sri Lanka and Zimbabwe. Annex VII indicates that this latter group of countries shall continue to benefit from the more generous treatment described here until such time as their annual per capita GNP reaches $1000. Over the past five years, World Bank data has indicated that the annual per capita GNP of the Dominican Republic, Egypt, Guatemala, Indonesia, Morocco and the Philippines rose above $1000 (although, for some, it has since dropped below $1000).

11. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary product standards, mandatory technical regulations, and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The Agreement applies to a broad range of industrial and agricultural products, though sanitary and phytosanitary (SPS) measures and specifications for government procurement are covered under separate agreements. Its establishes rules that help to distinguish legitimate standards and technical regulations from protectionist measures. Standards, technical regulations and conformity assessment procedures are to be developed and applied on a non-discriminatory basis, developed and applied transparently, and should be based on international standards and guidelines, when appropriate.

The TBT Committee[12] serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussions and/or presentations concerning specific standards, technical regulations and conformity assessment procedures maintained by a Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on Member government practices related to implementation of the Agreement and relevant international developments.

[12]Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed by the General Council. Representatives of a number of international intergovernmental organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA) and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis, pending final agreement by the General Council on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

Assessment of the First Five Years of Operation

The TBT Agreement seeks to ensure that as tariffs are liberalized, governments do not replace tariff protection with capricious technical barriers. The TBT Agreement, for the first time, established multilaterally recognized rules and disciplines for the development and application of standards, technical regulations and conformity assessment procedures applied to all WTO Members. Although a form of the Agreement had existed since 1979 as a result of the Tokyo Round of trade negotiations, the expansion of its applicability to all Members was significant. Under the WTO, all Members assumed obligations for non-discrimination and transparency in the development and application of measures covered by the TBT Agreement.

The Agreement's notification procedures secure the right for interested parties in the United States to obtain early information on standards, technical regulations, and conformity assessment procedures in all WTO Members. It provides interested parties the ability to influence the development of such measures by providing written comments on proposed measures. Among other things, this helps to prevent the establishment of technical barriers to trade. The Agreement has functioned well in this regard, though discussions on how to improve the operation of the provisions on transparency are ongoing.

Other disciplines and obligations, such as the prohibition of discrimination and the call for measures to be no more trade restrictive than necessary to fulfill legitimate regulatory objectives, have been useful in evaluating potential trade barriers and in seeking ways to address them. The monitoring and oversight by the Committee has been critical. It has served as a constructive forum for discussing and resolving issues, and this oversight has perhaps reduced the need for more formal dispute settlement proceedings. To date, there has been no dispute settlement panel finding concerning

the rights and obligations of the TBT Agreement.

Transparency and Availability of WTO/TBT Documents: A key opportunity for the public resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and conformity assessment procedures, and to provide comments for consideration on those proposals before they are finalized. The Members are also required to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on technical requirements or making the appropriate referral.

U.S. Inquiry Point

National Center for Standards and Certification Information
National Institute of Standards and Technology (NIST)
100 Bureau Drive, Stop 2150
Gaithersburg, MD 20899-2150

Telephone: (301) 975-4040
Fax: (301) 926-1559
email: ncsci@NIST.GOV

The NIST maintains a reference collection of standards, specifications, test methods, codes and recommended practices. This reference material includes U.S. government agencies' regulations, and standards of U.S. private standards-developing organizations and foreign national and international standardizing bodies. The inquiry point responds to all requests for information concerning federal, state and private regulations, standards and conformity assessment procedures. This office circulates to interested parties in the United States notifications of proposed regulations from foreign governments received under the TBT Agreement. The NIST also will provide information on central contact points for information maintained by other WTO Members. On questions concerning standards and technical regulations for agricultural products, including SPS measures, the NIST refers requests for information to the U.S. Department of Agriculture, which maintains the U.S. inquiry point under the Sanitary and Phytosanitary Agreement.

A number of documents relating to the work of the TBT Committee are available to the public from the WTO website: www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/...." Notifications by Members of proposed technical regulations and conformity assessment procedures which are available for comment are issued as "G/TBT/Notif./..." (followed by a number). Parties in the United States who submit comments to foreign governments on their proposals are encouraged to provide a copy of those comments to the U.S. inquiry point at the address above. Minutes of the Committee meetings are issued as "G/TBT/M/..." (followed by a number). Submissions by Members (e.g., statements; informational documents; proposals; etc.) and other working documents of the Committee are issued as "G/TBT/W/..." (followed by a number). As a general rule, written information provided by the United States to the Committee is provided on an "unrestricted" basis and available to the public.

Major Issues in 1999

The TBT Committee met three times in 1999. At the meetings, the Committee addressed implementation of the Agreement, including an exchange of information on actions taken by Members domestically to ensure implementation and ongoing compliance. A number of Members used the Committee meetings to raise concerns about specific technical regulations which affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. For example, in 1999, the United States expressed concerns with early drafts of European Commission Directives on Batteries and on Waste from Electrical and

Electronic Equipment (WEEE). The United States also raised concerns with the EU's proposal to restrict the use of hushkitted and re-engined aircrafts (G/TBT/Notif.99.75; G/TBT/W/101); its Regulation 881/98 on "Traditional Terms" which would restrict the use of commonly-used wine labeling terms (G/TBT/W/119); and EC Regulation 1139/98 regarding the labeling of foods and food ingredients produced from genetically modified soy or maize (G/TBT/W/94; see also G/TBT/W/115 for a summary of related notifications). During the year, no Member raised a question about U.S. compliance with the TBT Agreement.

The Committee conducted its fourth Annual Review of the Implementation and Operation of the Agreement based on background documentation contained in G/TBT/7, and its Fourth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on background documentation contained in WTO TBT Standards Code Directory, G/TBT/CS/1/Add.3 and G/TBT/CS/2/Rev.5. Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.6.

A primary focus of the Committee in 1999 was the work program arising from its First Triennial Review of the Operation and Implementation of the Agreement (G/TBT/5). The review provided the opportunity for WTO Members to review and discuss all of the provisions of the Agreement, which facilitated a common understanding of the rights and obligations. The review, which was concluded in November, 1997, highlighted a number of areas for further consideration by the Committee. The following summarizes the issues identified in the first triennial review and work in the Committee in 1999:

- *Implementation and Administration of the Agreement by Members (Article 15.2):* Committee members agreed to make detailed presentations on the arrangements they have in place domestically to assure effective and continued compliance with the Agreement. This exchange is intended to assist all Members seeking ways to improve compliance, and should help to identify specific needs for technical assistance. To date, 57 notifications as required by Article 15.2 have been made by 72 Members containing information on the implementation and administration of the Agreement (G/TBT/2/Add.1-57). Ninety-six Members have notified the existence of their inquiry points in document G/TBT/ENQ/15.

- *Preparation, Adoption and Application of Technical Regulations:* The Committee emphasized that good regulatory practice is essential to ensure technical regulations do not unnecessarily impede trade. For example, it is important to avoid promulgating technical regulations where they are not necessary. Where they are necessary, their preparation, adoption and application should be in accordance with the provisions of the Agreement. This requires coordination among trade and regulatory officials. In 1999, the Committee continued its exchange of information on Members' approaches to regulation.

- *Operation and Implementation of Notification Procedures (Articles 2, 3, 5 and 7):* The Committee highlighted the importance for product suppliers and other interested parties of obtaining early information on proposals for new technical regulations and conformity assessment procedures, providing comments on them while still in draft, and having those comments considered before a final rule is adopted. It

therefore agreed that the procedural aspects of notification should be the subject of ongoing review.

In 1999, the Committee accepted a U.S. proposal to conduct a survey of Members to ascertain the extent to which they had access to electronic means for information exchange. The survey confirmed that a broad range of Members' inquiry points did have the facilities for electronic exchange of information and the Committee agreed on recommendations to encourage greater use of this medium (e.g., electronic publication of work programs on voluntary standards foreseen in Annex 3 of the Code of Good Practice).

- *Code of Good Practice by Standardizing Bodies (Article 4; Annex 3):* The Committee noted that compliance with the Code of Good Practice was necessary to ensure that voluntary standards, whether developed by governments or private or regional bodies, do not create unnecessary barriers to trade. It also noted that the provisions of the Code were not applicable to the activities of international bodies. The Committee invited Members to share experiences on difficulties associated with voluntary standards and the nature of and reasons for deviations from relevant international standards. It agreed that the obligation to publish notices of draft standards containing voluntary labeling requirements was not dependent upon the kind of information provided on the label.

In 1999, the Committee continued its discussion of whether there should be an obligation to encourage private standardizing bodies to recognize equivalent standards of bodies in other Members' territories (along the lines of the obligation on Members in Article 2.7). Several Members have offered specific proposals that are under consideration. A proposal to change the recommended 60 days to be allowed for public comment on draft standards was also discussed.

- *International Standards, Guides and Recommendations:* The Committee acknowledged that the Agreement accords significant emphasis to the development and use of international standards for preventing unnecessary trade barriers. It recognized, however, that trade problems could arise through, *inter alia*, the absence of international standards or their non-use due to possible outdated content. Further examination of such issues was warranted and Members were encouraged to bring specific examples to the Committee. The Committee also agreed to intensify its exchange of information with international bodies, with a view to ensuring that such standards emanate from processes consistent with the objectives of the Agreement (e.g., that standards be developed in an open and transparent process).

In November 1998 the WTO held an "Information Session of Bodies Involved in the Preparation of International Standards" to improve Committee Members' understanding of the procedures by which international standards are developed and the ongoing activities of these bodies, and to enhance these bodies' awareness of the ongoing discussions on international standards in the TBT Committee. The U.S. paper (G/TBT/W/64) outlined our interest in clarifying the Committee's understanding that, for purposes of the

Agreement, international standards must result from a fair process of openness, transparency and consensus. A specific proposal is contained in G/TBT/W/75/Rev.1. Other Members also introduced proposals on this topic and on other issues relating to the development and use of international standards, all of which remain under consideration. In addition, Members continue to provide statements and written information on their experience in developing and using international standards, guides and recommendations.

- *Conformity Assessment Procedures:* The Committee noted the growing concern with the restrictive effect on trade of multiple testing, certification and other conformity assessment procedures, and the call by industry for "one standard, one test." The Committee noted that the supplier's declaration of conformity was recognized as saving costs, and that the recognition of the results of conformity assessment could be achieved through different approaches which might have different effects on trade. There was an emerging interest in concluding mutual recognition agreements (MRAs) as a means of facilitating trade, yet it was also noted that such agreements raised concerns for non-participants and overall questions about their utility in solving the problems of multiple testing and conformity assessment procedures. The Committee urged the use of common procedures for conformity assessment, such as international guides, as an essential basis for building confidence among parties.

  The Committee continued to examine various approaches for solving the problems and costs of multiple requirements for conformity assessment. In June 1999, the WTO held a "Symposium on Conformity Assessment Procedures" to develop an improved understanding of the issues. The Symposium enabled Committee Members to learn from the perspectives and experience of a broad range of experts on the use of conformity assessment procedures for business transactions in the marketplace and as a tool to promote regulatory compliance. Information was obtained on agreements and arrangements which are evolving to facilitate trade and reduce compliance costs. In addition to the information received at the Symposium, Members have continued to provide information on their national experience and practice (e.g., the United States provided a paper on its use of Supplier's Declaration of Conformity in G/TBT/W/75). Members have also introduced proposals relating to the obligations concerning conformity assessment procedures which are under consideration.

- *Technical Assistance (Article 11) and Special and Differential Treatment (Article 12):* The Committee agreed to continue to exchange information on assistance provided by Members, as well as to examine the specific needs of Members for assistance. Discussion of developing country needs and interests were also considered in the topics above.

At the Committee's request, the WTO Secretariat prepared a paper (G/TBT/W/103) to record the state of knowledge concerning the technical barriers to the market access of developing country suppliers, especially small and medium sized enterprises, as a result of standards, technical regulations and conformity assessment procedures.

The Agreement (Article 10.6) requires the WTO Secretariat to draw to the attention of developing country Members any notification relating to products of particular interest to them. In light of the information obtained in the Survey on the Electronic Facilities Available in National TBT Inquiry Points, the Committee agreed on an approach to facilitate implementation of this provision through the use of electronic mail.

Work for 2000

Second Triennial Review: In 2000, the TBT Committee is required to complete its second triennial review of the Agreement. Article 15.2 obliges the Committee to "...review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations...Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods." The mandate for this review provides an additional incentive for the Committee to draw conclusions on the range of issues under discussion and to determine what action, if any, needs to be taken to improve or enhance compliance with the Agreement.

The United States will work in the second triennial review to resolve the issues of transparency and openness in the development and application of international standards; improve the understanding of various approaches to conformity assessment and the consideration of cost-saving approaches to establishing conformity with technical regulations; assess the special needs of developing country Members (in concert with the Integrated Framework); and establish practical approaches to ensure effective implementation by all Members. USTR intends to solicit from the U.S. public additional views on U.S. objectives for the second triennial review in 2000.

The first triennial review in the TBT Committee, General Council discussions held in preparation for the 1999 Ministerial, and discussions at the Ministerial itself revealed significant interest (by developing countries in particular) in addressing the issues associated with participation in the development of international standards, and their use, when appropriate, as a basis for technical requirements applied domestically. These concerns will need to be addressed on a priority basis to secure ongoing compliance with the TBT Agreement and its continued relevance in addressing potential technical trade barriers.

12. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (TRIMS) prohibits investment measures that violate the GATT Article III obligations to treat imports no less favorably than domestically produced products, or the GATT Article XI obligation to remove quantitative restrictions on imports. The Agreement thus expressly eliminates measures such as those that require the incorporation of local inputs or "local content requirements" in the manufacturing process, or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns ("trade balancing requirements"). It also includes an illustrative list of measures that violate its requirements. The Agreement requires that any such measures existing as of the date of entry into force of the WTO (January 1, 1995) be notified and eventually eliminated. Developed countries were required to bring notified measures into conformity by January 1, 1997. Developing countries had until January 1, 2000, and the least developed countries have until January 1, 2002.

Assessment of the First Five Years of Operation

The TRIMS Agreement successfully provided for the first time an unambiguous method for addressing investment measures such as local content and trade balancing requirements. Previously, a Member interested in pushing for the removal of such practices would have recourse only through GATT Articles III and XI; the interpretation of which had been under dispute. Additionally, the notification process provided a listing of measures that are not in compliance with the Agreement, which will prove useful as transition periods expire at the end of 1999.

The TRIMS Agreement has been supported by U.S. labor groups, who consider that the measures that the Agreement prohibits lead to increased overseas production at the expense of U.S. employment and to increased competition from imports as firms strive to meet trade balancing requirements. U.S. industry has also advocated for the Agreement as a general rule because it allows exporters and investors to overcome certain measures that would otherwise inhibit their ability to operate. The eventual removal and prohibition of such practices can help a company increase export sales, reduce transactions costs, enhance productivity and efficiency and increase profitability.

Since its establishment in 1995, the Committee on TRIMS has been a forum for the United States and other Members to address concerns, gather information, and to raise questions about the maintenance, introduction or modification of TRIMS by certain WTO Members, particularly in the automotive sector. Twenty-four WTO Members submitted notifications of inconsistent measures to the TRIMS Committee, as required by the terms of the Agreement, to enjoy the benefit of the grace periods described above. Three developing countries eliminated inconsistent measures ahead of the January 2000 deadline to remove notified TRIMS.

In 1997, the United States, along with the EU and Japan, brought a WTO dispute against two Indonesian automotive programs that included local content requirements. In 1998, the DSB adopted the panel's finding that the local content aspects of the automotive programs were inconsistent with the TRIMS Agreement. By July of 1999, Indonesia eliminated the inconsistent measures in compliance with the DSB's recommendation.

The United States also challenged Brazilian automotive measures, which the United States asserted were inconsistent with the Agreement since certain measures entered into force after the Agreement came into effect and without proper notification. In March of 1998, after consultations with the United States, Brazil reached a bilateral agreement to accelerate removal of the measures.

Major Issues in 1999

The Committee met twice during 1999. The United States, supported by a number of other Members, used the forum to raise questions regarding developing country Members' plans to comply with the developing country deadline to remove inconsistent measures by January 1, 2000.

The United States also challenged a number of Members' existing TRIMS, which appeared inconsistent with the terms of the Agreement. In particular, the United States questioned a new Indian law that appeared to expand a previously notified measure in the automotive industry. The United States subsequently requested consultations with regard to this measure under the WTO Dispute Settlement Understanding. (See section on the Dispute Settlement Body.)

The Committee also discussed the timing and content of the coming review regarding the operation of the Agreement mandated by Article 9. The Article states that the Council for Trade in Goods (CTG), no later than five years after entry into force of the WTO Agreement, must

begin a review of the operation of the TRIMS Agreement and, as appropriate, propose amendments to the Agreement's text. In the course of this review, the CTG also must consider whether provisions on investment policy and competition policy should be added. While the CTG has begun discussing the nature of the review, no decisions on these matters have been taken.

Work for 2000

The Committee will have two major areas of work in 2000. First, regarding implementation, Article 5.3 of the Agreement provides authority for the Council on Trade in Goods (CTG) to extend the transition period for the elimination of notified TRIMS of developing and least developed country Members which demonstrate particular difficulties in implementing the provisions of the Agreement. Eight Members have requested the CTG to extend their transition periods in accordance with this provision. These Members are Romania, Chile, Argentina, Malaysia, Pakistan, Colombia, the Philippines, and Mexico. The CTG's consideration of these requests has already begun. Consultations among interested Members have taken place, and written questions and answers have been exchanged with respect to some of the requests and the respective measures.

The second area of work will involve the Article 9 review. The educative work already undertaken on investment and competition policy by the working groups established at the Singapore Ministerial (discussed in more detail separately in this report) will provide a strong background to draw upon as the review gets underway. Accordingly, the Committee can be expected to support the work of the CTG as needed in the consideration of the requests for extension and in the review of the operation of the Agreement.

The general subject of implementation and compliance with the Agreement will be an issue at the core of both of these areas of work. The matter of specific requests for extension must be addressed, in addition to the issue of Members' noncompliance with the terms of the Agreement. Some developing countries have expressed the need for the Article 9 review to consider the question of relief from the obligations of the Agreement for development reasons. On the other hand, Article 9 is also an opportunity for Members to consider provisions that might strengthen the Agreement's objectives to reduce the trade-restrictive and distorting effects of investment measures and to facilitate international investment.

13. Textiles Monitoring Body

Status

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing (ATC), supervises the implementation of all aspects of the Agreement. In 1999, TMB membership was composed of appointees and alternates from the United States, the EU, Japan, Canada/Norway, Slovenia/Turkey, Costa Rica, Thailand, Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Each TMB member serves in a personal capacity.

The ATC succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All Members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only Members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year, time-limited arrangement which provides for the gradual integration of the textile and clothing sector into the WTO and provides for improved market access and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

Assessment of the First Five Years of Operation

The United States has implemented the Agreement on Textiles and Clothing in such a way as to ensure that the affected U.S. industries and workers as well as U.S. importers and retailers have a gradual, stable and predictable regime to operate under during the quota phase-out period. At the same time, the United States has aggressively sought to ensure full compliance by U.S. trading partners with market opening commitments, so that U.S. exporters can enjoy growing opportunities in foreign markets.

Under the ATC, the United States is required to "integrate" products which accounted for specified percentages of 1990 imports in volume over three stages during the course of the transition period, that is, to designate those textile and apparel products for which it will henceforth observe full GATT disciplines. Once it has "integrated" a product into the GATT, a WTO Member may not impose or maintain import quotas on that product other than under normal GATT procedures, such as Article XIX. As required by Section 331 of the Uruguay Round Agreements Act, the United States selected the products for early integration after seeking public comment, and published the list of items at the outset of the transition period, for purposes of certainty and transparency for U.S. industry and trading partners. The integration commitments for stages 1 and 2 were completed in 1995 and 1998, and the list may be found in the *Federal Register*, volume 60, number 83, pages 21075-21130, May 1, 1995. Also keyed to the ATC "stages" is a requirement that the United States and other importing Members increase the annual growth rates applicable to each quota maintained under the Agreement by designated factors. Under the ATC, the weighted average annual growth rate for WTO Members' quotas increased from 4.9179 percent in 1994 to 5.7048 percent in 1995 and 9.1231 percent in 1998.

Article 5 of the ATC requires that Members cooperate to prevent circumvention of quotas by illegal transshipment or other means. The United States has actively worked with trading partners to improve cooperation and information sharing, and concluded a new agreement with Hong Kong to this end. The United States has also established a Textile Transshipment Task Force at Customs, to improve enforcement of textile quotas at U.S. borders, and has tightened enforcement actions vis-a-vis other trading partners where an improved bilateral agreement was not possible.

The ATC requires that all Members take actions to abide by WTO obligations so as to achieve improved access to markets for textiles and clothing. The United States initiated WTO dispute resolution cases against Argentina's use of alternative specific duties and a statistical tax on imports; these measures primarily affected the textile, apparel and footwear sector. The United States prevailed in that instance through the WTO Appellate Body. In another instance, the United States initiated a WTO dispute over India's lack of justification for use of trade measures (largely affecting the textile and apparel sector) under balance of payments grounds, and again prevailed in the Dispute Settlement Body and at the Appellate Body. (For further details on these cases, please see the description of the activities of the WTO Dispute Settlement Body in this Chapter.)

Most of the significant exporters of textile and apparel products to the United States are WTO Members. For these Members, bilateral quota arrangements are governed by the provisions of the ATC. Approximately 84 percent of U.S. imports of textiles and apparel are from WTO Member countries, and approximately 98 percent (in value) of U.S. exports of textiles and apparel are destined for WTO Member countries. Members with whom the United States maintains bilateral quota arrangements under the provisions of the ATC are: Bahrain, Bangladesh, Brazil, Bulgaria, Burma/Myanmar, Colombia, Costa Rica, Czech Republic,

Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Hong Kong/China, Hungary, India, Indonesia, Jamaica, Kenya, the Republic of Korea, Kuwait, Macau, Malaysia, Mauritius, Pakistan, Philippines, Poland, Qatar, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, United Arab Emirates and Uruguay.

Major Issues in 1999

Safeguard Restraints: A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause or threaten to cause serious damage to domestic industry. Actions taken under the safeguard are automatically reviewed by the TMB. In 1998, the United States determined that domestic producers of category 301 (combed cotton yarn) had been seriously damaged or threatened with serious damage as a result of imports from Pakistan and issued a request for consultations under the safeguard provisions of Article 6 of the ATC. As the United States and Pakistan were unable to reach an agreement on the matter, the TMB reviewed the measure in 1999 and found the restriction was not justified in accordance with the provisions of Article 6 of the ATC. As provided for under Article 8 of the ATC, the United States provided the TMB with the reasons why it was unable to comply with the TMB's findings. The TMB reviewed the reasons put forward by the United States and reiterated its original conclusion. Consistent with its rights under the WTO, the United States has decided to keep the measure in place despite the position taken by the TMB.

The TMB also reviewed an Article 6 action taken by Argentina on imports of man-made fiber fabric from Brazil. In this case, the TMB found that Argentina had not demonstrated serious damage or actual threat thereof, and recommended that Argentina rescind the restraint. Argentina disagreed with the TMB's finding and the measure remains in place. As in the U.S.-Pakistan case cited above, Argentina disagreed with the TMB's finding and informed the TMB of its reasoning. The TMB reiterated its original conclusion and Argentina chose to keep the measure in place.

In 1998, the TMB reviewed an Article 6 action taken by Colombia on man-made fiber yarn from the Republic of Korea and Thailand. The TMB concluded, in 1999, that Colombia had not demonstrated serious damage or actual threat thereof, and recommended that Colombia rescind the restraint. Subsequently, Thailand requested a panel under the WTO Dispute Settlement Understanding to review Colombia's restraint. Because Colombia had already removed the restraint at the time of the request and after further consultations between the parties, Thailand agreed to drop the request from the agenda before the Dispute Settlement Body.

In another matter, Turkey had imposed new textile quotas on imports from India in order to align its regime with the EU in accordance with their customs association. As these restraints were notified to the TMB for its information, the TMB did not review the action. India challenged the new restraints before a WTO panel and the Appellate Body, prevailing in both cases. Turkey had tried to justify its new textile restraints under the GATT 1994. Turkey's restraints were found to be inconsistent with GATT 1994 and the ATC.

Notifications and Other Issues: A considerable portion of the TMB's time was spent reviewing notifications made under Article 2 of the ATC dealing with textile products integrated into normal GATT rules and no longer subject to the provisions of the ATC. WTO Members wishing to retain the right to use the Article 6 safeguard mechanism were required in 1998 to submit a list of products comprising at least 17 percent by trade volume of the products included in the annex to the ATC. A number of these notifications were defective for various reasons and the TMB's review carried into 1999 in a number of cases. The TMB expressed concern that a number of countries that have announced

their intention to retain the right to use Article 6 safeguards failed to make the required integration notification. On its own initiative, the TMB raised the issue of a new restraint on category 352/652 (underwear), as reported in the U.S. *Federal Register*, with the United States and Turkey. The United States and Turkey provided the TMB with a joint communication containing information concerning this restraint. The TMB's consideration of this matter had not been completed by the end of 1999.
TMB documents are available on the WTO's web site, "www.wto.org." Documents are filed in the Document Distribution Facility under the document symbol "G/TMB." The TMB's annual report to the General Council for 1999 appears as document G/L/318.

Work for 2000

The United States will continue to monitor compliance of market opening commitments by trading partners and will raise concerns regarding these commitments in the TMB or other WTO fora, as appropriate. The United States will also pursue further market openings, including in the negotiation of new Members' accessions to the WTO. In addition, the United States will continue to respond to surges in imports of textile products which cause or threaten serious damage to U.S. domestic producers. The United States will continue efforts as well to enhance cooperation with U.S. trading partners and improve the effectiveness of customs measures to ensure that restraints on textile products are not circumvented through illegal transshipment or other means. Finally, the United States maintains textile restraint agreements that are scheduled to expire on December 31, 2000, including China, Taiwan, Nepal, Laos, Macedonia, Oman, Ukraine, and Russia. To the extent that these countries do not, by that time, become Members of the WTO to whom the United States applies the Agreement Establishing the WTO, the United States will seek to renegotiate these bilateral agreements.

14. Working Party on State Trading

Status

Article XVII of the GATT 1994 requires governments to place certain restrictions on the behavior of their trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires governments to ensure that these "state trading enterprises" act in a manner consistent with the general principle of non-discriminatory treatment, e.g., to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines. To address the ambiguity regarding which types of firms fall within the scope of "state trading enterprises," agreement was reached in the Uruguay Round on "The Understanding on the Interpretation of Article XVII." It provides a working definition and instructs Members to notify all firms in its territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

A WTO Working Party was established to review the notifications and their adequacy and to develop an illustrative list of relationships between governments and state trading enterprises, and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities.

Assessment of the First Five Years of Operation

The Uruguay Round ensured, for the first time, that the operation of agricultural state trading entities would be subject to international scrutiny and disciplines. Agricultural products were effectively outside the disciplines of GATT 1947, thereby limiting the scrutiny of state trading entities since many state trading entities direct trade in agricultural products. For

example, the lack of tariff bindings on most agricultural products in most countries also limited the scope of GATT 1947 disciplines that could be brought to bear on state trading entities (e.g., importing state trading entities could capriciously adjust the import duty and/or domestic mark-up on imported products.)

The WTO Agreement on Agriculture marked an important step in bringing the activities of agricultural state trading entities under the same disciplines that apply to industrial products. All agricultural tariffs (including tariff-rate quotas) are now bound. While further work is needed on the administration of tariff-rate quotas, bindings do act to limit the scope of state traders to manipulate the tariff import system. Likewise, the disciplines on export competition, including value and quantity ceilings on export subsidies, apply fully to state trading entities. U.S. agricultural producers and exporters have expressed concerns about the operation of certain state trading entities, particularly single-desk importers or exporters of agricultural products.

The "working definition" of state trading entities in the Uruguay Round along with the establishment of a Working Party on State Trading also significantly increased the scrutiny of these entities in the WTO compared to GATT 1947. New and full notifications were first required in 1995 and subsequently every third year thereafter, while in the intervening years an updating notification is to be made indicating any changes since the full notification. While notification requirements for state trading entities existed after 1960 in GATT 1947, no body was established specifically to review the notifications, in part due to the situation on agriculture. Little, if any, attention was given in the Council to compliance with the notification requirement or the content of the notifications, and differences existed among countries as to what type of entities actually fell under Article XVII obligations.

Under the WTO, 58 Members provided new and full notifications of state trading enterprises for 1995 and 32 Members for 1998 (the European Communities submits a single notification covering all 15 Member States). More than 30 Members submitted updating notifications for 1996 and 1997, and 13 Members for 1999. The Working Party on average met four times a year since 1995 to review these notifications, including the formal submission of questions and answers on the operation of specific entities reported in the notifications. This improved scrutiny and transparency also set the stage for in-depth examination of certain activities of agricultural state trading entities in the Agricultural Information and Exchange exercise under the auspices of the WTO Committee on Agriculture that laid the groundwork for issues to be addressed in the mandated negotiations on agriculture.

The Working Party also completed two other tasks mandated in the Uruguay Round "Understanding on the Interpretation of Article XVII": review of the 1960 notification questionnaire and development of the illustrative list. Prior to September 1998, submissions followed a notification format developed in 1960. A review of the notifications tabled since 1995 revealed a need for more extensive work on updating the 1960 questionnaire. The United States worked to broaden the notification requirements. In April 1998, the Working Party approved an improved notification format that requires more extensive qualitative and quantitative information than the 1960 version. The new format provides more transparent information about the operation of state trading entities than the 1960 version.

The Working Party also agreed to continue its work, consistent with its mandate, including the examination of what further information might be appropriate to notify to enhance transparency of state trading entities. In July 1998, the Council for Trade in Goods adopted the revised notification format which is now the basis for all

new and full notifications submitted in the future. As noted previously, in 1999, the Working Party completed its work on an illustrative list of relationships between governments and state trading enterprises and the kinds of activities engaged in by these enterprises. The illustrative list will assist Members in preparing notifications by providing examples of the types of activities and entities that were notified in the past. As a result of the Working Party, agriculture negotiators will benefit from the improved transparency and understanding of activities and measures utilized by agricultural state trading entities.

Major Issues in 1999

The Working Party held three formal meetings in 1999 to review the notifications and to continue work on the illustrative list. As of December 31, 1999, 32 Members provided new and full notifications for 1998, and 13 Members submitted updating notifications for 1999. During the year, the Working Party reviewed 26 of these notifications.

During 1999, the Working Party finished its work on the illustrative list. The illustrative list is not intended to refine or redefine the definition of state trading enterprise. Rather, it reflects many of the relationships and entities which had previously been included in notifications and, as such, may be useful in helping Members prepare their notifications. The illustrative list was approved by the Working Party in July and by the Council for Trade in Goods in October.

Work for 2000

The three areas of discipline in the WTO Agreement on Agriculture – market access, export competition and domestic support – provide the basis on which to pursue further reform in the mandated negotiations on agriculture. In the Agricultural and Information Exchange exercise, several countries identified issues to be addressed in the negotiations related directly to measures used by state trading entities, such as in tariff-rate quota administration or export competition. The Working Party will contribute to the ongoing discussion of these and other state trading issues, including through its review of new notifications and its examination of what further information might be appropriate to notify to enhance transparency of state trading entities.

15. Working Party on Preshipment Inspection

Status

More than 30 developing country Members require, as a condition of importation, that an inspection of each shipment of goods be performed in the country of exportation by a private entity. The private preshipment inspection (PSI) entity generally provides to the importing country an opinion on customs classification and customs valuation. This situation often reflects inadequacies in the customs administrations of those countries that resort to the use of a PSI regime. The purpose of the WTO Agreement on Preshipment Inspection, which was achieved during the Uruguay Round, is to ensure that PSI operations are carried out in a transparent manner without giving rise to unequal treatment or unnecessary and costly delays.

Assessment of the First Five Years of Operation

The Agreement on Preshipment Inspection stands in a somewhat unique position among WTO agreements. While the Agreement's obligations pertain to WTO Members, the compliance with those obligations is largely contingent on the conduct of private entities (i.e., PSI entities under contract with WTO Members), rather than strictly the behavior of governmental entities. This situation presents certain challenges to ensuring proper operation of the Agreement. In this regard, it is notable that the Working Party's final report stated a

consensus view of WTO Members that "recourse to PSI is a transitional measure to be used only until national customs authorities are in a position to carry out these tasks on their own." The Working Party also recommended various types of reforms for improving and modernizing the border transaction environment such as the use of risk management and selective inspection. These recommendations reflect an important shift brought about among WTO Members in the past five years, giving focus not only on the operation of PSI regimes, but also on the broader question of the role of such regimes in view of ongoing efforts by many countries to improve the overall trade facilitation environment, particularly with regard to enhancing administrative transparency and efficiency. An important issue for all Members was the need for a continuing forum for regular oversight and to address any day-to-day implementation issues. One of the key recommendations, endorsed by the WTO General Council as part of its adoption of the Working Party's report, established PSI as a standing agenda item for the WTO Committee on Customs Valuation.

Major Issues in 1999

The Agreement did not provide for a standing WTO Committee on Preshipment Inspection. The WTO Working Party on Preshipment Inspection was established in 1997 as a means to conduct a review of the Agreement's implementation and operation. The General Council extended the operation of the Working Party through March 1999, after adopting the Working Party's initial report which had been issued in December 1997. The Working Party's final report, issued March 18, 1999, reflected the efforts by the Working Party to address a wide range of issues in order to bring improvements in transparency and to diminish irregularities resulting from the operation of PSI regimes.

C. Council for Trade in Services

Status

The General Agreement on Trade in Services (GATS) consists of a framework agreement that lays out the general obligations for trade in services in much the same way that the General Agreement on Tariffs and Trade does for trade in goods. Most-favored-nation treatment (MFN), market access and national treatment are three of the important principles included in the general framework of the GATS. Thus, the GATS provides a legal framework for addressing barriers to trade and investment in services, and it includes specific commitments by WTO Members to restrict their use of those barriers. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for Trade in Services oversees implementation of the GATS and reports to the General Council.

All Members of the WTO are signatories to the GATS framework agreement and have made sector-specific commitments pertaining to national treatment, market access, and MFN treatment. Ministerial Decisions at the conclusion of the Uruguay Round had called for negotiations on further liberalization in, *inter alia*, the financial services and basic telecommunications sectors, the results of which entered into force in 1999 and 1998, respectively, as well as a work program in professional services, which completed its work with respect to accountancy in 1999.

The GATS also provides a forum for further negotiations to open services markets around the world. The GATS Article XIX calls for additional rounds of market-opening negotiations. The first such round began on January 1, 2000, and, consistent with GATS provisions, was preceded by a program of preparatory work in the Council.

Assessment of the First Five Years of Operation

The GATS is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. Its objective is to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership, while at the same time maintaining regulators' ability to meet legitimate objectives. Trade in services includes all economic activities whose outputs are other than tangible goods, including, but not limited to, banking, insurance, telecommunications, distribution services (retail and wholesale trade), computer and related services, advertising, professional services, private education and training, private health care, audiovisual and tourism services.

The past five years have focused on improving the ground-breaking framework agreement created in the Uruguay Round. This work has taken place in three arenas: sectoral negotiations, elaboration of important provisions of the framework agreement, and specific commitments of new WTO Members.

As discussed in previous Annual Reports, since 1995 there have been GATS negotiations in four sectors (financial services, basic telecommunications, professional services, and maritime transport services) and one "mode" – temporary entry of natural persons. While outcomes have varied in these negotiations, each has served to establish important precedents that reinforce the objective of the GATS: removal of restrictions and establishing disciplines to ensure *effective* market access for trade in services.

In the cases of financial services and basic telecommunications, negotiations that had been twice extended since the Uruguay Round finally were concluded only when a "critical mass" of important trading partners demonstrated their willingness to include new commercial opportunities in their scheduled commitments. By contrast, in the case of maritime transport services, negotiations failed to conclude when almost without exception no WTO Member proposed to remove restrictions in that sector; to the contrary, many wanted to use their GATS schedules to legitimize existing, restrictive regimes.

The negotiations on professional services produced "Guidelines for Negotiation of Mutual Recognition in Accountancy" to facilitate mutual recognition of licensed accountants and "Disciplines for Regulation in the Accountancy Sector" to address unnecessarily trade-restrictive regulation of the profession. Moreover, this work serves as a starting point for examination of other professions with the ultimate goal of improving portability of professional credentials worldwide.

The post-Uruguay Round period also has seen progress in expanding the scope of certain GATS provisions, in particular to help ensure that regulation of trade in services supports trade liberalization. Resulting from the Agreement on Basic Telecommunications Services, 67 countries have effectively expanded the scope of existing GATS provisions addressing transparency, monopolies, and restrictive business practices and agreed to apply these strengthened, sector-specific disciplines to their liberalized telecommunications markets. Separately, as noted below, the Working Party on Domestic Regulation is building on the achievements in accountancy to develop new disciplines aimed at promoting transparency and fairness in regulation in all service sectors. Finally, the nomenclature work, described below, in the Committee on Specific Commitments, is aimed at improving the framework of the GATS through sectoral commitments that encompass real-world commercial activities and interests.

Major Issues in 1999

As it had the previous year, in 1999 the Council devoted the bulk of its time to preparing for the coming round of services negotiations. First, the Council continued the "information exchange," the first required step in the preparations, ultimately covering over 15 services sectors and the four GATS "modes of delivery." During the information exchange, the WTO Secretariat produced over 20 background papers, with information on and analysis of the economic importance of each of the sectors, regulatory and other restrictions, and existing commitments by WTO Members. The Council quickly agreed to derestrict the papers, which are publicly available at www.wto.org/wto/services/w65.htm.

The information exchange helped to develop a common understanding among Members of the important role that services can play in their own economic growth, the importance of further liberalization in services, the need for appropriate regulation to safeguard legitimate domestic social and other concerns, the evolution in the nature of trade in services since the Uruguay Round, and, in many cases, the very limited nature of country commitments in these sectors.

In a more immediate sense, the information exchange helped Members identify additional technical work needed to lay the basis for improved commitments in the next negotiation. As in 1998, nomenclature, regulatory, and other issues that emerged in the course of the information exchange fed into work in two of the Council's subsidiary bodies, the Committee on Specific Commitments, and the Working Party on Domestic Regulation.

In 1999, the Council also took up other required preparatory steps for the new GATS round, including an "assessment of trade in services." Drawing on background documentation by the Secretariat, other international organizations and individual Members, the Council took note of developmental aspects of trade in services, as well as major statistical deficiencies in measuring such trade and its impact. In view of the preliminary nature of these conclusions, Members agreed to continue the "assessment" into the negotiations themselves in 2000.

The Council also discussed "negotiating guidelines and procedures," as provided for in the GATS. Some 25 Members submitted views to the Council for Trade in Services or the General Council or both and, in the end, achieved a very high degree of unanimity on these provisions, which ultimately was reflected in the draft text at Third Ministerial. In addition, the Council began two reviews required by the GATS, regarding the current exclusion of most air transport services from the scope of the GATS and Members' exemptions from most-favored-nation treatment. Both reviews will continue in 2000.

Work for 2000

In pursuing the mandated negotiations on services, the Council, and its subsidiary bodies, will continue the technical work already underway: improvements in nomenclature, development of appropriate regulatory disciplines – applicable to all sectors and, where desirable, applicable to individual sectors – and review of scheduling guidelines. Discussion will continue on timing and modalities for the negotiations.

1. Agreement on Basic Telecommunications Services

Status

The Agreement on Basic Telecommunication Services, which came into force in February 1998, opened up over 95 percent of the world telecommunications market (by revenue) to competition. The range of services and technologies covered by the agreement is

vast–from submarine cables to satellite systems, from broadband data to cellular services, from business networks based on the Internet to technologies designed to bring low-cost access for under-served rural communities. The majority of WTO Members have made regulatory as well as market access commitments, ensuring adherence to a multilateral framework for promoting competition in this sector.

Assessment of the First Five Years of Operation

Prior to this Agreement, only 17 percent of the top 20 telecommunications markets were open to U.S. firms. Today, over 95 percent of the world telecommunications market is open. The market access opportunities cover the entire spectrum of innovative services and technologies pioneered in the United States that continue to drive the growth of this sector.

Through the Agreement on Basic Telecommunications Services, the United States has largely succeeded in shaping an international consensus, unthinkable five years ago, that telecommunications monopolies must be replaced with competitive markets for any economy to enjoy the benefits of the digital era.

Through this agreement, the United States successfully exported a model based on the U.S. experience of telecommunications liberalization, focused on unimpeded market access, fair rules, and effective enforcement of key regulatory principles. Based on these principles, WTO Members around the world are rewriting rules to permit effective competition and promote the growth of new markets. The results, as predicted from the experience of the United States, have exceeded our trade partners' expectations: usage of telecommunications networks has boomed as prices have dropped, fueling new services and introducing new efficiencies throughout economies. With demand for advanced services including the Internet not being met by traditional suppliers, new entrants willing to innovate with different technologies are creating markets that simply would not have developed had control of other nations' networks remained in the hands of monopolists.

As a result of this Agreement, U.S. firms have invested billions of dollars abroad, extending their networks, bringing down the cost of communications for U.S. consumers and businesses, and laying the infrastructure for global electronic commerce. The experience U.S. firms have gained in developing competitive markets in the United States has provided an enormous advantage in these newly opened markets, allowing them to bring to these markets the same innovation and efficiency U.S. consumers have long enjoyed.

Opening foreign markets has had immediate benefits on U.S. consumers and businesses as well. Prices for international phone calls fell 25 percent between 1996 and 1998, and in 1999, prices for calls to several competitive markets differed little from domestic long-distance prices.

Growth in demand for international voice and data services, especially for the Internet, has led to massive investments in submarine cable and the development of new radio-based mobile systems. These new infrastructures will provide quantum increases in transmission capacity. The lower prices made possible by this increased capacity are in turn fueling further demand for telecommunications services, setting the stage for global growth in this sector over the next five years of several hundreds of billions of dollars.

Often overlooked is the fact that the growth in new services stimulated by open markets has stimulated a boom in equipment sales. U.S. manufacturers have been major beneficiaries in the growth of a global equipment market expected to reach $345 billion in the next three

years--spending largely dedicated to investment in new networks, or upgrades to existing networks, driven by competitive pressures.

Major issues in 1999

The Agreement's pro-competitive policies led to deep reductions in end-user prices for international and other services around the world, and to the explosion in global capacity made available for Internet and other services in 1999. Investment opportunities increased dramatically in developed countries thanks to the Agreement's open-market requirements. In the developing world, newly-acceding WTO Members made broad-based telecommunications commitments in 1999. In addition, a number of current Members unilaterally liberalized further (e.g., Hong Kong, Korea, Singapore, India) to keep pace in the global competition for investment in this sector. Implementation problems encountered in Japan, Germany and Mexico were addressed in ongoing bilateral consultations, using WTO disciplines as the framework for resolving market access issues. The United States played a key role in instituting a dialogue in the WTO between trade and regulatory officials and in increasing coordination between the WTO and other multilateral institutions, such as the World Bank and the International Telecommunication Union, enlisting the help of these institutions in building global support for more vigorous competition in the global telecommunications marketplace.

Work for 2000

The global appetite for investment in this sector and U.S. firms' interest in meeting this demand show no sign of abating. Demand for high-capacity (broadband) services on wireline networks and the development of advanced wireless services (e.g. so-called Third Generation services) ensure that competitive opportunities, and the importance of the Agreement as framework for ensuring market access, will increase.

Given the recent trend in unilateral liberalization, prospects are good that the WTO services negotiations now under way will expand existing commitments to cover a broader range of telecommunications sub-sectors with fewer market access limitations. In regions that were previously not a major market focus (e.g., in less developed countries) there is substantial room for improved commitments.

2. Agreement and Committee on Trade in Financial Services

Status

Negotiations in the financial services sector (banking, securities, insurance, and other financial services), extending beyond the end of the Uruguay Round, were successfully concluded in December 1997 under U.S. leadership. Of the 70 WTO Members that made improved commitments in financial services during these negotiations, 53 countries met the original deadline of January 29, 1999 for completing domestic ratification procedures and notifying their acceptance of the 1997 Agreement – the Fifth Protocol to the GATS. Another 7 Members have completed these procedures since then, meaning that the number of countries whose 1997 commitments have entered into force stands at 60.

Assessment of the First Five Years of Operation

The WTO Financial Services Agreement, which entered into force in March 1999, represents an impressive package of commitments that stands on its own merits as a major success for the United States and the world trading system. The final agreement includes commitments that cover an overwhelming share of global trade from 102 countries, with new and improved from 70 countries from both the developed and

developing world. Already 60 of those 70 countries have ratified their commitments. Financial services is one of the fastest growing areas of the world economy, and its liberalization has tremendous significance for a number of other related sectors, including electronic commerce. Financial services also is one of the United States' most competitive industries and is a major contributor to growth in U.S. domestic employment.

The 1997 Financial Services Agreement has served as a key first step in opening world financial services markets to U.S. suppliers of insurance, banking, securities and financial data services. The Agreement extends to the most important international financial services markets, encompassing $38 trillion in global domestic bank lending, $19.5 trillion in global securities trading, and $2.1 trillion in worldwide insurance premiums. This Agreement has opened world financial services markets to an unprecedented degree. Fifty-two countries guaranteed broad market access terms across all insurance sectors – encompassing life, non-life, reinsurance, brokerage and auxiliary services. Another fourteen countries committed to open critical sub-sectors of their insurance markets of particular interest to U.S. industry. Fifty-nine countries committed to permit 100 percent foreign ownership of subsidiaries or branches in banking. And forty-four countries guaranteed to allow 100 percent foreign ownership of subsidiaries or branches in the securities sector.

The Agreement also is fostering the development of financial markets, especially in emerging markets and developing countries, by helping to lay the foundation for sustained growth. Many countries had begun to process of financial services liberalization but had hesitated to lock in those measures. The 1997 Agreement "binds" these improvements under the GATS system which contributes to the overall stability of economic and trade regimes and results in further economic growth. The Agreement will provide an extremely effective launching pad for further negotiation on a wide range of financial services issues in "GATS 2000.

The Committee on Financial Services has been instrumental in overseeing post-Uruguay Round negotiations on financial services that culminated in the December 1997 Agreement. The Committee also has been a useful venue to discuss and reach agreement on issues related to ratification and acceptance of Members' commitments under the Fifth Protocol. Finally, the Committee also has held initial discussions on various technical issues as they affect financial services which could prove useful in the GATS 2000 negotiations.

Major Issues in 1999

The United States worked intensively through bilateral channels and in the WTO to ensure that the 10 remaining countries that have not accepted the Fifth Protocol ratify their commitments and accept the Protocol as quickly as possible. The Committee on Trade in Financial Services (CTFS) held three formal meetings in 1999 that to a large extent focused on this issue. At the request of several Members, the Chairperson sent letters to those countries that had not yet accepted the Fifth Protocol requesting information on the status of their ratification efforts. In a related development, the GATS Council agreed on February 15, 1999 to renew the standstill commitment made by participants in the 1997 negotiations not to take any measures inconsistent with their services schedules annexed to the Fifth Protocol.

Work for 2000

The United States will continue to work through bilateral means and in the WTO to ensure that the 10 countries that have not accepted the Fifth Protocol do so as quickly as possible. The 10 countries generally have reported that they intend to ratify their commitments under the

Protocol and are working to ensure passage of necessary legislation. The WTO Members will have to decide on a case-by-case basis how to open the window for Fifth Protocol acceptance. The United States also will be an active participant in other work of the Committee, including recommendations concerning the financial services component of issues explored as part of the new services negotiations.

3. Working Party on Domestic Regulation

Status

The GATS Article VI (Domestic Regulation) directs the Council to develop any necessary disciplines "with a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services." A 1994 Ministerial Decision had assigned priority to the professional services sector, for which the Working Party on Professional Services (WPPS) was established. The WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO in May 1997, and completed Disciplines on Domestic Regulation in the Accountancy Sector, adopted in December 1998. (The text of both are publicly available on the WTO website at www.wto.org/wto/new/press73.htm and www.wto.org/wto/new/press118.htm, respectively).

With the adoption of the Disciplines, in May 1999 the Council established a new Working Party on Domestic Regulation which also took on the work of the predecessor WPPS. The new Working Party's mandate is as cited above. These disciplines may be generally applicable and may also apply to individual sectors. The Working Party is to report its recommendations to the Council not later than the conclusion of the coming round.

Assessment of the First Five Years of Operation

The work program on accounting was an important step in the multilateral liberalization of this important sector. While the United States was disappointed that Members ultimately were not able to agree to early application of the accountancy disciplines, the disciplines remain open for improvement before their adoption at the conclusion of the current GATS round. They further provide a reference point for the cross-sectoral work begun in 1999.

Major Issues in 1999

With respect to development of generally applicable regulatory disciplines, on the basis of a background paper prepared by the Secretariat, Members have discussed needed improvements in GATS transparency obligations. Members also have begun discussion of possible disciplines aimed at ensuring that regulations are not more trade restrictive than necessary to fulfill legitimate objectives.

To continue work on professional services, Members agreed to solicit views on the accountancy disciplines from their relevant domestic professional bodies, addressing whether those other professions would favor use of the accountancy disciplines with appropriate modifications. Members agreed to share information on the results of these consultations by March 2000. In addition, Members asked the Secretariat to consult with appropriate counterpart international organizations, to be identified by Members.

Work for 2000

The Working Party will continue development of possible regulatory disciplines, both horizontally and sector-specific, to promote the GATS objective of effective market access. The Working Party also will discuss extending the accountancy disciplines to other professions.

4. Working Party on GATS Rules

Status

The Working Party on GATS Rules was established to determine whether the GATS should include new disciplines on safeguards, government procurement and subsidies. The Working Party met six times in 1999. As these are complex issues, their discussion remains at a relatively conceptual stage.

Assessment of the First Five Years of Operation

The Working Party has provided a useful forum for discussions on whether the GATS should include new disciplines on safeguards, government procurement and subsidies. This is the first time that WTO Members have explored whether concepts, originally formulated for trade in goods, are needed for the GATS. Work on these concepts remains in a preliminary stage with most Members, including the United States, needing further domestic consultations to develop more specific positions and examine the relationship with work in other WTO bodies. For example, during 1999 the WTO Working Group on Transparency in Government Procurement also examined similar concepts.

Major Issues in 1999

Regarding safeguards, Members continue to express differing views on the desirability, feasibility, and possible form of an emergency safeguard mechanism for services. Without prejudice to such differences of view, in recent meetings, Members continued discussion of basic issues that would have to be considered in the application of any future safeguard actions, including MFN treatment, advance notice, temporary and degressive application, and protection of acquired rights of established suppliers.

The safeguards negotiations were set to conclude in July 1999. However, some developing countries and other WTO Members were interested in continuing this mandate. The Council approved a recommendation of the Working Party to extend negotiations on the question of whether emergency safeguards measures are needed until December 15, 2000. The WTO Members also agreed that the results of the negotiations will enter into effect no later than the date of entry into force of the next round of services negotiations.

Regarding government procurement, discussions focused on the range of activities and entities which may be covered by GATS Article XIII. Recently, Members started giving thought to the scope and depth of any procurement disciplines which might be agreed upon at the end of the negotiating process.

With respect to subsidies negotiations, three Members have now tabled submissions describing their subsidies regimes as part of an information exchange program. Discussions have continued on the potential for subsidies extended under one mode to distort trade under other modes, and the effects of export subsidies on services trade. In addition, Members are reviewing a proposal that Members provide information on subsidy-related problems experienced in foreign markets.

Work for 2000

Information-gathering and discussion of all three issues will continue. The Working Party faces a December 15, 2000 deadline with respect to the question of emergency safeguards measures.

5. Committee on Specific Commitments

Status

The Committee on Specific Commitments examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the coming round of GATS

negotiations, and oversees application of the procedures for the modification of schedules under Article XXI of the GATS. The Committee also oversees implementation of commitments in country schedules in sectors for which there is no sectoral body, currently all sectors except financial services.

Assessment of the First Five Years of Operation

The Committee has taken on four technical, complicated, resource-intensive tasks and has produced results that improve prospects for clear, commercially-valuable commitments in the coming negotiations (in the case of work on nomenclature and on scheduling guidelines), usefully elaborate on GATS provisions (in the case of Article XXI procedures), and promote accessibility and clarity in GATS schedules in the case of the electronic schedules.

Major Issues in 1999

Much of the Committee's work in 1999 was in support of the new negotiations. First, the Committee continued its work on developing an agreed classification system for use in scheduling sectoral commitments, using as a resource technical issues raised in the Council's sectoral "information exchange." Led by Member submissions, the Committee has been examining proposed changes in nomenclature for environmental services, energy services, express delivery services, legal services, and construction services.

Second, the Committee began to examine proposed revisions to scheduling guidelines that were developed by the GATT Secretariat for use in scheduling country commitments during the Uruguay Round. Members agreed that revision of these guidelines can help improve transparency and consistency of new commitments.

Also in 1999, the Committee reached agreement on procedures for modification of schedules under GATS Article XXI. The Council subsequently adopted the agreed procedures, pursuant to GATS Article XXI:5.

Finally, the Committee directed the Secretariat to continue work on an electronic "looseleaf" version of each Member's GATS schedule, incorporating, for example, the results of the financial services and basic telecommunications negotiations in single, consolidated country schedules. This version would primarily be for ease of reference and would not have legal status in the WTO; it would be made available to the public in CD-ROM format. Members received drafts of their respective schedules in December and will provide comments by March 2000.

Work for 2000

The Committee's work will continue to play an important role in the first phase of the GATS round. The United States and other countries will propose nomenclature changes in additional sectors, and Members will work to conclude discussions on the five sectors now under discussion. These new sectoral definitions then would be available for use in the GATS round. Members also recognize the importance of completing any revisions to the scheduling guidelines early in the round.

Depending on comments on the draft version of Members' schedules, the Committee may be able to direct the Secretariat to prepare a final version of the electronic "looseleaf" schedules in the first half of 2000.

D. Council on Trade-Related Aspects of Intellectual Property Rights

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) is a multilateral agreement that sets minimum standards of protection for copyrights

and neighboring rights, trademarks, geographical indications, industrial designs, patents, integrated- circuit layout designs, and undisclosed information. Minimum standards are established by the TRIPS Agreement for the enforcement of intellectual property rights in civil actions for infringement and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. The TRIPS Agreement requires as well that, with very limited exceptions, WTO Members must also provide national and most-favored-nation treatment to the nationals of other WTO Members in regard to the protection of intellectual property. In addition, the TRIPS Agreement is the first multilateral intellectual property agreement that is enforceable between governments through WTO dispute settlement provisions.

Although the TRIPS Agreement entered into force on January 1, 1995, most obligations are phased in based on a country's level of development (developed country Members were required to implement by January 1, 1996; developing country Members generally were to implement by January 1, 2000; and least-developed country Members must implement by January 1, 2006). The TRIPS Agreement also provides a general "standstill" obligation, and mandates that those Members that avail themselves of the transition period for providing patent protection for pharmaceuticals and agricultural chemicals must provide a "mailbox". This mailbox is for filing patent applications claiming pharmaceutical and agricultural chemical inventions and providing exclusive marketing rights for such products in certain circumstances. All Members were obligated to provide "most-favored-nation" and national treatment beginning January 1, 1996.

Assessment of the First Five Years of Operation

The TRIPS Agreement has yielded enormous benefits for a broad range of U.S. industries, including producers of motion pictures, sound recordings, software, books, magazines, pharmaceuticals, agricultural chemicals, and consumer goods; and individuals, including authors, artists, composers, performers, and inventors and other innovators. As mentioned above, the Agreement establishes minimum standards for protection and enforcement of intellectual property rights of all kinds and provides for dispute settlement in the event that a WTO Member fails to fulfill its obligations fully and in a timely fashion. Much of the credit for ensuring that the benefits of the TRIPS Agreement are realized by U.S. industries should be given to the operation of the TRIPS Council.

During 1997 and 1998, the TRIPS Council conducted reviews of the implementation of obligations by developed country Members. Implementation by newly acceding Members was reviewed during 1999. The reviews in the TRIPS Council provide an opportunity for WTO Members to ask detailed questions about the way in which other WTO Members have implemented their obligations. All questions are asked and answered in writing, creating a useful record that can be used to educate domestic industries about acquiring and exercising rights in other countries and that also can alert Members in instances in which obligations have not been adequately implemented. Perhaps most important, the reviews have helped to establish certain expectations about the interpretation of the TRIPS Agreement by demonstrating that there is considerable similarity in implementation by those WTO Members that have met their obligations. The examples of implementation regimes and the rationales given for such implementation provided useful guidance for developing country Members as they worked to implement their obligations by January 1, 2000.

Of particular importance to U.S. intellectual property right holders was the review of the enforcement obligations of the Agreement. During this review, the United States drew special attention to obligations such as that

contained in Article 41.1 which requires Members to ensure that enforcement procedures sufficient to permit effective action against acts of infringement were available. Such procedures must include expeditious remedies which constitute a deterrent to further infringement. The United States stressed it was impossible to get a complete picture of the situation in a Member country without understanding how its enforcement remedies were applied in practice. If the procedures provided in legislative texts were not available in practice, they could not be effective or have the deterrent effect required by the Agreement.

The review of the provisions of Article 27.3(b) of the TRIPS Agreement during 1999 provided an opportunity for the developed country Members to compile information on the ways in which they have implemented any exceptions to patentability authorized by that section. The synoptic table compiled by the WTO Secretariat from the information provided by Members demonstrated that there is considerable uniformity in the protection afforded plants and animals among those Members that have implemented their obligations, even though the manner in which that protection is provided varies. The description of various regimes for protecting plants and animals also could assist developing country Members that were considering the best method to implement their obligations. In addition, the review provided an opportunity for the United States, along with other WTO Members, to submit papers that form the basis of discussion during Council meetings, helping to clarify issues related to the protection of plants and animals.

During 1998 and 1999, the TRIPS Council considered the articles of the Agreement, in particular those related to copyright and neighboring rights, for which emerging electronic commerce would likely have the greatest implications. The Council submitted a report to the General Council, identifying those articles and noting that the subject might be pursued further. The United States submitted a paper, as part of the review, giving its views on the implications of electronic commerce for the TRIPS Agreement.

Over the last five years, the TRIPS Council has served as a valuable forum for discussion of issues related to intellectual property. The United States has used the opportunities provided by the built-in agenda and other agenda items, including electronic commerce, to explain its interpretation of the Agreement's provisions and to support its interpretation with appropriate examples of the benefits that flow from strong protection of intellectual property rights. It has worked to provide support for these views and will continue to do so in the future.

Major Issues in 1999

In the TRIPS Council meetings in 1999, the United States continued to press for full and timely implementation of the TRIPS Agreement by all WTO Members. In a number of instances where WTO Members have not implemented their obligations fully, the United States has employed the WTO dispute settlement system to secure compliance. Since the WTO was created, the United States has filed 13 complaints under WTO dispute settlement procedures to challenge foreign government practices affecting U.S. creative works and protection of U.S. intellectual property rights. In 7 of those cases, we have already obtained favorable results, either by obtaining a satisfactory settlement or by prevailing in WTO dispute settlement proceedings. We reached prompt settlements with Japan on protection of sound recordings, with Portugal and Pakistan on patent protection, with Sweden on enforcement of its intellectual property laws, and with Turkey on taxation of foreign films. We also got favorable results from WTO dispute settlement rulings against Canada on magazines and against India on exclusive marketing rights on pharmaceutical and agricultural chemical products. The remaining 6 cases are still pending, although progress has been made over

the last year. These achievements demonstrate that the WTO dispute settlement mechanism has already had a significant impact on our ability to protect the creative works of U.S. citizens.

A commitment to full and timely implementation of TRIPS obligations by all WTO Members was evident in a TRIPS Council recommendation to Ministers at Singapore "reaffirming the importance of full implementation of the TRIPS Agreement within the applicable transition periods" and stating that "each WTO Member will take appropriate steps to apply the provisions of the Agreement." However, a series of recommendations for extending the transition period for developing country Members' implementation were made prior to the 1999 Ministerial. In spite of such efforts, however, more than 26 developing country Members have already volunteered to undergo an implementation review in the TRIPS Council during the year 2000 and the Council Chairman is consulting with other developing country Members to establish the schedule for 2001.

Geographical Indications: In addition to reviewing the implementation of obligations of the Agreement by new Members including the Kyrgyz Republic and Latvia, the TRIPS Council reviewed the responses to a questionnaire reviewing, in depth, developed and newly acceding Members' implementation of their obligations under section 3 of Part II of the TRIPS Agreement, i.e., obligations dealing with geographical indications. To facilitate this review, the WTO Secretariat prepared a synoptic table of the information contained in the responses. This information greatly enhanced Members' negotiations in the Council, as provided for in Article 23.4, on the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits, aimed at facilitating the protection of such geographical indications. The European Union submitted a proposal for such a system under which Members would notify the WTO of their geographical indications and other Members would have one year in which to oppose any such notified geographical indications. If not opposed, the notified geographical indications would be registered and all Members would be required to provide protection as required under Article 23. The United States, Canada, Chile and Japan introduced an alternative proposal under which Members would notify their geographical indications for wines and spirits for incorporation in a register available to all Members on the WTO website. Under this proposal, Members choosing to participate in the system would agree to consult the notifications made on the website when making decisions regarding registration of related trademarks or otherwise providing protection for geographical indications for wines and spirits. Implementation of this proposal would not place obligations on Members beyond those already provided under the TRIPS Agreement or place undue burdens on the WTO Secretariat. The Council discussed the two proposals during its meetings in 1999. This negotiation will continue in 2000.

Review of Current Exceptions to Patentability for Plants and Animals: The TRIPS Council also reviewed the provisions of Article 27.3(b) of the Agreement that permits Members to exclude from patentability plants and animals and essentially biological processes for producing plants and animals. Any Member including such exclusions in its patent law must ensure that micro-organisms and non-biological and microbiological processes are patentable. The Council reviewed the practices of those Members that were already obligated to implement the provisions and the Secretariat, to facilitate the review, prepared a synoptic table so that the descriptions of Members' practices could be compared easily. This portion of the review revealed that there was considerable uniformity in the practices of the Members that have implemented their obligations. During the discussion, the United States noted that the ability to patent micro-organisms and non-biological and microbiological processes, as

well as plants and animals *per se*, has given rise to a whole new industry that has brought inestimable benefits in health care, agriculture, and protection of the environment. The United States submitted a paper giving its views of the importance of providing patent protection for plants and animals and responding to some of the concerns raised by other WTO Members. It is expected that the review will remain on the agenda of the TRIPS Council in 2000.

Electronic Commerce: The TRIPS Council considered the Articles of the Agreement for which emerging electronic commerce might have the greatest implications. The Council submitted a report to the General Council, identifying those Articles and noting that the subject might be pursued further. To facilitate the Council's work, the Secretariat prepared a paper identifying provisions which electronic commerce might affect. The United States submitted a paper giving its views on the implications of electronic commerce for the TRIPS Agreement.

Non-violation: The TRIPS Council considered the scope and modalities of possible non-violation nullification and impairment disputes that might arise in connection with the TRIPS Agreement after expiration of the five-year proscription against such cases that expired on January 1, 2000. Both Canada and the United States submitted papers explaining their views on the issue. A number of proposals were submitted for the Third Ministerial seeking to extend the moratorium. No consensus was reached on extending the moratorium. The U.S. view was that an extension was unnecessary.

Implementation: The United States continued to pursue implementation questions with a number of developed countries, including Denmark, regarding its failure to provide provisional relief in civil enforcement proceedings, and Ireland, for its failure to amend its copyright law to comply with TRIPS. Ireland passed a number of amendments to its existing copyright law to resolve major problems and was working to enact a comprehensive revision of its copyright law by the end of 1999. The United States continued to pursue a dispute settlement case with Greece regarding its failure to take appropriate action to stop television broadcast piracy in that country and considerable progress has been made in eliminating such piracy on the airwaves. The United States initiated dispute settlement procedures with the European Communities regarding its failure to provide protection for certain geographical indications of other WTO Members. Another was filed against Canada regarding its failure to ensure that all inventions protected by patent in Canada on January 1, 1996 had a term of protection that did not end before a period of twenty years measured from the date on which the patent application was filed. (The details of these cases are discussed in the Dispute Settlement Body section.)

Work for 2000

In 2000, the TRIPS Council will continue to focus on its built-in agenda and on the implementation of the obligations of the Agreement by developing country Members. The reviews of implementation by 26 developing country Members will take considerable time at the June and November meetings. As part of those reviews, Members give written questions to the country under review on the manner in which it has implemented its obligations and written responses to those questions must be provided. Each Member being reviewed is afforded an opportunity during the TRIPS Council meetings to give an oral presentation highlighting responses to questions or particular points regarding its implementation of the Agreement that it wishes to draw to the attention of other Members. The Council will continue the negotiations under Article 23.4 aimed at establishing a multilateral system of notification and registration for geographical indications for wines and spirits. The United States will work to ensure that any such system established accommodates the varied regimes of Members

for the protection of geographical indications. Finally, as noted above, the review of the provisions of Article 27.3(b) will continue as an item on the agenda of the TRIPS Council.

The Council and developed country Members, including a review of the United States, will continue to provide technical assistance to developing country Members as they implement their obligations under the Agreement.

U.S. objectives for 2000 include:

- Evaluation of the implementation of the TRIPS Agreement, particularly by developing countries;
- Pursuit of dispute settlement consultations and panels where appropriate;
- Review of formal notifications of intellectual property laws and regulations to ensure their consistency with TRIPS obligations by other country Members; and
- Consideration of the relationship between the TRIPS Agreement and e-commerce.

E. Other General Council Bodies/Activities

1. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines national trade policies of WTO Members on a schedule designed to cover all WTO Members on a frequency determined by trade volume. The process starts with an independent report on a Member's trade policies and practices that is written by the WTO Secretariat on the basis of information provided by the subject Member. This report is accompanied by the report of the country under review. Together the reports are subsequently discussed by WTO Members in the TPRB at a session at which representatives of the country under review appear to discuss the reports on its trade policies and practices and to answer questions. The purpose of the process is to strengthen Member observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system.

The current process reflects changes in the instrument, which was created in 1989, to streamline it and to give it more coverage and flexibility. Reports now cover services, intellectual property and other issues addressed by WTO Agreements.

During 1999, the TPRB conducted twelve trade policy reviews, including the United States. Reviews also were held for Argentina, Togo, Guinea, Egypt, Bolivia, Israel, Philippines, Romania, Nicaragua, Papua New Guinea, and Thailand. Four countries were reviewed for the first time, including two least developed countries, Togo and Guinea. By the end of 1999, 120 reviews (113 if grouped reviews were counted as single reviews) have been conducted since the formation of the TPR covering 71 Members, counting the European Union as one. The Members reviewed represent 84 percent of world merchandise trade and 63 percent of the total Membership of the WTO. Of the Members reviewed since 1995, 10 are least developed countries.

Assessment of the First Five Years of Operation

The TPRM has served as a valuable resource for improving transparency in WTO Members' trade and investment regimes and ensuring commitment to WTO rules. The reports are published after the review is conducted and made available to the public through the WTO.

For many lesser developed countries, the reports represent the first comprehensive analysis of their commercial policies, laws, and regulations and have implications and uses beyond the meeting of the TPRB. Some Members have used the Secretariat's Report as a national trade and investment promotion document, while others have indicated that the report has served as basis for internal analysis of inefficiencies and overlaps in domestic laws and government agencies. For other trading partners and U.S. businesses, the reports are a dependable resource for assessing the commercial environment of the majority of WTO Members.

The United States has participated in every Trade Policy Review and developed for each Member under review a detailed list of questions and comments designed to urge, where necessary, compliance with certain WTO/GATT obligations or to obtain better information on issues that are of particular concern to interested parties in the United States. The biennial Reviews of the European Union, Canada, and Japan have provided a regular forum for updates and analysis of policies and measures undertaken by the United States' largest trading partners. During the two Reviews of the United States since 1995, the administration has emphasized the openness of the U.S. market and the important role the U.S. economy plays in the global trading system. The U.S. Trade Policy Reviews also have afforded the opportunity to defend WTO consistent trade practices and reduce misunderstandings about certain U.S. trade policies and laws. Thus, the TPRM has met the expectations of the United States to provide greater transparency, understanding and consistency in the trade policies of WTO Members, and to better ensure compliance with the rules-based system.

Major Issues in 1999

Reviews have emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of policy, and the current economic performance of Members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives; in particular, the priorities given to multilateral and regional arrangements have been important systemic concerns. Closer attention has been given to the link between Members' trade policies and the implementation of WTO Agreements, focusing on Members' participation in particular Agreements, the fulfilment of notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state-trading, the introduction by developing countries of customs valuation methods, and the adaptation of national legislation to WTO requirements.

Trade Policy Review of the United States: In July 1999, the United States underwent its second Trade Policy Review under the WTO. The meeting offered the opportunity for the United States to point to its traditionally open trade and investment regime and to the important role the strong U.S. economy has played in the stabilization of the global economy during the Asian economic crisis and in contributing through imports to the growth of developing economies. The United States also emphasized the importance it places on compliance by all Members with their WTO commitments and discussed U.S. implementation of commitments in the areas of Agriculture and Sanitary/Phytosanitary Standards, Services, Intellectual Property Rights, and the Agreement on Clothing and Textiles. The importance of improving and opening up the Dispute Settlement Understanding was emphasized, while the United States also explained the important links between trade, labor and the environment.

Five-Year Appraisal: As required under the Marrakesh Agreement, the TPRB undertook an appraisal of the operation of the TPRM, which

was issued as a report to the Ministers at the 1999 Ministerial. The appraisal confirmed that the TPRM continues to function effectively and remains relevant to its mandate, particularly in its contribution to transparency. The appraisal also noted that the Mechanism has operated as a catalyst for Members to reconsider their policies, has served as an input into policy formulation and has helped to identify technical assistance needs. The TPRB examined resource-savings initiatives, highlighting efforts to utilize, where possible, information from other divisions of the WTO Secretariat and trade-related macroeconomic information from other intergovernmental organizations, such as the World Bank and the International Monetary Fund. The appraisal also examined dissemination, reporting and meeting procedures and offered recommendations towards improvements in each area, including improved access through the WTO website. A second appraisal was recommended not more than five years after the Third Ministerial or as requested by a Ministerial Conference.

Trade and Core Labor Standards: An important U.S. achievement at the Singapore Ministerial Conference was the inclusion of language in the Ministerial Declaration whereby Trade Ministers from all WTO Members recognized a commitment to the observance of internationally recognized core labor standards. Considering that Trade Ministers' reaffirmation of this commitment in Singapore made observance of labor standards a legitimate topic for discussion in the WTO, the United States delegation routinely made observations and raised questions relative to labor standards with nearly all those WTO Members which underwent reviews in 1999.

Work for 2000

The TPRM is an important tool for monitoring and surveillance, in addition to encouraging WTO Members to meet their GATT/WTO obligations and to maintain or expand trade liberalization measures. The program for 2000 contains provision for reviews of 15 Members, including Kenya, Iceland, Tanzania, Singapore, Bangladesh, Peru, Norway, Poland, European Union, the Republic of Korea, Bahrain, Brazil, Japan, Switzerland and Canada. Although the TPRM continues to meet its goals, limited resources and a growing list of countries to be reviewed annually – in addition to a number of new accessions – makes it important to keep the Mechanism functioning as efficiently as possible. In particular, the continued active cooperation between Members and the Secretariat plays an essential role in the success of the Mechanism and must be maintained to ensure that the review process continues to run smoothly; that deadlines are met; and that the quality of the report is maintained. Implementation of the recommendations proposed in the five year appraisal also will help to address these issues.

2. Committee on Trade and Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995 pursuant to the Marrakesh Ministerial Decision on Trade and Environment. The mandate of the CTE is to make appropriate recommendations to the Ministerial Conference as to whether, and if so what, changes are needed in the rules of the multilateral trading system to foster positive interaction between trade and environment measures and to avoid protectionist measures.

Assessment of the First Five Years of Operation

The CTE has played an important role in bringing together government officials from trade and environment ministries to build a better understanding of the complex links between trade and environment. Among other things, this has helped to address the serious problem of lack of coordination between trade

and environment officials in many governments. In addition, the CTE has produced useful recommendations calling for transparency in ecolabeling and launching the creation of a data base of all environmental measures that have been notified under WTO transparency rules.

The CTE has also engaged in important analytical work, helping to identify areas where trade liberalization holds particular potential for yielding environmental benefits. Win-win opportunities that have been identified thus far include the elimination or reduction of agriculture subsides that promote unsustainable farming practices and fisheries subsidies that contribute to over fishing, and the elimination of barriers to environmental goods and services.

Major Issues in 1999

The WTO Committee on Trade and Environment met three times during 1999, pursuant to its mandate. The United States contributed to this process by, *inter alia*, working to build a consensus that both important trade and environmental benefits can be achieved by addressing agricultural subsidies, fisheries subsidies that contribute to overfishing and the liberalization of trade in environmental goods and services.

Multilateral Environmental Agreements (MEAs): Inclusion of trade measures in MEAs has been and will continue to be essential to meeting the objectives of certain agreements but may raise questions with respect to WTO obligations. Over the course of the year, the CTE helped strengthen WTO Members' understanding of MEAs and trade by holding the third in a series of meetings with representatives from a number of MEA Secretariats at which those representatives briefed the committee members on recent developments in their respective agreements. There continue to be sharp differences of view within the CTE on whether there is a need to clarify WTO rules in this area. The United States holds the view that the WTO broadly accommodates trade measures in MEAs.

Market Access: Work in this area continued to focus on the environmental implications of reducing or eliminating trade-distorting measures. There is a broad degree of consensus in the Committee that trade liberalization, in conjunction with appropriate environmental policies, can yield environmental benefits. Discussion continued over the course of the year on the potential for such a "double dividend" in the agriculture sector. The Committee also discussed in depth the potential environmental benefits of reducing or eliminating fisheries subsidies, drawing on a previously tabled paper on this subject by the United States. Further work in the area was taken up at the Third Ministerial. Discussion also took place on the benefits of improving market access for environmental services and goods. The Committee also discussed the environmental implications of trade liberalization in other sectors, including forestry and energy.

TRIPS: The Committee had a brief discussion of the relationship between the TRIPS Agreement and the environment. As in the past, a few countries advanced arguments for consideration of changes to the TRIPS Agreement to address "contradictions" between the WTO and the Convention on Biological Diversity. The United States once again made clear its view that there are no contradictions between the WTO and the Convention on Biological Diversity.

Relations with NGOs: The United States, joined by several other Members, emphasized the need for further work to develop adequate mechanisms for involving NGOs in the work of the WTO and adequate public access to documents. Following through on this work, in the Third Ministerial process the United States proposed that the WTO General Council's 1996 agreement on Guidelines for Relations with NGOs be reviewed and substantially improved, and the United States continues to lead efforts at

enhancing the WTO's transparency, including derestriction of documents.

3. Committee on Trade and Development

Status

The Committee on Trade and Development was established in 1965 to strengthen the GATT's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the Committee on Trade and Development is a subsidiary body of the General Council. The Committee addresses trade issues of interest to Members with particular emphasis on the results in the Uruguay Round and on the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries). This included areas such as the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing countries and regional integration efforts among countries. The Committee also has a role in advising the WTO Secretariat on technical assistance programs.

Assessment of the First Five Years of Operation

The Committee has historically functioned as a forum for developing countries to discuss the broad range of issues of special interest to development, in contrast to the other committees in the WTO structure which are responsible for the operation and implementation of particular agreements. Thus, the Committee offers a unique venue for Members to discuss trade issues in the broader context of development. The Committee's discussion of development-related issues has generated considerable interest, debate, and a variety of viewpoints. But, one thing that is abundantly clear from the Committee's work is that, while all developing countries are interested in development, the precise meanings of and methods to achieve development are unique to each country.

The Committee's work has contributed positively to the WTO's discussions on electronic commerce. For example, Committee discussions on the development dimensions of electronic commerce in 1999 were generally viewed as useful in educating developing country Members on the potentially large benefits of opening their markets to the high technology sector. The initiative to equip least developed and developing countries with computers and internet access was very positive, and complemented the Leland Initiative of the United States. Under the auspices of the U.S. Agency for International Development, the Leland Initiative facilitated the improvement of telecommunications infrastructures, including internet infrastructure, in a number of Sub-Saharan African countries. The Leland Initiative enabled the Trade Reference Centers to connect to the Internet.

The Committee's involvement in two successful High Level Meetings – the 1997 High Level Meeting on the Least Developed Countries and the 1999 Symposium on Trade and Development – are two additional examples of the CTD's positive contribution to the overall WTO work program. These meetings brought attention to the concerns of many countries while, at the same time, provided an opportunity for non-governmental organizations, observers and other entities to participate in the discussion. The Committee has been instrumental in helping to shape the debate about the benefits of trade liberalization to development prospects and the role of technical assistance and capacity building in this effort. The work on the Integrated Framework of Technical Assistance (discussed in detail below) was the result of initiative undertaken by the Committee to ensure better coordination among donor agencies and countries.

Major Issues in 1999

The Committee held five formal meetings in 1999. Its work focused on the following areas: preparations for the March 1999 High Level Symposium on Trade and Development; review of the special provisions in the Multilateral Trading Agreements and related Ministerial Decisions in favor of developing country Members, in particular least-developed countries; the development dimension of trade facilitation; the development dimension of electronic commerce; and technical assistance and training.

High Level Symposium on Trade and Development: Following requests from several Members, the WTO held the High Level Symposium on Trade and Development March 17-18, 1999. The purpose of the symposium was to hold an informal, high-level dialogue on trade and development issues in order to address the development dimension of international trade issues and trade-related concerns of developing countries, including least developed countries, and to highlight the role of the WTO in promoting developmental objectives set out in the Preamble to the Marrakesh Agreement.

Development Dimensions of Trade Facilitation and Electronic Commerce: Throughout the year, the CTD held useful discussions and did valuable work on these two important areas that offer substantial potential benefits to developing countries. On trade facilitation, the Committee held several discussions of the relevance of this issue to development. With respect to electronic commerce, Members discussed a wide range of issues relating to electronic commerce and development including potential benefits from electronic commerce for developing countries and potential problems developing countries might face with respect to electronic commerce. The Committee also held a one-day seminar on Electronic Commerce and Development on February 19, 1999 which was widely attended by government officials and private sector representatives from several countries to allow for informal exchanges of views on this important topic.

Technical Assistance: One element of the Plan of Action for Least Developed countries agreed by Ministers at the 1996 Singapore Ministerial Meeting was the desire to foster an integrated approach to trade-related technical assistance activities for the least-developed countries with a view to improving their overall capacity to respond to the challenges and opportunities offered by the trading system. The result was the Integrated Framework for Trade-related Technical Assistance ("Integrated Framework") that seeks to coordinate the trade assistance programs of six core international organizations (the International Monetary Fund, the International Trade Center, the United Nations Conference on Trade and Development, the United Nations Development Program, the World Bank and the WTO). In addition, least developed countries can invite other multilateral and bilateral development partners to participate in the Integrated Framework process. The Committee devoted considerable time to reviewing the experiences to date with the implementation of the Integrated Framework and discussing possible ways to improve its ability to serve the needs of developing countries. Building upon the experiences with the Integrated Framework, the United States and six developing countries tabled proposals in the Third Ministerial process concerning ways to improve capacity building and technical assistance efforts in the WTO.

A particularly important and successful element of the WTO technical assistance program in 1999 was its initiative to establish "Trade Reference Centers" in each least developed country and a variety of developing countries. Established in a government ministry, usually the trade ministry, the "center" is designed to allow officials better access to WTO resources, the resources of the Integrated Framework and other trade resources. This is accomplished through placement of a personal computer, appropriate software, printer, internet

connection, and support in the center. To date, Trade Reference Centers have been installed in 56 countries. The United States contributed financially to this project.

Work for 2000

The Committee will continue its function as the forum for discussion of development issues within the WTO. Particular emphasis is likely to be placed on two topics: the application of special and differential treatment in existing agreements and potential scope for different approaches in new negotiations; and improved technical assistance and capacity building. Any further debate on special and differential treatment will need to address the growing divergences among developing countries and the least-developed in their ability to participate effectively in further trade negotiations and benefit from new agreements.

On technical assistance, the Director-General has already pledged greater efforts to work with specialized agencies to address the growing needs of WTO Members. The Committee will be expected to look carefully at proposals and consult with Members on new approaches. In this connection, the Committee will work closely with the WTO Secretariat to devise a method to regularly evaluate the Secretariat's technical assistance activities. Members have committed to improve and enhance the Integrated Framework, and are likely to extend some concepts of that program to other developing countries.

4. Committee on Balance of Payments Restrictions

Status

Pursuant to the GATT 1947 and the GATT 1994, any Member imposing restrictions for balance of payments purposes is required to consult regularly with the BOP Committee to determine whether the use of restrictive measures is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation, while simplified consultations provide more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in the balance of payments. The Uruguay Round results strengthened substantially the provisions on balance of payments.

Assessment of the First Five Years of Operation

The Committee on Balance of Payments has had extraordinary success during the past five years. In contrast to the pre-WTO period, the Committee and its Members, particularly the United States, have ensured that the BOP provisions of the GATT 1994 are used as originally intended: to enable countries undergoing a balance of payments crisis to impose temporary measures until their situation improves. In the past, Members resorted to BOP measures to provide protection to domestic industries when such action was not warranted. The BOP Committee works closely with the International Monetary Fund (IMF) in conducting its BOP consultations; BOP provisions provide for close coordination with the IMF on BOP matters.

This situation has changed, due to both the improved rules that were established in the Uruguay Round and better enforcement, including use of the dispute settlement provisions. The Uruguay Round Understanding on Balance of Payments Provisions made a number of clarifications to the two primary articles dealing with balance of payments in the GATT 1947 and now GATT 1994: Article XII (Restrictions to Safeguard the Balance of Payments) and Article XVIII:B (Governmental Assistance to Economic Development). The Understanding confirmed that price-based measures, i.e., import surcharges, are preferred, that the use of quantitative restrictions is

allowed only under exceptional circumstances and that measures taken for BOP reasons may only be allowed to protect the general level of imports, i.e., applied across-the-board, not to protect specific sectors from competition. Additionally, the Understanding established strict notification deadlines and explicit documentation requirements, and permitted "reverse notification" by Members concerned with measures instituted, but not notified, by other Members.

Over the course of the last five years, the WTO's BOP provisions have become more important, in large part due to the increased level of tariff bindings that resulted from the Uruguay Round market access negotiations. The bound tariff rates ensure that Members cannot breach the bound rates without consequences. WTO rules ensure that when bound rates are breached, the Member taking the action must comply with the rules governing trade in goods. Accordingly, more stringent BOP rules, particularly the new limitation on the use of quantitative restrictions, the strong preference for price-based measures and the inability of countries to protect only specific sectors, have dissuaded most countries from resorting to BOP measures. In spite of the Asian financial crisis, no country resorted to BOP measures.

The improved Uruguay Round rules have been enhanced by stronger and more successful enforcement of the provisions. Two particular examples are illustrative. In 1995, the first case seeking approval of new measures that came before the WTO BOP Committee concerned Brazil's desire to impose quantitative restrictions on autos. The Committee rejected the request as unnecessary and inconsistent with the WTO rules. In the intervening five years, no requests for new quantitative restrictions or sector-specific measures have been presented.

A lingering problem from the GATT period was countries which maintained quantitative restrictions or prohibitions, generally applying only to specific sectors and of long-standing duration. The situation with respect to India's use of BOP measures is the best example of such a case. India's trade policy since the 1950s had featured quantitative restrictions for BOP reasons. Beginning in 1995 in the BOP Committee and continuing into dispute settlement in 1997, the United States and others challenged India's need to maintain measures for balance of payments reasons. A panel and the WTO Appellate Body agreed that India was not justified in its use of BOP measures. India will eliminate one-half of its remaining measures by April 1, 2000 and the remainder by April 1, 2001.

But beyond these two major cases, WTO Members acting through the BOP Committee, have a strong record of enforcing the new rules. In 1995, South Africa, Egypt and Israel disinvoked Article XVIII:B and agreed to complete the elimination of all BOP-justified measures. Egypt and Israel had maintained BOP-justified measures for many years. In that same year, Hungary imposed an import surcharge, and was asked to present a concrete timetable for the reduction and elimination of the surcharge; this surcharge was subsequently eliminated in 1997. In 1996, Poland, Slovak Republic, Philippines, Turkey, and South Africa eliminated all BOP-justified restrictions. In 1997, Tunisia and Bulgaria committed to the elimination of BOP-justified measures. Due to severe economic problems, the Slovak Republic temporarily re-introduced an import surcharge. In 1998, the Slovak Republic, Sri Lanka, and Bulgaria and, in 1999, Nigeria eliminated all BOP-justified restrictions.

Major Issues in 1999

Since entry-into-force of the WTO on January 1, 1995, the WTO BOP Committee has demonstrated that the hard-won new WTO rules provide Members additional, effective tools to enforce obligations under the BOP provisions. During 1999, the Committee held consultations with the Slovak Republic, Bangladesh and

Romania, and saw Nigeria eliminate all BOP-justified restrictions. While India maintains import restrictions that were once justified on balance of payments grounds, these measures are no longer under the jurisdiction of the BOP Committee, but have moved to the dispute settlement arena.

In a dispute brought by the United States, a panel and the Appellate Body ruled during 1999 that India's restrictions were not justified on balance of payments grounds and were thus illegal. Under the terms of an agreement reached by the United States and India, India will phase out one half of its restrictions by April 1, 2000 and all remaining restrictions by April 1, 2001.

Work for 2000

In 2000, the Committee will consult with the following countries maintaining BOP-related restrictions: Pakistan, the Slovak Republic, and Romania. Additionally, should Members resort to BOP measures, the WTO provides for a program of rigorous consultation with the Committee. The United States expects the Committee will make further progress in ensuring that the WTO BOP provisions are used as intended to address legitimate, serious BOP problems through the imposition of temporary, price-based measures. The Committee will continue to rely upon the close cooperation with the IMF.

5. Committee on Budget, Finance and Administration

Status

WTO Members are responsible for working with the WTO Secretariat on the budget for the organization, and the Budget Committee has traditionally taken a "hands on" approach to the financial matters confronting the institution. Compared to other international institutions, the WTO has a relatively small budget that it manages despite the dramatic increase in activity since establishment of the WTO in 1995. The U.S. budget assessment for 2000 is 15.7 percent or about $13 million dollars. Details on the WTO's budget required by Section 124 of the URAA are provided in Annex II.

Assessment of the First Five Years of Operation

Despite the increase in the WTO's activities over the past five years, the U.S. assessment to the WTO has remained relatively unchanged. As the world's largest exporter – accounting for more than $200 billion in trade last year – the cost of WTO Membership for the United States is very small. WTO Members are assessed budget contributions according to a Member's share in world trade. In the GATT, contributions were based on a contracting party's share of world trade in goods. With the expansion of the WTO to include services and intellectual property rights beginning in 1996, the assessment was revised to take into account statistics as reported in balance of payments statistics from the International Monetary Fund. In the case of goods, gold held as a store of value is excluded from the statistics and in the case of services, statistics relate to the definition of commercial services as applied in the WTO. The addition of services and intellectual property rights statistics to the calculation methodology marginally increased the relative share of the budget paid by the United States, which in 1996 was 15.87 percent.

The Committee has had a difficult task during the past five years, from ensuring that the administrative and financial aspects of the move from the GATT 1947 to the WTO were accomplished in good order to transfer smoothly the Secretariat staff from the UN Common System to an independent WTO salary and pension system. The Committee's work over the years in managing the financial and personnel growth the organization has required, all the while ensuring that the organization uses

its resources wisely and efficiently, is perhaps its greatest achievement.

Major Issues in 1999

Continuing the discussions begun in 1998, the Committee continued to examine the previous year's policy of holding the WTO to a zero nominal growth budget. A constantly expanding workload, resulting from new initiatives and a dramatic increase in dispute settlement activity, combined with the need to fund "on-budget" certain spending categories which had heretofore been funded out of extraordinary surplus accounts, created a situation in which a good deal of the Committee's work in 1999 was devoted to discussion of how to handle proposed increases in 2000 spending. Other significant issues discussed in the Committee in 1998 included: (i) implementation of the new conditions of service system for the WTO Secretariat; (ii) a review of the methodology employed in determining Members' share of the budget; (iii) various efforts to streamline operations and reduce costs in the WTO; and (iv) distribution of the extraordinary surplus from 1998, which resulted from the United States paying its 1997 assessment in 1998.

Agreed Budget for 2000: After considerable debate and delays in reaching a consensus, the Committee proposed and the General Council approved a 2000 budget for the WTO Secretariat and Appellate Body of Swiss Francs 127,697,010. While this amount represents a nominal increase over the approved 1999 budget of 4.3 percent, the real increase is far lower due to the inclusion in the regular budget of certain spending categories previously funded "off-budget." The 2000 budget reflects the Committee's continuing efforts to ensure that the real base of WTO activity is more apparent. In addition, a certain amount of the increase is due to the need to fund fully the new staff approved in 1999 in certain categories (such as lawyers and translators) where existing resources were inadequate to keep pace with the level of activity, especially in dispute settlement-related work. For 2000, the United States owes Swiss Francs 19,890,887 (about $13 million). Members' assessments are based on their share of WTO Members' trade in goods, services and intellectual property. The current U.S. contribution accounts for 15.727 percent of the total assessments on WTO Members, a share far lower than the U.S. assessment in other international organizations. As the WTO adds new Members, the U.S. assessment will automatically be reduced. At the end of 1999, the accumulated arrears of the United States to the WTO amounted to Swiss Francs 3,205,232 ($2,257,200).

Establishment of WTO Secretariat: At the October 1998 meeting of the General Council, it was agreed to proceed with the establishment of the WTO Secretariat on an independent basis separate from the United Nations Common System. As a result, from January 1, 1999, the WTO Secretariat withdrew from the UN Joint Staff Pension Fund and established the WTO Pension Plan. The funds transferred from the UN fund to the new WTO fund were considerably more than the minimum required to set up the plan on a viable basis. The new system operates exclusively in Swiss Francs, a factor which will dramatically reduce the exchange rate risk in future WTO budgets. This change and the resulting savings are already reflected in the 2000 Secretariat budget.

Determination of Members' Share of the Budget: With the creation of the WTO in 1995, Members' share of the budget was recalculated to capture their relative share of world trade in services as well as trade in goods (goods trade alone had been the basis for GATT assessment calculations). It was agreed that the operation of the methodology should be reviewed in 1998 and a working group was formed for this purpose. The working group concluded that the methodology was essentially sound and should be retained. However, at least one Member questioned the inclusion in the calculation of services trade of receipts for traffic in a major canal. The discussion also revealed least

developed countries' collective opposition to being assessed at a minimum rate (0.03 percent) – an amount which is often higher than their share of world trade. As part of the approval of the 2000 Secretariat budget, WTO Members agreed to reduce the minimum contribution for least-developed countries to 0.015 percent.

Efforts to Reduce Costs and Improve Efficiencies: The Committee and Secretariat continued efforts designed to keep costs down, eliminate duplicative activities and do away with inefficient operations. For example, the Secretariat has enhanced its coordination with UNCTAD, the International Trade Center and a variety of other international organizations with regard to elements of technical assistance to avoid duplication of activities. As noted above, a certain number of efficiencies and cost savings over time will also be the result of the introduction of a WTO-specific salary and pension system.

Work for 2000

Development and Agreement on a Budget for 2001: Given new multilateral trade negotiations will be launched in 2000 and the continued growth in dispute settlement activities, it is expected that there will again be pressure put on the WTO's resources and budget. The Committee will likely devote considerable time to the development of a budget for 2001 that considers these factors.

6. Committee on Regional Trade Agreements

Status

All regional trade agreements in the WTO system are reviewed for compliance with WTO obligations and for transparency reasons. Prior to 1996, these reviews were typically conducted in a "Working Party." The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was formed in early 1996 as a central body to oversee all regional agreements in the WTO system. The Committee is charged with conducting the reviews of all agreements, seeking ways to facilitate and improve the review process, particularly the conclusion of each review, to implement the biennial review requirement established by the Uruguay Round agreements, and to consider the systemic implications of such agreements and regional initiatives for the multilateral trading system.

Free trade areas (FTAs) and customs unions (CUs), both exceptions to the principle of MFN treatment, are allowed in the WTO system if certain requirements are met. In the GATT 1947, Article XXIV (Customs Unions and Free Trade Areas) was the principal provision governing FTAs and CUs. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for less-than-comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV.

Assessment of the First Five Years of Operation

The Committee's work has improved the process reviewing and understanding regional trade agreements in the context of the multilateral trading system. For the first time, most agreements are reviewed in a single forum. All FTAs and CUs must fulfill several requirements in the WTO. First, substantially all of the trade between the parties to the agreement must be covered by the agreement, i.e., tariffs and other regulations of trade must be eliminated on substantially all trade. Second, the incidence of duties and other regulations of commerce applied to third countries after the

formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case in the individual countries before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases. With respect to a CU, in which by definition common regulations of trade, including MFN duty rates, are adopted toward third countries, the parties to an agreement must notify WTO Members and begin compensation negotiations prior to the time when any tariff bindings, services commitments or other obligations are violated.

Before the Committee was established, agreements were reviewed in isolation. One result of this new, single forum review process is a focus on the varying quality and consistency of individual agreements or groups of agreements with WTO rules. Now WTO Members have the opportunity to compare and contrast the agreements. While providing an important oversight and transparency function, the Committee does not have the power to nullify agreements or find that the agreement is out of compliance with WTO rules. Members still have the option to address compliance problems via dispute settlement. The debate in the Committee more recently has been the extent to which the Committee should have more power to find agreements "consistent" with WTO rules. Thus far there has been no consensus on moving in this direction. Nonetheless, identification of problematic aspects of individual agreements have made many WTO Members more attentive to their WTO obligations.

Another area for further consideration is the review of developing country agreements. The United States, along with other trading partners has sought to bring such agreements under the purview of the new Committee. Currently, a number of developing countries argue that the Committee on Trade and Development, which is responsible for the "enabling clause" under which some agreements may be justified, is the more appropriate venue.

Major Issues in 1999

The Committee met four times during 1999. By the end of 1999, the Committee started or continued examination of 72 regional trade agreements (A list of all regional integration agreements notified to the GATT/WTO and currently in force is included in Annex II.) The North American Free Trade Agreement was among the accords reviewed. Detailed discussions were conducted on procedures and objectives for the biennial review of each agreement. The Committee held extended discussions on ways to improve the notification and review process. Finally, the Committee had substantial, but inconclusive, discussions on systemic effects of regional agreements on the multilateral trading system.

Work for 2000

During 2000, the Committee will continue to address all aspects of its mandate. Particular emphasis will be placed on completing the reviews of regional trade agreements that have already been notified, including the NAFTA, improving compliance with notification requirements, and establishing and implementing procedures for the biennial review process. Further discussions on improving the review process and the systemic effects of regional agreements will also be part of the work program for the coming year.

7. Accessions to the World Trade Organization

Status

Countries seeking to join the WTO must negotiate the terms of their accession, as mandated by Article XII of the WTO Agreement. The WTO Members are considering thirty-three applications for WTO Membership. This is a record high level. The

Kyrgyz Republic and Latvia became Members on January 20, 1999 and February 11, 1999, respectively, after their parliaments ratified the negotiations completed in October 1998. Estonia followed as the 135th WTO Member on May 21. Georgia and Jordan completed negotiations and submitted to their parliaments the accession package which had been approved by the General Council in October and December 1999, respectively. Both countries intend to become Members by the end of March 2000. Croatia and Albania substantially completed negotiations on accession terms in 1999, but were not able to see the process through to completion that year. Armenia, China, Lithuania, Moldova, Oman, Chinese Taipei (Taiwan), and Vanuatu are relatively advanced in the accession process, and may complete negotiations in 2000, along with Croatia and Albania.

The General Council accepted new accession applications from Lebanon, Bhutan, and Bosnia-Herzegovina during 1999. Cape Verde also requested initiation of accession negotiations, but the application had not been acted upon before the end of the year. Azerbaijan, Cambodia, and Sudan activated their accession negotiations by submitting initial information on their trade regimes, reducing to six the number of accession applicants that had not yet activated negotiations. Working Party meetings were convened for Andorra, Armenia, China, Croatia, Estonia, Georgia, Jordan, Lithuania, Moldova, Oman, Russia, Saudi Arabia, Chinese Taipei (Taiwan), Vanuatu, and Vietnam. The chart included in the Annex to this section reports the status of each accession negotiation.

Accession Process

Article XII of the WTO Agreement states, that to become a WTO Member, applicants must negotiate terms of accession to the organization with current WTO Members. After accepting the application, the WTO General Council establishes a Working Party to review information on the applicant's trade regime and to conduct the negotiations. Accession negotiations are time consuming and technically complex. They involve a detailed review of an applicant's entire trade regime by the Working Party. Applicants must be prepared to make legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make specific commitments on market access for goods and services.

The terms of accession developed with Working Party members in these bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a Working Party report and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and foreign service suppliers, and agriculture schedules that contain commitments on export subsidies and domestic supports. The Working Party adopts the completed protocol package containing the negotiated terms of accession and transmits it with its recommendation to the General Council or Ministerial Conference for approval. The United States conducts domestic consultations during the course of negotiations. Prior to General Council approval of the protocol package, the USTR transmits the package to Congress for consideration, as provided for in section 122 of the Uruguay Round Agreements Act. Any WTO Member intending to invoke the non-application provisions of the WTO Agreement must notify the WTO prior to General Council approval of the protocol package. After General Council approval, accession applicants normally submit the package to their domestic authorities for ratification. Thirty days after the instrument of ratification is received in Geneva, accession to the WTO occurs. Ultimately, the pace of the accession process is up to the applicant, and depends on the ability to comply with WTO provisions and agree on market access terms.

Assessment of the First Five Years of Operation

While the broad outlines of the WTO accession process are the same as they were under GATT 1947, the scope of the negotiations has broadened and the requirements strengthened to reflect the expansion of obligations that occurred when the WTO was created. The WTO accession negotiations give current Members, including the United States, an opportunity to seek from the applicant elimination of barriers to trade and to ensure that WTO provisions are observed. In addition, tariff and other requirements on trade in goods and services in the applicant's trade regime can be liberalized and bound as part of the terms of accession. The United State's participation in WTO accession negotiations has supported U.S. export interests, helped improve bilateral trade relations with applicants, and strengthened the WTO as an institution through enhanced trade liberalization and observance of WTO provisions. Since the establishment of the WTO in 1995, 26 countries have either become Members, completed negotiations for membership, or have made substantial progress on the terms of WTO membership. This figure accounts for over one-sixth of the total membership.

During 1995, some WTO Members acceded under simplified negotiations reserved for former contracting parties to the GATT, but all subsequent applicants have been subject to full Article XII accession procedures for the terms of their accession. Negotiations completed under these procedures have resulted in fully bound tariff schedules and broad services commitments. WTO Members have placed great emphasis on securing comprehensive tariff bindings, low bound tariff rates on priority items, and participation in the Information Technology Agreement, the Chemical Tariff Harmonization initiative, and other sectoral tariff-cutting initiatives initially negotiated during and after the Uruguay Round. Elimination of agricultural export subsidies and progressive reduction of other agricultural supports have been major U.S. priorities, as has the establishment of broad sectoral coverage for commitments in services for cross-border and commercial presence, with emphasis on financial services, telecommunications services, professional and other business services, environmental services, tourism, construction, audiovisual services, and other services sectors.

Major Issues in 1999

During 1999, in response to concerns expressed by some WTO Members that the accession process was too difficult for developing country applicants, the General Council reviewed the results of WTO accessions since 1995. Discussions focused on how the process could be streamlined and made more transparent, less expensive for small countries, and overall less complex. While no definitive answer to these concerns emerged from the discussions, WTO Members agreed that more technical assistance should be provided to assist developing countries in the accession process and that ways should be found to minimize the number of meetings needed to complete the negotiations. This is particularly relevant with regard to eight countries currently seeking accession, i.e., Bhutan, Cambodia, Cape Verde, Laos, Nepal, Samoa, Sudan, and Vanuatu and to a number of prospective applicants that are least developed countries with extremely low levels of income and economic development.

Of the 33 current accession applicants, 12 are countries that enjoy "normal trade relations (NTR) (called "most-favored-nation" treatment in the WTO) with the United States subject to the provisions of the "Jackson-Vanik" clause and the other requirements of Title IV of the Trade Act of 1974. Under GATT 1947 and the WTO, the United States has invoked the non-application provisions of these agreements.[13]

[13]Prior to 1999, the United States invoked nonapplication when Romania became

During 1999, the United States invoked nonapplication with respect to Georgia for this reason. Pursuant to legislative authorization, the President granted Mongolia permanent NTR in 1999, and the United States established WTO relations with that country. Legislation was proposed during 1999 to grant permanent NTR status to Albania, Armenia, Georgia, Kyrgyz Republic, and Moldova.

Work for 2000

Demands on WTO delegations and WTO Secretariat resources for accession negotiations can be expected to remain strong during 2000. A number of the WTO applicants that made substantial progress in their negotiations but were unable to complete all aspects of their accession negotiations in 1999 will resume negotiations with a view to finishing the process. A number of the applicant governments have declared WTO accession a priority issue and will press to complete negotiations expeditiously. The United States also expects that countries currently outside the WTO system will seek to initiate accession negotiations. (A more detailed discussion of China's accession negotiations may be found in Chapter V.)

an original Member in 1995, and when the accession packages of Mongolia and the Kyrgyz Republic were approved by the WTO General Council in 1996 and 1998, respectively. Congress subsequently authorized the President to grant Romania and Mongolia permanent NTR, and the United States withdrew its invocation of non-application in the WTO for these countries. The remaining WTO accession applicants covered by Title IV are: Albania, Armenia, Azerbaijan, Belarus, China, Kazakhstan, Moldova, Russia, Ukraine, Uzbekistan, and Vietnam.

8. Working Group on Trade and Competition Policy

Status

At the December 1996 Singapore Ministerial Conference, Ministers established a working group "to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework." Whereas the Ministers took note of the fact that certain existing WTO provisions are relevant or relate to competition policy, they were careful to specify that the aim of this Working Group was educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area. The Working Group on the Interaction between Trade and Competition Policy (WGTCP) was directed to draw upon the work of a companion working group, also established at Singapore, that was mandated to examine the relationship between trade and investment. The WGTCP was also encouraged to cooperate with UNCTAD and other intergovernmental organizations examining similar trade and competition policy issues in order to make the best use of available resources and to ensure that the development dimension is fully considered. The WTO General Council oversees the work of the WGTCP. While, in December of 1998, the General Council approved an extension of the Group's work into 1999, it remains to be seen whether further work on competition policy will be done in a continuation of the WGTCP in 2000 and beyond.

Assessment of the First Three Years

The Working Group only started its work in 1997. The United States has long been interested in addressing the extent to which anti-competitive conduct and restrictions on competition in foreign markets – as well as the inappropriate or inadequate application of

foreign antitrust laws – act as barriers to the export of U.S. goods and services. The dispute with Japan over trade in photographic film is only one example where these kinds of issues have been relevant to the pursuit of U.S. trade policy goals. In reflection of these interests and concerns, the United States joined other WTO Members in authorizing establishment of the WGTCP. Although the educative work has been distracted at times by the efforts of some to dwell on issues such as antidumping, which are properly the responsibility of other WTO bodies, the Group by and large performed its work well. It did a good job of improving the WTO membership's understanding of competition policy and of its supportive, complementary relationship to trade liberalization and economic growth. The United States has encouraged this aspect of the work program, as we know that the institution of competitive market structures not only helps the economies and consumers of other countries, it can also help assure better market access opportunities for firms exporting to those countries.

The proposal of some, such as the EU and Japan, to move on to the negotiation of multilateral competition rules has been opposed by many developing countries. The United States has expressed its own concerns about moving on to the negotiation of comprehensive competition rules, but the key consideration is not *whether* to consider and to address competition issues in the trade context, but *how* to do so most effectively and sensibly. The United States is prepared to work with its partners to determine the best way to move forward in this area. In any event, much can still be done in the WTO and elsewhere to address selective competition-related issues which arise in the course of negotiating market-opening agreements. The adoption of pro-competitive regulatory principles was an important feature of the WTO Agreement on Trade in Basic Telecommunications. Where similar approaches make sense in other sectors and industries, they should continue to be pursued.

Major Issues in 1999

The WGTCP held three meetings in 1999, the last of which was devoted to the preparation of an annual report to the General Council. The Group continued to organize its work on the basis of written contributions from Members, supplemented by discussion and commentary offered by delegations at the meetings and, where requested, factual information from the WTO Secretariat and observer organizations such as the OECD, the World Bank and UNCTAD. In light of the new mandate given it by the General Council in December 1998, the Group's agenda was more focused than in previous years. Specifically, the General Council directed the WGTCP to explore new issue areas not addressed in its first two years of work. These were: (i) the relevance of fundamental WTO principles of national treatment, transparency and most-favored-nation treatment to competition policy; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade. All three areas of focus were addressed at the Group's two substantive meetings, and WTO Members shared a wide variety of views and experience – particularly as to whether trends recorded and observations to be made in these areas were or were not indicative of a need to negotiate a multilateral framework for competition rules.

Work for 2000

WTO Members have actively debated the question of whether the issue of trade and competition policy is ripe for negotiations in the WTO and, if so, what the nature of those negotiations might be. Differing views prevail, and Members will undoubtedly need to continue their consultations to determine what should be

the next steps on competition issues. The United States remains prepared to consider this matter with other WTO Members as other work moves forward and the broader WTO agenda is fashioned.

9. Working Group on Transparency in Government Procurement

Status

Drawing largely on proposals made by the United States, Ministers agreed at the 1996 Singapore Ministerial Conference to establish a Working Group on Transparency in Government Procurement. The Working Group's mandate called for: (1) conducting a study on transparency in government procurement; and (2) developing elements for an appropriate WTO agreement on transparency in government procurement.

Assessment of the First Three Years of Operation

Since its first meeting 1997, the Working Group has made an important contribution to the United States' longstanding efforts to bring all WTO Members' procurement markets within the scope of the international rules-based trading system. During its first two years, the Working Group identified and analyzed a set of core principles of transparency and due process in procurement which are generally accepted and applied throughout the WTO membership. These principles tracked very closely with the non-binding principles on transparency in government procurement that the United States and its Pacific Rim trading partners developed simultaneously within the Asia Pacific Economic Cooperation (APEC) forum. The strong similarities between these two sets of principles confirmed that there is broad international agreement on essential principles of transparency in procurement and widespread recognition of the benefits that all governments derive from implementing those principles.

In 1999, the Working Group moved forward rapidly with the development of concrete provisions for potential international commitments in this area. On this basis, WTO Members are now poised to conclude a multilateral agreement on transparency in government procurement. This work provides a strong foundation for continuing to pursue U.S. procurement objectives in bilateral and regional negotiations, as well as in the WTO.

An eventual WTO agreement in this area would be an important contribution towards development of predictable and competitive procurement environments throughout the world. Although government procurement is of great commercial significance – the global procurement market is estimated to be worth over $3.1 trillion annually – only 26 WTO Members presently belong to the plurilateral WTO Government Procurement Agreement due to its more stringent requirements. Transparency provisions would address a substantial number of concerns and build support for broader cooperation on procurement over the long term.

The United States also views this initiative as an important part of broader international efforts to promote the rule of law and combat international bribery and corruption. WTO commitments to ensure a transparent procurement environment could significantly reduce opportunities for the solicitation of bribes, and could therefore complement other international efforts – such as the OECD Convention on Combating Bribery – to criminalize the offering of bribes. Work in this area would also build on the good governance practices that many WTO Members have adopted as part of their overall structural reform programs. This would help to prevent the mis-allocation of resources, which inhibits the ability to address other social needs, and would promote fiscal and financial stability in countries affected by the Asian financial crisis.

Major Issues in 1999

In order to facilitate continued progress on the development of concrete elements for a potential WTO agreement on transparency in government procurement, the United States, Hungary and Korea jointly submitted a draft text for an agreement in July 1999. Australia, the European Union and Japan subsequently submitted separate draft texts. Those submissions contained many similar provisions, including in relation to:

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines;
- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements;
- Clear specification in tender documents of evaluation criteria for award of contracts;
- Availability to suppliers of information on contracts that have been awarded; and
- Availability of mechanisms to challenge contract awards and other procurement decisions.

Between September-November 1999, the United States organized a series of intensive negotiations aimed at narrowing differences on concrete commitments in these and other key issues. Those negotiations resulted in converging views on most procedural elements of transparency in government procurement. At the end of the year, however, significant differences remained on several key elements, in particular:

- the appropriate scope and coverage of a Transparency Agreement; and
- the appropriate application of WTO dispute settlement procedures to such an Agreement.

Work for 2000

In 2000, the United States will continue to work with other WTO Members, in bilateral and regional fora as well as in the WTO, to resolve the remaining issues and build a consensus for conclusion of an Agreement in this area.

10. Working Group on Trade and Investment

Status

At the December 1996 Singapore Ministerial Conference, Ministers decided to establish a working group "to examine the relationship between trade and investment." The Ministers additionally specified that the aim of this Working Group was educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area.

The Working Group on Trade and Investment (WGTI) was directed to draw upon the work of a companion working group, also established at Singapore, that was mandated to examine the relationship between trade and competition policy. The WGTI was also encouraged to cooperate with UNCTAD and other intergovernmental organizations examining similar trade and investment policy issues in order to make the best use of available resources and to ensure that the development dimension is fully considered. The WTO General Council oversees the work of the WGTI and, in December of 1998, approved an extension of the its work beyond the initial two-year mandate. It remains to be seen whether further work on investment will be done in a continuation of the WGTI.

Assessment of the First Three Years of Operation

The WGTI provided a multilateral forum for the consideration of investment liberalization and international investment agreements and their relationship to trade and to economic development. The forum provided an opportunity for the United States to present the benefits it has derived from open investment policies and programs and to advance international understanding of these benefits.

The three years available to the group permitted it to analyze the full range of investment agreement models currently in use, and to consider the implications of the differences. The group assessed the advantages and disadvantages of the variety of approaches, including as they affected development.

The United States believes that while the last three years of the WGTI's work significantly raised the group's understanding of investment rules, the work also raised a number of important questions to which the group has not developed sufficient answers. The United States also believes that a number of pertinent subjects have not been adequately addressed, such as the relationship between high standard investment rules and national regulation for public purposes such as health, safety and the environment. Accordingly, the United States is prepared to give further consideration to a renewal of the mandate of a Working Group on investment as other work in the WTO moves forward.

Major Issues in 1999

The WGTI met three times in 1999. Drawing from the checklist of issues developed during the initial two years of the its work, and relying primarily on written submissions from Members, the WGTI reviewed: the economic relationship between trade and investment; advantages and disadvantages of entering into investment agreements, including from a development perspective; the rights and obligations of home and host countries and of investors and host countries; and the relationship between investment and competition policy. At each meeting, the WGTI also continued its stocktaking and analysis of existing instruments, standards and activities regarding international investment rules, including WTO provisions, and bilateral, regional, plurilateral and multilateral agreements and initiatives.

Work for 2000

There remains widespread interest in the WTO to continue work in the area of trade and investment, but differences of view also remain as to what the next steps should be.

11. Electronic Commerce

Status

Based on the mandate from the May 1998 Ministerial Declaration on Electronic Commerce, the WTO in 1999 completed an initial examination of the trade-related aspects of electronic commerce. Building on this report, WTO Members began developing consensus principles to promote integrating electronic commerce into the WTO's trade-liberalizing agenda. Work on expanding market access for electronic commerce will continue through services negotiations in 2000.

Major Issues in 1999

Based on work from September 1998 through July 1999, WTO working bodies identified areas of general consensus on how WTO rules apply to electronic commerce and ensure a trading environment supportive of its growth. As part of this process, the WTO also began a dialogue with private sector representatives (in the form of two symposiums) to educate trade officials on how electronic commerce is transforming trade and commerce and how it can contribute to economic development. Building on these

activities, WTO Members began developing consensus principles for integrating the promotion of the global growth of electronic commerce into the WTO's trade-liberalizing agenda. Principles on which broad-based agreement was reached included:

- Maintenance of a moratorium on customs duties on electronic transmissions;
- Applicability of WTO rules to electronic commerce;
- Avoidance of unnecessary restrictions on electronic commerce that would hamper its growth; and
- Continued work to ensure that trade rules and commitments adapt to electronic commerce and that the trading system promote electronic commerce as a means of development.

While not yet formally adopted by the WTO, the broad support among WTO Members for these principles underscored the degree to which WTO Members see a liberalized trade environment for electronic commerce as the best means of promoting its growth and attracting the necessary infrastructure investment.

Work for 2000

The year 1999 was a watershed year for electronic commerce, dispelling any doubts that it represents a fundamental change in how business is conducted across all sectors of the economy. At the same time, the rapid expansion of the Internet's global reach brought into focus the vast trade opportunities – and challenges – created by the greater use of electronic networks. Ensuring that the global trade environment supports the unimpeded growth of electronic commerce is broadly recognized as a key goal shared by all WTO Members.

There appears to be solid support among WTO Members for completing the work program identifying how WTO disciplines apply to electronic commerce and where further clarification is necessary. Areas such as how to classify electronic commerce, i.e. as a good or a service, deserve particular attention, given the market access implications involved. There is also ongoing demand among WTO Members for further education on the trade and development benefits of electronic commerce. Integrating these activities into work of WTO bodies is likely to be a priority for many WTO Members and is an opportunity to ensure that the WTO plays a positive, trade-liberalizing role in the global development of electronic commerce.

As the current round of services negotiations begin in the WTO, a special focus will be on ensuring that new commitments expand trade opportunities for all services that can be supplied electronically, and ensuring that the infrastructure for electronic commerce – information networks and related services – are adequately covered by trade rules and commitments. Work will also continue on ensuring development of competitive telecommunications markets through adherence to the basic telecommunications agreement; on ensuring a regulatory environment conducive to alternative electronic commerce platforms such as cable and satellite; on ensuring global coverage of intellectual property protection for digital products; promoting adherence to market-based standards and expanding a mutual recognition agreement on testing and certification of telecommunications equipment.

12. Trade Facilitation

Status

The 1996 Singapore Ministerial Declaration requested the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope

for WTO rules in this area." In 1999, the Council continued its work under this mandate, following up on the 1998 WTO Trade Facilitation Symposium by conducting several informal sessions that largely focused on issues related to customs and other administrative requirements pertaining to the movement of goods across borders. As part of this process, other WTO bodies also examined relevant aspects of various WTO Agreements and GATT Articles and provided reports to the Council.

Major Issues in 1999

In July 1999 the United States submitted to the General Council a proposal for launching WTO negotiations in the area of trade facilitation, with an objective of achieving an Agreement on the publication and administration of trade transactions, and on the formalities connected with importation and exportation. The U.S. proposal envisions strengthening and developing new WTO disciplines that focus on two key elements: (i) ensuring greater transparency in procedures for conducting trade transactions; and (ii) providing for increased efficiencies in how goods cross borders, such as through the rapid release of goods from the custody of customs administrations. At the core of future rule-making would be building upon relevant provisions of GATT Article VIII ("fees and formalities connected with importation and exportation") and GATT Article X ("Publication and Administration of Trade Regulations").

An important element of the U.S. proposal sets forth a new path for integrating work on capacity building into the negotiating process, through a concurrent process of developing the necessary technical assistance programs to ensure implementation of the results of the negotiations. This type of approach would include important preparatory work that would survey the trade facilitation environment in developing countries – particularly with regard to the important core elements related to transparency and efficiency – and also assess technical assistance needs. Moving forward in such a manner will provide an important opportunity for the WTO to work collaboratively with other International Organizations such as the World Bank, the International Monetary Fund, and UNCTAD, ensuring greater coherency and efficient use of resources.

Work for 2000

While a definite momentum developed in 1999 toward launching WTO negotiations in trade facilitation, a certain resistance also continued to be exhibited on the part of some developing country Members. In most cases this was based upon an unfortunate continuing perception that associated further WTO rule-making in this area as involving a traditional-type trade concession, rather than a "win-win" undertaking that would develop an overall rules-based framework for stimulating investment, production, and trade – particularly for developing country Members. The continuing WTO work in this area has made clear that, in an era of just-in-time manufacturing and distribution, a rules-based environment for conducting trade transactions is a necessity for securing continued growth in the economic output of all WTO Members. Small and medium size enterprises are particularly poised to take advantage of opportunities provided by today's instant communications and ever-improving efficiencies in the movement of physical goods. These enterprises have thereby become important stakeholders in further WTO contributions to improving the Trade Facilitation environment. In addition, systemic rules-based reforms related to increased transparency and efficiency diminishes corruption, while also providing the benefit of enhancing administrative capabilities that ensure effective compliance with customs-related requirements or laws concerning health, safety, and the environment.

The United States views further work in this area as ultimately leading to one of the most important systemic negotiations to be

undertaken by the WTO. The United States will remain active to ensure the continuation of effective preparatory work, which includes ongoing complementary initiatives involving existing Agreements, such as with regard to implementation of the WTO Agreement on Customs Valuation. Important educative efforts will continue within the WTO, increasing the understanding of the important linkages between a rules-based trade transaction environment and a stable economic infrastructure. The United States will also be prepared to join with other Members in advancing an agenda that will begin to address capacity building issues in this area, particularly by undertaking an examination of administrative systems and measures related to providing transparency and the rapid release of goods, in order to identify potential technical assistance programs that would be developed in conjunction with planning for implementation as part of overall negotiations.

F. Plurilateral Agreements

1. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA), which entered into force on January 1, 1996, is a plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that specifically signed it in Marrakesh or that subsequently acceded to it. The GPA's current membership includes the United States, the member states of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom), Aruba, Canada, Hong Kong, Israel, Japan, Liechtenstein, Norway, the Republic of Korea, Singapore and Switzerland. Iceland, Kyrgyz Republic, Latvia, and Panama are in the process of negotiating accession to the GPA; Chinese Taipei, as a part of its broader WTO accession package, has initiated negotiations for membership.

Assessment of the First Five Years of Operation

The conclusion of the expanded Government Procurement Agreement (GPA) opened up tremendous new opportunities for U.S. exporters to compete on a level playing field for foreign governments' procurement contracts. Consistent with the United States' broader Uruguay Round objective to bring services within the rules based international trading system, the Parties agreed that the GPA would cover procurement of a wide range of services and construction contracts – where U.S. suppliers often enjoy a significant competitive advantage in international markets. They also agreed, for the first time, to include procurement by designated sub-central authorities within the scope of the Agreement. As a result of these new commitments, the WTO estimates that the value of trade opportunities created by the GPA increased by ten times, to over $300 billion per year.

So that the expansion of trade in this sector will be balanced and fair, the United States has ensured that GPA coverage commitments are firmly based on the principle of reciprocity. For example, U.S. GPA commitments relating to the procurement of any particular category of services only apply to foreign suppliers whose governments have agreed to provide non-discriminatory treatment to U.S. suppliers competing for the same category of services in that country's own procurement markets. Similarly, the agreement by 37 U.S. states to participate in the GPA does not apply to countries that have not opened up their own sub-central government procurement markets to U.S. suppliers.

This emphasis on reciprocity provides an ongoing incentive for other countries to open up additional procurement markets to international competition. After the conclusion of the

Uruguay Round negotiations, the Administration reached bilateral agreement with six other GPA Parties (Austria, Switzerland, Norway, Sweden, Finland and Japan) to open up major sub-central procurement markets in those countries (i.e., procurement by Swiss cantonal and Japanese prefectural governments) to U.S. exporters. In 1995, Singapore's interest in being able to continue participating in U.S. procurement markets was a key factor in its decision to re-join the GPA.

In October 1998, the European Union and Japan used the WTO dispute settlement procedures to challenge a Massachusetts statute which regulated participation in Massachusetts procurements by firms that do business in or with Myanmar (Burma). The Administration strongly opposed this action by the EU and Japan, and pledged to vigorously defend the Massachusetts statute in the WTO, if necessary.

In response to an unrelated domestic suit, however, the U.S. District Court of Massachusetts found the Massachusetts statute to be unconstitutional and, in December 1998, issued an injunction against its implementation. In June 1999, this decision was upheld by the U.S. First Circuit Court of Appeals. In November 1999, the Supreme Court agreed to review the Circuit Court's decision, and scheduled oral argument for March 22, 2000. However, because the EU and Japan did not reinitiate proceedings within 12 months, the authority of the panel lapsed in February 2000.

It is important to note that, like other WTO and NAFTA agreements, the GPA *cannot* preempt or invalidate state or local laws – even if a dispute settlement panel were to find a state or local measure inconsistent with such an agreement. The United States is free to determine how it will conform with those agreements at the national or sub-national level.

Major Issues in 1999

In its Report to the 1996 Singapore Ministerial Conference, the Committee on Government Procurement, which monitors the GPA, stated its intention to undertake an "early review" of the GPA starting in 1997. The review would be aimed at the implementation of Article XXIV:7(b) and (c) of the GPA, which call for further negotiations to achieve the following objectives:

- simplification and improvement of the GPA, including, where appropriate, adaptation of the rules to advances in the area of information technology and streamlined procurement methods;
- expansion of coverage of the GPA; and
- elimination of discriminatory measures and practices which distort open procurement.

The Parties to the Agreement have also agreed that an additional objective of the review is to promote expanded membership of the GPA by making it more accessible to non-members.

In 1998, the Committee approved a provisional time-table for this review process, including "a target of the third WTO Ministerial for the completion of the negotiations, at least on the simplification and improvement of the Agreement." However, as the review proceeded in 1999, the Committee became aware that more time would be required in order to adequately address a number of complex issues that have been raised, such as the growing use of certain types of procurement procedures that were not in widespread use at the time the GPA was originally negotiated. The Committee also continued to consider the potential simplification of GPA statistical reporting requirements, an issue that is of particular interest to members' sub-central procurement authorities and to other countries that may potentially be interested in acceding to the GPA.

In 1999, some delegations continued to press for progress on the simplification of the GPA annexes, particularly through the removal of reciprocity reservations and product- or program- specific exceptions. The United States and other delegations noted that these issues were inextricably linked to the overall balance of negotiated coverage commitments, and would have to be addressed in that context.

As provided for in the GPA, the Committee continued the process of monitoring members' implementing legislation. This included follow-up discussions on issues raised during the review of the EU's and Korea's implementing legislation in 1998, and the initiation of discussions relating to the implementing legislation of the United States, Canada and Switzerland.

Work for 2000

In 2000, the Committee will continue its review of the text of the GPA, focusing on the Parties' efforts to "streamline" the Agreement, where appropriate, and ensure that it addresses the types of procurement procedures, including those that make use of modern telecommunications and information technologies, that are commonly used by the Parties' procuring entities today. In addition, the Parties are likely to step up their efforts to resolve issues that have led them to include reciprocity-based reservations to their coverage commitments in the Annexes to the Agreement, and to explore other opportunities for expanding the Agreement's coverage.

2. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement), was concluded in 1979 as part of the Tokyo Round of multilateral trade negotiations and last amended in 1986. While the Aircraft Agreement was not renegotiated during the Uruguay Round, it remains fully in force and is included in Annex 4 to the WTO Agreement as a Plurilateral Trade Agreement.

The Aircraft Agreement requires signatories to eliminate duties on civil aircraft, their engines, subassemblies and parts, ground flight simulators and their components, and to provide these benefits on an NTR basis to all WTO Members. On non-tariff issues, the Aircraft Agreement establishes international obligations concerning government intervention in aircraft and aircraft component development, manufacture and marketing, including:

Government-directed procurement actions and mandatory subcontracts: The Agreement provides that purchasers of civil aircraft (including parts, subassemblies, and engines) will be free to select suppliers on the basis of commercial considerations and governments will not require purchases from a particular source.

Sales-related inducements: The Agreement states that governments are to avoid attaching political or economic inducements (positive or negative linkages to government actions) as an incentive to the sale of civil aircraft.

Certification requirements: The Agreement provides that civil aircraft certification requirements and specifications on operating and maintenance procedures will be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade.

Under Article II.3 of the Marrakesh Agreement, the Aircraft Agreement is part of the WTO Agreement, but only for those Members who have accepted it and not for all WTO Members. As of December 1, 1999, there were 24 Signatories to the Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Japan, Macau, Norway, Romania, Switzerland

and the United States. Albania, Croatia, Chinese Taipei and Latvia, Lithuania, Estonia, and Georgia have indicated that they will become parties upon accession to the WTO and Oman within three years of accession. Those WTO Members with observer status in the Committee are Argentina, Australia, Bangladesh, Brazil, Cameroon, Mauritius, Nigeria, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition, China, the Russian Federation and Chinese Taipei have observer status in the Committee. The IMF and UNCTAD are also observers.

Assessment of the First Five Years of Operation

While the 1979 GATT Agreement on Trade in Civil Aircraft was not strengthened through renegotiation during the Uruguay Round, civil aircraft were brought under the stronger disciplines of the WTO Agreement on Subsidies and Countervailing Measures. This was the major objective of the U.S. aerospace industry, whose competitors have in the past benefitted from huge government subsidies.

Since the conclusion of the Uruguay Round, there have been some additional negotiating efforts in Geneva to substantively revise the Aircraft Agreement. The United States proposed revisions along the lines of the 1992 U.S.-EU bilateral Large Aircraft Agreement, which sets limits on government support and clarifies provisions of the GATT Aircraft Agreement that apply to government intervention in aircraft marketing. There has been little progress in those negotiations.

The Aircraft Agreement has been incorporated without revision into the WTO. Therefore there have been efforts by the Signatories to update or rectify the Agreement to correctly reference WTO instruments. The United States supports those efforts, so long as the current balance of rights and obligations are preserved, and the relationship between the Aircraft Agreement and other WTO agreements is maintained.

The Aircraft Agreement is plurilateral trade agreement under the auspices of the WTO. Thus, not all WTO Members are signatories of the Aircraft Agreement.

Major Issues in 1999

The Aircraft Committee, permanently established under the Aircraft Agreement, affords the Signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. During 1999, the Committee met twice. At those meetings the Committee discussed an array of aircraft-related trade matters including technically updating the Annex of aircraft items to be accorded duty-free treatment, conforming the language in the Agreement to the WTO, end-use customs administration and a proposal to define "civil" aircraft by initial certification rather than by registration. The United States also raised certain activities by other Signatories that might result in trade barriers or market distortions, such as the failure to promptly certify large civil aircraft at full seating capacity, government exchange rate guarantees for some aircraft component manufacturers and regulations restricting the operation of aircraft, otherwise compliant with International Civil Aviation Organization Stage III noise standards, based solely on a design standard that targets U.S.-origin engines and environmental equipment.

Work for 2000

The United States will continue to seek to conform the Aircraft Agreement with the new WTO framework while maintaining the existing balance of rights and obligations. The United States will also continue to make it a high priority for countries with aircraft industries that are seeking membership in the WTO to become a Signatory to the existing Aircraft Agreement. In addition, other countries that might procure

civil aircraft products, but are not currently significant aircraft product manufacturers, are being encouraged to become members of the Agreement in order to foster non-discriminatory and efficient selection processes for aircraft products solely based upon product quality, price, and delivery.

Economic Assessment

Economic Benefits of the Uruguay Round and the WTO for the United States in the Last Five Years

A. Quantification of Benefits

The statistics for the last 5 years show that the United States was well positioned to take advantage of the gains secured in the Uruguay Round, which in turn help lay a good foundation for strong growth into the 21st century. In years when sharp deterioration of foreign economic conditions were not creating strong headwinds for U.S. exports, they expanded rapidly: up 13.0 percent in 1995, 7.1 percent in 1996 and 10.4 percent in 1997. When foreign economic conditions deteriorated after late 1997 for reasons unrelated to the Uruguay Round or the WTO, the countries most negatively affected continued to abide by their Uruguay Round concessions to phase in their market opening commitments, thus buffering U.S. trade from a more serious impact than that which actually occurred. In 1998, U.S. exports fell by 0.5 percent, but grew in 1999 by 2.6 percent. With Uruguay Round obligations and the WTO promoting U.S. trade interests, even as U.S. trade was buffeted by economic crisis abroad, the United States was able to record two back-to-back years of strong economic growth: a 4.3 percent increase in real GDP in 1998 (year-over-year) and 4.0 percent in 1999.

In addition to the Uruguay Round, of course, many other factors have influenced U.S. trade and economic performance over the past five years. Prominent among such factors are: (i) the overall strength of the U.S. economy over this period; (ii) the specific strength of technology and business investment, attracting foreign lending and investment to the U.S. market; (iii) the Asian financial crisis of 1998-99 and its consequences for U.S. trade and investment flows; (iv) growth substantially slower for many U.S. trading partners than for the United States during the period, most notably Japan; (v) the North American Free Trade Agreement and its stimulation of trade among the United States, Canada and Mexico; and (vi) the ongoing shift of relatively simple consumer and electronic product imports into the United States from higher skilled Asian producers to exporters in the People's Republic of China, currently not a Member of the WTO. Although it would be ideal to do so, attempting to differentiate the effects of the Uruguay Round and WTO from these and other important developments affecting U.S. trade and the economy would be a virtually impossible task.

Another type of approach, however, is widely used in estimating the impact of the trade agreements like the Uruguay Round while holding other factors constant. Both before and at the time of the WTO's creation, a number of studies estimated its expected future effects on the U.S. and world economy. These studies considered how trade and the economy would have been different in a recent historical year, if the Uruguay Round had been in place, fully implemented, with all long term economic adjustments made instantaneously. In such an analysis, all other factors that might independently affect trade or the economy are automatically held constant, since only a single year is used both as the baseline for measuring the performance of trade and the economy absent the impact of the Uruguay Round, as well as for analyzing full implementation of the Round's results. The effect of the Round is therefore measured as the difference between the year as it was, in fact, and the year as it would have developed with full implementation and no other independent factor being altered. A number of the original such comparative

static studies done at the time of the Uruguay Round's conclusion have since been updated.

The Council of Economic Advisers has recently reported on these academic studies that evaluate gains from the Uruguay Round. These comparative static studies capture only some of the effects of certain conceptually quantifiable features of the Uruguay Round (reducing tariffs globally by one-third, reducing export subsidies in agriculture, and reducing or eliminating quotas in the textile, apparel and agricultural sectors). They do not capture gains from provisions for services liberalization, dispute settlement, intellectual property rights protection or other rules changes improving the predictability and reliability of international trade commitments. They do not capture the enhanced commercial predictability of binding previously unbound tariffs in the agricultural and industrial sectors – an extremely important gain from the Uruguay Round with respect to the trade policy regimes of low and middle income countries. These studies, at best, capture only some of the possible dynamic or growth effects of Uruguay Round trade liberalization. Finally, because the studies generally deal with highly aggregated product categories and cannot measure economic gains from the reduction of barriers among products within categories, a so called "product aggregation bias" is likely to result in yet another source of benefit underestimation in such modeling efforts.

Nevertheless, these recent studies of some of the potential Uruguay Round benefits estimate that annual global income could rise between $171 billion and $214 billion (1992 dollars) upon full implementation. For the United States alone, the increase could amount to $27 billion to $37 billion each year with good prospects for even further gains. Post Uruguay Round negotiations yielded additional market access commitments in financial services, basic telecommunications services and information technology, areas of undoubted and substantial benefit. Similarly, the WTO provides the United States the assurance of still more opportunities for U.S. export expansion through resumption this year of negotiations aimed at additional liberalization in services and agriculture.

B. Other Considerations Concerning Benefits From the Uruguay Round

Other aspects of the Uruguay Round and the WTO, not readily quantifiable, have also proven beneficial to the United States. These aspects include providing a framework within which the world reversed the Asian financial crisis; facilitating the rapid growth of technology and U.S. competitiveness; and providing a robust system for managing and resolving international trade disputes.

The Asian Financial Crisis: In 1998, with Japan in recession, real GDP dropped nearly 6.0 percent in the Republic of Korea, 7.5 percent in Malaysia, 10 percent in Thailand and 13.2 percent in Indonesia. Declines in national consumption levels were substantially greater and much human suffering occurred. Against such a background, it is remarkable that not only did these middle income countries avoid the reimposition of import barriers, but they also continued to honor their Uruguay Round market opening commitments made in 1994 and those made later for financial services. A similar, though less severe, situation was playing out in 1999 in Latin America. In both sets of circumstances, the WTO system aided U.S. interests doubly. First, it helped to avoid an additional market access loss from new trade restrictions in the affected markets that would have magnified the already considerable effects of the Asian financial crisis on U.S. exports in 1998 and 1999. Second, the existence of real international obligations as a result of the WTO helped affected governments resist calls for import protection; as a result, these countries tended to recover more quickly than would otherwise have been the case and the global economy was aided in avoiding the 1930's cycle

of protectionism and depression. With the exception of Indonesia, all the Asian countries involved returned to significant positive growth in 1999. Indonesia stabilized its economy in 1999 and is likely to return to positive growth this year. In part, as a result of this rapid stabilization U.S. exports to the Asian Pacific Rim, excluding Japan and China, increased by 8.2 percent in 1999, compared to a decline in such exports of over 17 percent in 1998.

Technology and U.S. Competitiveness: Much of the fastest growth in the U.S. economy is occurring in technology driven sectors such as computing and telecommunications, and in sectors, like financial services, where productivity and output can be greatly enhanced by advanced computer and telecommunications equipment and services. Favoring the rapid advance of these technologies and industries, and the jobs that they support, is the ability to finance research and development on a sales base that is global, rather than national, in size. The United States leads the world in international sales of many high technology goods and services. Unquestionably, developments in the WTO – from the Uruguay Round and more recent agreements – help the United States to finance research and investment and to achieve or maintain preeminence in many high technology sectors. The Information Technology Agreement (ITA), for example, includes 52 countries representing over 95 percent of trade in the $600 billion global market for information technology products. Under the ITA, participants will eliminate tariffs, largely by the year 2000, on products of interest to the United States such as computers, computer equipment, semiconductors, telecommunications equipment, semiconductor manufacturing equipment and computer based-analytical instruments. The Agreement on Basic Telecommunications Services opened up 95 percent of the world telecommunications market (by revenues) to competition. Prior to this agreement only 17 percent of the top 20 telecommunications markets were open to U.S. firms. The market access opportunities opened up by this Agreement cover the full range of innovative services and technologies pioneered in the United States that continue to propel growth in this sector. The WTO Financial Services Agreement includes commitments that cover an overwhelming share of the global trade from 102 countries. The Agreement encompasses $38 trillion in global domestic bank lending, $19.5 trillion in global securities trading and $2.1 trillion in worldwide insurance premiums. Financial services is one of the United States' most competitive industries, contributing importantly to the growth of U.S. employment opportunities. Also, more recent work on electronic commerce has included an agreement to a moratorium on the imposition of customs duties on electronic transmissions.

Good trade agreements strengthen U.S. technological preeminence. First, increased and bound market access commitments under the WTO are essential not only in opening foreign markets for such U.S. export sales, but also for assuring certainty that, once open, such markets are not likely to be arbitrarily closed. Second, commitments to protect intellectual property made with respect to traded goods greatly reduce the likelihood of theft of benefits that would otherwise accrue on U.S. export sales of products whose research and development entail often large financial outlays. Commitments on intellectual property rights protection in the WTO help support the financial basis without which the healthy reinvestment in new technologies and products would become move difficult to achieve.

Dispute Settlement: While the U.S. record in WTO dispute settlement is impressive – having obtained favorable results on 23 of the 25 U.S. complaints that have been acted upon so far – the system for managing and resolving disputes has been more successful than is suggested by the mere number of cases brought and resolved. With the new assurance that cases brought can be pursued to their ultimate end – a panel ruling, compliance measures if appropriate, and legal suspension of proportional benefits in the case

of non-compliance – the dispute settlement mechanism of the WTO acts as a stronger deterrent against trade restrictive government actions than the prior, less effective GATT mechanism. While it is virtually impossible to estimate the economic benefits of such deterrence, such economic benefits are real and protect the interests of U.S. exporters, producers and workers every day.

C. Performance of the U.S. Economy Enhanced Over the Last Five Years

Since implementation of Uruguay Round commitments began and the WTO came into force, the U.S. economy has shown remarkable strength. The U.S. real gross domestic product (GDP) grew at a strong average annual rate of 3.9 percent during this period (fourth quarter 1994 to fourth quarter 1999). This average rate, in fact, represents some acceleration in GDP growth when compared to the 3.2 percent average for the early part of the recovery from the 1991-1992 recession (first quarter 1991 to fourth quarter 1994). Industrial production in the United States rose rapidly from 1994 to the end of 1999, more rapidly, in fact, than in any of the other major economies of the G-7 group of countries. Over this period, real industrial production in the United States increased by nearly 29 percent, compared to an 11 percent increase for Germany and a 6 percent increase for Japan.

Another notable feature of U.S. economic performance since 1994 has been the importance of business investment. Gross domestic investment (including investment in housing) in real terms has risen at an annual rate of 7.9 percent since the fourth quarter of 1994, double the rate of GDP growth. Such investment accounted for over 30 percent of total U.S. GDP growth in the five-year period. Looking more narrowly at non-residential fixed, or business investment, standing at over $1.2 trillion in 1999's fourth quarter, its average annual rate of increase over the period has been a strong 10.8 percent. Its share of current dollar GDP has risen from 10.6 percent in the fourth quarter of 1994 to 12.5 percent in 1999's fourth quarter. Such high levels and strong expansion of investment in plant and equipment are widely viewed as contributing importantly to the great advancement in a wide variety of growth-enhancing technologies in recent years, the strengthening of productivity and wage growth in the United States.

Turning to employment, net job expansion in the United States totaled nearly 14 million between 1994 and 1999 (December to December), and the unemployment rate dropped from 6.1 percent for 1994 to 4.1 percent in December 1999, the lowest rate since 1969. Manufacturing employment, however, declined by 151,000 from December 1994 to December 1999. The weakness in manufacturing employment was largely attributable to strong productivity growth in U.S. manufacturing production rather than any overall weakness in output growth. At the end of 1999, U.S. industrial output stood 27.9 percent higher in real terms than it was in 1994 – this being by far the strongest growth among the G-7 economies.

Under the impact of stronger business investment, new technologies and more open markets, U.S. labor productivity accelerated. The productivity of U.S. workers rose from an average annual rate of 1.8 percent in the 1990-1994 period, to 2.2 percent in 1994-1998, the first four years of the WTO's existence, and most recently to a 3.3 percent annual gain between the fourth quarter of 1998 and the fourth quarter of 1999. Productivity growth is widely regarded as the key to the enhancement of real labor compensation, and the experience of the last few years is broadly consistent with that view. After stagnating for the early part of the 1990s, including 1995, real compensation per hour entered a period of significant growth, rising at a 2.4 percent real average annual rate between the first quarter of 1996 and the fourth quarter of 1999. Even real average hourly

wages for non-supervisory workers in December 1999 stood 6 percent higher than they had been in 1996.

A recent study by the Council of Economic Advisers and the Department of Labor (December 1999), while looking at a somewhat more extended period than the five-year review of the WTO (January 1993 to November 1999), argues that strong U.S. job growth in this period has been dominated by jobs likely to be higher paying and that the benefits of enhanced compensation for U.S. workers have been widely shared. Among other things, the study shows that 81 percent of job growth has been in industry and occupation categories paying above-median wages, that the gains have not been concentrated among higher wage workers, as in some recent past experience, that job displacement rates have declined and that the poverty rate in the United States has fallen to its lowest level since 1979. The study also suggests that job gains have been strong for all major subgroups of the population, with the proportion of the population with jobs at record highs and unemployment rates at record lows for African Americans and Hispanics.

The growth and success of the U.S. economy over the last five years has been such that World Bank data show the United States sustaining and even expanding its per capita income lead. According to World Bank data, U.S. per capita real GDP (using purchasing-power-parity exchange rates) in 1998 exceeded the average for the handful of the world's other high income countries by more than 40 percent. U.S. per capita real GDP exceeds the average for the rest of the world combined – high, middle and low income countries – by nearly five fold.

The Uruguay Round, and nearly 300 other U.S. trade Agreements during the two Administrations of President Clinton, have contributed to this outstanding performance of the U.S. economy in recent years. The reduction of foreign trade barriers has helped the United States to increase production and exports of the products in which it excels. Export-related jobs are concentrated in higher wage, higher skill fields that raise the living standards for U.S. families; U.S. workers and families benefit as a result of this export expansion. The purchasing power of workers' pay checks is further enhanced by the availability of a wider variety of high quality, competitively priced goods and services in the U.S. market. The estimated number of jobs supported by U.S. exports from 1994 to 1998 (latest year available) has increased by 1.4 million to a level of 11.7 million. These jobs tend to be good jobs. Jobs supported by goods exports in the United States are estimated to pay 13 percent to 16 percent more than the U.S. national average wage.

The export slowdown in 1998 and 1999 associated with the Asian financial crisis and the slow to negative economic growth experienced by a number of U.S. trading partners over this period temporarily halted export expansion and the growth of export supported jobs. Recovery in Asia and the strengthening growth prospects elsewhere have recently been reflected in the return of U.S. exports to growth in the latter half of 1999. Recovery and expansion abroad, particularly if complemented with additional efforts through the WTO to remove foreign trade barriers, will help strengthen the expansion of U.S. trade and the contribution trade makes to U.S. economic performance.

D. Changes in Trade Flows During the First Five Years of the WTO

Goods exports from the United States rose by more than a third in nominal value from 1994 through 1999, despite the Asian financial crisis and other economic problems abroad, in part due to U.S. foreign trading partners honoring their Uruguay Round and WTO commitments. U.S. goods exports flattened in 1998 and much of 1999 due to the Asian financial crisis, recessions in Latin America and weak growth in

many of U.S. trading partners. Nevertheless, the value of U.S. exports rose in nominal dollar terms by 36 percent between 1994 and 1999. (See Annex I, Table 1). Non-automotive capital goods, the largest U.S. export category, accounting for 45 percent of the $695 billion in U.S. goods exports in 1999 (under Census definitions), grew by 51.5 percent between 1994 and 1999. High technology products, many of which are capital goods, recorded the fastest growth between 1994 and 1999, at 65.7 percent. At just over $200 billion in 1999, high technology products accounted for just under 29 percent of U.S. goods exports. Under the impact of price weakness, anemic foreign demand associated with economic conditions abroad, and still highly restricted global markets, agricultural exports stagnated between 1994 and 1999, growing by only 4.1 percent. At $48.2 billion, U.S. agricultural exports accounted for just under 7 percent of U.S. goods exports in 1999.

Exports expanded to a range of countries. Regionally, the growth of U.S. exports between 1994 and 1999 was about evenly split between high income countries (up 35.5 percent) and, despite the Asian financial crisis, middle and low income countries (up 35.9 percent; see Annex I, Table 2). Among major countries and regions, exports to Mexico experienced the fastest growth, at 70.8 percent, while exports to Canada, China, and the EU followed, at 43.5 percent, 41.4 percent and 40.7 percent, respectively. Strongly affected by weak economic conditions and an outright recession in that country, exports to Japan rose a mere 7.5 percent between 1994 and 1999.

Goods imports, reflecting the strong growth of the U.S. economy, increased by 54.7 percent from 1994 (under Census definitions; See Annex I, Table 3). With the exception of industrial supplies and materials (a category dominated by the price weakness of crude petroleum in much of this period), all categories of imports rose substantially. The largest category, capital goods (except automotive), accounting for just under 29.0 percent of goods imports, rose by 61.0 percent. The overlapping category of high technology, accounting for just over 17.6 percent of imports, recorded the strongest growth (except for a small "other" category) of 84.1 percent. Consumer goods, at 23.4 percent of goods imports, rose by 63.8 percent; autos and parts with a 17.5 percent share of imports, rose 51.7 percent; and agricultural products, with a 3.6 percent share of imports, rose by 41.4 percent.

Regionally, import growth in 1994-1999 was stronger from low and middle income countries (up 69.6 percent) than from other high income countries (up 43.7 percent; see Annex I, Table 4). As with exports, the strongest growth in U.S. goods imports was recorded with Mexico (121.7 percent) and China (110.9 percent). Following were the EU at 63.5 percent and Canada at 54.5 percent.

In 1999, services exports, at $275.5 billion, were just over 40 percent of the value of goods exports, while services imports, at $199.7 billion were just 19.4 percent of the value of goods imports (See Annex I, Table 5, Table 6). The growth in services exports between 1994 and 1999 (37.9 percent) slightly exceeded that of goods (36.0 per cent), while growth of services imports (51.4 percent) slightly lagged the growth of goods imports (54.1 percent).

Despite U.S. trade surpluses in the areas of agriculture, high technology products, capital goods and services – all areas of particular U.S. competitive strength in international commerce – the U.S. trade deficit for goods and services rose from $98.4 billion in 1994 to $271.3 billion in 1999 (see Annex I, Table 7). In the period 1995-1997, the goods and services trade deficit had been fairly stable at 1.3 percent to 1.4 percent of the U.S. GDP, rates less than half of those of the late 1980s. However, the U.S. trade deficit moved sharply higher in 1998 and 1999 under the impact sharp increases in incomes, household wealth and consumer demand in the United States; the increased desire of foreign

lenders and investors to participate in buoyant U.S. financial markets (or to invest directly); the Asian financial crisis; recessions in Latin America and Japan; and weaker growth in many other countries than in the United States. The goods and services deficit rose to 2.0 percent of GDP in 1998 and 2.9 percent in 1999. This latter rate was still below the record level of 3.3 percent in 1987.

At the end of the period, U.S. goods and services exports showed signs of recovery as the effects of the Asian financial crisis abated and economic growth picked up in some regions. On a year over year comparison, U.S. exports showed a decline in 10 out of the 11 months between May 1998 and March 1999, a period near the height of the Asian financial crisis. Average monthly exports during this period were 2.1 percent lower than in the same month of the preceding year. In the succeeding nine month period of April 1999 to December 1999, however, U.S. exports were higher in every month than a year earlier for every month but one. In the average month for this latter period, U.S. exports were 4.1 percent higher than in the preceding year.

III. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to the United States' international trade, environmental, labor and other trade-related interests are balanced and mutually supportive.

Highlights of the achievements of this Administration since 1993 include:

- *Expanded Market Access for Semiconductors.* As a result of the 1996 U.S.-Japan Joint Statement on Semiconductors, foreign market share of the Japanese semiconductor market grew to over 30 percent and has exceeded that level in every quarter since 1996. In 1999, this bilateral accord was replaced by a multilateral Joint Statement involving the United States, Japan, Korea and the European Commission.

- *International Cooperation on Trade and Environment Issues*: The Administration has succeeded in establishing a number of new international fora for analyzing and addressing trade-related environmental issues. The North American Commission for Environmental Cooperation, created by the NAFTA environmental agreement, for example, is pursuing programs to assess the market potential of shade grown coffee, help control mercury levels in the environment, and promote efforts to protect habitat for migratory birds. The Border Environment Cooperation Commission and the North American Development Bank support infrastructure projects which help to improve environmental quality on the U.S.-Mexico border. In the WTO, creation of the Committee on Trade and Environment at the conclusion of the Uruguay Round ensures a permanent forum within the multilateral trading system for consideration of environmental issues.

- *Domestic and International Environmental Review of Trade Policies.* In 1999, the White House issued an Executive Order on Environmental Reviews of Trade Agreements that, for the first time, institutionalizes procedures to ensure the timely consideration of environmental issues in the development of U.S. positions for trade negotiations. Under the NAFTA, the Administration continues actively to promote consideration of the environmental effects of the Agreement, including through, in 1999, the development by the Commission for Environmental Cooperation of an analytical framework for environmental assessments.

- *Criminalization of Bribery.* With the entry into force of the *OECD Convention on Combating Bribery of Foreign Public*

Officials in International Business Transactions in February 1999, seventeen countries joined the United States in prohibiting the bribery of government officials. Sixteen other countries are in the process of ratifying the Convention. In addition to attacking a problem that is one of the most serious threats to social and economic stability in many regions of the world, the *Convention* "levels the playing field" for U.S. exporters, who have been subject to the U.S. Foreign Corrupt Practices Act since 1977.

- *Disciplining Export Credit Programs.* The Administration's continued work under the *OECD Arrangement on Guidelines for Officially Supported Export Credits*, including the conclusion in 1997 of new guidelines for premia fees used in export credit programs, saves the U.S. taxpayer about $500 million annually. By "leveling the playing field" in the use of export credits, the Arrangement has also allowed U.S. exporters to increase their exports by about $1 billion a year.

- *Communicating the Benefits of Trade Liberalization for Developing Economies.* In the OECD, the Administration has pushed for continued analytical work on how trade can contribute to economic development. An important 1999 study concluded that open trade policies have been beneficial for development when accompanied by a coherent set of macroeconomic and structural policies, capacity-building, adequate social policy and good governance. This study reinforces the Administration's efforts to ensure that international negotiations focus on developig a strong trade infrastructure at the same time as they remove formal trade barriers.

- *Assessing the Relationships Between Trade and Core Labor Standards.* In 1996, the Administration actively supported an OECD study that refuted the argument that adherence to core labor standards negatively affects the economic and trade performance of developing countries. In 1999, the Administration obtained OECD Members' agreement to update and expand on this work in 2000.

- *Promoting Regulatory Reform.* The Administration is promoting an OECD work program designed to assess how governments can improve their regulations and regulatory processes. The Administration views this as an important opportunity to raise the profile of the problems posed by the regulatory regimes of many OECD countries to our exporters' market access and to demonstrate that regulatory reform (e.g., improved transparency and due process) produces efficiency gains which promote economic growth and development.

- *Response to the 1998 Steel Import Surge.* The Administration took prompt steps to roll back the steel import surge that took place in the latter half of 1998 as a result of the Asian crisis and the chronic global overcapacity in the steel sector. In January and August 1999 Steel Action Programs, the President announced a series of steps to address short term and long term causes and effects of the crisis and led to a sharp decline in steel imports in 1999. The Administration has supported an active program under the OECD Steel Committee to encourage fair global trade in steel based on market principles.

A. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a new, multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in

semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the fifth party. The 1999 Joint Statement on Semiconductors reflects over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei).

The 1999 Joint Statement succeeded the bilateral August 2, 1996 Joint Statement between the governments of the United States and Japan, which was to expire on July 31, 1999. Under the 1996 Joint Statement, foreign share of the Japanese market averaged more than 30 percent and a new era of cooperation between Japanese users and foreign suppliers supplanted the confrontation of earlier periods. Although it was a bilateral agreement, the 1996 Joint Statement provided for participation by third parties if they eliminated semiconductor tariffs. The European Union and Korea joined under this provision, fulfilling a longstanding goal of U.S. industry. The 1996 Joint Statement thus paved the way and proved to be an essential building block for the Information Technology Agreement, which substantially eliminated all semiconductor tariffs worldwide.

1999 Activities

The 1999 Joint Statement includes the essential elements of the 1996 accord such as regular meetings among governments and between governments and industry representatives.

Under the 1999 Joint Statement, industry CEOs will continue to meet in the World Semiconductor Council (WSC) to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. Membership in the WSC requires that the governments of national/regional industry associations must have eliminated semiconductor tariffs, or committed to eliminate these tariffs expeditiously. Governments and other authorities will meet at least once a year to receive and discuss the recommendations of the WSC regarding policies of governments and authorities that may affect the future outlook and competitive conditions within the global semiconductor industry.

The 1999 Joint Statement also provides that other governments or authorities whose national/regional industry associations have joined the WSC may become parties, if they support the objectives of the Joint Statement. Under this provision, Chinese Taipei has endorsed the objectives of the Joint Statement and joined the United States, Japan, Korea, and the European Commission as a party to the agreement.

Also, under the new Joint Statement, all parties have committed to the following important pro-competitive provisions: (1) barrier-free trade in semiconductors in markets worldwide; (2) the competitiveness of companies and their products, not the intervention of governments and authorities, should be the principle determinant of industrial success; (3) government and authorities' measures should be fully consistent with the letter and spirit of the WTO Agreements and governments and authorities should avoid any form of discrimination; and, (4) recognition that the GATT 1994 condemns injurious dumping, and reaffirmation of the need to avoid the problem of injurious dumping through fair and effective antidumping measures consistent with GATT 1994 and the WTO Agreement on Implementation of Article VI of GATT 1994 (Antidumping Agreement). The Joint Statement will be subject to review after five years (August 1, 2004) from the date of issuance. It also may be modified in whole or in part at any time by mutual consent of the parties.

Foreign market share into the Japanese market exceeded 30 percent in every quarter since the

beginning of 1997. The U.S. Government will, however, continue to monitor foreign market share in the Japanese market on a quarterly basis, and once a year will report the average annual foreign share in the Department of Commerce "U.S. Industry and Trade Outlook."

B. Trade and the Environment

The Clinton Administration has been very active in promoting a trade policy agenda that pursues economic growth in the broader context of sustainable development, integrating economic, social, and environmental policies.

Knowing that the long-term maintenance of a prosperous economy requires a healthy environment and vice versa, the Clinton Administration has created important mechanisms pursuant to our belief that the trade rules and environmental policy must be mutually supportive. Most noteworthy among these mechanisms were: (1) the environmental side-agreements to the North American Free Trade Agreement, which created the North American Commission on Environmental Cooperation, the Border Environment Cooperation Commission, and the North American Development Bank; (2) the WTO Committee on Trade and Environment, a U.S.-led initiative to establish a forum for consideration of environmental issues within the WTO; and (3) the CEO-level Trade and Environment Policy Advisory Committee (TEPAC) to advise the U.S. Trade Representative on relevant trade and environment policies and decisions.

In 1999, USTR continued its efforts to ensure that trade and environmental policies are mutually supportive, reflecting the Administration's continuing commitment to sustainable development. Particularly noteworthy among this year's activities were the development and issuance of the White House Policy Declaration on Environment and Trade and the Executive Order on Environmental Reviews of Trade Agreements.

The White House Policy Declaration sets out principles on trade and environment that will guide U.S. participation in policymaking and trade negotiations, particularly within the WTO. Through the application of these principles we will seek to ensure that trade rules continue to be supportive of environmental protections both at home and abroad.

The Executive Order on Environmental Reviews requires careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of major environmentally significant trade agreements. For the first time, the Executive Order institutionalizes procedures to ensure the timely consideration of environmental issues in the development of U.S. positions for trade negotiations.

In addition to these two activities, USTR participated both in multilateral economic fora and in international environmental agreements, in conjunction with other U.S. agencies. Also, USTR worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Multilateral Fora

As called for by President Clinton at the WTO's Second Ministerial Conference in May 1998, the WTO held a High Level Symposium on Trade and Environment in March 1999. This meeting brought together for the first time senior trade and environmental officials with a broad range of civil society and provided new energy and direction to the work of the WTO in this area.

The WTO Committee on Trade and Environment (CTE) met three times over the course of 1999, pursuant to its mandate, as spelled out in the Uruguay Round Agreements. The Committee reviewed the full range of trade and environment issues on its agenda and continued to deepen Members' understanding of these issues. The United States contributed to this process by, inter alia, playing a leadership role in working to build

a consensus for the WTO to address fisheries subsidies that contribute to over fishing and on the trade and environmental benefits of liberalizing trade in environmental goods and services.

USTR and the White House Council on Environmental Quality led an inter-agency team of experts that developed an assessment of the economic and environmental effects of the proposed accelerated tariff liberalization initiative with respect to forest products. A number of environmental organizations have expressed concern that these forest product tariff reductions would lead to increased timber harvests and, as a result, environmental degradation. The assessment included opportunities for public input. The report, released in November 1999, concludes that the ATL initiative will likely have no distinguishable impact on aggregate U.S. timber harvests compared to what would be the case absent the initiative, and minimal impact to aggregate global timber harvest levels.

USTR has been engaged in addressing the relationship between investment and the environment, including through active participation in the rewriting of the environment chapter of the OECD Guidelines for Multinational Enterprises. USTR, along with other U.S. agencies, also is reviewing the investment commitments under the NAFTA to ensure that those commitments provide a secure, transparent, and fair regulatory environment for foreign investors, and that they not be interpreted or applied in a way that undermines member countries' right to regulate to protect the environment, health, and safety.

In the OECD's Joint Working Party of Trade and Environment Experts, USTR and other U.S. agencies worked on the recently completed analysis of methodologies for environmental assessments of trade liberalization agreements, which will be useful as the United States implements the President's Executive Order on environmental reviews of trade agreements.

USTR remains very active in negotiations and conferences of the parties to various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. For instance, USTR has been an active contributor to U.S. involvement in the work of the United Nations Convention on Biological Diversity, including participating in the negotiations of the recently concluded Cartagena Protocol on Biosafety (which includes an "advanced informed agreement" requirement for exports of certain genetically-modified organisms). USTR also continues to participate in the trade-related aspects of the Persistent Organic Pollutants (POPs) negotiations at the United Nations, where more than 100 countries are working to address a group of toxic chemicals that persist in the environment for significantly long periods of time, are transboundary in nature, and bioaccumulate at high rates. The POPs agreement will be the first global agreement to control the release of toxic substances and is expected to significantly advance sustainable development through pollution prevention and sound chemical management.

USTR also continues to be involved in the trade-related aspects of international forest deliberations, including the Commission on Sustainable Development's Intergovernmental Forum on Forests and the International Tropical Timber Organization. In addition, USTR participates in U.S. policymaking regarding the implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Transboundary Movement of Toxic Wastes, and the Framework Convention on Climate Change.

2. The NAFTA

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the Border Environment Funding Agreement. These

institutions were designed to ensure that expanded North American trade does not take place at the expense of the environment. The Border Environment Cooperation Commission and the North American Development Bank approve loans, loan guarantees and grants to help finance sorely needed infrastructure projects along the U.S.-Mexico border.

The Commission for Environmental Cooperation (CEC), governed by the trilateral Ministerial-level Council that implements the NAAEC, continued in 1999 to generate progress on numerous fronts and to devote a significant portion of its annual work program to trade and environment issues. The CEC has undertaken a number of environmental projects, encompassing such diverse objectives as studying the market potential of shade grown coffee, developing a draft plan to help control mercury levels in the environment, and promoting efforts to protect habitat for migratory birds. In addition, the CEC is conducting a multiyear study of the environmental effects of NAFTA. In 1999 the CEC published a proposed methodology for assessing NAFTA's environmental effects (the *Analytic Framework for Assessing Environmental Effects of the North American Free Trade Agreement (NAFTA): Phase II*) and issued a call for papers applying the framework, which are to be presented at a conference in the Fall of 2000. The NAFTA Parties also have established a working group of senior trade and environment officials, which over the course of its first four meetings made progress in clarifying the relationship and facilitating cooperation between the CEC and the NAFTA Free Trade Commission (FTC) as mandated by Article 10:6 of the NAAEC.

In 1999, USTR has been involved in several issues related to Chapter 11 of the NAFTA, which sets out each government's obligations with respect to investors from other NAFTA countries and their investments in its territory, and affords investors the right to seek compensation through international arbitration. One issue concerned the only environmental claim ever filed against the United States under Chapter 11, wherein a Canadian investor alleged that the State of California's phase-out of MTBE, a gasoline additive, expropriates its investment in the United States. In preparation for the U.S. Government defense, USTR convened consultations both with the State of California and a federal interagency group. USTR also leads participation in another Chapter 11 issue, a trilateral process developed with Canada and Mexico to ensure that the investment commitments of the NAFTA provide a secure, transparent, and fair regulatory environment for foreign investors, and that the Chapter 11 investment rules not be interpreted or applied in a way that undermines a member countries' sovereign right to regulate to protect the environment, health, and safety.

3. The Western Hemisphere and the European Union

As part of our goal of ensuring that trade liberalization takes place in the context of sound environmental protection regimes, the United States has led efforts to include environmental considerations in the construction of the Free Trade Area of the Americas. The Western Hemisphere's 34 democratically elected Leaders committed at the Miami and Santiago Summits of the Americas to ensure that there be a mutually supportive relationship between trade liberalization and environmental protection in the FTAA. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation. The United States continues to work within the FTAA's Government Committee on Civil Society to increase the participation of environmental groups in the FTAA process and to increase the environmental awareness of FTAA negotiators. To help disseminate the views of civil society, public submissions are available in the USTR public reading room and executive summaries are available on the State Department website (www.state.gov/www/issues/economic/current_issues.html). USTR also will be conducting an environmental review of the FTAA agreement as it progresses.

In 1999, the United States and the European Union continued an active trade and environment dialogue under the auspices of the Transatlantic Economic Partnership's Environment Group and in the context of the annual U.S.-EU high-level environmental ministerial meeting. The dialogue was broadened to include consultations with the Transatlantic Environment Dialogue (TAED), a new consortium of European and U.S. environmental NGOs.

4. Other Issues

In April 1998, a WTO dispute settlement panel found that U.S. restrictions under the "Shrimp-Turtle" law on imports of shrimp and shrimp products harvested in a manner harmful to endangered species of sea turtles were inconsistent with WTO rules. The United States appealed, and in October 1998, the Appellate Body reversed most of the panel's findings.

The Appellate Body agreed with the United States that WTO rules allow Members to condition access to their markets on compliance with certain policies such as environmental conservation. In reaching this finding, the Appellate Body construed the GATT through the perspective embodied in the Preamble to the WTO Agreement, which explicitly acknowledges "the objective of sustainable development" and the importance of protecting and preserving the environment. The Appellate Body also acknowledged that the GATT is "not static in its content or reference but is rather by definition, evolutionary." Accordingly, it took account of a number of international environmental conventions in interpreting the GATT. The Appellate Body thus agreed that the U.S. Shrimp-Turtle law was a permissible measure adopted for the purpose of sea turtle conservation.

The Appellate Body also confirmed that WTO rules permit panels to accept unsolicited *amicus curiae* briefs from non-governmental organizations.

The Appellate Body did not find fault with the shrimp-turtle law itself and did not recommend that the United States change its law. However, it did find fault with certain aspects of the U.S. implementation of the law. In particular, it found that the State Department's procedures for determining whether countries meet the requirements of the law did not provide adequate due process, in terms of formal opportunity for interested parties to be heard and a formal written explanation when an adverse decision was taken. In a similar vein, the Appellate Body found it discriminatory that the United States allowed Western Hemisphere nations a three-year phase-in period to adopt turtle-safe fishing techniques while providing the complainants with only four months' notice before the import prohibition went into effect.

In November 1998, after consulting with Congress and reviewing input received from interested members of the public, the U.S. Government advised the WTO of its intention to comply with the Appellate Body's recommendations, and to do so in a manner that is consistent with the firm commitment of the United States to protect endangered sea turtles. Since that time, the United States has met this commitment in a manner that has *enhanced* sea turtle conservation.

Throughout 1999, USTR worked with the Department of State and the National Oceanic and Atmospheric Administration (NOAA) to implement the recommendations and rulings of the WTO in a way that both responded to the issues raised by the Appellate Body report, and – with the cooperation of the countries in the Indian Ocean region – advanced efforts to conserve endangered sea turtles. Specifically, on July 8, 1999, and after public notice and comment, the Department of State issued revised guidelines implementing the U.S. Shrimp/Turtle law. The revised guidelines: (1) permit detailed consideration of the comparability of foreign programs with the U.S. program, and (2) elaborate a timetable and procedures for certification decisions. These changes are designed to increase the transparency and predictability of the

certification process and to afford a greater degree of due process.

Another key element of the implementation efforts has been an effort to launch the negotiation of an agreement with the governments of the Indian Ocean region on the protection of sea turtles in that region. The State Department has made substantial progress in this area and the countries of the region have agreed to hold consultations aimed at concluding an instrument to be called the Indian Ocean and South-East Asian Regional Agreement on Conservation and Management of Marine Turtles and their Habitats, aiming to initiate negotiations within the first half of the year 2000. As another element of the implementation efforts NOAA's National Marine Fisheries Service continues to provide other countries with technical training in the design, construction, installation and operation of Turtle Excluder Devices.

C. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is the primary forum for the discussion of economic and social issues confronting its members, which include the United States, Canada, Mexico, Western Europe, Japan, Australia, and New Zealand. The Czech Republic joined the OECD in 1995 and Korea, Hungary, and Poland in 1996, bringing total OECD membership to twenty-nine. Slovakia is currently discussing the conditions of membership, and Argentina and Russia have also formally applied to join. The OECD has a program of cooperation with Russia, the purpose of which is to support Russia's efforts to establish a fully-fledged market economy and its eventual membership in the OECD.

The OECD was founded in 1960 as the successor to the Organization for European Economic Cooperation, which oversaw European participation in the Marshall Plan. Its fundamental objective is "to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while maintaining financial stability and thus to contribute to the world economy." This objective is pursued through in-depth analysis of economic problems confronting the developed market economies and the development of cooperative solutions to many of these problems. Members have negotiated binding agreements in certain areas not adequately addressed in other fora.

Analysis of issues in the OECD often is instrumental in forging a consensus among OECD countries to pursue certain negotiating goals in other international fora such as the WTO. Work in the OECD is generally credited for the success of a number of key negotiating issues in the Uruguay Round – agriculture in particular, but also trade in services, trade-related investment measures, and trade-related intellectual property rights.

1. Work Program

In 1999, the OECD Trade Committee continued to address a number of issues of significance to the multilateral trading system. In preparation for future negotiations, OECD countries have focused increasingly on non-border restraints to market access and on the nexus between trade policy and other international policy objectives. As a result, the OECD's trade work has become more diverse, dealing with traditional trade issues as well as those which have been traditionally within the purview of domestic policy discussions. Key projects include studies on the benefits of ongoing trade liberalization, ratification and monitoring of the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions, and the OECD Trade Committee's analysis of trade in relation to labor standards and the environment.

2. Benefits of Trade Liberalization

In 1998, the OECD published a report, entitled "Open Markets Matter: the Benefits of Trade and Investment Liberalization," which sought to better communicate the clear net benefits to society of

continuing on the path of trade liberalization and market-led reforms. Given the changes in today's global economy, and the anxieties that these types of changes often generate, the report was an important contribution to informed public debate on the implications of further trade liberalization. In 1999, the OECD published a follow-up report, entitled, "Reaping the Full Benefits of Open Markets," which summarized the benefits to developing countries of open markets and ongoing liberalization. It concluded that open trade and investment have been beneficial for development when accompanied by a coherent set of growth-oriented macroeconomic and structural policies, capacity-building, adequate social policy and good governance. In particular, it noted that open economies have grown significantly faster than closed economies over sustained periods of time and that this higher growth is associated with reductions in poverty.

3. Criminalization and Non-tax-deductibility of Bribery of Foreign Public Officials

The OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* entered into force in February 1999. The Convention was adopted by the 29 members of the OECD and five non-members in 1997. (The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia.) It requires the parties to criminalize bribery of foreign public officials in executive, legislative, and judicial branches, levy significant penalties on those who bribe, and tighten up accounting procedures to make it harder to hide illegal payments. As of February 2000, 20 of the 34 signatories had ratified the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms lost international contracts worth billions of dollars every year due to under-the-table payments to corrupt officials. Such payments also distort investment decisions of developing countries, undermine the rule of law and create an unpredictable environment for business.

The OECD convention signatories will be monitoring the implementation of the Convention and studying whether its coverage should be extended to political parties, candidates, bribery of foreign public officials as a predicate offense for money laundering, and the role of foreign subsidiaries and offshore financial centers in bribery transactions. Phase one of the monitoring process, the review of the adequacy of implementing legislation, is underway. The implementing legislation of sixteen countries has already been reviewed. Phase two, the evaluation of enforcement, will follow.

The OECD also has recommended that member countries reexamine their tax laws to eliminate tax deductibility of such bribes. So far, 25 of the 29 OECD countries have reported that they have made bribes non-deductible.

4. Export Credits

The *OECD Arrangement on Guidelines for Officially Supported Export Credits* places limitations on the terms and conditions of government supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of the government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries.

The *Arrangement* is saving U.S. taxpayers about $500 million annually in reduced appropriations because Ex-Im Bank (the U.S. export credit agency) no longer has to offer loans with low interest rates and long repayment terms. In addition, the "level playing field" created by the Arrangement's tied aid disciplines has allowed U.S. exporters to increase their exports by about $1 billion a year. These exports would have cost taxpayers about $300 million in annual appropriations to Ex-Im Bank if the United States

had to create its own tied aid program in order to compete.

5. Investment

The OECD Committee on Investment and Multinational Enterprises (CIME) pursues a multi-disciplinary work program, including analytical work on investment rules topics. The United States played the central role in devising the list of topics, which includes: non-discrimination and environment, and non-discrimination and social policy. A working group of the CIME is reviewing the OECD Guidelines for Multinational Enterprises, a set of non-binding recommendations from governments to enterprises, comparable to code of conduct for international business.

Several non-member observers are at the table as full participants: Argentina, Chile, Brazil, and Slovakia. A draft, "work-in-progress" text was released on the Internet for public comment in January of 2000 (www.oecd.org/daf/investment/guidelines/newtext.htm). The CIME also sponsors an active outreach program with non-member countries and civil society. A September 1999 conference on Foreign Direct Investment, Development and Corporate Responsibility attracted broad participation from developing countries, labor unions, non-governmental organizations, academics and business.

Notwithstanding the progress that had been achieved in the refinement of basic investment principles, participants in the Multilateral Agreement on Investment (MAI) agreed to suspend negotiations in October of 1998, in light of significant differences of view on a number of provisions and the need for further consideration of concerns raised by environment and labor interests. In December 1998, the Parties terminated the negotiations.

6. Trade and Labor Standards

In 1996, the OECD released a report on "Trade, Employment and Labor Standards," which examined the relationship between core labor standards and economic development and trade. These core labor standards are: freedom of association, collective bargaining, elimination of exploitative forms of child labor, prohibition of forced labor, and non-discrimination in employment. The report concluded that a mutually reinforcing relationship exists between core labor standards and trade liberalization. It refuted the long-standing argument that adherence to such standards negatively effects the economic performance of developing countries; indeed, it reinforces long-term development prospects. In May 1999, the OECD Trade Committee asked the Secretariat to prepare an update of the 1996 report, which would review factual developments and summarize relevant economic literature since the report was issued. The update should be completed and published in 2000.

7. Shipbuilding

In July 1994, the OECD Working Party Six (WP-6) completed an ad referendum agreement on shipbuilding – the Agreement Respecting Normal Competitive Conditions in the Shipbuilding and Repair Industry. The Agreement, which covers the construction and repair of self-propelled seagoing vessels of 100 gross tons and above, has four key elements: (1) the elimination of virtually all subsidies granted either to shipbuilders directly or indirectly through ship operators; (2) the extension of injurious pricing (antidumping) rules to shipbuilding; (3) the establishment of strict rules for official domestic and export financing; and (4) an effective, binding dispute settlement mechanism.

The Agreement was signed on December 21, 1994, by the United States, the EU, Korea, Japan and Norway. These countries account for about 80 percent of world commercial shipbuilding. The Agreement requires ratification by all of these countries before it can enter into force. For the United States, ratification requires the passage of implementing legislation by the Congress. The EU, Korea, and Norway ratified the Agreement in December 1995 and Japan completed its

ratification process in May 1996. As the United States has not yet ratified the agreement, it has not taken effect.

8. Regulatory Reform

The OECD has an ongoing work program focusing on how governments can improve their regulations and regulatory processes. It began conducting reviews of regulatory reform efforts in member countries in 1998, based in part on self-assessment. The United States has supported the OECD's regulatory reform efforts as a way to raise the profile of the problems posed by the regulatory regimes of many OECD countries to our exporters' market access; to demonstrate that the benefits of regulatory reform (e.g., creation of due process and transparency) can lead to greater market openness and competition and more effective achievement of important policy goals; to encourage consideration of discussion among OECD members regarding possible solutions to market access problems caused by regulation and regulatory heterogeneity; and to promote growth in member economies through domestic efficiency gains and thereby increase demand for U.S. exports.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making, non-discrimination, avoidance of unnecessary trade restrictions, use of internationally harmonized measures where available/appropriate, recognition of the equivalence of other countries' procedures for conformity assessment where appropriate, and application of competition principles.

In 1998, the OECD completed country reviews of regulatory reform in the United States, Japan, Mexico, and the Netherlands. In 1999, the Working Party of the Trade Committee reviewed the market access chapters of the reviews of Korea, Spain, Denmark, and Hungary. Reviews of Italy, Greece, Canada, and Ireland are planned for 2000.

In its work on product standards, the Trade Committee analyzed the costs to exporters of meeting divergent product standards and examined four case studies on the use of international standards.

9. Competition Policy

In 1999, the Joint Group on Trade and Competition continued its work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as other fora, such as the WTO. Using conceptual approaches taken by both trade policy and competition policy experts, the Group discussed: (i) the complementarities and differences between trade and competition policies; (ii) whether it is feasible to identify core principles and minimum standards for competition laws; and (iii) whether bilateral or multilateral approaches are more conducive to achieving improved cooperation and coherence to address anti-competitive practices that have an international dimension. The Group also examined rules for enterprises with exclusive and special rights and examined potential market access problems arising from merger reviews. It continued to share views and experiences on various kinds of international cooperation and enforcement activities in the fields of both competition policy and trade policy.

On June 29-30, 1999, the OECD conducted a Conference on Trade and Competition which extended the discussion of the Joint Group's work to non-OECD emerging countries, business, trade unions and other non-governmental organizations. The proceedings of this Conference have been published.

10. Analysis of Tariff and Non-Tariff Barriers

In order to support continued trade liberalization, the Trade Committee has continued its analysis of the tariff and nontariff regimes of OECD countries and of a number of major non-OECD countries. A key objective is to seek to identify sectors and product groups on which future negotiations might focus. Studies on the tariff regimes of OECD countries and 13 non-OECD countries were completed in 1999. The Trade Committee is also analyzing barriers to trade in services and considering various cross-sectoral approaches to services negotiations. The Committee is planning to conduct a survey of business views on the importance of various non-tariff barriers in the coming year.

11. Global Government Procurement Markets

In order to remedy the shortage of available data on the size of government procurement markets, the Trade Committee is engaged in a project to analyze the value of procurement activities in a range of OECD and major non-OECD countries. This project emphasizes efforts to develop a common methodology for estimating the size and growth of procurement markets on the basis of national accounts statistics and other standardized and widely available data.

12. Trade and Environment

The OECD Joint Working Party on Trade and Environment continues its analytical work in areas where trade and environmental policies intersect. In the past year, the group examined the environmental effects of trade liberalization in key sectors such as electricity and environmental services. It also discussed mechanisms for public participation in trade and environment issues, analyzed methodologies for assessing the environmental impact of trade agreements, and reviewed implementation of the OECD procedural guidelines on trade and the environment.

13. Non-member Countries

The Trade Committee has continued its contacts with non-member countries to encourage the integration of developing and transitional economies into the multilateral trade regime. To date, this work has focused on the integration of the Central and Eastern European Countries, the Newly Independent States of the Former Soviet Union (NIS), and the Dynamic Non-Member Economies or "DNMEs" (leading developing economies in Asia and South America).

In 1999, the OECD organized a workshop on "Barriers to Trade in Goods and Services in the Post-Uruguay Round Context," in which it presented its analytical work on services and tariffs to 20 non-member countries, including Brazil, China, Egypt, and India. In addition, the Trade Committee's Working Party met with Russia, Romania, the Ukraine and Kyrgyzstan to discuss trade policy developments in those countries. The Working Party and Russian officials also discussed federal-regional relations and trade in services in Russia.

D. Steel Trade Policy

United States steel imports surged in 1998 when, after the collapse of demand in Asia which began in the fall of 1997, Japan, Korea, Russia, and other countries re-directed their shipments to the United States. The impact on the U.S. steel market was swift and severe, with imports up by more than 9 million metric tons in 1998, and import penetration up from 24 percent in 1997, to 30 percent in 1998. While imports began to decline in early 1999 and dropped, at year end, by 15 percent from the 1998 level, the U.S. market did not begin recovering until the end of the year.

In January and August 1999, the White House announced steel action programs that outlined concerns with the steel import situation and reaffirmed the commitment to identify and address factors that pose continuing risks for the health and vitality of the U.S. steel industry, U.S.

steel workers, and the U.S. economy. A key component of these programs was undertaking bilateral initiatives with Japan, Korea, NIS countries, and other steel exporting nations to address a broad range of practices that support economically unjustifiable capacity. Another primary focus of the Steel Action Programs was the vigorous enforcement of our trade laws to ensure that our trading partners play by the rules. The plans also called for enhanced monitoring of steel imports and trade trends, early release of steel import statistics, examination of subsidies and market distorting trade barriers in foreign countries, and conferences on unfair trade practices and excess capacity.

In September 1999, USTR initiated a high-level dialogue with Japan. The objective of these talks is to review bilateral and global steel issues of mutual concern; to promote and to seek to remove obstacles to fair, market-based production and trade in a competitive environment; and to explore policies and steps to avoid sudden import surges and future trade disputes.

USTR also initiated a high-level bilateral dialogue with Korea. The objectives of the dialogue are fair trade in steel products; the expeditious, complete, and market-based privatization of Korea's largest steel producer, POSCO; and the sale of Hanbo in a transparent manner that will not engender government involvement.

In addition, the Administration negotiated a comprehensive agreement with Russia. This agreement resulted in quotas on all steel imports from Russia, as well as technical assistance to increase market orientation of Russian steel producers.

The Administration also has represented the interests of U.S. steel industry and workers at the WTO and through the OECD Steel Committee. In 1999, the President also signed into law the Steel Loan Guarantee Program which will guarantee commercial loans for companies most severely impacted by the1998 steel import crisis.

In 1999 Commerce completed 34 antidumping and countervailing duty investigations on steel and began 24 additional steel cases, most of which will be completed in the spring of 2000. Commerce took the unprecedented step of providing faster relief to the industry by expediting the investigations of hot-rolled steel from Japan and Russia, cut-to-length steel plate from Japan, and cold-rolled steel from seven countries.

Due to the continued strong demand for steel in the U.S. economy, the recovery in Asia, and Administration actions, the stability of the U.S. steel market is being restored. Overall industry capacity utilization recovered to 89 percent in January 2000, from the low 70s in early 1999, and prices have begun to recover.

IV. Regional Negotiations

One of the major achievements of the Clinton Administration has been the use of regional arrangements to further trade liberalization. Passage and implementation of the North American Free Trade Agreement (NAFTA), the launch of the Free Trade Area of the Americas (FTAA) and the negotiation of sectoral agreements in Asia Pacific Economic Cooperation forum (APEC), all have played a seminal role in trade policy.

In 1993, in recognition of the growing strength and dynamism of our trade and economic links with the Asia Pacific region, President Clinton convened the first APEC Leaders meeting in Seattle, Washington, giving U.S. trade and economic policy an Asian regional focus at the highest level for the first time. In succeeding years, the President's vision and leadership transformed APEC from a largely consultative body to one with an active trade vision – to achieve open and free trade and investment in the region in the first two decades of the 21st century.

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. As the world's largest and most comprehensive free trade area, it provides market opening and fair rules for trade and investment across North America. The negotiation and implementation of trilateral environment and labor agreements dramatically increased cooperative activities across North America and encouraged effective enforcement of environmental and labor laws.

Finally, in December of 1994, the 34 democratically elected leaders of the Western hemisphere agreed to create a comprehensive Free Trade Area of the Americas by 2005. It was recognized that the prosperity and competitiveness of the entire hemisphere would be enhanced by the elimination of trade barriers and a single set of fair trade rules. In addition, economic cooperation supports other goals, such as democracy, the rule of law, anti-corruption, and social justice. With these objectives in mind, the Administration pursued a regional approach to the Western Hemisphere, with the FTAA as its center.

A. Free Trade Area of the Americas

Overview

At the first Summit of the Americas, held in Miami in December 1994, President Clinton and the 33 other democratically elected leaders of the hemisphere agreed to create the Free Trade Area of the Americas as a comprehensive free trade zone encompassing more than 800 million people in the Americas. They directed their Trade Ministers to conclude the negotiations of the FTAA no later than the year 2005. The Trade Ministers launched their work at the first FTAA Ministerial, hosted by the United States in Denver in June 1995. As we stand at the halfway point of the leaders' timetable, we are well on our way to making their vision a reality within the time frame that they established. Nine Negotiating Groups – covering market access; agriculture; services; intellectual property; government procurement; investment; subsidies, anti-dumping and countervailing duties; competition policy; and dispute settlement – are conducting negotiations in Miami.

An important characteristic of the FTAA has been the effort to build broad public understanding of and support for the FTAA by communicating openly with the public. For the first time in an international trade negotiation, a committee of all participating governments was established to

provide an effective means for civil society to contribute to the negotiating process. The first Report to the Ministers from the Government Committee on Civil Society summarizes the range of views submitted by organizations and individuals from throughout the hemisphere in response to a formal invitation for written comments. This Report is available on the official FTAA internet homepage (www.ftaa-alca.org).

In order to ensure that the FTAA negotiations take into account new technologies in international commerce, the Ministers also established the Joint Private-Public Sector Committee of Experts on Electronic Commerce. This Committee's Report to the Ministers also is available on the FTAA homepage. The Joint Committee will continue its work to expand the benefits and opportunities of the electronic marketplace in the Western Hemisphere and to provide guidance on how electronic commerce should be dealt with in the construction of the FTAA.

Finally, the FTAA countries are taking into account the differences in the levels of development and the sizes of the economies in the Americas, in order to create opportunities for the full participation by all countries.

Highlights of the achievements of this Administration since 1993 include:

- *Launch of Negotiations.* Following a period of preparatory work among the 34 countries after the Miami Summit of the Americas in 1994, the 34 leaders at the Santiago Summit of the Americas in 1998 initiated the negotiations. Since then the Negotiating Groups have developed annotated outlines of their respective chapters of the FTAA agreement. At the fifth FTAA Trade Ministerial meeting, held in Toronto in November 1999, the Ministers instructed the Negotiating Groups to develop draft texts of their chapters of the FTAA agreement by the time of the next Ministerial in April 2001.

- *Implementation of Business Facilitation Measures.* The FTAA countries developed and are implementing in 2000 a set of eight customs-related business facilitation measures to facilitate the conduct of trade in the hemisphere even before the negotiations are completed. Among the most significant measures are: procedures to expedite express shipments; simplified procedures for low-value shipment transactions and for goods related to business travel; and development of national codes of conduct for customs officials.

1999 Activities

The decision to pursue negotiations for the Free Trade Area of the Americas was one of the most important initiatives to emerge from the first Summit of the Americas meeting, held in Miami in December 1994. At the Miami meeting, hemispheric leaders formulated the concept of a free trade area encompassing nearly 800 million people throughout North America, Latin America, and the Caribbean, and agreed to conclude negotiations creating the FTAA by 2005. President Clinton and the 33 other democratically-elected leaders in the Western Hemisphere formally launched the FTAA negotiations at the Santiago Summit of the Americas meeting in April 1998.

The negotiations are being guided by general principles and objectives approved by the leaders. Among the most important principles are that the FTAA should improve upon WTO rules and disciplines wherever possible and appropriate, and the outcome of the negotiations will be a "single undertaking," in the sense that signatories to the final FTAA agreement will have to accept all parts of it – they cannot pick and choose among the obligations. Among the most important objectives are progressively to eliminate tariffs and nontariff barriers, as well as other measures with equivalent effects, which restrict trade; to

bring under greater discipline trade-distorting practices for agricultural products, including those that have effects equivalent to agricultural export subsidies; to promote customs mechanisms and measures that ensure operations are conducted with transparency, efficiency, integrity, and accountability; to liberalize trade in services to achieve hemispheric free trade under conditions of certainty and transparency; to ensure adequate and effective protection of intellectual property rights, taking into account changes in technology; to establish a fair and transparent legal framework for investment and related capital flows; to make our trade liberalization and environmental policies mutually supportive; and to further secure the observance and promotion of worker rights, in particular the observance of internationally recognized core labor standards.

In 1999, the United States and the 33 other FTAA countries made substantial progress in negotiations toward creation of the Free Trade Area of the Americas. Each of the nine FTAA negotiating groups prepared an annotated outline of issues to be considered in developing provisions that will comprise the FTAA agreement. As a result of this progress, FTAA ministers at the Fifth Ministerial Meeting, held in Toronto in November 1999, instructed the negotiating groups to begin preparation of draft texts of the chapters that will constitute the agreement. The draft texts will be submitted to ministers by their next meeting in April 2001.

The United States participated actively in the nine negotiating groups established following the Santiago Summit. Each of the negotiating groups – covering market access, agriculture, services, intellectual property, investment, competition policy, government procurement, subsidies/antidumping/countervailing duties, and dispute settlement – met several times over the course of the year in Miami, which is hosting the negotiations and the Administrative Secretariat for the first three years of the negotiations. In addition, the United States chaired the Negotiating Group on Government Procurement during the 1998-1999 period, and will chair the Negotiating Group on Services in the 2000-2001 period.

Other governments throughout the hemisphere have joined in sharing the responsibility of leading the negotiations: Chile (Market Access), Brazil (Agriculture), Mexico (Intellectual Property), Trinidad and Tobago (Investment), Canada (Government Procurement), Colombia (Competition Policy), Venezuela (Subsidies/Antidumping/Countervailing duties), and Costa Rica (Dispute Settlement).

As a result of U.S. efforts, the FTAA countries also agreed to implement eight specific customs-related and ten transparency-related measures which will help reduce obstacles to doing business in the hemisphere while the FTAA negotiations continue. These measures are to be implemented during the year 2000. The 34 countries will implement these measures based on a common set of elements that specify what steps each country will undertake. This underlines the fact that the FTAA is creating a unified, cohesive market with a single set of rules. Among the most significant measures to be implemented are: procedures to expedite express shipments, including by releasing shipments by customs authorities within six hours of submission of necessary customs documentation; simplified procedures for low-value shipment transactions and for goods related to business travel; development of national codes of conduct for customs officials; and application of the 1996 Harmonized Commodity Description and Coding System at the six-digit level.

In order to improve transparency and facilitate business in the hemisphere, the participating governments also agreed to continue to make public commercially useful information by posting on the official FTAA Internet homepage (www.ftaa-alca.org) detailed information on each country's trade regime. The business facilitation measures were developed as a result of extensive consultation with the private sector, including identification of customs efficiency as a priority area. The FTAA countries view business

facilitation as an ongoing initiative and accordingly will be identifying a second round of business facilitation measures in 2000.

As agreed at the 1998 San Jose trade ministerial meeting, Canada passed on its chairmanship of both the Ministerial and the vice ministerial (Trade Negotiations Committee) meetings for the period 2000-2001 to Argentina, who will be followed by Ecuador (2001-2002). The FTAA negotiations culminate in the last two years (2002-2004) with the co-chairmanship of Brazil and the United States, the two largest economies in the hemisphere. The Trade Negotiations Committee (TNC) focused in its first period on both guiding the negotiations and developing recommendations on business facilitation. The TNC will continue both these aspects of its work in the next period and also will begin to examine ways in which to treat the differences in the levels of development and size of economies in the hemisphere to ensure the full participation of all countries in the construction and benefits of the FTAA.

In keeping with the leaders' mandate to conduct the FTAA negotiations in a manner that will build broad public understanding of and support for the FTAA and recognizing the need for open communication with the public throughout the hemisphere, the trade ministers established a Committee of Government Representatives on the Participation of Civil Society. The committee was created to provide an effective means for civil society (i.e., all segments of the public, including individuals and organizations representing interests such as business, labor, consumers, academics, and the environment) to contribute to the negotiating process. As a first step, the Civil Society Committee invited the public throughout the hemisphere to provide its views on the FTAA negotiations in order for the Committee to present the full range of views to Ministers before the November 1999 Trade Ministerial. In addition to placing this invitation on the official FTAA website (www.ftaa-alca.org), countries agreed to use national mechanisms to disseminate the invitation further. In the United States, the invitation was disseminated through a variety of means, including press releases, letters and public meetings. In order to further enhance transparency of the negotiations, the U.S. Government also held open briefings and issued several Federal Register notices soliciting public comment on various aspects of the FTAA negotiations.

The ministers made a major advance in opening the negotiations to civil society by reaching agreement on and publicizing through the official FTAA Internet homepage (www.ftaa-alca.org) a Committee Report outlining the views which had been received from civil society in the hemisphere during the course of the first year of the negotiations. Ministers directed the Committee, which currently is chaired by Bolivia, to obtain ongoing input from civil society and to provide another report, outlining the full range of views received, at the next ministerial meeting in April 2001 for their consideration. In addition, on November 3, twenty-two FTAA ministers and vice ministers participated in the first America's Civil Society Forum in Toronto, which included participants from throughout the hemisphere representing a broad range of interests such as labor, environment, gender equality and social justice.

The United States also was instrumental in achieving a joint commitment with the other FTAA governments to eliminate export subsidies on agricultural products in the WTO, demonstrating that the FTAA and WTO negotiations are mutually supportive.

In recognition that the FTAA negotiations must take into account new technologies in international commerce, the ministers established the Joint Private-Public Sector Committee of Experts on Electronic Commerce. The Joint Committee submitted at the Toronto Ministerial meeting its Report to Ministers, which the Ministers made publically available by posting it on the official FTAA Internet homepage (www.ftaa-alca.org) and agreed to circulate it to

relevant authorities within their respective governments. The Report highlighted that electronic commerce can help FTAA countries expand their trade, increase their global competitiveness and hasten their integration into a unified, regional market. The dividends are expected to benefit particularly the smaller companies and smaller economies in the hemisphere which traditionally have been hampered by limited information, high market entry costs, and distance from major markets. The Joint Committee concluded that electronic commerce "can make an important contribution to future sustainable economic growth in the Western Hemisphere." The Joint Committee will continue its work aimed at expanding the benefits and opportunities of the electronic marketplace in the Western Hemisphere and providing guidance on how electronic commerce should be dealt with in the construction of the FTAA. The Committee currently is chaired by Uruguay.

As noted in the Santiago Summit Declaration, the participants in the FTAA are to "take into account the differences in the levels of development and size of the economies in the Americas, in order to create opportunities for the full participation by all countries." In order to ensure the full participation of smaller economies in the FTAA negotiations, the FTAA ministers established the Consultative Group on Smaller Economies. The Consultative Group, which currently is chaired by Guatemala and in which all 34 FTAA countries participate, will keep under review the concerns and interests of the smaller economies and bring to the attention of the Trade Negotiations Committee its recommendations to address such issues.

The FTAA will result in greater market access for U.S. exports. U.S. goods exports to Latin America (excluding Mexico) have been in surplus since 1992 before falling into deficit in 1999 as a result of the recessionary economic conditions through much of Latin America. Since 1992, U.S. goods exports have increased 56.8 percent. Jobs supported by goods exports to Latin America (excluding Mexico) increased from an estimated 460,000 in 1992 to more than 660,000 in 1998 (data available).

B. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. The NAFTA is the largest and most comprehensive free trade agreement in the world. It also includes the most significant labor and environmental cooperation agreements that the United States has negotiated as part of a trade agreement. The NAFTA has dramatically improved our trade and economic relations with our neighbors. Trade among the three countries has expanded enormously, thus helping to fuel our unprecedented economic expansion and promoting our global economic leadership. In addition, we are engaged in a singularly intensive trade, labor and environmental cooperation program. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and a coordinated effort to better protect worker rights and the environment in North America.

We intend to build on the remarkable record to date that has seen Mexico become our second largest single-country trading partner and our fastest growing major export market over the last five years, despite the worst economic setback in Mexico in 60 years in 1994-95. The magnitude of our trade relations in North America is impressive: U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the EU and Japan combined.

The Administration's ongoing bilateral and trilateral efforts in North America are designed to foster further progress. More than 25 different NAFTA Committees, Working Groups and their

subsidiary bodies complement our active bilateral agendas with Canada and Mexico. Overall direction to NAFTA implementation is provided by the annual NAFTA Commission, which will be hosted this year by the United States.

Highlights of the achievements of this Administration since 1993 include:

- *Creating the world's largest and most comprehensive free trade area with the United States, Canada and Mexico.* The Administration completed negotiation of, and secured Congressional approval for, the NAFTA - an accord unprecedented in its comprehensiveness which provides market opening and fair rules for trade and investment across North America. Trade expansion in the region has boomed, up more than 85 percent between the three countries, with U.S. exports of goods to Mexico racing to more than double what they were in 1993 (prior to NAFTA) and continuing to expand faster than any other major market. In addition, trade with our largest trading partner, Canada, has also jumped dramatically, with U.S. exports of goods up nearly 66 percent since 1993 and also continuing to grow.

- *Creating an unprecedented joint environmental and labor work program with Canada and Mexico - the most comprehensive effort of this type the United States has underway with any countries in the world.* In concluding the NAFTA package, the Administration successfully negotiated and implemented trilateral environmental and labor agreements designed to both dramatically increase cooperative activities across North America in these areas and encourage the effective enforcement of environmental and labor laws. The net result has been tangible progress in a number of areas, and the prospect of much more progress in the months and years ahead.

1999 Activities

The North American Free Trade Agreement, which built on the U.S.-Canada Free Trade Agreement of 1989, is the most comprehensive and largest regional free trade agreement in the world, with nearly 400 million people producing more than $10 trillion worth of goods and services. Since the Agreement's entry into force on January 1, 1994, the Administration has worked to ensure that its market opening objectives are met, thus eliminating barriers to U.S. exports. Cooperative agreements on labor and the environment also are part of the NAFTA. (Bilateral issues are discussed in the separate sections on Canada and Mexico).

Upon the Agreement's entry into force, half of all U.S. exports to Mexico became eligible for duty-free treatment. This benefitted many sectors in which the United States is most competitive, such as semiconductors, computers, machine tools, aerospace equipment, and medical devices. Remaining tariffs will be eliminated on a ten or fifteen-year staging schedule.

January 1, 2000, marked the seventh consecutive year of reciprocal tariff reductions. The estimated average Mexican trade-weighted tariff on U.S. products has fallen from 10.0 percent to 1.27 percent, while the average U.S. tariff on Mexican products has fallen from 4.0 percent to 0.35 percent. Thus, U.S. firms have obtained more than an eight percentage point margin of preference compared to non-NAFTA competitors, while Mexican firms have obtained roughly a three percentage point margin of preference in the United States. Nearly all goods traded between Canada and the United States now enter each country free of any tariff.

Trade among the three NAFTA Parties has soared during the first six years of the Agreement, and continues to set new records. U.S. goods exports

to our NAFTA partners rose more than 75 percent, to $253 billion. U.S. merchandise exports to Canada, our largest trading partner, climbed nearly 66 percent since the NAFTA entered into force. Despite the setback in export growth to Mexico in 1994-95 due to the peso crisis and economic downturn, U.S. merchandise exports to Mexico have more than doubled from pre-NAFTA levels (growing from $41.6 billion in 1993 to $87 billion in 1999). As a result, Mexico became our second largest single-country trading partner in 1999. Exports to our two North American trading partners, combined, account for approximately 36 percent of our global exports. Jobs supported by goods exports to NAFTA countries increased from an estimated 2.0 million in 1993 to an estimated 2.6 million in 1998 (lastest data available) or 32.5 percent.

Elements of NAFTA

1. Tariffs

Following procedures set out in the NAFTA, the United States, Canada and Mexico began a third NAFTA tariff acceleration exercise in 1999. In the second round of tariff acceleration, which was completed in 1998, the early elimination of tariffs on a variety of products affected nearly $1 billion in trilateral trade. The trilateral agreements to eliminate tariffs demonstrated the broad support for increased trade among the NAFTA countries. The items identified for accelerated tariff elimination were selected based on requests by consumers, producers and traders who are eager to take advantage of the benefits of free trade throughout North America. Under the last agreement, the United States and Mexico eliminated tariffs on an equivalent set of products, while Mexico and Canada eliminated tariffs between their two countries on a parallel package of goods. As a result of the tariff acceleration, hundreds of items now enter each country free of tariff barriers, including chemicals, pharmaceuticals, fabrics, yarns, bedding, hats, stainless steel products, locomotive parts, watches, and toys. The NAFTA countries will continue to consider additional tariff acceleration requests, based on expedited procedures agreed upon in 1999.

2. Removing Nontariff Barriers

The NAFTA went beyond tariffs and quotas by reducing or eliminating numerous nontariff barriers, such as import licensing and performance requirements. These were more prevalent in Mexico than in Canada. For example, pursuant to the Agreement, Mexico eliminated rules that had forced U.S. manufacturing investors in Mexico to export their output (usually to the United States) rather than sell it in the Mexican market in order to qualify for significant tax benefits. Requirements that U.S. companies produce in Mexico in order to sell there are being phased out. These barriers had been especially hard on small U.S. businesses, which are often ill-equipped to wrestle with complex procedures and unable to invest in overseas manufacturing facilities.

3. Government Procurement

The NAFTA defines broad categories of government procurement contracts on which firms from the three Parties can bid, including many services, such as construction services. The Agreement provides for transparent tendering and bid protest procedures, establishes a bid challenge mechanism, and prohibits offsets, without restricting U.S. small and minority business programs. There is an effort underway in the NAFTA trilateral Working Group on Government Procurement to build upon the existing progress.

4. Intellectual Property Rights

The NAFTA contains specific obligations requiring high levels of protection for owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs. Such protection will increase trade while decreasing losses from piracy and counterfeiting. Products that benefit from the NAFTA's IPR chapter are, for example, computer software, motion pictures, audio recordings,

pharmaceuticals, agricultural chemicals, and computer chips. In response to U.S. industry concerns, the United States is pursuing strengthened IPR enforcement jointly with Mexico. (See bilateral section on Mexico in Chapter V for more details.)

5. Investment

The NAFTA provides comprehensive disciplines to ensure that foreign investors are provided the same treatment as domestic investors. The NAFTA includes disciplines on performance requirements which prohibit most requirements for local content, for the transfer of technology to competitors, and for exclusive suppliers of a particular product to a specific region or market.

The NAFTA Investment and Services Working Group (ISWG) maintains an active agenda. The Group continues to review the implementation of commitments related to investment and cross-border trade in services (NAFTA Annex I). In addition, the Group monitored the progress of various professions in their efforts to reach mutual recognition agreements for licensing and certification and discussed the status of implementation of the agreement on mutual recognition of engineers. The Group also discussed issues related to investor-state provisions of the NAFTA and continued its discussion of interpretation of certain provisions of Chapters Eleven and Twelve.

6. Rules of Origin

The NAFTA raised the North American content requirement for duty-free treatment of automobiles from 50 percent (as provided in the CFTA) to 62.5 percent, and introduced mechanisms to improve accountability. The NAFTA also contains special rules of origin for high technology products, textiles, and apparel.

The NAFTA Rules of Origin Working Group in 1999 finalized a package of technical rectifications comprising complete replacements for Annex 401 (product-specific rules of origin) and Annex 403.1 (tariff provisions for tracing purposes). Implementation of the package is expected in 2000. The Working Group also discussed ways to simplify the rules of origin and agreed to develop a work plan to develop an appropriate methodology for such simplification, as well as to address automotive tracing requirements.

7. Agriculture

The NAFTA mandates the eventual elimination of all nontariff barriers to agricultural trade between the United States and Mexico. All quantitative restrictions on agricultural trade between the United States and Mexico were eliminated upon the NAFTA's entry into force. For import-sensitive industries, long transition periods for the elimination of over-quota tariffs and special safeguards allow for an orderly adjustment to barrier-free trade with Mexico. All agricultural provisions will be implemented by the year 2008.

Under the provisions of the CFTA, which was incorporated into the NAFTA, all tariffs affecting agricultural trade between the United States and Canada were removed on January 1, 1998. The only special exceptions are for U.S. imports of dairy products, sugar, certain sugar containing products, peanut butter, and Canadian imports of dairy products, poultry, eggs and margarine, which are covered by tariff-rate quotas.

The NAFTA Committees and Working Groups which oversee the implementation of the NAFTA's agricultural provisions include the Committee on Agricultural Trade, the Working Group on Grade and Quality Standards in Agriculture, the Working Group on Agricultural Subsidies, and the Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods. In 1999, these groups addressed issues such as tariff rate quotas, export subsidies and domestic support programs. The NAFTA parties established a Working Group on Tariff Rate Quota Administration, and sponsored technical

assistance to Mexico on inspection and quality certification systems for certain products in the Working Group on Agricultural Grading and Marketing Standards. The Working Group on Agricultural Subsides held a seminar on NAFTA agricultural-food policy and sponsored research on the use of export subsidies by non-NAFTA countries. The Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods helped to establish an interim Board of Directors as part of its effort to support an industry-led Tri-National Private Commercial Dispute Resolution Corporation.

8. Food Safety

The NAFTA recognizes the right of its members to impose measures necessary to protect food safety and animal and plant health. However, the NAFTA requires that each country adhere to guidelines to assure that such measures are fair and equitable, and not merely a way to protect domestic industries from foreign competition. Rules must be based on scientific principles and risk assessments, which must correspond to and must be applied only to the extent necessary to provide a country's chosen level of protection.

The NAFTA created a trilateral Committee on Sanitary and Phytosanitary Measures for resolution of issues surrounding food safety and animal and plant health. The Committee has considered a range of bilateral issues, facilitating trade in a number of agricultural goods, and is helping to implement President Clinton's food safety initiative, which was first announced in 1997.

9. Safeguards

The NAFTA provides methods for protecting American industries and workers from injury – or the threat of injury – from surges in imports through two safeguard provisions. A bilateral safeguard permits a temporary "snap-back" to applied MFN tariff rates, and a global safeguard maintains our right to impose measures on Canada and Mexico as part of a multilateral action when imports from either country seriously injure U.S. firms.

10. Services

The NAFTA strengthens rules and broadens coverage to all service providers, except those that are specifically excluded. The Agreement opens new market opportunities for U.S. service companies by allowing them to provide services directly from the United States on a non-discriminatory basis. It encourages elimination of citizenship requirements for licensing and certification of professionals.

In financial services, the NAFTA provides for significant, phased openings of the Mexican banking and insurance markets, as well as for party-to-party and investor-to-party dispute settlement mechanisms. The NAFTA Financial Services Committee has finalized rosters for financial services panelists for disputes under Chapter Fourteen, established "inquiry points" for each Party pursuant to the requirement of NAFTA Article 1411(6), agreed to update, on an annual basis, federal reservations set out in the Annex VII Schedules, consulted on Mexico's aggregate limit on limited scope financial institutions, and reviewed market access issues arising from NAFTA Article 1403(3) following the entry into force of the U.S. Interstate Banking and Branching Efficiency Act. In 1999, the Committee also held formal consultations to discuss the possibility of further liberalization of cross-border trade in financial services.

11. Standards

The NAFTA ensures that Canadian and Mexican product standards, regulations, and conformity assessment procedures do not discriminate against U.S. exports or create needless barriers to trade. The Agreement preserves our right to establish and enforce our own product standards and regulations, particularly those designed to promote safety and protect human, animal and

plant life, and health and the environment. In 1999, the trilateral NAFTA Committee on Standards-Related Measures met to discuss issues associated with implementation (e.g., the operation of central contact points for information), and to exchange information on standards-related developments in the respective countries and related international and regional fora.

The Telecommunications Standards Subcommittee (TSSC), made up of telecommunications trade and regulatory officials from the three NAFTA signatory countries, meets to discuss, monitor, and facilitate the implementation of the telecommunications-related provisions of the NAFTA. Work focuses on implementing the TSSC's multi-year work program on standards harmonization for wired and wireless equipment, and facilitating more streamlined testing and certification procedures within the NAFTA.

The NAFTA Land Transportation Standards Subcommittee (LTSS) continues its work on safety issues. In 1999, the LTSS agreed to develop a new side-by-side evaluation of motor carrier safety regulations, reviewed driver's hours of service regulations, developed an outline of each country's motor carrier safety requirements, including the information needed to assess a carrier's safety fitness, pursued regulatory compatibility on the basis of safety performance criteria for vehicle weights and dimensions, agreed to examine issues related to the compatibility of standards for motor coaches, concluded its work on traffic control devices, agreed to jointly publish the Emergency Response Guide for the Transport of Hazardous Materials and a North American Transport of Dangerous Goods Standard, and made progress on the development of rail tank car and cargo tank truck requirements.

The NAFTA Subcommittee on Labeling of Textile and Apparel Goods met in October 1999 to discuss the text of an agreement on harmonizing care symbols for textile and apparel products.

12. Review of Dumping and Subsidy Determinations

Under NAFTA Chapter 19, the United States is not required to make any substantive change in its antidumping (AD) or countervailing duty (CVD) laws. The NAFTA did require Mexico to undertake far-reaching reforms to provide full due process guarantees and effective judicial review to U.S. exporters. NAFTA establishes a mechanism for independent binational panels to review final U.S., Canadian, and Mexican AD and CVD determinations when such a review is requested by a person entitled to judicial review under the domestic law of the importing country. This is essentially the same review system that the United States and Canada have applied under the CFTA. In the six years that the NAFTA has been in force, 53 Chapter 19 panels have completed their work or have cases pending.

13. Mechanisms to Implement the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission, chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Commerce and Industrial Development. The NAFTA Commission, modeled after the U.S.-Canada Trade Commission under the CFTA, is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement. The Commission held its last annual meeting in April 1999 in Ottawa, Ontario. At that meeting, it directed officials to continue a trilateral operational review of the work program of the NAFTA Committees, Working Groups, and their sub committees and sub groups. As a result of the review, new direction was provided to the more than 25 different committees, sub-committees and working groups. The work program itself is guided by the NAFTA Coordinators operating

under the oversight of deputy ministers at semi-annual meetings.

14. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC also has generated an unprecedented trilateral work program in the areas of industrial relations (i.e., the right to organize and bargain collectively), occupational safety and health, employment and training and child labor and gender initiatives.

Each NAFTA Party also has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate the expansive cooperative work programs. In addition, the Agreement created a trinational NAFTA Labor Secretariat. The Secretariat was located in Dallas, Texas, but in October 1999 the Labor Ministers agreed to relocate it to the Washington, D.C. area.

During 1999, the National Administrative Offices of Mexico and the United States in collaboration with the Secretariat specifically addressed the rights of working women. Noteworthy in this regard were a conference in Mérida, Mexico, in March 1999, and seminars organized by the United States in McAllen, Texas, and by Mexico in Reynosa, Tamaulipas.

Under the NAALC and various NAO procedural guidelines, citizens of any NAFTA signatory can file a submission to request their government to review the labor practices of a NAFTA partner. Several submissions have resulted in ministerial consultations and the adoption of work programs to address the underlying concerns.

So far, twenty-two submissions have been filed under the NAALC. Fourteen were filed with the U.S. NAO, of which twelve involved allegations against Mexico and two against Canada. Five were filed with the Mexican NAO and all involved allegations against the United States. Three submissions have been filed in Canada, one raising allegations against Mexico and two raising allegations against the United States.

Twelve of the fourteen submissions filed with the U.S. NAO involved issues of freedom of association. One submission concerned the illegal use of child labor. One case raised issues of pregnancy-based gender discrimination. Two cases also raised issues of safety and health as well as freedom of association.

Of the submissions filed thus far with the U.S. NAO, three were withdrawn by the submitters before hearings were held or the review process completed. Hearings were held on seven. Five of the U.S. submissions have gone to ministerial level consultations. The U.S. NAO declined to accept three submissions for review. One is pending. Four Mexican NAO submissions resulted in ministerial consultations. One Mexican NAO submission is under review. One Canadian NAO submission resulted in a request for ministerial consultations. Canada declined to accept two submissions in 1999 for review. Several submissions have resulted in the adoption of work programs to address the underlying concerns regarding the application of labor law.

The Secretariat for the Commission of Labor Cooperation is engaged in several important on-going research projects. Among them are a comprehensive, three-volume comparison of labor law in North America; a study of standard and advanced labor relations, work organization practices and use of technology in the garment industry; and a study focusing on the participation of women in the labor forces of the NAALC countries. The work of the Secretariat has greatly enhanced our understanding of each other's labor laws, and has resulted in better cooperation among the NAFTA countries.

The Parties have held more than 40 trilateral conferences, seminars, and technical exchanges to share information and make improvements in many critical areas, including conferences to explore ways to eliminate the exploitation of child labor; to improve safety and health in the petrochemical, construction and electronics industries; to exchange technical industrial training; and to share information on equity in the workplace. By addressing issues of labor rights, the NAALC has contributed to the growth and development of labor unions within our countries as democratic institutions that will help ensure the participation of workers and their prosperity.

15. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the North American Commission on Environmental Cooperation (CEC) comprising the designated environmental officials from the United States, Canada, and Mexico. The Commission's work is supported by an Environmental Secretariat located in Montreal.

In the first four years of operation, the CEC has begun work on an impressive list of environmental projects focusing on five major themes: environmental conservation; protecting human health; cooperation and law enforcement; environment, trade, and economy; and information and public outreach. Other recent developments include the establishment of the North American Fund for Environmental Cooperation (NAFEC), a fund for community-based grants to help meet the goals of the NAAEC. Since its inception, the NAFEC has funded 125 community-based projects in Canada, Mexico, and the United States, bringing the total funding provided through NAFEC to almost five million dollars.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. The governments established two institutions, the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB), which now are working with close to 100 communities along the Mexico-U.S. border.

Approximately $15.5 million has been allocated by BECC's Technical Assistance Program to aid in the development of 107 environmental infrastructure projects related to water, sewage, and municipal waste in more than 78 communities on both sides of the U.S.-Mexico border. Fifty-eight communities are currently participating in the NADB's Institutional Development Cooperation Program, representing 75 institutional strengthening projects. The Bank also is working with communities to develop 23 additional projects.

To date, the BECC has certified 31 water, wastewater, and municipal solid waste infrastructure projects. These projects will represent a total estimated investment of $682 million, benefitting over six million border residents. Nineteen certified projects are located in the United States; twelve are located in Mexico.

The NADB is working with the sponsors of 24 certified projects that are interested in receiving financial assistance from the Bank. NADB participation in these projects is estimated at $192.5 million, 56 percent in Mexico and 44 percent in the United States. As of September 1999, the NADB had authorized $154.5 million in loans and/or grant resources for 20 infrastructure projects. These projects will represent a total investment of $551.8 million.

16. Dispute Resolution for Labor and Environment

The Labor and Environment agreements also provide for dispute settlement in the event of a persistent pattern of failure to effectively enforce national laws. Where consultations fail to resolve such disputes, a neutral panel of independent experts will be established by a two-thirds vote of the parties. Ultimately, if a panel finds that there was such a persistent pattern, and if a party fails to remedy the matter, then there could be fines or trade sanctions in certain instances. Canada has agreed, in lieu of trade sanctions, to make assessments and other panel-ordered remedies enforceable in Canadian courts.

C. Asia Pacific Economic Cooperation

Overview

Under the leadership of President Clinton, the Asia Pacific Economic Cooperation forum, which was founded in 1989, was transformed from a largely consultative body to a dynamic force for market opening and trade expansion in the Asia Pacific region, and in the world. Recognizing the growing importance of the Asia Pacific region to the United States economy – it accounts for more than half of the U.S. exports to the world, and has steadily increased in importance in recent years – President Clinton invited Leaders from 18 Asia Pacific economies to Blake Island, Washington in 1993, the first ever regional meeting of Leaders.

The growth in U.S. goods exports to APEC clearly demonstrates the benefits of market opening and trade expansion. Since 1992, U.S. exports to APEC increased nearly 65 percent, including a 5.0 percent increase in 1999.

It was at Blake Island that APEC Leaders first expressed their collective desire to move toward an "Asia Pacific community" of economies. This presaged a series of accomplishments which established APEC as the preeminent forum for trade liberalization and open markets in the Asia Pacific region. In particular:

- In 1994, APEC Leaders announced their commitment to the "Bogor vision" to establish free and open trade and investment in the region by 2010 for industrialized economies and 2020 for developing economies;
- In 1995, the Osaka Action Agenda, which developed a specific road map for opening markets in the region in 14 substantive areas, was agreed upon;
- In 1996, APEC economies submitted their first "Individual Action Plans" indicating how they intended to move toward fulfillment of the Bogor goals. Moreover, APEC Leaders called for conclusion of the Information Technology Agreement (ITA) in the WTO, which acted as a decisive catalyst toward successful completion of this agreement – one of the world's largest trade agreements ever in terms of trade coverage – in 1997; and
- In 1997 and 1998, APEC Leaders, seeking to further advance APEC's leadership role in the multilateral trading system, called for the opening of 15 key sectors on a global basis, developed the details for market opening in each sector, and affirmed their commitment to working to this end in the WTO.
- In 1999, APEC Leaders called for a new, three-year round of WTO negotiations, to include among other things industrial tariffs, the abolition of agricultural export subsidies, as well as the eight "accelerated tariff liberalization" sectors that they had identified in 1997-98.

1999 Activities

The APEC forum continued to exhibit leadership in 1999 in advancing the goals of regional economic cooperation, market opening, and trade liberalization and facilitation. Meetings of APEC Trade Ministers and Leaders in New Zealand reaffirmed the regions commitment to trade expansion and market opening, helping ensure that there was no slide toward protectionism in the wake of the region's financial crisis. Indeed, as the crisis abated in 1999, regional trade once again began to expand. Moreover, the clear commitment to open markets exhibited by APEC economies no doubt helped facilitate the region's recovery and the restoration of investor confidence in the economies hardest hit by the crisis.

APEC demonstrated its continuing commitment to the vision of regional and global market opening and trade expansion in several concrete ways. In particular, it:

- proved its ability once again to play a leading role in the multilateral trading system;
- took specific steps to advance its own work program of regional trade and investment liberalization and facilitation; and
- demonstrated its flexibility as an organization by establishing a work program to address a number of critical issues arising from the financial crisis, in particular steps to "strengthen the functioning of markets."

1. Leadership in the Multilateral Trading System

APEC Trade Ministers indicated clearly their desire for the region to continue to play a leading, catalytic role in fostering the opening of markets worldwide. At the June 1999 Trade Ministers' meeting, Ministers agreed to support the launch of WTO negotiations with an agenda focused on market access issues. They built on this result at the September Ministerial meeting when they: called for the initiation of a three-year trade round in the WTO; endorsed the abolition of agricultural export subsidies as part of the round's agenda; and endorsed early results in the areas of transparency in government procurement, extending the moratorium on customs duties on electronic transmissions, and an agreement on accelerated tariff liberalization in eight key sectors that they had selected in 1997 and developed in 1998.

These recommendations have not yet been acted upon in the WTO in view of the inconclusive outcome of the Third WTO Ministerial. Nonetheless, the commitment of APEC Trade Ministers and Leaders, accounting for over half of world trade, should act as a positive force in reviving the WTO agenda in the coming year.

2. Advancement of APEC's Work on Trade and Investment Liberalization and Facilitation

APEC continues to take concrete steps to ensure that its member economies make steady progress toward achieving the "Bogor goals" of free and open trade and investment in the region. APEC work on trade and investment liberalization and facilitation is overseen by the *Committee on Trade and Investment* (CTI) and its sub-fora. The CTI and sub-fora have well-developed, specific work programs in the fifteen substantive issue areas, as first defined in the 1995 Osaka Action Agenda. These areas are: tariffs, non-tariff measures, services, investment, government procurement, standards and conformance, customs, competition policy, deregulation, intellectual property rights, dispute mediation, mobility of business people, rules of origin, and implementation of the Uruguay Round.

While the CTI has overall responsibility for developing and overseeing work in these 15 areas, much of the work program at a technical level is

conducted by CTI sub-fora. Thus, in addition to the three meetings of the CTI held in 1999, the following CTI sub-fora met:

- Market Access Group (tariffs and non-tariff measures) – two meetings;
- Group on Services – three meetings;
- Investment Experts Group – three meetings;
- Sub-Committee on Standards and Conformance – three meetings;
- Sub-Committee on Customs Procedures – two meetings;
- Intellectual Property Rights Experts Group – two meetings;
- Competition Policy/Deregulation Workshop – one meeting;
- Government Procurement Experts Group – two meetings;
- Informal Experts Group on the Mobility of Business People – three meetings;
- Informal Meeting on Uruguay Round Implementation and Rules of Origin – one meeting.

Among other things, the CTI and its sub-fora are responsible for implementing APEC's "Collective Action Plans" in each of the fifteen areas. The objective of the Collective Action Plans is to develop cooperative means and programs by which APEC members progress toward the APEC goals of regional open and free trade and investment. In 1999, a number of concrete results were achieved in the implementation of these Collective Action Plans. A complete description of steps undertaken in advancing Collective Action Plans can be found in the *Committee on Trade and Investment's 1999 Annual Report to Ministers*, which is at the APEC Secretariat's website (http://www.apecsec.org.sg). Highlights include the following:

- Development of an APEC web page that contains hyper links to information in each member economy on its non-tariff measures;
- Development of an APEC Directory of Professional Services (Accounting, Engineering, and Architectural);
- Agreement to develop a broader policy framework on services trade in APEC and better coordination of services work in other APEC fora;
- A work program to implement a "menu of options" on Investment Liberalization and Business Facilitation";
- Development of a Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment;
- Agreement to develop a work program on trade facilitation in information technology products through steps to harmonize standards conformity assessment.
- Further progress in aligning national standards with international standards in a number of APEC economies;
- An APEC multiyear technical assistance project to implement the WTO Customs Valuation Agreement was completed;
- Completion of a collective action to ensure the public availability of all customs laws and regulations and administrative guidelines by APEC members;

- Agreement on guidelines for simplification and standardization of Intellectual Property Rights administrative systems;
- Government Procurement principles pertaining to accountability, due process, and non-discrimination were agreed upon, along with illustrative practices indicating how these principles could be implemented.
- Agreement on Principles to Enhance Competition and Regulatory Reform and a work program to implement them;
- A collective commitment to expand the availability of Multiple Entry Visas to APEC business travelers.

Work on the "EVSL" Sectors: The CTI also oversaw work to address non-tariff measures, facilitate trade, and conduct economic and technical cooperation in each of the sectors selected by APEC Leaders for "early voluntary liberalization." These programs included: a study on the nature and extent of fisheries subsidies in APEC economies, and a study to reduce impediments to early voluntary liberalization in the fisheries sector; a study of non-tariff measures in the forest products sector; a program to facilitate APEC implementation of ISO toy safety standards; and, a seminar for government regulators to facilitate harmonization of standards of medical equipment regulation. Further work on the non-tariff, facilitation, and economic and technical cooperation elements of "EVSL" sectors is expected in 2000.

Finally, APEC Officials and Ministers took a number of other steps in 1999 aimed at further improving the APEC process itself and implementing other trade liberalization and facilitation measures that have already been agreed upon. These steps included:

- Additional commitments to open markets reported in APEC members' "Individual Action Plans" (IAP), and "peer reviews" of the action plans of several APEC members: Australia, Brunei Darussalam, Japan, Philippines, and the United States. Peer reviews of IAPs, which began in 1997, have steadily become more rigorous, and now normally include the submission of written questions from other APEC members.
- In order to further improve the IAP process, APEC members conducted self reviews of their plans, and an independent outside review also was conducted by the Pacific Economic Cooperation Council. As a result of these reviews, Ministers directed that a number of specific measures be taken in 2000 to improve the transparency of IAPs, and improved guidelines for indicating how they plan to achieve the Bogor goals.
- APEC Ministers also directed that the Collective Action Plans be deepened and broadened in 2000.
- Agreement by APEC Ministers to place greater emphasis on concrete trade facilitation measures in the coming year;
- The first APEC Automotive Dialogue was held in July 1999 in Indonesia. The dialogue represents the first region-wide forum bringing together both high level public officials and the private sector in this key sector. The dialogue aims to better integrate and make more efficient the automotive industry in the Asia Pacific region. It will continue to meet in 2000.
- Ministers directed that a number of steps be taken to develop and enhance electronic commerce in the region, noting the key role of the private sector, and the

importance of the public sector in ensuring a favorable environment in which e-commerce can flourish.

- APEC Members endorsed a report on establishing an APEC Food System, with a specific work agenda in three areas: rural infrastructure development, dissemination of technological advances in food products and processing, and promotion of trade in food products. The APEC Food System report, among other things, also called for the abolition of agricultural subsidies, and greater specificity in how APEC members would meet the goals of free and open trade in the food sector in their IAPs.

- APEC Ministers affirmed the importance of transparent and science-based approaches to the introduction and use of biotechnology products, and called for a report on APEC's work in the biotechnology area, including recommendations for their consideration at the June 2000 meeting of Trade Ministers.

3. Strengthening the Functioning of Markets

In responding to the Asian financial crisis, APEC Ministers and Leaders have recognized the need for policies to develop markets that are more efficient, flexible and competitive. To that end, they agreed upon a "road map" that sets out to strengthen the functioning of markets in the region. The elements of this road map include:

- Endorsement of "APEC *Principles to Enhance Competition and Regulatory Reform*" and establishes a work program to implement the principles;

- Continued work in the area of economic and corporate governance; and

- Work to strengthen market infrastructure, in particular the area of legal infrastructure, and the development of new businesses.

V. Bilateral Negotiations

A. Asia and the Pacific (Other than China & Japan)

Overview

The dramatic expansion of trade and economic growth in the Asia Pacific region over the past decade was due in large measure to the progressive and steady opening of markets in the region. While numerous barriers to trade in the region still exist, significant progress was made in the past decade in dismantling impediments to trade. The commitment of regional Leaders in the Asia Pacific Economic Cooperation forum to moving forward toward free and open regional trade and investment has been an important factor in spurring this regional trend (see Chapter IV for information on APEC). In addition, the Administration has delivered results in bilateral negotiations and consultations with countries in the region, opening markets of interest to American farmers, manufacturers, and services providers, and protecting intellectual property, which is critical to U.S. exporters in the high-tech, entertainment and other key sectors.

Highlights of the achievements of this Administration since 1993 include:

- *Effective Enforcement of Trade Commitments through WTO Dispute Settlement.* The United States has effectively used the WTO Dispute Settlement mechanism to ensure that countries in the region implemented their multilateral commitments. The United States prevailed in cases involving: discriminatory liquor taxes in Korea; automotive subsidies and barriers in Indonesia; prohibited export subsidies on automotive leather in Australia; exclusive marketing rights in India for pharmaceutical and agricultural chemical products; and quantitative restrictions applied by India on a wide range of imported products.

  The WTO Dispute Settlement process also facilitated settlements favorable to the United States in a dispute with Korea on shelf-life requirements for food products, with the Philippines on pork and poultry imports, and with Pakistan on exclusive marketing rights for pharmaceuticals and agricultural chemicals.

- *A Series of Significant Market Opening Agreements with Korea:* Through a combination of bilateral consultations, the use of U.S. trade remedy law, and action in the WTO, the United States has concluded agreements with Korea, and obtained commitments from its government: (1) in 1990 and 1993, to open its market for beef; (2) in 1995, to reform its government mandated shelf-life system, which had impeded the import of meat products; (3) in 1995, to address market access problems for trade in passenger cars; (4) in 1998, to further reduce trade barriers affecting passenger vehicles and to render trade in minivans and sport utility vehicles fairer; (5) between 1995 and 1998, to revise Korean import clearance procedures, thereby expediting the import of several key U.S. agricultural exports; (6) in 1998 and 1999, to take steps to privatize the second largest steel company in the world and to get the Korean Government "out of the steel business;" (7) in 1999, to reform its pharmaceutical pricing and regulatory

policies, thereby making the drug approval process in Korea faster and less onerous; and (8) in 1996, an agreement, and in 1997, a policy statement, to ensure equal treatment for foreign goods, services and intellectual property rights protection in telecommunications.

- *Normalization of Trade Relations with the Countries of Indochina.* As a result of the Vietnam era conflict, Cambodia, Laos and Vietnam were three of only seven countries in the world not to receive normal trade relations (NTR) status from the United States. In 1996, the United States completed a bilateral trade agreement with Cambodia granting it NTR status; in 1997, a comprehensive bilateral trade agreement and bilateral investment treaty were concluded with Laos (Congressional approval is still required to grant NTR under the terms of this agreement); and in 1999, the United States concluded a bilateral agreement in principle to grant NTR status to Vietnam, with provisions covering market access for goods and services, intellectual property and investment issues. The agreement requires final formal assent by the Vietnamese and Congressional approval.

- *Significant Progress in Protecting Intellectual Property Rights*: Bilateral consultations and negotiations with a number of countries in the region resulted in significant new commitments to protect intellectual property. These include: a bilateral agreement with the Philippines in 1993 under which it committed to modernize all of its IPR laws; an announcement by Thailand in 1994 of an intensive program to combat copyright piracy and conclusion of a comprehensive IPR action plan in 1997, both of which followed extensive consultations with USTR; an action plan by Korea in 1997 to combat copyright piracy, improve patent enforcement and improve its trademark and industrial design laws, resulting from the "Special 301" process; and a bilateral agreement with Vietnam in 1997, which grants legal protection to all U.S. copyrighted works in that country for the first time.

- *Enhanced Access for U.S. Agriculture and Processed Food Exports.* The Administration has vigilantly utilized WTO procedures and bilateral consultations to reduce Asian restrictions which impede market opportunities for U.S. agriculture and food exporters. In addition to the agriculture-related WTO disputes mentioned elsewhere, resolution of India's balance of payments restrictions resulted in the elimination of quantitative restrictions affecting a broad range of agricultural and processed food products. In Southeast Asia, particularly during the recent economic turmoil and currency volatility, U.S. efforts concentrated on a host of measures which threatened U.S. agriculture exports, including: Philippine arbitrary customs valuation practices; Thai tariff adjustments and import licensing restrictions; Malaysian food standards and certification; and Indonesian tariff adjustments and monopolistic distribution channels.

- *Advancement of Worker Rights.* We have actively and creatively used our trade laws to obtain improvements in worker rights laws and practices in several Southeast Asian countries. In 1994, under a review of its Generalized System of Preferences (GSP) benefits, Indonesia agreed to a comprehensive action plan to improve its worker rights practices, including more freedom for unions; these commitments were expanded in succeeding years. In January 1999, a bilateral textile agreement with Cambodia contained incentives

aimed at promoting specific improvements in labor practices in this sector. In early 2000, after a multi-year effort by the United States taken under the GSP law, Thailand finally enacted a State Enterprise Labor Relations Act (SELRA), which restores internationally recognized worker rights to state enterprises.

- *Ensuring that Responses to the Financial Crisis are Market Opening*: USTR worked with Treasury and other agencies to ensure that International Financial Institutions (IFIs) stabilization programs adopted by countries hit by the financial crisis (including Korea, Indonesia and Thailand) worked to open markets and expand competition. Many aspects of these programs have a direct bearing on trade, in areas such as improved market access, transparency, economic deregulation, attracting investment efficiently, and allocating public and private resources based on market disciplines. The United States continues to monitor the trade-related aspects of these programs closely, to ensure their effective implementation.

1999 Activities

After experiencing a year of economic turbulence and decline in 1998, most countries in the Asia Pacific region showed clear signs of recovery in 1999. Each of the economies hardest hit by the financial crisis – Korea, Thailand, Philippines, Malaysia and Indonesia (though more tentatively) returned to overall positive growth rates in 1999. This was in part due to export growth brought about by the depreciation in exchange rates resulting from the crisis, as well as by implementation of economic reforms, particularly in the banking and financial sectors.

The rebound of U.S. goods exports to the Pacific Rim (excluding China and Japan) is another indicator that these countries have begun recovering from the Asian financial crisis. U.S. goods exports increased 8.2 percent in 1999, after declining by 17.3 percent in 1998. Since 1992, U.S. goods exports have increased 48.9 percent.

In the area of trade policy, it is notable that notwithstanding the extreme pressures placed on some of the domestic economies in the region – unemployment and economic dislocation – governments in the region have affirmed their commitment to keeping their markets open, and after a year of decline, regional trade expanded in 1999. Existing WTO commitments by many countries in the region no doubt were a factor in this. In addition, the "peer pressure" of regular APEC meetings at the Ministerial and Leaders levels, and the desire to demonstrate continued commitment to the APEC vision of "free and open trade and investment" in the region helped to keep trade policies on course. Finally, the Administration's vigorous program of consulting and negotiating bilaterally with countries in the region has worked to keep markets open and combat protectionist measures.

As the Asia Pacific region stages what will hopefully be a sustained recovery from the crisis, there is a need for vigilance in U.S. trade policy toward the region. First, though there has not been a marked protectionist trend in the region, it is clear that many governments are under pressure from groups adversely affected by the crisis to impose trade barriers to cushion adjustment problems. The United States, in addition to opposing any such measures because of the potential adverse affect on its commercial interests, strongly believes that any such retrenchment would be self-defeating. The fact that the region has not moved in a protectionist direction indicates that this view is broadly shared by others.

Second, it will be necessary to ensure that countries are implementing economic reforms in accordance with IMF stabilization packages. Reforms undertaken under these packages have had a direct bearing on the restored stability of

these economies. But moreover, many of the reforms are directly related to structural impediments – e.g., anti-competitive market or financial practices, lack of transparency in policy making – which have a direct bearing on the ability of U.S. firms and persons to sell and do business in these economies. The reforms are thus an important complement to the more direct market opening measures that occur in the context of bilateral negotiations, the WTO, APEC, and other trade fora.

The United States has a full agenda of specific bilateral impediments that it is tackling in the Asia Pacific region, as described below. It also continues to work regionally, primarily through APEC, to foster concrete movement toward more open markets, as described elsewhere in this report. Finally, it is committed to using the WTO process – both in enforcing existing commitments and in its future work program – to drive further open markets and expand trade in a region that accounts for over half of total U.S. exports.

1. Australia and New Zealand

Australia's market has begun to open for certain agricultural products that have been closed to U.S. exporters for, in some cases, 30 years. We have successfully persuaded Australia to open its market to a variety of fruits. We are currently in dispute with Australia over its ban on imports of Pacific salmon. The WTO validated the U.S. complaint in a case brought by Canada and, as the WTO dispute settlement process comes to a close, U.S. exporters will be able to access a market that has been closed for more than 20 years. The WTO SPS Agreement provided the lever to push for Australia to allow entry of U.S. agricultural products.

The United States continues to press Australia to comply with WTO rulings against Australia's use of export subsidies for automotive leather. The WTO found that Australia's subsidies violated its obligations under the WTO Agreement on Subsidies and Countervailing Measures and that Australia had failed to comply with the Dispute Settlement Body's findings.

The United States and New Zealand have enjoyed a close working relationship in the international trade and investment arena, particularly in APEC and the WTO. We expect that this relationship will continue under New Zealand's new government. The United States and New Zealand have a Trade and Investment Framework Agreement which we utilized to seek greater, more transparent access to New Zealand's pharmaceuticals market.

Intellectual property rights protection is another area of great potential, particularly for the model New Zealand sets for others. In this regard, the just-elected New Zealand government has stated that it will return New Zealand to its previous policy of protecting copyrightable material from parallel imports for two years. We will continue to argue for a permanent return.

2. The Association of Southeast Asian Nations (ASEAN)

The trade and investment relationship between the United States and the members of the Association of Southeast Asian Nations is strong, mature, and mutually beneficial despite the continuing effects of the Asian financial crisis on Asian economies. In 1999, estimated two-way trade increased by 4.3 percent from $113 billion to $118 billion. Specifically, U.S. exports to ASEAN in 1999 increased by an estimated 1.4 percent from $39.3 billion to $39.9 billion. This modest, but positive, growth reflects the recoveries underway from the Asian financial crisis for a number of ASEAN economies. The now ten-member ASEAN group – comprising Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam – collectively continues to be the United States' fifth largest trading partner. As such, the United States has an important stake in ASEAN's economic recovery and is committed to working closely with ASEAN as an institution, and with ASEAN member countries individually,

to pursue and promote our mutual trade and investment interests.

The ASEAN countries have witnessed a number of important developments during the last few years. The economic turmoil which began in 1997 has caused significant economic dislocation, but was also the impetus for economic reform and restructuring that has promoted recovery and will benefit these countries in the future. The crisis has also fomented dialogue between the United States and ASEAN countries, as well as more regular discussion between ASEAN and its Asia neighbors such as China, Japan and Korea. In 1999, after a prolonged, stop-and-go process that centered on progress toward democratic reform, ASEAN admitted Cambodia as its tenth member, fulfilling the group's long-standing objective to create a ten-member regional institution by which to enhance political, economic, and social cooperation.

While ASEAN's gradual expansion over time has added to the Association's diversity, it has also posed new challenges which manifest themselves as more complicated decision-making and the lack of ASEAN solidarity in other fora, such as APEC and the WTO (in which some ASEAN members do not participate). Tensions have also surfaced in terms of individual member's difficulties and selective implementation of trade-related initiatives undertaken within ASEAN. In order to ensure that these intra-ASEAN undertakings do not adversely affect U.S. interests, it is important that such undertakings be consistent with WTO rules, be taken in the spirit of APEC's goals and principles, and be faithfully implemented if, ASEAN hopes to attain its own developmental goals and to promote a business- and investor-friendly environment.

In 1993, the then seven members of ASEAN created the ASEAN Free Trade Area (AFTA) as a means to promote regional economic competitiveness and prosperity. The objective of AFTA is to promote trade among ASEAN member countries by gradually reducing customs duties on intra-ASEAN trade of qualifying products by 2005, with special allowance for sensitive sectors. By agreement, AFTA members agreed to accelerate the reduction of tariff cuts under AFTA from 2005 to 2003. Laos and Burma were admitted to ASEAN as full members in July 1997, although these countries have until 2008 to phase in obligations under the AFTA.

ASEAN continues efforts to implement and expand the AFTA by including unprocessed agricultural commodities in the tariff phase-out scheme, and placing greater emphasis on the elimination of non-tariff measures such as customs surcharges and technical barriers to trade. During the December 1998 ASEAN Summit in Hanoi, leaders agreed to accelerate reduction of AFTA Common Effective Preferential Tariff (CEPT) rates to ensure that a minimum 90 percent of tariff lines are subject to 0-5 percent rates by 2000 (3 years ahead of schedule). They also agreed to expand the scope of products for which CEPT rates will be eliminated by 2003 (which accounts for roughly 83 percent of AFTA tariff lines). In recognition of their late accession to the AFTA, Vietnam, Laos, and Burma will follow a modified schedule. However, specific details regarding how each ASEAN member will implement these objectives is yet to be worked out.

ASEAN also intends to expand negotiations under the Framework Agreement on Services beyond the current priority areas with a view to eventually including all sectors and all modes of supply. The Hanoi Summit also produced the "ASEAN Vision 2020" declaration in which members resolved, among other things, to continue with full implementation of AFTA, to implement fully the ASEAN Investment Area (AIA) by 2010, and to achieve the free flow of investment by 2020. The eventual creation of ASEAN patent and trademark offices are longer-term goals; however, efforts toward coordinating documentation and application filing procedures continue.

a. Indonesia

General

Due to the economic crisis and political upheaval in Indonesia for the past year, bilateral trade issues have not commanded the undivided attention of the Indonesian Government. Some observers believe that Indonesia's economy may be at its bottom, having completed 1998 with a GDP contraction of 13 percent and inflation of 58 percent, with concomitant unemployment and food price/distribution problems. While the Indonesian authorities have made some progress in implementing economic and political reforms needed to restore confidence, the economy appears to continue to lack the confidence and political certainty necessary for recovery. Indonesia's program with the IMF, initiated in October 1997, has been modified several times since then as the economic situation deteriorated. In 1998, 1999, and January 2000, the program was adjusted to allow for greater fiscal expenditures to help blunt the impact of the crisis on Indonesia's poorest and ensure their access to needed food, fuel, and medicine. There are continuing and serious problems in Indonesia's financial and corporate sectors.

i. Intellectual Property Rights

Despite some progress, Indonesia is on the USTR special 301 Priority Watch List for 1999 due to continuing problems raised by U.S. industry. These include software, book, video, VCD, drug, and apparel trademark piracy; audiovisual market access barriers; inconsistent enforcement and an ineffective legal system; and amendments to the copyright, patent and trademark laws that are not completely TRIPS consistent.

These issues had been raised with Indonesia in the past year, although the focus in Indonesia during that period has been primarily attaining economic and political stability. Because of this turmoil, USTR was able to present only in June 1998 an IPR work plan (market access, enhanced enforcement, TRIPS consistency of laws, special juridical arrangements, legal use of software, and increased protection of well-known marks including several company-specific cases) with the proposal that if these changes are implemented, USTR would review the situation to see if a change in list status is warranted.

The Indonesian Government has yet to take sufficient action on the proposed work plan that would justify changing its status from "Priority Watch List" to "Watch List." Indonesia has acknowledged the need for improved enforcement and a broad education program, in addition to the need to bring its statutes into TRIPS conformity. During the coming year, USTR intends to make IPR a top priority in our bilateral trade relationship with the Wahid government.

ii. Worker Rights

As a result of Indonesia's insufficient progress in promoting worker rights, the U.S. Government denied in 1998 GSP benefits for seven Indonesian products valued at $12.7 million and in 1997 for six items also with a small trade value. Indonesia passed a new labor law in September 1997 containing a number of positive elements, and in November 1997 USTR initiated a dialogue with Indonesia by means of an action plan to secure further progress. The action plan has benchmarks on worker rights focusing on freedom of association and the rights to organize and bargain collectively. Since its proposal, the U.S. Government received some useful responses from Indonesia but not enough worker rights progress to warrant granting the de minimis waivers during the May 1998 GSP review. Since then and during 1999, Indonesia appears to be following a constructive course in terms of adherence to core labor standards. The United States continues to monitor developments closely.

iii. IMF Trade-Related Conditionality

Indonesia's initial October 31, 1997 Memorandum of Economic and Financial Policy

(MEFP) with the IMF has been revised several times in response to deteriorating macroeconomic conditions. The latter versions of the program, including the most recent letter of intent executed in January 2000, expanded the focus of earlier programs to cover the entire range of economic challenges facing Indonesia. These include fiscal policy, monetary policy, structural reform and deregulation, corporate debt and bankruptcy proceedings, banking sector reform and restructuring, restoration of trade financing to promote exports, food security, the distribution system and social safety net policies. In accordance with the IMF program, the Indonesian authorities are taking initial steps to restructure the banking system and to facilitate the restructuring of corporate debt burdens.

The IMF memoranda contain a considerable amount of trade-related conditionality that if fully implemented by Indonesia will contribute to significant liberalization of the real economy and reduction of distortions in the Indonesian goods and services markets. Despite the sharp economic downturn in Indonesia, the Indonesian Government has undertaken structural reforms to dismantle the national car and aircraft programs, reduce tariffs on agricultural commodities and industrial goods, eliminate export taxes, and disband marketing monopolies. Indonesia appears to be implementing its border liberalization and internal market reforms captured in the IMF memoranda from October 1998 to date, although careful monitoring is warranted given the ambitious scope of liberalization involved and the relatively low level of commercial activity this year.

iv. Automobiles

By virtue of the successful challenge by the United States (in addition to the EU and Japan) of the WTO consistency of Indonesia's auto policies, Indonesia had to bring its auto policies into compliance with the panel ruling. The final report of the WTO dispute settlement panel examining Indonesia's auto programs constitutes a significant victory for the United States in its effort to dismantle Indonesian barriers to trade in automotive products. It also serves as an important precedent in combating similar barriers in other markets. Since then, Indonesia has promulgated a new automobile policy that appears to comply with its WTO obligations. However, the United States is concerned by recent high-level statements by Indonesia officials that the government is considering reviving a national automotive industrial policy in some form. Such an action would be an inefficient commitment of resources at a time when materials, capital, and labor should be focused on promoting Indonesian recovery and promotion of sustainable enterprises. The Unites States will continue to monitor developments in this area closely.

b. Malaysia

Economic Climate

In reaction to the economic crisis, the Malaysian Government in September 1998 imposed an array of capital controls to insulate the Malaysian economy, including: restrictions on the convertibility of Malaysian currency (Ringgit) outside the Malaysian economy, a one-year freeze on the movement of portfolio investment out of Malaysia, limits on the amount of Ringgit which residents and foreigners may bring into or take out of Malaysia, central bank approval for various internal and foreign transfers, and the requirement that exports must be financed in foreign currency. These measures may have led to a reduction of foreign direct investment in Malaysia. A decline in foreign investment is likely to have secondary effects in contributing to the decrease of Malaysia's export and import levels beyond the suppression of import demand resulting from the crisis and devaluation of the Ringgit.

i. Investment and Services

Malaysia maintains investment limits which predate the crisis and which affect the local business and investment climate. In general,

Malaysian law requires that business entities include a domestic partner with a minimum 30 percent stake. Banking and other financial services providers face foreign-held equity restrictions, as do suppliers in the wholesale/retail, distribution and multi-level marketing, construction and legal services sectors. U.S. officials have and will continue to raise concerns over investment restrictions in the distribution services sector as a priority and will continue to monitor developments.

ii. Tariffs

In 1997 and 1998, Malaysia raised tariffs on certain goods from 0 percent in 1996 to current levels of between 5 and 20 percent ad valorem . The products affected include some types of heavy machinery and construction equipment, automobiles, motorcycles, and home appliances. Malaysia in 1998 also implemented a new import approval scheme for construction equipment which could further restrict market opportunities for U.S. exports. Malaysia's rationale for the measures affecting construction equipment is to encourage reconditioning and repair of existing equipment; however, it is unclear that this policy has promoted this objective. Malaysia is reducing tariffs for information technology products covered by the Information Technology Agreement (ITA), under which most of its tariffs will be bound at zero by the year 2000.

iii. Local Content-Related Investment Incentives

Malaysia has taken a number of steps which confer tariff or tax benefits, based on the amount of locally produced parts or inputs utilized, in order to promote the development of domestic automobile manufacturers under its "national automobile" program. As required by the WTO Agreement on Trade-Related Investment Measures, Malaysia's various incentives for local production were to be eliminated by January 1, 2000. However, in late-December 1999, Malaysia notified WTO members of its desire to obtain a two-year extension of its auto-related measures.

iv. Intellectual Property Rights

The Malaysian Government has worked closely with the United States and U.S. industry to suppress end-user piracy of copyrighted works, principally business application software. Nevertheless, Malaysia still has not made effective efforts to regulate optical disk (OD) production facilities or to address the dramatically increasing problem of pirated CDs, VCDs and CD-ROMs. Domestic production of optical disks far exceeds domestic demand, and has contributed to substantial domestic and export markets for pirated goods. While we are encouraged that Malaysia in 1999 drafted legislation to implement a comprehensive regulatory scheme, including licensing of OD facilities, the bill has not been submitted to the legislature; although we have been assured that this will happen soon. The United States continues to reiterate its serious concern over these developments and urges Malaysia to make enactment of an effective OD regulatory bill and enforcement its top priorities.

c. Philippines

i. Market Access Issues

Despite the Estrada Administration's articulated objective to resist domestic protectionism, and to maintain open-market policies to promote competitiveness and stability, the Philippine Government continues to consider proposals which would restrict import competition by means of increased taxes, surcharges and tariff increases. The Philippines in 1999 raised applied tariffs on a range of goods of importance to the United States. U.S. companies and exporters have also observed an increase in the frequency of problems involving customs valuation and preshipment verification of invoice value for a range of agricultural and manufactured goods. The United States will continue to address these and similar instances of "creeping protectionism." As a

signatory to the Information Technology Agreement (ITA), the Philippines is implementing tariff reductions for covered products, most of which will be bound at zero by the year 2000.

ii. Intellectual Property Rights

In June 1997, the Philippines enacted a comprehensive law on intellectual property rights. The law entered into force on January 1, 1998, although formal implementing regulations for most provisions of the law were not promulgated until later. On balance, the law represents a significant step toward implementation of the Philippines' commitments under the WTO TRIPS Agreement. However, several provisions of the law are of concern to the United States and could pose serious policy implications and investment disincentives if not adequately addressed. Specific concerns include provisions governing the circumstances under which decompilation of software programs is permissible, *ex parte* search and seizure, and restrictions on technology licensing arrangements. The United States also continues to monitor carefully Philippine enforcement efforts and judicial efficiency.

iii. Customs

Many U.S. companies have identified customs valuation and price verification practices as the single largest impediment to transacting business in the Philippines. In April 1996, the Philippines enacted legislation abolishing the use of the Philippines' previous customs valuation practice based on "home consumption value" (HCV). Similar concerns are expressed regarding implementation of the new valuation scheme (based on the "Brussels Definition of Value") which lacks transparency and may be inconsistent with the WTO Agreement on Customs Valuation. U.S. companies also report continuing problems with price verification procedures as part of the preshipment inspection (PSI) process, including routine overvaluation or "up-lift" of invoice prices without substantiation, failure to provide required customs documentation, questionable grievance and appeals procedures, and solicitation of "facilitation" fees not related to the services rendered. The United States continues to urge Philippine authorities to facilitate rapid implementation of the WTO Agreement on Customs Valuation and adherence to WTO PSI requirements.

d. Singapore

Singapore imposes tariffs on only four categories of goods, allowing nearly 96 percent of its imports to enter duty-free. Singapore's tariffs on products covered by the Information Technology Agreement will be bound at zero by the year 2000.

One aspect of Singapore's trade regime that remains a concern for the United States is the protection of intellectual property rights. Although Singapore during the past year has acceded to the Berne Convention, revised several IPR laws in order to become TRIPS-complaint in advance of the January 1, 2000 deadline, and has stepped up enforcement and consumer awareness efforts, Singapore's piracy rate continues to grow. Government efforts to promote a "code of conduct" for local manufacturers of optical disks in order to clean up the domestic industry has helped to focus attention on the growing problem of piracy of CDs, VCDs, and CD-ROMs. We continue to work with U.S. industry to develop effective approaches to curtailing retail piracy in Singapore.

e. Thailand

i. Intellectual Property Rights

In recent years, Thailand's commitment to effective IPR protection has been uneven, as evidenced by growing piracy rates, inconsistent coordination between enforcement authorities and failure to enact TRIPS-consistent trademark law. Thailand opened specialized IPR and international trade courts in late 1997 which has resulted in moderate improvements in IPR protection, but has not resulted in the imposition of penalties

sufficient to deter IPR infringement. In June 1998, the United States and Thailand concluded an Action Plan, which among other things, is intended to enhance routine coordination among relevant Thai Government agencies in order to improve retail-level IPR enforcement and to prioritize the enactment of key legislation. The Action Plan also sets the foundation for implementation of measures to address the growing problem of optical disk (OD) piracy. The United States will continue to press the Thai government to make meaningful progress on IPR protection and enforcement, and will continue to consult with U.S. industry to develop specific proposals to enhance copyright and trademark protection in Thailand.

ii. Market Access Issues

Thailand's applied tariffs are generally higher than many of its neighbors. As a signatory to the Information Technology Agreement (ITA), Thailand is implementing tariff reductions for covered products, most of which will be bound at zero by the year 2000.

iii. Worker Rights

Since 1992, the Thai worker rights situation has been the subject of an ongoing investigation under the Generalized System of Preferences. Of specific concern to the United States is the failure of successive Thai Governments to enact legislation which confers internationally-recognized labor rights to state enterprise workers. In late 1998 the Thai Parliament enacted the State Enterprise Labor Relations Act (SELRA); however, a court deemed technical aspects of the law to be inconsistent with provisions of Thailand's constitution which was revised that same year. The Thai Government subsequently introduced a modified bill, intended to satisfy constitutional requirements; unfortunately enactment of an ILO-consistent bill was significantly impaired in 1999 as a result of discord between the Thai House and Senate which triggered a "cooling off" period pursuant to parliamentary procedure. That time period elapsed at the end of January 2000, and SELRA was enacted on an expedited basis in February of this year. While this is a welcome development, the United States is awaiting confirmation of the ILO-consistency of the law and additional actions by the Thai Government necessary to implement these core worker rights.

f. Normalization of Trade Relations with Vietnam and Laos

Vietnam

In 1995, President Clinton normalized diplomatic relations with Vietnam, and directed that the process of economic normalization, in accordance with U.S. laws, be undertaken. A key element of economic normalization is the establishment of "normal trade relations" (NTR) status between the two countries. Under U.S. law, in order for Vietnam to receive such "NTR" treatment from the United States (i.e., to have its exports to the United States be subject to the same tariffs that are afforded to nearly every other country) two legal conditions must be met. First, the President must grant a waiver of the "Jackson-Vanik" provision of the trade laws, indicating that the country is making progress in allowing free emigration. Second, the United States must conclude a bilateral commercial agreement with that country, which must be approved by the U.S. Congress.

In 1999, progress was made on both of these fronts. First, President Clinton renewed the Jackson-Vanik waiver for Vietnam that he first granted in 1998 (the waiver must be renewed annually). In July 1999, USTR concluded a comprehensive trade agreement in principle with Vietnam, which would begin to open its markets for agricultural and industrial goods, key services such as banking, insurance, telecommunications, and distribution, and protection of intellectual property. The agreement now awaits finalization by the two sides (Vietnam has taken a number of months to conduct its final internal review and

political ratification of the pact) and needs to be approved by the U.S. Congress, in connection the annual NTR process.

Laos

In 1997, the United States completed a comprehensive bilateral trade agreement with Laos aimed at normalizing trade relations. Laos, unlike Vietnam, is not covered by the "Jackson-Vanik" provisions of U.S. trade law. Instead, it requires legislation enabling the President to grant normal trade relations status to Laos upon formal signature of the agreement. The Administration supports the enactment of such legislation by Congress.

3. Republic of Korea

a. Macroeconomics and Trade

At the end of 1997, the IMF negotiated a macroeconomic stabilization package with the Korean Government when the value of the *won* depreciated dramatically due to a large outflow of foreign investment. The stabilization package for Korea included credit from the IMF, the World Bank, and the Asian Development Bank.

The stabilization plan focused on: (1) restructuring the financial and corporate sectors to make them more market-driven, efficient, transparent, and open to foreign investment; and (2) eliminating trade- and competition-distorting policies. Korea's trade-related reforms included: (1) early elimination of WTO-prohibited export and domestic content subsidies and the import diversification program (which prohibited many Japanese imports); and (2) a reduction in the number of products subject to tariff adjustments, or snapbacks. Korea also agreed to liberalize its import licensing and certification procedures and to bind its OECD financial services market access commitments in the WTO.

The Korean Government made progress on implementing some of its reform commitments in 1998 and 1999, particularly in the financial sector by rationalizing and recapitalizing its banks, and by consolidating regulatory authority over the financial sector in a new, independent Financial Supervisory Commission (FSC). However, the Korean Government still maintains a majority ownership in several of the largest commercial banks in Korea and a significant stake in a number of others. Korean authorities are now in the process of restructuring the Investment Trust Companies (ITCs).

With respect to changes in corporate practices, Korea is in the process of implementing international standards on accounting practices and has provided for the appointment of outside directors on corporate boards. The rights of small shareholders have been strengthened, while restrictions on foreign participation have been eased. Cross guarantees of major conglomerates are being reduced, and bankruptcy laws have been amended.

That said, the Korean Government's record on implementation of some of its trade-related stabilization commitments has "fallen short of the mark." For example, the U.S. Government has expressed concern about the Korean Government's decision to maintain tariffs at the highest "snapback" level, while eliminating the "snapback," or tariff adjustment mechanism. The U.S. Government will continue to work with Korea to ensure full follow-through on its trade-related stabilization commitments.

In addition, many of the systemic reforms that President Kim Dae Jung laid out for Korea have yet to be implemented. Corporate restructuring efforts undertaken thus far have yielded little change in the structure of Korean industrial sectors, including motor vehicles, steel, and shipbuilding. The U.S. Government has noted in representations to the Korean Government that for restructuring to be considered meaningful: (1) it must yield efficient, market-driven companies; and (2) the process through which it is carried out must be open, transparent, and treat foreign

creditors equitably, and comport with Korea's international obligations.

The fiscal, monetary, and restructuring policies laid out by the Kim Dae Jung administration have contributed to a resumption of foreign and domestic/consumer confidence in Korea's economy. In 1999, Korea grew at a rate of nine to ten percent, after experiencing negative growth in 1998. The United States ran a bilateral trade deficit with Korea of $8.3 billion in 1999.

b. OECD

In late 1996, the Korean National Assembly ratified Korea's accession to the OECD. Given Korea's membership in the OECD, the United States expects Korea to implement its WTO commitments and to negotiate in the new round of multilateral trade negotiations as a *developed* country, including in the area of agriculture.

In May 1997, on the fringes of an OECD Ministerial, Korea issued a statement indicating that the government did not support anti-import activity, which had been encountered in the Korean market in the context of the frugality, or anti-consumption, campaign launched by President Kim Young Sam. The Korean Government also issued guidelines to trade officials to ensure that they did not discriminate against imports. While the Korean Government has taken some important steps to address anti-import activity, serious problems in this area persist. The United States continues its work with the Korean Government to ensure that it expeditiously and effectively addresses instances of anti-import activity and reaches out proactively to educate Korean citizens on the benefits of free trade and competition.

In November 1999, the Trade Committee of the OECD reviewed Korea's regulatory regime. In this review, the U.S. Government stressed the need for enhanced transparency and reform of Korea's regulatory system and emphasized that Korean regulations should fully reflect the trade commitments and policies that Korea has undertaken as a WTO and OECD member. In addition, the United States underscored the need for Korean regulations and other rules, and the officials who administer them, to reflect the free and open trade and investment policy that Korean President Kim Dae Jung has embraced. Among the specific areas of concern flagged by the United States in this review were Korean policies on motor vehicles, pharmaceuticals, telecommunications, *chaebol* reform, import clearance procedures, foreign equity restrictions, and customs classification and border treatment.

Also in November 1999, the OECD Committee on Capital Movements and Invisible Transactions and the OECD Committee on International Investment and Multinational Enterprises reviewed Korea's financial and investment policies. In this review, the United States focused on Korean takeover policies, financial services commitments, and rules on bank ownership and investment in the meat, rice, barley and insurance sectors.

c. Motor Vehicles

In the October 1, 1997 Super 301 report to the Congress, the USTR identified Korean barriers to motor vehicles as a priority foreign country practice. On October 20, 1997, the USTR initiated a Section 301 investigation with respect to certain acts, policies, and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market.

After intense bilateral negotiations, on October 20, 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access for foreign motor vehicles. Under this MOU, Korea agreed to: (1) bind in the WTO its 80 percent applied tariff rate at 8 percent; (2) lower some of its motor-vehicle-related taxes and to eliminate others, thereby substantially reducing the tax burden on motor vehicle owners; (3) streamline its standards and

certification procedures and adopt a manufacturer driven self-certification system by 2002; (4) establish a new mortgage mechanism to make it easier to purchase motor vehicles in Korea; and (5) continue to actively and expeditiously address instances of anti-import activity and to proactively educate Korean citizens on the benefits of free trade and competition. As a result of the measures the Korean Government committed to in the 1998 MOU, on October 20, 1998, the USTR decided to terminate the Section 301 investigation and to monitor the Korean Government's implementation of these measures.

The first formal review of Korea's implementation of the 1998 MOU took place in April 1999, six months after the conclusion of the 1998 MOU. In December 1999, the U.S. and Korean Governments met again for detailed consultations on the steps Korea has taken and will take to implement this agreement. While implementation of many specific provisions is on track, the U.S. Government is focused on, and concerned about: (1) the lack of substantial increases in market access for foreign motor vehicles in Korea; (2) the lack of meaningful restructuring in the Korean motor vehicle sector; (3) ongoing instances of anti-import activity; (4) the lack of a long-term plan to continue to reduce the tax burden on motor vehicle owners in Korea; and (5) standards and certification issues, such as the potential application of new standards to minivans when they are reclassified as passenger vehicles, the Korean Government's plans on noise and fuel efficiency standards, and others. In addition to following up on these areas, the U.S. Government also will track the operation of the new mortgage system, and work with the Korean Government as it develops its self-, or manufacturer-driven, certification system, which is to be implemented by 2002, per the MOU.

Through formal consultations, including in 2000, the U.S. Government will continue to actively monitor the implementation of the 1998 MOU to ensure Korea's full and faithful implementation.

d. Steel

U.S. steel imports surged in 1998, as chronic overcapacity in the global steel sector was compounded by the Asian financial crisis and the resulting drop in demand in Asia. Korea accounted for nearly 20 percent of the overall growth in U.S. imports of steel in 1998. While imports of steel were down in 1999, the U.S. market has not fully recovered from the import surge. In 1999, the U.S. industry responded to the import surge by filing two Section 201 safeguards cases against imports of steel wire rod and welded line pipe, as well as a series of unfair trade cases. Korea is the largest source of welded line pipe imports to the United States. The President recently granted relief to the U.S. industry in both cases.

In June and November 1998, President Clinton stressed to Korean President Kim Dae Jung the need for the Korean Government to address U.S. concerns about steel. The result was high-level exchanges of letters on steel issues (August of 1998 and April of 1999) in which the Korean Government provided assurances that: (1) it will not direct or support Hanbo, a bankrupt Korean steel company; (2) the impending sale of Hanbo will be managed by an independent international agent and will be market-driven; (3) it will not provide any market-distorting subsidies to the steel sector; and (4) POSCO, the largest Korean steel company, had abolished its dual-pricing system and adopted transparent pricing policies that would not favor any end-user based on its role in the Korean economy or on its export orientation. Korea also committed to selling the remaining Korea Development Bank (KDB) shares in POSCO by the end of 1999, but, this sale was not completed within that time frame. In concert with efforts to reach agreement on these letters, the U.S. Government launched a comprehensive, intensive series of consultations to address U.S. steel concerns with the aim of ensuring that real and substantive progress is made toward getting the Korean Government out of the steel business permanently.

On August 5, 1999, the White House announced its Steel Action Program stating that the U.S. Government would undertake bilateral initiatives with steel exporting nations, including Korea, to address a broad range of unfair practices that support economically unjustifiable capacity. The high-level bilateral dialogue with Korea was reinvigorated. Several working level meetings have been held in Seoul, Washington, and Paris. The objectives of the dialogue continue to be the following:

- ensuring that the Korean Government addresses anticompetitive activity in the Korean steel sector and ensures open competition inside Korea and in international trade;
- expeditious, complete, and market-based privatization of Korea's largest steel producer, POSCO;
- implementation of the Hanbo sale and operation of the company on arms-length terms as outlined in our August exchange of letters, that is, without Korean Government direction or support; and
- fair trade in steel products.

The U.S. Government has made clear that it will strongly enforce U.S. laws against unfair trade practices in steel through expedited investigations and other appropriate actions, and through the implementation of an early warning system to monitor import trends.

e. Pharmaceuticals

U.S. concerns on pharmaceuticals trade relate to three baskets of issues: (1) listing and pricing on Korea's national health insurance reimbursement schedule, and associated hospital margins and administrative procedures on dispensing; (2) protection of intellectual property rights, particularly protection of clinical data and patents; and (3) regulatory requirements, particularly on acceptance of foreign and clinical test data and approval of new drugs. USTR, in its 1999 Super 301 trade report, listed these pharmaceuticals trade issues as the bilateral trade expansion priority on the U.S.-Korea agenda.

Throughout 1999, the U.S. and Korean Governments have had a number of letter exchanges and consultations regarding U.S. Government and industry concerns about the treatment of, and market access for, foreign research-based pharmaceuticals in Korea. As a result, the Korean Government has taken some steps to address U.S. concerns. Korea's specific steps included the following: (1) listing imported pharmaceuticals on Korea's national health insurance reimbursement schedule; (2) implementing an Actual Transaction Price (ATP) system whereby both imported and domestically-manufactured pharmaceuticals are reimbursed without hospital margins (such margins had previously benefitted only Korean-produced drugs); (3) committing to adhere to international guidelines on the acceptance of foreign clinical test data and making the approval process for new drugs more science-based; (4) eliminating the requirement for the submission of a Certificate of Free Sale before Phase III clinical trials can commence in Korea; and (5) committing to shorten the overall drug approval process in Korea. That said, to comprehensively and definitively address U.S. concerns, the Korean Government must significantly advance progress further.

The U.S. Government is closely monitoring the implementation of recent changes that Korea has made to its procedures on reimbursement pricing of pharmaceuticals and on regulatory requirements for the acceptance of foreign clinical test data and the approval of new drugs. In addition, the United States will continue to press the Korean Government on all pharmaceuticals trade issues until U.S. concerns are fully and satisfactorily addressed.

f. Intellectual Property Rights

Korea's record on IPR protection and its Special 301 status are important indicators of the nature of Korea's climate for doing business. In April of 1997, the United States downgraded Korea from the Special 301 "priority watch list" to the "watch list" after Korea agreed to an action plan on specific reforms. Korea followed through on this action plan by: (1) improving enforcement of its laws against copyright infringement; (2) opening a patent court; and (3) amending its Trademark Law and Industrial Design Laws. Although Korea has maintained its "watch list" status, the U.S. Government and U.S. industry remain concerned about Korea's failure to provide: (1) full protection for pre-existing copyrighted works as required under the TRIPS Agreement; and (2) adequate and effective data, patent, and trademark protection. In addition, the United States has engaged the Korean Government on concerns that U.S. industry has raised about recent changes to Korean laws on protection of copyrighted works, including computer programs. The U.S. Government will continue to work with the Korean Government to ensure its full compliance with its TRIPS Agreement obligations, including those on protection of test data against unfair commercial use and disclosure, and on protection of copyrights. The United States also has prioritized the need for Korea to improve coordination between its health and safety and IPR officials to ensure that products that infringe existing patents are not approved for marketing. Issues related to Korea's TRIPS consistency must be resolved before signature of a Bilateral Investment Treaty (BIT).

g. Telecommunications

In the context of the 1996 Section 1377 review, the United States and Korea reached an understanding on outstanding problems on the implementation of the 1990 and 1992 bilateral telecommunications trade agreements. The 1996 agreement elaborates on aspects of the existing agreements and commits Korea to several reforms, specifically, equal treatment in procurement of advanced technologies and effective protection of U.S. intellectual property. Subsequently, however, on July 26, 1996, USTR identified Korea as a Priority Foreign Country (PFC) under Section 1374 of the Omnibus Trade and Competitiveness Act for failure to address a range of impediments in the Korean telecommunications market.

In July of 1997, the U.S. and Korean Governments negotiated a policy statement that resulted in the revocation of the PFC designation in August. In this statement, Korea committed to ensuring that foreign telecommunications equipment suppliers would be treated fairly in areas including procurement, certification, type approval, protection of intellectual property, and technology transfer.

In 1999, the Korean Government raised the ceiling on foreign ownership in the telecommunications sector from 33 to 49 percent, accelerating by 18 months Korea's phase-in of its WTO basic telecommunications commitments.

Also, in 1999, Korea began to plan for licensing third-generation wireless services. The United States has consulted with the Korean Government to ensure that the licensing process does not discriminate against service suppliers or equipment makers based on choice of technology.

h. Financial Services

As a condition in the IMF stabilization package, Korea agreed to bind its OECD commitments on financial services market access in the WTO. In January of 1999, Korea provided WTO members with a revised and somewhat improved schedule of financial services commitments that entered into force as of September of 1999. The U.S. Government will continue to work with Korea to bring about more liberal treatment of foreign financial services providers.

i. Screen Quotas

Korean Law requires that domestic films be shown in each cinema for a minimum number of days per year. Current law requires that Korean films be shown 146 days of the year, with a potential reduction to 106 days. The screen quota issue is part of ongoing Bilateral Investment Treaty (BIT) negotiations.

j. Bilateral Investment Treaty

In 1999, the U.S. Government made progress in negotiations with Korea on a Bilateral Investment Treaty (BIT) aimed at securing Korean commitments on a balanced and open investment regime and providing protections for U.S. investors in Korea. While these negotiations resulted in agreement on the liberalization of investment restrictions in a number of sectors, several key issues are outstanding, including greater access for U.S. investors in telecommunication services, liberalization of the screen quota system, and full TRIPS compliance, specifically, with respect to retroactive copyright protection for pre-existing works and sound recordings.

k. Cosmetics

Impediments to entry and distribution of foreign cosmetic products in Korea have included the following: (1) the Korean Government's delegation of authority to the domestic industry association to screen advertising and information brochures prior to use; (2) provision of proprietary information on imports to Korean competitors; (3) redundant testing; (4) burdensome import authorization and tracking requirements (record-keeping from import to sale); and (5) requirements for animal toxicity test data. During July and August of 1997, U.S. Government officials made representations to Korean Embassy officials on these and other barriers that were in effect at the time. The U.S. Government cited Korea's cosmetics-related measures as a bilateral priority in the 1997 Super 301 report.

On January 1, 1998, the Korea Food and Drug Administration (KFDA) abolished the annual testing requirement for imported cosmetics, and authorized importers to perform the required self-testing, provided that they maintain records for each batch/shipment. In January of 2000, the KFDA eliminated requirements for pre-approval and local testing at the first importation. Foreign cosmetic manufacturers that have passed a facility inspection by the KFDA also are exempt from testing requirements for each batch/test. The U.S. Government will continue to press Korea in a variety of fora until U.S. concerns on its barriers to entry and distribution of cosmetics are fully and satisfactorily addressed.

l. Airport Procurement

During negotiations on Korea's accession to the WTO Agreement on Government Procurement (GPA), the U.S. Government received assurances that airport procurement would be conducted by GPA-covered entities. Since 1997, U.S. companies have alleged that the Korean Airport Construction Authority (KOACA), and its successor organizations, which are responsible for conducting procurement for Inchon Airport, discriminate against foreign firms interested in bidding for projects. The procurement practices of KOACA and its successor organizations, such as short deadlines and domestic partnering requirements, are in violation of WTO GPA requirements and restrict the ability of U.S. firms to participate in bidding.

In 1997 and 1998, U.S. negotiators raised this issue in the WTO Government Procurement Committee and in consultations, including at the highest levels. Korea's response has been to claim that KOACA and its successor organizations are not covered by the GPA. As Korea's position on this issue remained unchanged, on February 16, 1999, the U.S. Government requested consultations under WTO dispute settlement procedures and consultations were held on March 17, 1999. On May 11, 1999, the United States requested the establishment of a

WTO dispute settlement panel, which was formed on September 8, 1999. The meetings of the panel were held in October and November of last year, and the panel is scheduled to circulate its report in April of 2000.

m. Distilled Spirits

Despite Korean consumer interest in U.S. whiskey, U.S. exports of this product to Korea have historically been very low, accounting for less than one percent of the total Korean market for distilled spirits because of the exorbitant taxes and tariffs they face. Prior to January of 2000, Korea's taxation of alcoholic beverages was based on a two-tiered regime. First, under a general liquor tax law, Korea imposed an *ad valorem* tax of 100 percent on whiskey and brandy, and of 80 percent on vodka, rum, and gin. At the same time, Korea applied a tax of only 35 percent to *soju*, the locally produced Korean liquor. The Korean Government compounded this difference in liquor tax rates by applying another tax – an education tax – on alcoholic beverages and by basing the education tax rate on the liquor tax rate. The effect of these tax policies was the application of an education tax of 30 percent on U.S. whiskey and of only 10 percent on *soju*. In short, the effective tax rate on whiskey was 130 percent and on *soju* only 38.5 percent.

In 1997, the United States and the EU initiated dispute settlement proceedings against Korea because of this discriminatory tax system. In July of 1998, a WTO dispute settlement panel ruled that Korea's taxes on alcoholic beverages were discriminatory, and in January of 1999, the Appellate Body upheld this decision. The panel found, and the Appellate Body agreed, that Korea's two liquor taxes violated Article III:2 of the General Agreement on Tariffs and Trade (GATT) because they afforded protection to domestic production of *soju*.

In April of 1999, the United States and the EU requested that the period of time for Korea to implement the panel's recommendation be determined by arbitration because Korea wanted 15 months, which the United States and the EU opposed. The WTO arbitrator found that Korea should comply within 11.5 months, *i.e.*, by January 31, 2000.

Korea complied with the panel and Appellate Body decisions on January 1, 2000, one month earlier than required, by amending two laws to harmonize its tax rates on domestically-produced and imported liquors. In fact, the Korean Government actually lowered taxes on imported whisky by 28 percentage points. The U.S. Government will continue to monitor Korean policies affecting producers of *soju* to ensure Korea's continued compliance with its WTO obligations.

n. Beef

Pursuant to a 1989 GATT panel ruling against Korea, the Korean Government committed to phasing out its balance-of-payment restrictions on beef. Subsequently, in 1990, and in July of 1993, the United States and Korea concluded an exchanges of letters and Records of Understanding (ROUs) under which Korea agreed to annual, increasing minimum market access levels for beef imports through 1995. The 1993 agreement also guaranteed direct commercial relations between foreign suppliers and Korean retailers and distributors and provided that a growing volume of beef be sold through that channel instead of through a state trading organization. Specifically, the agreement provided for the following: (1) an increase in the minimum annual quotas; (2) an increase in the number of Korean meat outlets and retailers that can undertake commercial transactions with U.S. exporters without Korean Government intervention – the Simultaneous Buy/Sell (SBS) system; (3) dramatically increased annual SBS sub-quota amounts; and (4) a ceiling on the mark-up levied on the duty-paid price of imported beef. Australia and New Zealand – the other two major suppliers of beef to Korea – entered into identical ROUs on beef issues with Korea.

In December of 1993, the July agreement – including provisions for increasing the minimum market access quota – were extended.

Pursuant to section 306 of the Trade Act, the USTR is monitoring Korea's implementation of its commitments on beef imports. The U.S. and Korean Governments have met quarterly on the specifics of Korea's implementation record on the 1993 agreements. In 1997, Korea did not meet its annual commitment to import 167,000 metric tons of beef. In 1998, Korea fell short of its 187,000 metric ton quota by approximately 53 percent. In 1999, Korea again failed to meet its minimum market access commitment on beef.

Senior U.S. Government officials have repeatedly sought Korea's elimination of government impediments to the entry and distribution of foreign beef. In September and November of 1998, the U.S. and Korean Governments held two rounds of talks, and in January 1999, met to try to reach agreement on a plan to establish a market-driven beef import system in Korea. As no agreement was reached over the course of these talks, the U.S. Government requested WTO dispute settlement consultations on February 1, 1999. Consultations were held in March of last year. As no settlement was reached at these consultations, the United States requested formation of a panel, which the WTO Dispute Settlement Body (DSB) established in May of 1999. Australia's subsequent request for formation of a panel on Korea's beef measures was approved in July. The DSB also agreed in July that the panel established in May to examine the U.S. complaint would examine the Australian complaint as well.

The first meeting of the combined panel was held in December of 1999 and the second meeting in mid-February of 2000. Canada and New Zealand are participating in the panel process as third parties.

The United States's complaint is focused on Korea's (1) requirements that imported beef be sold only in specialized imported beef stores and Korean laws and regulations restricting the resale and distribution of imported beef by SBS super-groups, retailers, customers, and end-users; (2) discretionary import licensing regime; (3) imposition of duties and charges in the form of markup, which is not provided for in Schedule LX; and (4) failure to fulfill its reduction commitment for domestic support.

o. Rice

The Korean Government continues to exercise full control over the purchase, distribution, and end-use of imported rice. The state trading enterprises that administer the WTO-mandated minimum access program continue to purchase only low-quality Asian rice, as Korean law forbids the use of imported rice for purposes other than industrial or processing uses. As a result, high quality U.S. rice is effectively shut out of the Korean market. In addition, Korea, once again, has allowed shipments of the 1999 minimum access purchases to extend into 2000. This unilateral Korean action has complicated efforts to monitor Korea's compliance with its WTO obligations. The U.S. Government also is concerned with Korea's recent statements that Korean rice policies are "off the table" in the new round of multilateral agriculture negotiations provided for as part of the built-in agenda. The United States will continue to actively engage Korea to ensure its full compliance with its current obligations on rice and to press for further liberalization of Korean trade policies on this commodity.

p. Oranges

The Cheju Citrus Cooperative, a Korean producer group, has controlled the allocation of the in-quota quantity of Korea's orange tariff-rate quota (TRQ). In the past, Cheju has filled the quota, with most of the imports coming from the United States. In 1999, however, the quota was not filled. Also in 1999, Korea decided to auction a portion of the quota, despite protests from the United States, based on concerns that an auction system

would add costs beyond tariffs to entering the Korean market.

Korea's phytosanitary barriers also hindered market access for citrus in 1999. Korea's National Plant Quarantine Service (NPQS) has delayed in recognizing the U.S. Department of Agriculture's (USDA) lifting of certain quarantine restrictions, and has expanded U.S. fruit fly quarantine zones to include entire counties rather than the scientifically-based areas established by USDA. The Korean Government's policies to expand and extend USDA quarantine zones are some of the most restrictive and onerous in the world. U.S. Government officials have engaged Korean Government officials on this quarantine zone issue through multiple written and verbal representations. The United States will continue to press Korea on this trade policy issue until it is resolved.

q. Potato Preparations

The Korea Customs Service's (KCS's) repeated misclassification and change in border treatment of potato preparations to the trade-restrictive Harmonized System (HS) heading 1105 (pure potato), with an in-quota quantity of 60 metric tons and an over-quota tariff rate in excess of 300 percent, has essentially stopped U.S. exports of these products to the Korean market. Potato preparations should enter Korea in the unrestricted HS heading 2005 with a current applied tariff rate of 20 percent and a bound rate of 31.5 percent. Instead, Korea has been classifying these products in the more restrictive, HS 1105, which is subject to a tariff-rate quota (TRQ).

In 1993, the KCS suddenly reclassified a U.S. potato preparation as pure potato, thereby subjecting it to more restrictive border treatment. The U.S. Government objected to this action, and asked international customs authorities – then, the Customs Cooperation Council (CCC), the predecessor to the World Customs Organization (WCO) – to provide an opinion on the proper classification of the product in question. The CCC found that the U.S. product was properly classified as a potato preparation, and therefore subject to a straight tariff, rather than to more restrictive treatment. Subsequently, the KCS agreed in an exchange of letters with a U.S. official to abide by the CCC ruling. In January of 1997, however, after initiating a review of the classification of a number of preparation products, the KCS once again abruptly reclassified another U.S. potato preparation into the same trade restrictive heading, HS 1105. The U.S. Government subsequently pursued resolution of the issue in numerous bilateral meetings with the Korean Government, and has raised it various multilateral fora.

Even after assurances by the Korean Government that the U.S. product would enter Korea as a potato preparation if a similar European product were found to be a preparation by the WCO – which it was – and a letter in which the KCS agreed to classify blended potato products according to internationally recognized criteria, U.S. exporters of potato preparations continue to experience market access problems in Korea. The U.S. Government has made it very clear to the Korean Government that patience on this issue has worn thin and that the United States expects a definitive resolution through an exchange of letters in early 2000.

r. Agricultural Tariffs

In 1999, the U.S. Government discovered a discrepancy between Korea's applied tariff rates on several agriculture items – peanuts, popcorn, potato flour, potato flakes, and wheat and soybean meal – and its WTO bindings and tariff commitments in a 1993 U.S.-ROKG Record of Understanding (ROU) and a February 1994 exchange of letters. In February of 1999, U.S. Embassy officials in Seoul brought these discrepancies to the attention of the Korean Government. Korean officials acknowledged these discrepancies, and gave indications that they would search for ways to rectify them. Despite letters from high-ranking U.S. officials and

subsequent bilateral meetings in which this issue was raised, a discrepancy in the tariff rates on most of these products remains in effect. The U.S. Government will continue to press Korea until its duties on all agriculture products are brought into compliance with Korea's WTO and bilateral commitments.

s. Import Clearance Procedures, Food Standards, and Labeling Requirements

After WTO dispute settlement consultations with the United States, between 1995 and 1999, the Korean Government revised its import clearance procedures by: (1) expediting clearance for fresh fruits and vegetables; (2) instituting a new sampling, testing, and inspection regime; (3) eliminating some non-science-based phytosanitary requirements; (4) beginning revisions of the Korean Food and Food Additives Codes, for example, by bringing Korean pesticide residue level standards for citrus into conformity with CODEX standards; and (5) requiring ingredient listing by percentage for major, rather than all, ingredients. In 1999, the Korea Food and Drug Administration (KFDA) issued for public comment proposed additional revisions to the Food Code, the Food Additives Code, and labeling standards for food. The KFDA's proposed changes address many U.S. industry concerns, including mandatory Korean language labeling of product type and excessive restrictions on food and food additives. However, additional work will be needed to bring Korea's Food and Food Additives Codes into conformity with international standards, specifically those related to chocolate and food additives.

In general, U.S. suppliers of food and agricultural products continue to encounter trade-impeding practices in Korean ports of entry and Korean clearance times are still slower than in other countries in the region. Surveys of U.S. trading partners in Asia indicate that import clearance for most agricultural products requires less than three to four days. In Korea, import clearance for new products still typically takes ten to eighteen days (and four to six months if a food additive is used that is not specifically recognized in Korea's Food Code for use in that product). The Korean Ministry of Agriculture and Forestry (MAF) accounts for the greatest delays in import clearance, specifically through non-science-based quarantine, and burdensome documentation, requirements.

The United States will continue its dialogue with the Korean Government on its import clearance procedures until clearance times in Korean ports of entry are comparable to those in other Asian ports and Korean procedures are based on science and consistent with international norms.

t. Shelf-life

In November of 1994, USTR accepted a Section 301 petition filed by the National Pork Producers' Council, the American Meat Institute, and the National Cattlemen's Association, alleging that a number of Korean practices – especially government-mandated shelf-life limits and long delays at the port – have effectively prohibited U.S. meat imports. As a result of WTO dispute settlement consultations with the United States, in July 1995, Korea agreed to phase out its government-mandated shelf-life requirements on certain products and to allow manufacturers to set their own "sell-by" dates. The 1995 Agreement also covered other concerns raised in the petition, such as pork tendering procedures and temperature requirements. The U.S. Government will continue to work with the Korean Government to ensure that the 1995 Shelf-life Agreement is implemented fully and faithfully.

Korea continues to maintain government-mandated shelf-life requirements for items such as dairy products packaged in tabletop cartons and bottled water.

4. India

General

Important progress was made during 1999 in developing a more constructive long-term trade relationship with India. Significant steps were taken on a number of bilateral and multilateral issues, and the stage was set for broad-based, productive and cooperative longer term relationship. This included the settlement of two longstanding issues – removal of Indian quantitative restrictions and the Article XXVIII renegotiation of certain agricultural tariffs. However, India continues to limit market access through irritants such as automotive TRIMS, soda ash restrictions, and minimum reference prices for customs valuation.

a. BOP WTO Case

India has maintained bans, restrictive licensing, and other quantitative restrictions (QRs) on imports of industrial, textile, and agricultural products for fifty years, and has sought to justify these restrictions on the basis of the balance of payments (BOP) provisions of GATT. In 1999, BOP restrictions applied to approximately 15 percent of India's tariff lines. Virtually all consumer goods are affected, as are many agricultural, textile, and petroleum-related products.

In 1997, during India's consultation with the WTO Committee on Balance-of-Payments Restrictions, the International Monetary Fund stated that India no longer had a BOP crisis permitting recourse to the GATT BOP exception. However, India insisted on at least six years to remove the BOP QRs. Following unsuccessful settlement talks with India, the United States initiated dispute settlement proceedings against India in July 1997. A dispute settlement panel was established in November 1997 and the panel issued its final report in April 1999 affirming the U.S. contention that these measures were inconsistent with India's WTO commitments. On May 25, India filed a Notice of Appeal with the Appellate Body. The Appellate Body rejected India's claim that its balance of payments situation justified import restrictions.

On December 28, 1999, the United States and India reached an agreement to lift these restrictions. Under the agreement, India committed to eliminate all of its more than 1,400 QRs by April 1, 2001. Half of the tariff lines will be free of restrictions by April 1, 2000; the remaining half of the restrictions will be lifted by April 1, 2001. Eliminating these restrictions will provide market access opportunities for U.S. producers in key sectors such as textiles, agriculture, consumer goods, and a wide variety of manufactured products. India had previously reached agreements with the EU, Japan, and other trading partners to remove these restrictions by April 2003. The agreement with the United States advances that time table by two years.

b. Intellectual Property Rights and the WTO TRIPS Mail Box

As a signatory to the Uruguay Round of GATT trade negotiations, including the Agreement on Trade Related Aspects of Intellectual Property Rights, India was required to comply with most of the obligations of the TRIPS Agreement by January 1, 2000, and must introduce a comprehensive system of product patents for pharmaceuticals and agricultural chemicals no later than 2005. The Indian Government has announced its intention to conform fully to the IPR-related requirements of the Uruguay Round. In December 1999, Parliament successfully passed three IPR related bills: the Copyrights Amendment Bill, the Trademark Bill, and the Geographic Indicators Bill. Parliament, however, failed to amend the Patents Act and, thus, failed to meet fully its WTO TRIPS obligations by the January 1, 2000 deadline.

In April 1999, the United States and India resolved the WTO dispute brought by the United States regarding India's implementation of

Articles 70.8 and 70.9 of the TRIPS Agreement. Through the enactment of the Patents (Amendment) Act 1999 and its accompanying regulations, India established a mechanism for the filing of so-called "mailbox" patent applications and a system for granting exclusive marketing rights for pharmaceutical and agricultural chemical products.

c. Auto TRIMS

The United States considers India's measures affecting trade and investment in the motor vehicle sector to be inconsistent with India's obligations under Articles III and XI of the GATT and Article 2 of the Agreement on Trade-Related Investment Measures. These measures require manufacturing firms in the motor vehicle sector to achieve specified levels of local content; to achieve a neutralization of foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period; and to limit imports to a value based on the previous year's exports.

On June 2, 1999, the United States requested consultations with the Government of India pursuant to the WTO Dispute Settlement Understanding. Those consultations were held on July 20, 1999, and we are evaluating options available to preserve our interests.

d. GSP

The GSP subcommittee decided in December 1998 to accept for review the petition of the American Natural Soda Ash Corporation (ANSAC) to withdraw, suspend or limit the application of GSP treatment to Indian imports due to the lack of market access to the Indian market stemming from the injunction of the Indian Monopolies and Restrictive Trade Practices Commission barring ANSAC imports. In India's FY1999-2000 budget, it raised the import tariff on soda ash to 38.5 percent, which is now the highest import tariff on soda ash in the world. A public hearing was held on March 23, 1999 and a decision is pending.

The Government of India continues to request restoration of benefits under GSP it lost in the early 1990s because of IPR violations. In December 1999, USTR welcomed the steps India took earlier this year to implement legislation regarding the so-called "mailbox" provisions of the TRIPS Agreement. In light of this effort as well as other on-going efforts to implement TRIPS by the Government of India, USTR promised to give careful consideration to restoring GSP benefits on pharmaceutical and agricultural chemicals if India implemented its TRIPS obligations by January 1, 2000.

e. Insurance

On December 7, 1999, the India Parliament passed the Insurance Regulatory and Development Authority (IRDA) Bill that removed the Government monopoly on insurance and established an Insurance Regulator. The law opened India's insurance market to private participation for the first time, but limited foreign equity participation up to a level of 26 percent through subsidiaries. After a careful study of the new law, USTR will determine, in consultation with industry, approaches to build on this development to advance U.S. commercial interests.

f. Reference Pricing

In December 1998, three weeks after imposing antidumping duties on certain steel products, the Government of India established minimum reference prices for certain other imported steel products: hot-rolled steel coils, cold rolled steel coils, hot-rolled sheets, and alloy steel bars and rods. Under this regime, India prohibits the import of these products when the import values are below the established minimum price. India had noted that the regime was adopted to discourage dumping. Although, the United States does not export steel to India, U.S. industry is

fearful that this practice, which violates India's obligations under the customs valuation agreement, could divert imports to the United States.

Minimum prices on steel were withdrawn on January 1, 2000, for primary products but still apply to secondary merchandise. We are evaluating the appropriate response to India's decision to retain minimum prices for secondary merchandise.

5. Taiwan

During 1999, Taiwan completed virtually all substantive discussions with members of the World Trade Organization, including the United States, regarding its accession. The WTO Working Party held two meetings in 1999 to review details of Taiwan's Working Party Report, market access schedules and new trade regulations, in particular arrangements regarding liberalization of its agricultural markets. Although the United States has completed its review of Taiwan's accession package, other WTO Members continue to work on verification and rectification of Taiwan's documents.

As part of our bilateral agreement on Taiwan's accession to the WTO, Taiwan agreed to provide access for some previously banned agricultural products prior to completion of Taiwan's accession process. Under the agreed arrangements, the United States exported approximately 10,000 MT of chicken, 5000 MT of pork belly, and 7500 MT of pork offal.

Agreements were also concluded on importation of motorcycles of over 700cc, liberalization of Taiwan's wire line telecommunications markets, and certification of U.S. meat imports. In 1999, Taiwan also agreed on a procedure for recognition and application of internationally approved minimum residue levels (MRLs) for pesticides while Taiwan authorities gather information and establish new MRLs, where appropriate. Currently, Taiwan has fewer than 1,000 MRLs as compared with more than 10,000 MRLs in the United States. Prior to reaching agreement on this issue, Taiwan authorities had intended to ban imports of fruits and vegetables exposed to pesticides without a MRL in Taiwan. The Agreement also reinforces the obligation of Taiwan authorities to adopt and enforce MRLs based on scientific evidence and puts in place a process for U.S. companies to apply for permanent MRLs in Taiwan.

a. 1998 Bilateral Agreement

Taiwan's WTO bilateral agreement with the United States, concluded in February 1998, includes both immediate market access and phased-in commitments and will provide substantially increased access for U.S. goods and services, including agriculture exports to Taiwan, our seventh leading export market.

Highlights of the 1998 bilateral WTO agreement included commitments by Taiwan to:

- reduce its overall tariff rates below 5 percent;
- reduce tariffs and discriminatory taxes of imported automobiles;
- open trade in the full range of products including chemicals, medical equipment; furniture, toys, steel, paper, construction and agricultural equipment, wood, civil aircraft, and distilled spirits;
- improve access for telecommunications service providers so that foreign companies can hold controlling interest and reduce excessively high interconnection charges for new telecommunications companies;
- accede to the WTO's Government Procurement Agreement and establish new arbitration procedures for resolving disputes involving major projects

undertaken by the Taiwan authorities;

- remove import bans on pork, chicken, variety meats, and rice, as well as to provide immediate access for most of these products.

b. Intellectual Property Rights

While Taiwan has made significant progress over the last several years in curtailing piracy of intellectual property, recent efforts in this area by the Taiwan authorities have slowed.

Most significantly, U.S. firms, both large and small, continue to experience major procedural problems in accessing the Taiwan judicial system to bring patent or copyright infringement cases. Despite extended discussions with the United States, procedural technicalities such as overly restrictive conditions for recognizing powers-of-attorney, continue to thwart many cases of intellectual property rights infringement brought by foreign parties in the Taiwan court system. Also, the Taiwan authorities have been slow to implement an effective and enforceable system to ensure that all CDs produced bear codes identifying the manufacturer and other data.

Major Taiwan computer-chip manufacturers continue to move – albeit slowly – toward final agreement on a system to mark all chips with identifying data. Initiation of such a program should make it much easier to find and prosecute video game pirates in Taiwan. The United States Government, through the American Institute in Taiwan, continues to press Taiwan on each of these issues.

c. Telecommunications

Taiwan is in the process of issuing new licenses to consortia to provide fixed line telecommunications services that will compete with the current telecommunications monopoly provider. Requirements for the new licenses included very large capitalization ($ U.S. 1.25 billion) as well as significant requirements for network build-out before service could be initiated. The United States will monitor and ensure that Taiwan revises its licensing regime to reflect its commitment to the United States (as negotiated in Taiwan's WTO agreement) to open fully its fixed line telecommunications sector to all qualified applicants by July, 2001.

d. Cable TV

The Taiwan authorities have moved deliberately in recent months to halt the deterioration in the competitive environment within the Taiwan Cable TV market. However, monopolization of program distribution remains a key structural problem for foreign broadcast program providers in the Taiwan market.

6. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights

Hong Kong undertook significant enforcement actions over the last year to address the problems of piracy. On the legislative front, the proposal to include copyright piracy and trade mark counterfeiting offences under the Organized and Serious Crimes Ordinance was enacted by the Legislative Council in January, 2000. Significant follow-up efforts, however, are needed as piracy problems continue, and the United States Government will continue to monitor these follow-up efforts closely. The Hong Kong authorities are now considering concrete actions to extend the mandate of the special anti-piracy task force, and to prosecute corporate piracy and the illegal loading of software by dealers onto computer hard drives. The Hong Kong public continues to become much more aware of the damage being sustained by its own industries, notably movies and toys, from pirates.

b. Telecommunications

Hong Kong continues to make substantial progress in opening its telecommunications market. Hong Kong's Telecommunications Authority (TA) recently issued (January 2000) five new licences for local fixed telecommunication network services using wireless networks and twelve licences for external fixed telecommunications services using satellites to and from Hong Kong. It also issued to Hong Kong Cable TV a licence to provide telecommunications services over its coaxial cable networks. Hong Kong also decided to liberalize submarine cables landing licences from January 2000 in an effort to attract more international capacity to Hong Kong. Local fixed network (wireline) telecommunications systems, however, remain to be liberalized.

B. People's Republic of China

Overview

Our China trade policy goals have been to open China's markets to American exports, support Chinese domestic economic reform, and integrate China into the Pacific and world economies. We have used a variety of means to achieve these goals, including commercially meaningful agreements that create opportunities for Americans.

These efforts culminated last November in our historic bilateral agreement on China's accession to the WTO. When China finishes its negotiations with other trading partners and in the WTO – and when Congress approves permanent normal trade relations with China – its market will become far more open to the world than it has ever been. Key features of the agreement are described below.

- Chinese industrial tariffs will fall from an average of 24.6 percent in 1997 to an average of 9.4 percent by 2005. This spans the range of industries, from traditional manufacturing, such as autos, aluminum and farm equipment, to information technology products, such as computers and semiconductors, in which tariffs will fall from an average of 13 percent to zero by 2005.

- In agriculture, for U.S. priority products such as beef, citrus and dairy, tariffs will drop from an average of 31 percent to 14 percent in January 2004. China also will expand access for bulk agricultural products like wheat, corn, cotton, soybean oil and others, permit for the first time private trade in these products, and eliminate export subsidies.

- China has agreed to grant U.S. trading companies the right to import goods directly, and to own and operate their own distribution systems, thus eliminating required middlemen.

- In services, the agreement will open the market for a wide range of services, including distribution services, such as wholesaling and franchising, and related services, such as maintenance and repair, trucking and air express; telecommunication services, such as Internet and satellite services; banking, insurance, and financial information services; professional services such as accounting, management consulting, and legal services; hotel and tourism services; motion pictures, and distribution for videos, software entertainment, and periodicals; business and computer services; and environmental services.

- The agreement also deals, appropriately, with the special and unusual characteristics of the Chinese economy: it addresses state trading; it bans forced technology transfer; it eliminates investment policies intended to draw jobs and technology to China, such as local content, offsets and export performance

requirements; and it provides protections for Americans against import surges from China and from abusive export practices like dumping.

As we worked toward this bilateral agreement, we built upon a record of bipartisan support for a market-opening China trade policy, dating to the lifting of the trade embargo in 1972 and our Bilateral Commercial Agreement in1980, and including three major specific agreements in the Clinton Administration. These include the following:

- Intellectual Property – In the early 1990s, China's failure to protect intellectual property rights was one of the most problematic aspects in our trading relationship. This led to trade confrontations with China, including invocation of sanctions on two occasions. The United States ultimately negotiated agreements in 1992 and 1995, and then won further commitments in 1996 that led China to pass world-class copyright, patent and trademark laws; essentially close pirate production facilities; cease the export of pirated products and significantly improve enforcement – the principal focus of the agreements.

- Textiles – Similarly, textile transshipment and market access barriers have historically been a problem in our textile trade relationship with China. While problems remain, two separate agreements, in 1994 and 1997, combined with sustained enforcement efforts by the U.S. Customs Service and the Administration, as well as imposition of triple charge penalties, have helped to mitigate these problems. The 1997 agreement also committed China for the first time to significantly reduce its textile import restrictions.

- Agriculture – Most recently, our Agreement on Agricultural Cooperation in April of 1999 lifted long-standing bans on exports of American citrus, meats and Pacific Northwest wheat, imposed without a sound scientific basis. As in the cases of intellectual property and textiles, we are holding frequent consultations with the Chinese authorities charged with implementing the agreement.

Looking ahead, to complete the WTO accession process (before entering the WTO, China must reach agreement with other WTO members and complete a multilateral negotiation which will ensure that its policies comply with broader WTO rules). On our part, we will work closely with the U.S. Congress to secure permanent Normal Trade Relations treatment for China.

WTO accession for China requires no substantial concessions by the United States. We make no change in our current market access policies, and preserve our right to withdraw market access for China in the event of a national security emergency. Likewise, we amend neither our laws controlling the export of sensitive technology, nor our fair trade laws.

We do, however, have one obligation: we must grant China permanent NTR or risk losing the full benefits of the agreement we negotiated, including broad market access, special import protections, and rights to enforce China's commitments through WTO dispute settlement. All WTO members, including ourselves, pledge to give one another permanent NTR to enjoy the benefits available in one another's markets. If Congress were to refuse to grant permanent NTR, our Asian, Latin, Canadian and European competitors will reap these benefits but American farmers and businesses may well be left behind.

Finally, of course, the full benefits of this agreement will require extensive monitoring and enforcement. With permanent NTR in place, WTO accession will substantially strengthen our

enforcement capability with respect to China, for example through WTO dispute settlement, our ability to work with 134 other WTO members instead of acting alone, multilateral monitoring, and our own trade laws. We are also preparing for the largest monitoring and enforcement effort ever given to any trade agreement, as part of President Clinton's request for new enforcement and compliance resources at the USTR, the Commerce Department, USDA and other branches of government with enforcement responsibilities. This effort will cover China's obligations in the WTO and also import issues such as dumping and countervailing duties.

1999 Activities

U.S. trade relations with China are currently based on the bilateral trade agreement on trade relations that first took effect February 1, 1980. The Agreement extends normal trade relations (NTR) treatment to exports from both countries and maintenance of this Agreement is required under the so-called Jackson-Vanik provisions of U.S. trade law. The Agreement is subject to automatic renewal at three-year intervals, but all or part of the Agreement may be suspended if a party lacks domestic legal authority to implement it. The most recent three-year renewal of the Agreement was on February 1, 1998. The next renewal of the Agreement will be on February 1, 2001.

China's receipt of NTR tariff treatment is currently reviewed on an annual basis. To maintain NTR treatment, the President must waive Section 402 of the 1974 Trade Act, the Jackson-Vanik Amendment. The President last notified Congress of his decision to waive Jackson-Vanik and permit NTR renewal for China on June 3, 1999. As discussed below, the Administration will be pursuing enactment of legislation that would terminate application of Jackson-Vanik to China and authorize the President to provide exports from China permanent NTR treatment on the same basis as other WTO Members.

1. WTO Accession

In November 1999, the United States concluded a comprehensive bilateral WTO accession agreement with China. China committed to reduce both tariff and non-tariff barriers to U.S. exports of industrial goods, agricultural products and services. China also agreed to application of specific rules to address import surges, anti-dumping and subsidies practices and to end the application of export performance, local content, offsets, technology transfer and similar requirements on imports and investment.

China's industrial tariffs will fall from an overall average of 24.6 percent in 1997 to an overall average of 9.4 percent by 2005. On U.S. priority industrial products, tariffs will fall to an average of 7.1 percent with the majority of tariff cuts fully implemented by 2003. Tariffs will fall on a broad range of products including wood, paper, chemicals, agricultural and medical equipment. China also committed to join the Information Technology Agreement, so tariffs on products such as computers and semiconductors will fall from an average of 13 percent to 0 percent by 2005.

China's average duty on agriculture will fall from 22 percent to 17.5 percent, with the duties on items of priority U.S. interest falling even more sharply, from an average of 31 percent to 14 percent. China will expand access for bulk agriculture commodities, including corn, cotton, wheat, rice, barely, and soybean oil and will permit private trade in these products as well as imports through state trading enterprises. Tariff reductions and quota growth will be fully phased in by 2004. China also will eliminate agricultural export subsidies, in particular for corn, cotton and rice.

China agreed to phase-in trading rights for most products over a three-year period. This means U.S. firms and individuals can import and export without going through government-approved middlemen. China also agreed to liberalize

distribution services for most products over a three-year period, so that U.S. firms may eventually own and operate their own distribution systems in China, and provide related services such as maintenance and repair services. China also committed to progressively liberalize a broad range of services, including telecommunication services, such as Internet and satellite services; banking, insurance, and financial information services; professional services such as accounting, management consulting, and legal services; hotel and tourism services; motion pictures, and distribution for videos, software entertainment, and periodicals; business and computer services; and environmental services.

While the market access agreement represents a crucial step in China's WTO accession process, China also must conclude bilateral negotiations with a number of other WTO members, including the European Union. The commitments in the U.S. bilateral agreement and other such agreements will be applied on NTR basis and will form an integral part of China's WTO accession agreement.

In addition to completing these bilateral negotiations, China must reach agreement with the participants in China's WTO Working Party on application of WTO rules and any special provisions that may apply to China. After a consensus is reached in the Working Party on China's draft Protocol of Accession, Working Party Report and market access schedules, these documents are transmitted to the General Council which must approve the terms and conditions for China's accession. Normally, approval is by consensus, but a Member may require a vote on the accession which must then be approved by a two-thirds majority of all WTO members.

a. Agriculture

Gaining direct access to China's market for U.S. agricultural products has long been an objective of U.S. agricultural industry in particular, by removing unjustified sanitary and phytosanitary barriers. In 1992, China signed a bilateral Memorandum of Understanding on Market Access with the United States, agreeing to remove unjustified technical barriers to imports of U.S. agricultural commodities. Though China agreed to address these issues within one year, Chinese regulators were unable to develop specific scientific protocols that would have permitted exports of U.S. wheat and other grain from the Pacific Northwest, meat and poultry, citrus, some varieties of apples, plums, and tobacco.

On April 10, 1999, the United States and China signed an *Agreement on U.S. - China Agricultural Cooperation*, which eliminates technical barriers in China to exports of U.S. citrus, meat and poultry, and wheat and other grains from the Pacific Northwest. Previously, China prohibited imports of U.S. grain form the Pacific Northwest due to possible contamination with TCK. China has now agreed to accept all wheat that is at or below a tolerance level of 30,000 spores per 50 gram sample. China also agreed to refrain from taking any special measures that would adversely affect the cost or competitiveness of U.S. wheat.

Prior to signing the 1999 bilateral agreement, China prohibited imports of U.S. meat and poultry, allowing only shipments from a small number of U.S. plants that had been inspected by Chinese quarantine officials. As a result, most U.S. meat and poultry exports to China were transhipped via Hong Kong. In signing the bilateral agreement, China has agreed to recognize the U.S. inspection system for meat and poultry. China will accept meat and poultry from all U.S. plants approved by the U.S. Department of Agriculture's Food Safety Inspection Service.

U.S. citrus was banned from China due to Chinese concern over fruit flies. In signing the bilateral agreement, China has accepted the U.S. system of pest detection and eradication for U.S. exports of citrus from Arizona, California, Florida and Texas. During the first two years of the agreement, China will accept fruit produced outside a 20-kilometer radius of any outbreak.

After this interim period, the much smaller U.S. standard will apply. A team of Chinese quarantine specialists completed the preprogram initiation inspection of citrus-producing regions in these four states in January 2000 and has stated that they intend to allow imports of U.S. citrus as soon as they conclude their review of the documentation provided by the U.S. during this visit.

Bilateral negotiations on remaining sanitary and phytosanitary issues continued in 1999, with the U.S. and China concluding an agreement on bovine embryos on April 7, 1999. Although barriers still remain on plums, some varieties of apples, tobacco, and potatoes, we continue to hold bilateral discussions. The last consultation took place in November 1999.

b. Intellectual Property Rights

For more than a decade, the United States and China have engaged in detailed discussions regarding the improvement of China's protection of intellectual property rights and market access for products with intellectual property rights protection. In January 1992, the United States and China reached an agreement on improved protection for U.S. inventions and copyrighted works, including computer software and sound recordings, trademarks, and trade secrets. This Agreement focused principally on revisions to China's laws and membership in international intellectual property rights agreements, including the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Patent Cooperation Treaty, and the Madrid Protocol on the Protection of Marks.

Although China improved the legal framework for intellectual property rights protection based on the 1992 bilateral agreement, enforcement of those laws was seriously deficient. In 1995, the United States and China reached a second agreement that focused on intellectual property rights enforcement and market access issues.

Based on our 1995 IPR Agreement and the Administration's continuing bilateral efforts, China has developed a basic infrastructure for the protection and enforcement of intellectual property rights. Implementation of our bilateral intellectual property rights agreements provided a basis for China's commitment to implement the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) upon accession to the WTO. While additional improvements to China's laws and training of judges and enforcement personnel are essential, U.S. and Chinese right holders can seek administrative and judicial remedies for infringement of their intellectual property rights. China is one of twelve countries that has formally issued a decree to address the "end-user" computer software piracy issue in connection with government purchase and use of legitimate software.

As a result of intensive bilateral implementation and enforcement negotiations in 1996, China has made further progress on enforcement of intellectual property rights. For example, Chinese authorities have shut down 80 illegal CD, CD-ROM and VCD production facilities. This effort has changed China from an exporter of pirated material to being the import target for pirated product from other countries in the region. Other economies in the region, including Hong Kong, Macau, Singapore and others have faced an increase in piracy as production moved from China to other locations. As a result, the Administration's enforcement efforts have also concentrated on these economies.

China also is improving customs enforcement of intellectual property rights. Each year customs authorities seize millions of pirated CDs, CD-ROMs and VCDs. Since the importation of pirated product has been on the increase, we have encouraged enhanced cooperation with regional customs authorities, such as those in Hong Kong and Macau, Vietnam and others, to stop this trade in pirated product.

Under our bilateral agreements, market access for computer software, motion pictures, videos and sound recordings have improved. China also has made further commitments on market access in the context of our bilateral WTO accession agreement.

4. Further Steps to Improve Protection for IPR and Market Access

China's last major revisions to its intellectual property rights laws and regulations occurred after the 1992 Bilateral Agreement. Based on its experience in implementing its intellectual property rights laws, Chinese authorities are engaged in the process of revising the copyright, patent and trade mark laws and taking further steps necessary to comply with the requirements of the TRIPS Agreement. The United States has also urged China to do a comprehensive amendment to its copyright laws to implement two copyright related agreements negotiated under the auspices of the World Intellectual Property Organization (WIPO) that China has signed but not yet ratified.

Chinese enforcement of copyrights and trademarks is still uneven from province to province. Guangdong province, for example, has recently significantly increased sanctions against piracy and counterfeiting. We are encouraging the national government and/or the other provinces to do likewise. Of concern is the unauthorized use of software by private enterprises (end user piracy). Piracy rates of entertainment software (game compact discs) and other audiovisual products are also very high. Although strong steps have been taken to address the production of pirated software, CDs and VCDs, pirated product remains available at the retail level.

During recent discussions we have also raised the growing problem with trademark counterfeiting, particularly in the area of consumer goods, protection for unregistered well-known trademarks and effective enforcement against counterfeiters.

Access for foreign sound recordings has improved, but restrictions on distribution remain a key concern. Although imports of foreign video titles have increased rapidly, the Chinese still impose an unofficial quota on foreign motion pictures that are distributed on a revenue sharing basis. China maintains this limit through a state-owned import monopoly.

China committed in its November 1999 WTO accession agreement to increase market access for the audiovisual sector. China will allow foreigners to distribute videos, entertainment software and sound recordings through joint ventures, and will allow the importation of 20 motion pictures annually on a revenue sharing basis.

5. 1992 Market Access Agreement

The United States and China signed a Memorandum of Understanding on Market Access in 1992. This Agreement committed China to changes in its import regime implemented over a five-year period, including increased transparency, elimination of quotas and licenses, a guarantee that no trade law or regulation could be enforced unless published, uniform application of trade rules, elimination of import substitution policies and agreement that any sanitary and phytosanitary measures would be based on sound science. While China has phased-out formal measures, such as quotas and licenses, non-uniform application of trade rules, import substitution policies and use of sanitary and phytosanitary (SPS) standards to restrict imports remain serious problems. The more comprehensive bilateral agreement on WTO accession reached in November 1999 will address many of these issues when China becomes a WTO Member. In addition, the 1999 Bilateral Agricultural Cooperation Agreement resolved SPS issues related to wheat and other grain from the Pacific Northwest, meat and poultry and

citrus. (See separate sections on these Agreements).

These efforts to increase market access for U.S. goods exported to China are having beneficial results. In 1999, U.S. exports to China were slightly more than $13 billion, an increase of 76.8 percent since 1992, although down in 1999 due to a slowdown in the Chinese economy. Estimated jobs supported by goods exports to China increased from an estimated 113,000 in 1992 to an estimated 180,000 in 1998 (latest data available) or 60.6 percent.

6. Satellite Launch Services

On March 13, 1995, the United States and China agreed to extend the 1989 Bilateral Agreement on International Trade in Commercial Space Launch Services. This Agreement is intended to balance the interests of the U.S. satellite and commercial space launch industries, while encouraging free trade by allowing China to enter the international market for commercial space launch services in a fair and non-disruptive manner. The extended Agreement covers the period from 1995 through 2001 and continues quantitative and pricing disciplines established under the earlier bilateral space launch services Agreement. The renewed Agreement initially limits China to fifteen launches over this time period. An increase in the Geosynchronous Earth Orbit (GEO) launch limit, up to a potential of twenty launches, may be triggered as a result of stronger than predicted growth for GEO launch services. With respect to the Low Earth Orbit (LEO) satellite launch market, the Agreement requires that China's participation in this market segment be proportionate and non-disruptive. Both the GEO and LEO launches are to be priced on a par with other Western providers. The space launch services Agreement specifically provides that nothing in the Agreement limits the operation of U.S. export control laws.

As a result of a 1997 determination that the pricing terms of one of the contracts for a GEO launch was not consistent with the provisions of the Agreement, the United States decided not to consider exercising any discretionary increase in the limitation on GEO launches provided for in the Agreement beyond the original fifteen. The United States continues to monitor the prices, terms and conditions offered by Chinese launch services providers in international commercial competitions.

In November 1999, China and the United States held informal consultations to determine a schedule and the agenda for upcoming annual consultations under the terms of the Agreement. Agenda items include an overview of the world satellite launch market, new developments in China's commercial space industry, and a review of the implementation of the Agreement. China will provide information on one new launch contract that was signed by its launch provider in 1999, so that the United States may determine if the prices, terms, and conditions of that contract comply with the provisions of the Agreement.

From 1995 through 1999, China performed six GEO launches under the extended Agreement quota. Chinese launch providers conducted one commercial LEO launch and no GEO Launches in 1999, for a 3 percent share of the worldwide commercial launch services market. U.S. launch providers conducted 13 commercial launches in 1999, for a 36 percent share of the worldwide commercial launch market.

C. Japan

Overview

Opening Japan's market to U.S. goods and services has been a top priority for the Clinton Administration and our multifaceted strategy has helped boost U.S. exports to Japan by 20 percent in the past seven years. The central element of U.S. market opening efforts has been the United States-Japan Framework for a New Economic Partnership ("Framework Agreement"), which recognized the necessity of simultaneously

addressing sector-specific market access barriers, cross-cutting structural issues, and macroeconomic issues in order to make meaningful progress in opening Japan's market. The Framework Agreement and other bilateral and multilateral negotiations have led to the conclusion of 38 market-opening agreements with Japan, which the Administration continues to vigorously monitor and enforce. These agreements and the Administration's monitoring and enforcement efforts have provided new sales and investment opportunities for U.S. manufacturers, service providers, and farmers and have served to protect intellectual property, which is key to U.S. companies exporting high-technology and other innovative products to Japan.

Highlights of the achievements of this Administration since 1993 include:

- *Conclusion of 38 market-opening trade agreements with Japan.* Under the Framework Agreement, and through bilateral and multilateral negotiations, the United States has reached a series of agreements with Japan to open its market in a wide range of sectors in which U.S. companies are globally competitive. Significant progress has been made in addressing many longstanding concerns of U.S. exporters, including onerous and opaque regulations, discriminatory standards, unfair government procurement practices, closed distribution systems, and unfair business practices. As a result, U.S. market share has increased substantially since 1993 in a number of sectors, including semiconductors, medical equipment, telecommunications equipment and auto parts.

- *Agreement on concrete deregulatory actions Japan will take, improving U.S. access to five key sectors.* The Administration has focused on regulatory and competition-related barriers to U.S. exporters in five key sectors where U.S. producers and service providers are particularly competitive. Under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy, launched in June 1997, Japan has agreed to implement specific measures in the telecommunications, housing, energy, financial services, and medical devices, and pharmaceutical sectors, as well as to take steps in such structural areas as distribution, competition policy, and transparency. Now in its third year, each year's initiative has built on the achievements of the previous year to ensure continued liberalization and market opening in Japan.

- *Effective monitoring and enforcement of U.S. trade agreements with Japan.* The Administration is fully committed to the vigorous enforcement of all our agreements with Japan and is prepared to enforce U.S. rights under these agreements, should violations occur. U.S. market opening goals in Japan have been advanced through our strict and active monitoring and enforcement of our trade agreements, including the use of the objective criteria to assess progress under each of the Framework agreements. Regular consultations to measure progress under each agreement and discuss Japanese Government actions to address outstanding U.S. concerns also has been an important feature of this Administration's monitoring and enforcement program. These enforcement efforts have generated significant results on such agreements as cellular phones, insurance, and medical technology.

- *Enforcement of Japanese commitments through active use of WTO provisions, including dispute settlement.* The United States has effectively used the WTO Dispute Settlement Mechanism to ensure

that Japan fully adheres to its WTO obligations. The United States resolved three important cases it has brought against Japan relating to Japan's discriminatory liquor taxes, its unfairly burdensome and nontransparent requirements on varietal testing requirements for apples and other fruit exported to Japan, and on "retroactive" copyright protection of sound recordings.

1999 Activities

The Clinton Administration continued its intensive efforts in 1999 to improve market access for U.S. goods and services, promote urgently-needed structural reform, and support the adoption and successful implementation of pro-competitive mechanisms throughout the Japanese economy. While the Japanese Government has taken some positive macroeconomic steps during the past year, the economic downturn has persisted, reducing economic activity in Japan and inhibiting imports into the Japanese market. The Administration has strongly urged Japan to take additional steps to open and deregulate its market, which would help revitalize its economy and generate sustainable economic growth in the medium- and longer-term.

The Clinton Administration placed a high priority in 1999 on further market opening efforts in Japan, reaching three new trade agreements. The United States and Japan announced in May 1999 a package of new deregulation measures to be taken by the Government of Japan in the five sectors covered under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy, which address specific market access concerns of U.S. exporters. The U.S. Government also successfully concluded a new bilateral procurement agreement in July 1999 that calls for open, non-discriminatory, and transparent procurement by the four successor Nippon Telegraph and Telephone (NTT) companies, created upon the restructuring of NTT. Together, these companies constitute Japan's largest telecommunications equipment procuring entity. The United States and Japan also issued an investment report in April 1999 highlighting agreed-upon measures to reform Japan's structural and regulatory policies, which will ultimately improve the investment climate for U.S. firms in Japan.

In addition to these new agreements, the Administration dedicated substantial resources to monitoring and enforcing the 38 market-opening trade agreements concluded with Japan since 1993, particularly insurance, flat glass, autos and auto parts, and government procurement. Conclusion of these agreements and the Administration's vigorous enforcement efforts led U.S. exports to Japan to increase by more than one-third between 1993-1997, with exports in these sectors growing twice as fast as overall exports to Japan. The Administration's commitment to enhancing access into Japan's agricultural market also has paid off; U.S. rice exports to Japan rose significantly, with U.S. rice accounting for 48 percent of total rice imports into Japan in 1999 and U.S. tomato exports to Japan increased ten-fold in the past two years. In addition, Japan approved the importation of several additional types of U.S. apples and cherries in 1999. While Japan's economic slowdown has interrupted progress in many sectors over the past couple of years, the Administration remains committed to close monitoring of our trade agreements with Japan to ensure that U.S. rights under these agreements are enforced and that the U.S. exporters are well positioned to compete in Japan once the economy recovers.

Steel issues were a major concern in 1999. In 1998, steel imports from Japan rose by 164 percent, accounting for 41 percent of the overall U.S. steel import growth. In response, President Clinton sent a report to Congress in January 1999 stating his expectation that Japan's exports would return to appropriate pre-crisis levels in 1999. The Administration also established a bilateral dialogue in September 1999 to discuss steel issues in order to address the policies and practices that

led to the import surge. While U.S. steel imports from Japan fell 54 percent in 1999 over the previous year, the Administration is continuing to monitor import levels closely.

The United States also relied on a wide range of regional and multilateral fora, including the WTO and APEC to achieve the Administration's market opening goals in Japan. The Administration is working to ensure that our work in these fora, including on agriculture and services, are well coordinated with our bilateral agenda so that the various initiatives are mutually reinforcing.

The highlights of our 1999 bilateral and multilateral trade agenda with Japan follows.

1. Overview of Accomplishments 1999

The United States continued to secure further progress in promoting much-needed comprehensive deregulation in Japan in 1999, simultaneously obtaining improved access for U.S. goods and services. In May, under the Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative), Japan agreed to take additional deregulatory steps in the telecommunications, housing, financial services, medical devices/pharmaceutical products, and energy sectors. In addition, Japan unveiled specific measures to address structural concerns relating to cross-cutting competition policy, distribution, and transparency issues. Both Governments agreed to continue bilateral deregulation discussions for a third year, setting March 31, 2000 as the target date for the issuance of a Third Joint Status Report detailing new deregulation measures designed to further open Japan's economy and increase market access for U.S. and other foreign firms. The United States submitted to Japan in October a 45-page set of proposals calling on Japan to adopt bold regulatory reforms in key sectoral and structural areas of the Japanese economy. One highlight of this submission includes the recommendation that Japan adopt a "Telecommunications Big Bang" dedicated to fundamentally re-orienting Japan's telecommunications policies and regulatory framework to the needs of a competitive, digital era. The United States continues to press Japan to fully implement, as well as to expand upon, the deregulation measures agreed to in 1998.

The United States also successfully negotiated a new NTT Procurement Agreement in July 1999, which covers each of the four newly restructured NTT companies. In addition, it secures continued foreign access to Japan's telecommunications market, given that, together, these companies are Japan's largest purchaser of telecommunications equipment. The new two-year agreement provides for continued government oversight and data collection to monitor progress, and ensures that the four successor NTT companies continue to adhere to open, transparent, and non-discriminatory procurement procedures.

In April 1999, the U.S. and Japan issued a follow-up report to the 1995 U.S.-Japan Investment Arrangement, which aims to boost Japan's traditionally low levels of inward foreign direct investment. The report focuses on policy changes in three areas considered particularly vital to creating a more dynamic direct investment environment in Japan: (1) developing a more active and efficient market for mergers and acquisitions; (2) improving land market liquidity; and (3) increasing the flexibility of Japan's labor markets.

The Clinton Administration continued to place a high priority on steel trade policies in 1999. In January, President Clinton issued a report to Congress noting his expectation that steel imports from Japan would return to appropriate pre-crisis levels in 1999 – a message echoed repeatedly by senior U.S. officials during meetings with the Japanese Government throughout the past year. The Administration has since announced its intent to monitor steel imports from Japan on a monthly basis, and stated that it stands ready, if necessary, to self-initiate trade actions under U.S. safeguards and antidumping laws, in order to ensure that steel imports from Japan return to the pre-crisis level.

The Administration also launched under the President's Steel Action Program a bilateral consultative mechanism to address a broad range of anticompetitive policies and practices in this sector. The first meeting under this bilateral dialogue was held in November.

Further, the Administration focused considerable time and resources in 1999 on the monitoring and enforcement of existing agreements to ensure their successful implementation. U.S. Government officials met with their Japanese counterparts throughout the year to discuss progress and implementation problems under a range of bilateral agreements, including: autos and auto parts, insurance, flat glass, government procurement of computers, medical technology, telecommunications, and construction.

In June 1999, the Administration released its second semi-annual film monitoring report which assessed Japan's implementation of the representations it made to the WTO regarding the openness of its photographic film and paper market. The report recognized and welcomed some of the pro-competitive measures implemented by the Japanese Government such as improvements in the application of the Premiums Law, thereby blocking its use to restrict competition. The report also underscored the need for additional progress to open Japan's photographic film and paper market and address business practices that unreasonably restrain trade in this sector.

Finally, the United States continued to use the WTO Dispute Settlement Understanding to address market access barriers in Japan. The WTO Appellate Body in February 1999 upheld a WTO dispute panel ruling that found in favor of the United States in a case against Japan's unfairly burdensome and discriminatory requirements on varietal testing of fruits exported to Japan. The United States and Japan continue to consult on Japan's implementation of the rulings and recommendations.

2. Deregulation

The Enhanced Initiative, announced by the President and Prime Minister in June 1997 at the Denver G-8 Summit, established a bilateral forum for addressing deregulation and market access issues in Japan. Initially, the Enhanced Initiative focused on addressing market access and regulatory issues in four important sectors: (1) Telecommunications; (2) Housing; (3) Financial Services; and (4) Medical Devices and Pharmaceuticals. These sectors were chosen because of their economic importance to U.S. industry, as well as their effect upon the overall global competitiveness of U.S. companies operating in these sectors. The Enhanced Initiative also addresses the critical cross-cutting structural issues of Competition Policy, Distribution, Transparency, and Other Government Practices and Legal Services. On May 15, 1998, President Clinton and then-Prime Minister Hashimoto announced in Birmingham, U.K. the First Joint Status Report under the Enhanced Initiative. This report documents the deregulation measures Japan agreed to take in a number of key sectoral and structural issues during the Enhanced Initiative's first year. In addition, at Birmingham, the energy sector was added to this list of sectors to be addressed.

A Second Joint Status Report was concluded in May 1999, which built on the accomplishments achieved at Birmingham. Recognizing that deregulation is an ongoing process, the United States transmitted to Japan in October 1999 a 45-page submission, which called on Japan to adopt bold regulatory reforms to further open Japan's economy and increase market access for U.S. and other foreign firms. Highlights of the achievements in 1999, and key U.S. proposals for further progress in 2000, are as follows:

a. Sectoral Deregulation

Telecommunications: The absence of policies to expand market opportunities for new entrants in Japan's $128 billion telecommunications services

market has stifled competition and slowed growth in Japan's information infrastructure. As a result, new investment in this sector is declining and persistently high telecommunications rates are crippling Internet usage and electronic commerce.

Under the second year of the Enhanced Initiative, Japan agreed to develop a model to bring rates that telecommunications carriers must pay to connect to Japan's local telecommunications network (interconnection rates) to competitive, market-based levels. An initial model, based on long run incremental costs (LRIC), was completed in 1999. This initial model was a first step in determining competitive interconnection rates for Japan. Since this model failed to fully eliminate unnecessary costs, however, revisions are necessary, which Japan has agreed to consider. Japan pledged to set rates based on this methodology in the year 2000.

In 1999, Japan also agreed to develop guidelines to ensure that telephone carriers face minimal restrictions on choices of how to build a network, using combinations of leased and owned facilities. Since such flexibility is key to rapidly building a network, the changes are expected to improve competitive opportunities in Japan. The Ministry of Posts and Telecommunications is currently developing such guidelines in conjunction with a public comment process.

Japan also committed in 1999 to ensuring that NTT's retail pricing of services, relative to interconnection rates, does not impair competition. Such a move would prohibit NTT from pricing services below the costs competitors faced, based on their need to interconnect with NTT. The Ministry of Posts and Telecommunications asserts that it will use this standard to evaluate NTT's retail and interconnection rates, but it has yet to take concrete actions based on this commitment.

Other measures Japan took in the context of the Enhanced Initiative included authorizing interconnection "clearinghouses" to facilitate interconnection among multiple carriers; opening the cable TV sector to one hundred percent foreign investment (up from 33 percent); and removing restrictions on the use of internal electrical wiring for communications devices. All of these measures will contribute to expanded market opportunities for U.S. firms.

In its October 1999 deregulation submission, the U.S. Government called on Japan to adopt a "Telecommunications Big Bang," dedicated to fundamentally re-orienting Japan's telecommunications policies and regulatory framework to the needs of a competitive, digital era. Additional areas in which the United States requested Japanese action include measures to ensure effective access to rights-of-way controlled by NTT, ministries, and utilities, and requirements that NTT "unbundle" subscriber lines and other network elements and lease them to competitors at cost-based rates. This would allow competitors to bypass the economic and technological inefficiencies of the NTT network but still reach customers NTT currently controls. The United States also proposed a comprehensive shift in Japan towards lighter regulation of competitors and more stringent regulation of NTT, particularly in the area of retail pricing, where NTT appears to be engaging in anti-competitive conduct.

Housing: The housing experts working group under the Enhanced Initiative met in February and December of 1999. The group promotes improved market access in Japan for foreign suppliers of wood and building products. Achievement of this objective and increased reliance on performance-based standards by Japan will increase opportunities for American exporters and encourage the construction of higher quality, safer, and more affordable housing in Japan.

U.S. efforts on this front have led to several significant changes. For example, Japan's adoption of Public Comment Procedures will make it easier for U.S. building materials suppliers to participate in the formulation and implementation of revisions to Japan's Building

Standard Law, the cornerstone of Japan's national housing policy. Japan also agreed to implement performance-based standards for three-story, multi-family wood housing, and to participate with the U.S. government in a series of jointly sponsored seminars that will help build the market for U.S.-style building materials and methods.

In its October 1999 deregulation submission, the United States' proposals focused on structural weaknesses in the sector that inhibit the development of quality rental housing and resale and renovation markets. The United States also proposed deregulation of some specific product areas, such as food waste disposers and interior finish products, so that Japanese consumers may enjoy the functional features in their homes that are commonplace in other industrialized countries. Finally, the U.S. continues to advocate additional liberalization in the forest products sector, such as implementation of performance-based building standards for certain four-story wood frame buildings.

Another longstanding U.S. objective in Japan has been the elimination of tariffs on value-added wood products. At the November 1998 APEC Summit, APEC economies, including Japan, agreed to: (1) participate in WTO negotiations on the tariff elements of the sectoral initiatives (the Accelerated Tariff Initiative, or ATL) developed by APEC, including forest products (which covers wood, paper, printed materials and wood furniture); and (2) seek conclusion of a WTO Agreement in 1999, which would lead to the phase-out of tariffs for wood products by 2004. Although no agreement was reached on the ATL initiative because Trade Ministers did not agree to launch a new Round of WTO trade negotiations, the United States intends to keep pressing for ATL in the context of launching the new trade round.

Financial Services: Japan's pool of individual and institutional savings – valued at some $10 trillion – is the largest outside the United States. The Japanese Government's proposed "Big Bang" liberalization of its financial services industry should substantially improve the ability of foreign financial services providers to reach customers in most segments of the Japanese financial system.

Among the more important measures being implemented under the "Big Bang" initiative are those allowing new products (liberalizing securities derivatives, promoting a more vigorous asset-backed securities market, and introducing defined contribution pension plans), increasing competition (liberalizing foreign exchange trading, easing the registration process for new securities companies, allowing cross entry among financial industry segments, and liberalizing trading commissions), and enhancing accounting and disclosure standards (including consolidated accounting, and mark-to-market recording of financial assets).

The United States welcomes Japan's successful implementation of the measures contained in the 1995 U.S.-Japan Agreement on Measures Regarding Financial Services, as well as Japan's actions taken to date under its "Big Bang" financial deregulation initiative. Full and effective regulatory reform of Japan's financial markets will increase competition, help improve Japan's long-term growth prospects and contribute to a wider variety of investment opportunities for individuals and Japanese companies.

In the past year, Japan has eliminated taxes on securities transactions, fully liberalized brokerage commissions, and allowed issuance of bonds by banks and non-bank financial institutions. Special purpose corporations (SPCs) and services companies have been authorized, and although some restrictions remain, an asset-backed securities market has begun to develop. The requirement to convert pension fund holding into cash when switching fund managers was eliminated for one of the major types of employee pension plans, and a phased elimination has begun for the other major type. In a move long sought by the U.S. Government and industry, the Government of Japan plans to introduce

legislation this spring that would eventually allow direct management of public pension funds by investment management companies, and also eliminate the cashing requirement on switching fund managers. Legislation also is expected this spring that would authorize defined contribution pension plans.

The United States is urging Japan to implement its defined contribution plans in a such a manner as to create a viable pension alternative, one that provides full scope for competition in investment product offering and plan administration services. In addition, the United States has stressed the importance of improving transparency in the financial services sector by: (1) fully utilizing the notice and comment procedures for all new regulations, and providing sufficient time between finalization of regulatory changes and implementation to allow industry sufficient time to undertake necessary organizational, operational and systems-related changes; and (2) continuing to move toward a clear and consistent regulatory and supervisory system for financial institutions in line with international standards and best practice.

Medical Device/Pharmaceutical/Nutritional Supplement Products: Pursuing deregulation measures in Japan that will enhance the market access of U.S. medical devices, pharmaceuticals, and nutritional supplements is a priority of the Administration. These industries are large employers of U.S. workers and as a sector generate billions of dollars in sales in Japan. In the Second Joint Status Report, Japan agreed to a variety of measures, which in the pharmaceutical sector alone, U.S. industry estimates will result in savings of $75 to $125 million per newly introduced product.

In the Second Joint Status Report, Japan agreed to recognize the role of the market, as well as the value of innovation, as it continues to study pharmaceutical pricing reform. Consistent with this understanding, the Japanese Government abandoned plans to introduce a reference pricing system for pharmaceuticals under its national health care system on April 1, 2000 that would have capped prices for categories of drugs, regardless of product improvements. Such a system would have acted as a disincentive to U.S. manufacturers of cutting edge pharmaceutical products. Japan also agreed to develop and implement a transparent and expeditious process to create new reimbursement categories tailored to today's technologies within Japanese Fiscal Year (JFY) 2000, which will more appropriately reward improved medical devices that offer superior functions. Since U.S. medical device firms currently sell over $5.5 billion of equipment in Japan's $20 billion medical device market each year, faster introduction of innovative products means increased access for American firms.

Japan's approvals of innovative medical devices and pharmaceuticals often lag far behind those of other industrialized countries. In 1998, Japan agreed to specific measures to shorten the approval processing period for new drug applications to 12 months by April 2000. In addition, Japan agreed to further expand the acceptance of foreign clinical data in the medical device and pharmaceutical approval processes and no longer require the publication or presentation of clinical data as a prerequisite for use. These steps should significantly enhance transparency, reduce costs and speed introduction of new medical devices and pharmaceutical products. Japan also agreed to promote the liberalization of nutritional supplements by treating such products as foods to the greatest extent possible.

The United States put forward several specific proposals to speed the approval and reimbursement of innovative medical devices, pharmaceuticals, and nutritional supplements in its October 1999 deregulation submission to Japan. The United States requested that Japan: (1) take all necessary steps to ensure that any medical device and/or pharmaceutical price setting mechanism, including any authority, be free from conflicts of interest, be based on global scientific standards, be fully transparent, and include an appeals mechanism; (2) undertake

measures to improve the consistency and speed of the approval process for medical devices; (3) steadily expedite the new drug approval process; (4) continue to expand the usage of foreign clinical data in the approval and reimbursement precesses of medical devices and pharmaceuticals; and (5) continue to promote liberalization of the Japanese nutritional supplements market.

Energy: The United States and Japan established a new working group on energy deregulation in 1998. The purpose of this group is to advance Japan's efforts to deregulate its electricity and natural gas sectors market and reduce energy costs, which are the highest in the industrialized world, and to enhance foreign access to this market. In the Second Joint Status Report, Japan agreed to implement a variety of concrete deregulatory measures, which are expected to generate tangible results for U.S. firms. Japan agreed to amend its Electric Utility Industry Law to shift from a permit and approval system to a notification system for construction or upgrading of all power generating facilities. This change will encourage the development of new generating capacity at a time when Japan is opening its $150 billion electric utility sector to competition. Japan also agreed to simplify regulations and work toward harmonization of various Japanese standards with international standards for energy-related equipment, such as turbines, compressors, and standby generator sets – equipment in which U.S. companies are particularly competitive. In addition, Japan agreed to work toward the harmonization of its standards regarding self-serve gas pumps with international standards.

In October 1999, the United States put forward specific proposals designed to assist Japan in making the successful transition from a monopolistic to a competitive energy market by: (1) reducing regulatory and other barriers that discourage investment and market entry; (2) implementing appropriate incentives and disciplines for pro-competitive behavior; and (3) providing for full transparency in setting and implementing rules and procedures so that appropriate and fair rules are set and rational business decisions can be made. The United States and Japan met in November 1999 to discuss these proposals and Japan's plans to liberalize its electricity sector beginning on March 21, 2000. During these meeting, the United States raised competition-related concerns regarding Japan's plans, which are based on U.S. and worldwide experience in this area. The U.S. Government further detailed these concerns in public comments it submitted to Japan on November 19, 1999 regarding draft reports and ordinances on electricity deregulation.

Legal Services: Japan's legal service infrastructure must be capable of meeting the needs of Japanese and foreign persons and enterprises that are responding to the opportunities created by market liberalization and deregulation. Currently, barriers thwart the development of a legal services sector and prevent Japanese and foreign persons and enterprises from obtaining fully integrated transnational legal services for domestic and cross-border transactions. The United States continues to urge Japan to remove these barriers.

In particular, the United States has requested that Japan: (1) remove the prohibition against partnerships between Japanese lawyers (*bengoshi*) and foreign legal consultants (*gaikokuho-jimu-bengoshi* or *gaiben*) and allow them to determine the form of association that will enable them to most efficiently and effectively serve their clients' needs, whether it be partnership, employment or some other form; and (2) permit a foreign lawyer to count all of the time in Japan spent practicing the law of the lawyer's home jurisdiction toward meeting the experience required to register as a *gaiben*, not just the one year allowed under current practice.

b. Structural Deregulation

Distribution: The United States welcomed the passage in 1998 of legislation in Japan abolishing

the Large-Scale Retail Store Law and Japan's agreement to closely monitor local governments' implementation of the Large-Scale Retail Store Location Law, or *Daiten Ricchi Ho*, which will come into effect June 1, 2000. The *Daiten Ricchi Ho* transfers responsibility for the establishment of large stores to prefectural governments and central government-designated cities. The law specifies that large store business activities will no longer be adjusted in order to thwart competition. Instead, the new law restricts review of the establishment and expansion of large stores to environmental factors, such as traffic and noise. The law does not permit local governments to enforce stricter environmental standards than those existing nationally.

In response to requests by the United States, the Ministry of International Trade and Industry (MITI) is undertaking a broad-based educational campaign with local governments to explain their operational and legal responsibilities and limitations to their authority under the *Daiten Ricchi Ho.* Also at the request of the U.S. Government, MITI is establishing a contact point to help resolve complaints from interested parties regarding the application of the new law. The United States has welcomed these steps, but noted that the manner in which Japan implements the *Daiten Ricchi Ho* will determine whether the new law will reduce the regulatory burdens faced by new store openers or whether it will pose an even greater obstacle than the previous regulatory regime. In addition, the United States has urged Japan to take additional actions to ensure that local governments apply the law in a fair, reasonable and uniform manner.

Competition Law and Policy: In the Second Joint Status Report, Japan agreed to implement specific measures to promote and ensure competition within its markets. For example, as part of its effort to prevent private regulation of the market (*min min kisei*) from replacing recently deregulated government rules, an area of serious concern to the United States, the Japan Fair Trade Commission (JFTC) undertook to: (1) eliminate Antimonopoly Act (AMA)-violative market entry restrictions by trade associations; (2) conduct surveys on economic and business conditions, with a view toward rectifying private restraints of trade uncovered; (3) request government agencies to withdraw and refrain from administrative guidance that supports such anticompetitive conduct; and (4) assist in formulating a model AMA Compliance Program and to establish an AMA consultation network to help ensure that the proposed business plans of firms and trade associations comply with the AMA. In addition, Japan agreed to take certain measures to counteract bid rigging on public works projects, including inserting into the bidding instructions a prohibition against consulting with or disclosing bid prices to other bidders and instituting an agency-wide policy of disclosing the scheduled price (*yotei kakaku*) after the bid results are released.

The United States continues to urge Japan to strengthen its efforts to stamp out anticompetitive practices in its economy. In its October 1999 deregulation submission, the United States recommended that Japan adopt a comprehensive anti-*dango* program that would include a new initiative by the National Police Agency to investigate bid rigging crimes and strong measures against government officials that knowingly provide assistance to bid rigging activities. The United States also advised that Japan augment the JFTC's criminal and administrative investigatory powers and reform the surcharge system to increase its deterrent effect.

The United States also has urged Japan to improve significantly its private remedy system for antimonopoly violations as part of a comprehensive antimonopoly legal regime. To this end, the United States recommended that Japan provide for injunctive remedies in such lawsuits, especially for collusive and monopolistic practices, and improve procedural and evidentiary rules for obtaining damage remedies. In addition, the United States requested that the JFTC take

steps to promote an efficient and competitive distribution sector, including initiating a mechanism for review of Antimonopoly Act compliance plans. In addition, the United States Government has sought assurances that the JFTC will have the opportunity to review all joint applications under the Industry Revitalization Law in order to ensure robust competition in the market.

Transparency and Other Government Practices: In recent years, the Japanese Government has begun to lay the foundation for a more transparent and accountable regulatory system, including through the implementation in 1999 of a Public Comment Procedure, which allows the public to review and comment on draft regulations, and enactment of an information disclosure law. The United States welcomes these measures. However, it believes that additional steps are necessary to achieve the level of transparency and accountability recognized as essential in the 1999 OECD Review of Regulatory Reform in Japan.

In its October 1999 submission, the United States has urged Japan to adopt measures including: (1) the introduction of a government-wide system of regulatory impact analysis, which would require a cost/benefit analysis of proposed regulatory changes with a significant economic impact; and (2) the establishment of a study group to consider the introduction of two new regulatory mechanisms – "No Action Letters" and Letter Rulings, which would increase the transparency, responsiveness and predictability of the regulatory process, while reducing its complexity.

3. Existing Bilateral Agreements: Implementation and Monitoring

a. Insurance

The United States and Japan have concluded two bilateral agreements on insurance. The goal of the first, the 1994 U.S.-Japan Insurance Agreement, is to achieve a substantial increase in market access and sales for foreign insurance providers and intermediaries in Japan. On December 15, 1996, the United States and Japan announced a second agreement, encompassing a series of supplementary measures to the 1994 insurance agreement. These detailed measures were designed to ensure increased competition, allow greater product innovation and pricing flexibility, lower premiums for Japanese consumers, and increase market access for U.S. and other foreign insurance providers in Japan's insurance market. The focus of the supplementary measures is on the "primary sectors," which account for roughly 95 percent of Japan's insurance market. Among other commitments, Japan agreed to avoid radical change in the "third sector" for a "reasonable period," following substantial deregulation of the "primary" life and non-life sectors. The third sector includes personal accident, cancer, and hospitalization insurance and comprises five percent of Japan's overall insurance market. However, this is a segment of the market where foreign insurance providers are particularly competitive.

The most recent official consultations under the two insurance agreements were held in Washington in April 1999. This was the first formal bilateral consultation that involved representatives from the Financial Supervisory Agency (FSA), which was established in June 1998 as an independent regulatory body overseeing financial services regulation, including insurance. The review included an assessment of Japan's implementation of the provisions of the agreement provisions through use of data provided by the Japanese Government and the objective criteria contained in the agreement. Further, the United States and Japan discussed issues related to product approval, resources and technology, the Policyholder Protection Organization, rating organizations, and administrative and regulatory changes in Japan's insurance sector. In order to deepen mutual understanding of current and future plans related to the U.S. and Japanese insurance regulatory systems, the United States included a component for regulator-to-regulator discussions during the

April meetings. As a result, representatives from the National Association of Insurance Commissioners participated in the talks.

The steps that Japan initiated in 1997 to deregulate the primary sectors of the insurance market in accordance with the bilateral agreements have yielded important results. Several major U.S. and other foreign insurance companies have entered the market in the past two years, the foreign share of the market has grown significantly, and rate and product competition have increased. However, during the April consultations, the United States raised questions and concerns about Japan's implementation of key provisions of the insurance agreements related to rating organizations' activities and potential "radical changes" occurring in the third sector, such as sales practices involving Group Personal Accidental insurance and sales of third sector products by Japanese firms. In addition, the United States voiced serious lingering concerns over the conduct of product approvals and the transparency of that process. Given continued industry apprehension related to FSA's ability to meet the 90-day turnaround for product approvals mandated in the agreement, the United States urged Japan to make key changes to its product approval system to enable it to operate effectively in the increasingly deregulated insurance environment.

In addition to the bilateral agreements on insurance, in its October 1999 deregulation submission to Japan under the Enhanced Initiative, the United States included an expanded list of requests related to insurance. These requests include: a significant increase in FSA staff to deal with the expanding flow of insurance product applications; Japan's adoption of a modernized and a stream-lined product approval system; and further efforts by FSA to conduct all communications with the companies it regulates in a fair and transparent manner, as called for in the Administrative Procedures Law (APL). The United States also expressed serious concerns with potential Japanese plans to expand the role of the government postal insurance system (the "*Kampo*"). The United States pointed out that any expansion of *Kampo* into product lines being offered by private insurers is inconsistent with Japan's goals of deregulation and "Big Bang" market reforms. The United States also expressed concern that *Kampo* falls outside the scope of the Insurance Business Law and is not subject to oversight by FSA or the JFTC. These items were discussed during a meeting of the deregulation structural working group in November 1999, when the United States emphasized that we view Japan's adoption of these requests as a key step toward moving forward on our insurance agenda with Japan.

The next set of insurance consultations will be held in March 2000, when we will seek to narrow our differences with Japan on outstanding issues.

b. Flat Glass

In January 1995, the United States and Japan concluded an agreement aimed at opening the Japanese market to imported flat glass. Japan's $4.9 billion flat glass market had been dominated by an oligopoly of three large producers. Since the late 1960s, these producers changed prices, capacity, and product mix in virtual lockstep, and their respective market shares have remained effectively unchanged. Despite their intensive efforts, U.S. firms have been unable to penetrate this difficult market.

Under the Flat Glass Agreement, Japanese firms undertook a variety of measures to assure that foreign glass was afforded full access to the distribution network. The Government of Japan also committed in the Agreement to prevent and eliminate anticompetitive practices in the flat glass sector; encourage non-discriminatory procurement of flat glass for public works projects; and promote the use of insulated and safety glass, product categories in which American companies have superior products.

MITI agreed to undertake an annual survey under the Agreement to assess the openness of the distribution system.

The Agreement achieved some important successes. For example, it resulted in Japan's adoption of energy conservation standards in the housing sector that are already boosting demand for high-value-added insulating glass, benefitting Japanese and American manufacturers alike. It also prompted Japan to feature American glass in a number of high-profile public works projects.

However, important objectives remain unfulfilled. U.S. and other foreign suppliers enjoy only token access to the distribution network controlled by the three major Japanese glass manufacturers. As a result, in spite of the dedicated efforts of U.S. glass manufacturers, the high quality of their products, and competitive pricing, their small market share has barely changed since the Agreement was signed. These problems were illustrated on December 21, 1999, when the Japan Fair Trade Commission ruled that certain Japanese industry associations and affiliates, including a subsidiary of Japan's largest flat glass manufacturer, unlawfully colluded to intimidate distributors who purchased foreign-manufactured auto replacement glass through price discrimination and other methods.

The Agreement expired on December 31, 1999. In order to address the remaining market access barriers in this sector, the United States and Japan plan to hold government-to-government discussions in March 2000, to be followed by a joint government/industry meeting later in the spring.

c. Autos and Auto Parts

Improving access to Japan's automotive market remains a high priority for the U.S. Government. The Administration committed early on to taking the steps necessary to significantly increase export opportunities to Japan for U.S. auto and auto parts manufacturers. In August 1995, the United States and Japan reached an Automotive Agreement with the goals of eliminating market access barriers and significantly expanding sales opportunities in this sector. To monitor implementation of the Automotive Agreement, the United States also announced the establishment of an Interagency Enforcement Team, which releases a semi-annual assessment of progress in all areas covered under the agreement.

The latest monitoring report, issued in June 1999, noted that the global automotive industry has entered a period of broad restructuring while Japan's economic downturn has continued. The report stated that current Japanese policies serve to hold back needed changes and preserve the status quo and urged Japan to fully open and deregulate its auto and auto parts sector to facilitate industrial restructuring, foster competition in this market, and generate further progress under the Automotive Agreement.

Japan's economic slump, limited market access, and the weak competitive environment have disproportionately hurt foreign vehicle manufacturers. Overall vehicle sales in Japan have fallen for 35 months as of December 1999, with sales in the market segments in which U.S. manufacturers compete down 8 percent in 1999. During the same period, sales of motor vehicles produced by Ford, General Motors, and Daimler Chrysler in North America declined 20 percent.

In addition, the economic slowdown has inhibited new business investment, compounding the difficulties foreign vehicle manufacturers face in adding new dealerships. In an effort to contend with these economic conditions and position themselves to better compete in the future, U.S. auto companies have consolidated or closed less-profitable dealerships over the past year. However, the continued reluctance of some Japanese dealers to carry foreign vehicles for fear of damaging their long-term relationships with Japanese manufacturers will continue to constrain the ability of U.S. companies to expand their dealership networks. Japan has responded to U.S.

concerns on this issue by seeking to ensure that dealers understand that they are free to carry the product of competing manufacturers, improving the competitive environment somewhat. However, the U.S. Government urged the Japanese Government and Japanese automakers to take further proactive actions to ensure that restrictive business activities in this sector are fully eliminated.

U.S. auto parts exports also declined in 1999 as a result of Japanese Government policies and the protracted economic slowdown. The United States submitted a number of proposals to Japan to open and deregulate its automotive market. Japan responded positively to several proposals, including streamlining the new car registration process and creating a new class of certified mechanics.

The United States further pressed Japan on these automotive issues during the fourth annual review of the Automotive Agreement, held in October. The United States stated that while some progress had been made under the agreement, the Japanese Government needs to take additional concrete measures now that will bear fruit as the Japanese economy improves. To that end, the two sides discussed Japan's progress in implementing earlier proposals made by the United States, as well as new proposals for achieving progress, including additional deregulatory steps, standards-related issues, measures to improve transparency, and actions to enhance competition in this sector. The United States and Japan agreed to continue discussing these proposals and other steps to achieve the goals of the agreement, which expires in December 2000.

d. Government Procurement

Overview: The United States and Japan have concluded bilateral government procurement agreements in the areas of: telecommunications (including an agreement covering Nippon Telegraph and Telephone (NTT) procurement), computers, supercomputers, satellites, medical technology, and construction/public works. The overall goal of these agreements is to expand Japanese public sector procurement of foreign products and services by addressing traditional Japanese procurement practices which have historically prevented U.S. and other foreign firms from fully and equally participating in the Japanese public sector market. These agreements address, for example, the lack of consistent and equal access to information regarding upcoming procurements; insufficient opportunities to comment on, and participate in, the development of specifications; over-reliance on sole-sourced procurements; use of unique or Japan-specific technical standards as opposed to international standards; and the lack of impartial bid protest systems.

NTT Procurement: On July 1, 1999, the United States and Japan concluded a new NTT procurement agreement that reflects changes brought about by NTT restructuring. On the same day, the restructuring of Nippon Telegraph and Telephone (NTT) into four successor companies – a holding company, two regional companies (NTT East and NTT West), and a long distance/international company (NTT Communications) – went into effect.

The new agreement, which will remain in effect for two years, covers the four NTT successor companies, which together are Japan's largest purchasing entity of telecommunications equipment. It includes a commitment that the NTT companies will conduct their procurement in an open and transparent manner and provide non-discriminatory and competitive opportunities to both domestic and foreign suppliers. Reflecting changes brought about by NTT's restructuring and the changing business environment in which domestic and foreign suppliers and the NTT successor companies are now operating, the agreement outlines three methods of procurement (the traditional "request for proposal" method, a means by which companies with innovative products can approach NTT directly, and a means by which NTT will conduct follow-on purchases)

and provides details on how each will be conducted. The agreement also ensures foreign companies will continue to have equal access to procurement information, provides protection for any proprietary information supplied during the procurement process, and includes a mechanism for protesting unfair bids.

For the duration of the agreement, the United States and Japan will conduct annual reviews to discuss the operation of the new procurement procedures. These annual meetings will also include a discussion of detailed statistics on NTT companies' procurement to be provided by the NTT companies.

The United States views the new agreement as an essential part of opening Japan's telecommunications market to foreign competition. These NTT companies account for about one third of Japan's $35 billion telecommunications equipment market at the time of restructuring, and remains the most important purchasing entities in this sector. Through their R&D and deployment decisions, the NTT companies have and will continue to set standards that impact the entire market.

The United States expects that procurement of foreign equipment by the NTT successor companies will not only continue to grow, but will move closer to the success foreign firms have achieved in other, more open parts of the Japanese market and telecommunications markets globally. The first annual review under the new NTT Agreement will be held in 2000.

Telecommunications Government Procurement: The Government Procurement Agreement on Telecommunications Products and Services, concluded on October 1, 1994, aims to significantly increase access for, and sales of, foreign products and services. The agreement also includes measures Japan will take to improve and open its procurement process to foreign suppliers, which are intended to improve the transparency and impartiality of the process and to increase reliance on international standards. Implementation of this agreement is assessed through both quantitative and qualitative criteria.

Under the agreement, the foreign share of the Japanese Government telecommunications procurement market increased from 7 percent in JFY94 to almost 13 percent in JFY95. At the annual bilateral review of the agreement held in April 1999, however, the United States expressed serious concern that the foreign share of the Japanese public telecommunications market had declined to 3.9 percent in JFY97. During the April review, the United States questioned Japan's over-reliance on the use of sole-source tendering, potential under-reporting of procurement data, and failure to report on procurement by all covered entities.

The United States has urged Japan to take concrete actions to correct the low level of Japanese public procurement of highly competitive U.S. and other foreign telecommunications goods and services. The next annual review is scheduled for the spring of 2000.

Computers: The 1992 U.S.-Japan Computer Agreement commits Japan to adopt non-discriminatory and open procurement procedures with the aim of expanding government procurement of foreign computer products and services. The agreement makes procedural improvements in Japan's public sector computer procurement regime, with provisions guaranteeing that: (1) equal access to information and opportunity to participate will be available to all potential bidders; (2) any company that has participated in developing specifications for a procurement will be barred from bidding on that same procurement; (3) sole sourcing will be restricted to exceptional cases justified under the GATT/WTO Agreement on Government Procurement; (4) evaluation of bids will be based upon a range of criteria set forth in the tender documentation; and (5) unfair low bids will be prohibited.

The last annual review of the agreement was held in May 1999. At this review, the Japanese Government presented JFY97 data showing that foreign computer firms held 16.5 percent of the public sector market – a 0.6 percent increase over the previous year.

Given the continued gap between U.S. share of the Japanese private and public sector computer markets, as well as rapid technological advancements in this sector, the United States continued to urge Japan to update and improve the implementation of the Computer Agreement in 1999. To this end, the United States proposed that Japan modernize its procurement system including increased use of the Internet, broaden its use of "overall greatest value methodology" in bid evaluations, and provided advance information to potential bidders on a larger number of upcoming procurements. The Japanese Government recently announced a plan to consolidate Japanese central government procurement announcements and documentation on the Internet. Late in 1999, Japan concluded its preliminary study of the digitization project and announced plans to create a formal committee early in 2000 to finalize plans in this regard. Japan's eventual goal is to create a single Internet site where all Japanese central government procurement information necessary for bidding for all product categories will be available.

Supercomputers: Under the 1990 Supercomputer Agreement, Japan committed to implement transparent, open, and non-discriminatory procurement procedures and to ensure that procuring entities are able to procure the supercomputer that best enables them to perform their missions.

Results under the 1990 Supercomputer Agreement have been mixed. In JFY93 and JFY94 there was a notable increase in the U.S. share of Japanese public sector supercomputer market, with U.S. firms reaching a 40-45 percent market share. However, this trend has not been sustained. In JFY98, U.S. firms won only two of fifteen public supercomputer procurements.

To keep pace with the notable advances in technology in this sector, the United States and Japan agreed in an exchange of letters on April 30, 1999, to increase the threshold governing coverage of the Supercomputer Agreement from five billion floating point operation per second (GIGAFLOPS) to fifty GIGAFLOPS. This change went into effect on May 1, 1999.

Medical Technology: The Medical Technology Agreement was concluded in November 1994 with the goal of significantly increasing access and sales of competitive foreign medical technology products and services in the Japanese public sector procurement market.

This agreement has been successful in providing greater market access and sales for foreign suppliers in Japan's government procurement sector. At the most recent annual review of the agreement, which was held in September 1999, Japan presented data for JFY97 which showed that foreign share rose 4.4 percentage points to 45.6 percent of the market. This increase occurred despite the fact that government spending in this sector shrunk over this same time period. There was also a significant increase in foreign/domestic head to head competition, which rose from 7 percent of contracts in 1996 to 14.7 percent of contracts in 1997.

The United States continues to urge Japan to make further progress in this sector by improving transparency in Japan's public procurement process and expanding the use of the overall greatest value methodology to include procurement by local and prefectural governments.

Construction/Public Works: There are two public works agreements in effect: the Major Projects Arrangement (MPA), implemented in 1988 and amended in 1991, and the 1994 U.S.-Japan Public Works Agreement, which includes the "Action

Plan on Reform of the Bidding and Contracting Procedures for Public Works" (Action Plan). The MPA was designed to improve access to Japan's public works market and includes a list of 40 projects in which international cooperation is encouraged. Under the Action Plan, Japan must use open and competitive procedures on procurements valued at or above the thresholds established in the WTO Government Procurement Agreement.

During the June 1998 annual review of the 1991 and 1994 agreements, the United States was disappointed to learn that U.S. firms had won only $50 million in public works contracts. This fell far short of the $100 million in contracts won by U.S. firms in public works contracts in 1997. The U.S. share of Japan's $250 billion public works market has consistently remained under 1 percent – a troubling fact given the competitiveness of U.S. firms throughout the rest of the world. Because of the lack of progress in this sector, the United States requested special out-of-cycle consultations on the agreements in January 1999 and elevated the July 1999, annual review to the Under Secretary level.

The main concerns of the United States include arbitrary restrictions on joint venture formation for construction projects and the very low number of design/consulting procurements open to foreign firms. During the July 1999 annual review, Japan and the United States agreed to the creation of the U.S.-Japan Construction Cooperation Forum, which is designed to facilitate the formation of joint ventures between U.S. and Japanese construction firms and to make it possible for U.S. firms to participate more fully in Japan's public works market. The first Forum was held in October 1999, and the next is tentatively scheduled for the spring of 2000. Also in July, the United States explained that we were monitoring three design/consulting initiatives recently undertaken by Japan, and we expected the number of design/consulting procurements open to U.S. firms to increase significantly as a result of these initiatives. The United States learned in July that U.S. firms had won only $50 million in public works contracts for the second year in a row. Because of the continued lack of progress, the United States requested special out-of-cycle round of consultations (also at the Under Secretary level) on the agreements in January 2000.

e. Investment

Changing Japanese attitudes toward inward foreign direct investment (FDI), depressed asset values and improvement in the regulatory environment enabled U.S. and other foreign firms to gain significant new footholds in the Japanese economy in 1999, mostly through mergers and acquisitions. Thus, although FDI to Japan remains the lowest among the OECD countries, FDI more than doubled in JFY98 to 1,340 billion yen, or roughly $12 billion, and a similar figure was achieved after only the first six months of JFY99.

In July 1995, to counter the formidable barriers to foreign firms wishing access to Japan's economy, the United States and Japan concluded the U.S.-Japan Investment Agreement. The agreement focuses on both structural change and strong government facilitation to attract foreign investment to Japan. In the agreement, Japan committed to: (1) promote investment; (2) implement better tax incentives and financing; (3) improve conditions for foreign participation in mergers and acquisitions; (4) reduce regulatory restrictions on foreign investment; and (5) facilitate efforts by foreign firms to build business ties with Japanese firms. Until recently, however, implementation by Japan of these measures had been "ad hoc" or targeted at sectors of the Japanese economy where there was little incentive for U.S. firms to invest.

In 1999, the United States and Japan agreed on a number of important additional steps for Japan to undertake to facilitate and boost FDI. Key issues addressed included: facilitation of mergers and acquisitions through, among other things, changes to Japanese accounting and taxation systems; the

need for increased land circulation, as Japan's high real estate costs and issues related to land use have historically been a major disincentive to FDI; and discussions about labor mobility at a time of record unemployment in Japan. In April 1999, the United States and Japan submitted to the President and Prime Minister a joint report which reviewed the actions the Japanese Government had taken to facilitate investment and pointed to areas for continued efforts. The report also committed the two Governments to continue work in this important area.

In line with the conclusions of the April report, the Diet passed several laws helpful to investors in 1999. The Securities Exchange Law was modified and now mandates consolidated and market-value accounting for listed firms beginning in JFY00. The Commercial Code was revised and now, for the first time, allows one company to wholly acquire another through stock swaps. Further, the Industrial Revitalization Law was passed, providing tax and credit relief to firms (including foreign investors in Japanese companies) which undertake government-approved reorganization. The new bankruptcy law (Civil Reconstruction Law) encourages business reorganization, including spin-offs, rather than forced liquidation of assets, as previously. In addition, the concept of corporate governance, such as the role of boards of directors, is also changing in ways which augur well for increased investments, mergers and acquisitions. Additionally, the United States has been pleased with the increased interest in foreign investment in Japan at the local level.

Nevertheless, government and business observers from both countries recognize that much more remains to be done. The U.S. and Japanese Governments agreed in 1999 to continue to consult on investment issues and began organizing a jointly-sponsored investment conference for the spring of 2000 which will identify and publicize the need to remove remaining structural and regulatory barriers in order to improve the investment climate in Japan.

4. Sectoral Issues

a. Steel

The U.S. steel industry endured tremendous hardship in 1998 as a sudden and substantial drop in demand for steel in Japan and the rest of Asia created a huge oversupply, which Japanese companies diverted to the U.S. market. Imports from Japan increased 164 percent from 1997 to 1998, making Japan the main source of imports to the U.S. market in 1998. Imports from Japan of steel mill products in 1999 fell 54 percent compared to 1998.

On January 7, 1999, President Clinton sent a report to the Congress, stating, among other things, his expectation that Japan's exports will return to appropriate pre-crisis levels in 1999. The Administration has since closely monitored steel imports from Japan on a monthly basis and stated that it stands ready, if necessary, to self-initiate trade actions under U.S. safeguards and antidumping laws, in order to ensure that steel imports from Japan are rolled back.

In August 1999, the President announced that the Administration would undertake bilateral initiatives with steel exporting nations, including Japan, to address a broad range of unfair practices that support economically unjustifiable capacity. The high-level dialogue was initiated in September 1999 at the Vice Ministerial level. The first working level meeting took place in November 1999. The primary topics of discussions in the first round of meetings were trade patterns, market conditions, and trade policies in Japan. Specifically, the United States focused on learning more about restructuring in the Japanese economy, including how the Industrial Revitalization Law will apply to the steel sector. The United States stressed that in order for restructuring to be successful, Japan needed to encourage domestic and import competition and avoid subsidies.

In 1999, dumping orders were issued against Japan on certain hot-rolled carbon steel flat products and stainless steel sheet and strip in coils. In addition, U.S. steel producers and workers requested Department of Commerce dumping investigations against Japan on cut-to-length carbon-quality steel plate; cold-rolled flat-rolled carbon-quality steel products; structural steel beams; carbon and alloy seamless standard, line, and pressure pipe; certain tin mill products; and stainless steel hollow products.

b. Rice

Japan's highly protected rice market has long been a target for liberalization efforts. During the Uruguay Round, Japan agreed to crack open the door to its domestic rice market by establishing a minimum access commitment for rice imports. Under this agreement, Japan committed to import 379,000 metric tons in 1995/96. This quota was to grow to just over 758,000 tons at the end of the Uruguay Round implementation period (2000/2001). Since the Uruguay Round, the United States has been the single largest foreign supplier of rice to the Japanese market, supplying approximately one-half of total imports.

On April 1, 1999, a new Japanese rice regime went into effect that transformed the existing import quota system into a tariff quota system. Under "tariffication,"a specific duty is applied to imports outside of Japanese minimum access rice imports.

The U.S. rice industry has worked assiduously to meet the demands of the Japanese market. In cooperation with its Japanese customers, it has improved its production, handling, and milling techniques for the unique varieties that are produced specifically for the Japanese market. To advance this effort, the U.S. rice industry has actively engaged in technical discussions with Japan. In addition, the U.S. rice industry made tremendous efforts to improve its price competitiveness under the simultaneous-buy-sell (SBS) tendering system.

In 1999, the United States held a number of discussions with the Japanese Government to examine the effects of Japan's new policies on access to its rice market. Through these talks, the United States conveyed its expectation that the U.S. rice industry would achieve continued access to Japan's rice market in line with that of the past four years. The United States reserved the right to consider, if it deemed appropriate, any and all options with respect to the new Japanese rice regime, including WTO options. At the same time, the United States and Japan agreed to hold periodic consultations on a number of agricultural issues, including access to Japan's rice market. The first such meeting took place September 1999 in Geneva. At that meeting, the United States urged that the Japan Food Agency administer its import system in a transparent manner that would allow U.S. rice exporters to develop effective commercial relationships with end-users in Japan and to give consideration to revising its SBS system so that the market is allowed to function in a normal way.

In line with the U.S. expectation, U.S. producers achieved a 47.9 percent share of Japan's foreign rice purchases in 1999, up slightly from the previous year.

The United States will continue to closely monitor Japan's rice purchases, and will consider all of its options to respond to Japan's policies in the event that circumstances change.

5. Multilateral/WTO Disputes and Settlements

Consumer Photographic Film and Paper: An interagency monitoring and enforcement committee was established in February 1998 to review implementation of formal representations made by Japan to the WTO regarding its efforts to ensure the openness of its market to imports of photographic film and paper. The committee

issued its second semi-annual monitoring report in June 1999, which was based on surveys of the Japanese photographic film and paper market and information and data obtained from U.S. and foreign film manufacturers and the Japanese Government.

Related to Japan's enforcement of the Antimonopoly Law and efforts to promote competition, the JFTC undertook two important steps: (1) warned Japan's Photosensitive Materials Manufacturers Association to cease exchange of data, which could constitute a violation of the Anti-Monopoly Law; and (2) improved the transparency of its application of the Premiums Law, thereby blocking its use to restrict competition. While noting such positive steps undertaken by the JFTC to reduce anti-competitive behavior in the sector during the period surveyed, the report noted that further efforts by Japan were needed to improve the competitive conditions in Japan's photographic film and paper sector.

Further, as large stores are a key sales channel for foreign firms, including film manufacturers, Japan's implementation of the new Large-Scale Retail Store Location Law has been of key interest to the U.S. Government. In the Second Joint Status Report under the Enhanced Initiative, the United States received assurances from the Government of Japan that it will take measures to facilitate the consistent, transparent, and predictable application of the law. In addition, the report noted that, overall, MITI has taken limited action to ensure that the distribution system is open and that Japanese wholesalers and retailers are familiar with the MITI Business Practices Guidelines. The United States urged MITI to be more proactive in this regard.

The monitoring and enforcement committee continues to closely monitor foreign access to this sector and Japan's efforts to open this market in accordance with its WTO representations. The committee will release the next semi-annual film monitoring report in 2000.

Varietal Testing of Fruits: In October 1997, the United States invoked dispute settlement procedures against Japan regarding its varietal testing requirements. Japan required repeated testing of established quarantine treatments each time that a new variety of an already approved commodity was presented for export. This redundant requirement had no scientific basis and, because it imposed expensive and time-consuming testing on American producers, served as a significant barrier to market access. The United States challenged these requirements as inconsistent with Japan's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement").

The United States prevailed in WTO panel and Appellate Body proceedings which concluded on October 27, 1998, and February 19, 1999, respectively. On March 19, 1999, the WTO Dispute Settlement Body (DSB) adopted the panel and Appellate Body findings that Japan's varietal testing requirement was: (1) maintained without sufficient scientific evidence, in violation of Article 2.2 of the SPS Agreement; (2) not based on a risk assessment, in violation of Article 5.1; and (3) inconsistent with Japan's transparency obligations under paragraph 1 of Annex B, since Japan did not publish its requirements. The United States and Japan have been consulting since that time on Japan's implementation of the DSB's rulings and recommendations.

In addition to the WTO case, the United States last year was concerned with Japan's failure to approve importation of five apple varieties and two cherry varieties, despite U.S. Government testing that demonstrated the effectiveness of quarantine methods used by American producers for each variety. The United States raised its concerns with Japanese officials at senior levels in late 1998 and early 1999. Japan approved these varieties in mid-1999, in time for shipment of the 1999 crop of these U.S. products to Japan.

D. Western Europe

Overview

The U.S. economic relationship (measured as trade plus investment) with Western Europe is the largest and most complex on earth. Due to the size and nature of the transatlantic economic relationship, serious trade issues inevitably arise. Sometimes small in dollar terms, especially compared to the overall value of transatlantic commerce, these issues take on significant importance as potential precedents for broader U.S. trade policies. This is particularly true in the case of U.S. disputes with the EU over EU import policies respecting bananas and beef treated with growth hormones. Despite U.S. WTO victories against the EU's banana regime and the EU's ban on U.S. beef from cattle treated with hormones, the EU has not ended its discriminatory treatment in these areas.

The fifteen member countries of the European Union (EU) together comprise a market of some 370 million consumers with a total gross domestic product of over $8 trillion. U.S. goods exports to the EU member states totaled $152 billion in 1999, second only to Canada. Since 1992, U.S. goods exports have increased 41 percent, including a 1.8 percent increase in 1999. Jobs supported by goods exports to the EU have increased from an estimated 1.3 million in 1992 to an estimated 1.4 million in 1998 (latest data available).

From its origins in the 1950s, the EU has grown from six to fifteen member states, with Austria, Finland, and Sweden becoming the newest EU members states on January 1, 1995. The other major trade group within Western Europe is the European Free Trade Association (EFTA), which through 1994 included Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland (Austria, Finland, and Sweden ceased EFTA membership upon their accession to the EU). Formed in 1960, EFTA provides for the elimination of tariffs on manufactured goods and select agricultural products that originate in, and are traded among, its member states.

In late 1991, the EFTA countries and the EU reached agreement on the formation of a European Economic Area (EEA), designed to strengthen significantly the free trade agreement already in place between the two groups. Switzerland rejected the EEA in a referendum at the end of 1992. A revised EEA (excluding Switzerland) entered into force on January 1, 1994. In practice, the EEA involves adoption by the EFTA signatories of approximately 70 percent of EU legislation.

Highlights of the achievements of this Administration since 1993 include:

- *Enhancing Transatlantic Economic Cooperation.* At the U.S.-EU Summit of May 1998, the President and his counterpart Leaders from the European Union launched the U.S.-EU Transatlantic Economic Partnership (TEP), which is designed to reduce barriers to bilateral U.S.-EU trade and to improve U.S.-EU cooperation on a range of trade issues. The TEP has three components: (1) negotiations to reduce barriers to bilateral trade in services, industrial goods, and agricultural products; (2) cooperative efforts in the World Trade Organization (WTO) and other international organizations to reduce or eliminate barriers that hinder international trade and capital flows and to address other related issues, such as trade and the environment and support for core labor standards; and (3) efforts to enhance the transatlantic dialogue between business, non-governmental organizations, and governments on trade and investment matters. The TEP will be an on-going process of achieving and implementing results as they occur.

- *Reducing Unnecessary Barriers to Transatlantic Trade.* The United States and EU concluded a Mutual Recognition Agreement (MRA) in order to improve market access, reduce costs and shorten the time required to market many U.S. products in the EU, while maintaining our current high levels of health, safety and environmental standards. Product sectors covered by the U.S.-EU MRA now represent over $50 billion in annual two-way trade. The MRA, which entered into force in December 1998, will allow conformity assessment (product tests, inspections, certifications) to be performed in the United States to EU requirements, and vice-versa. When fully implemented, the MRA will eliminate duplicative assessments for products in the following sectors: telecommunications and information technology equipment; network and electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft.

1999 Activities

The EU in 1999 intensified its efforts to deepen the economic and political integration of its member states. The pace of additional western European integrative efforts over the next few years is being set first by the experience of implementing the Economic and Monetary Union (EMU) established by the EU's Maastricht Treaty, which went into force on November 1, 1993, and amendments to Maastricht which emerged from the 1997 EU Intergovernmental Conference (IGC) – the so-called Amsterdam Treaty. Under the Maastricht Treaty schedule, eleven member states on January 1, 1999 launched in earnest the EMU program, the most prominent feature of which is the introduction of the new European single currency (the "euro"), set to replace national currencies in participating member states by 2002.

The second major factor affecting the pace of European integration will be the process of enlarging the EU to include new members to the East and South. The EU has signed association agreements and other types of free trade arrangements with the Czech Republic, Slovakia, Hungary, Poland, Bulgaria, Romania, Latvia, Lithuania, Estonia, Albania, Slovenia, Israel, Algeria, Morocco, and Tunisia. The EU has also negotiated a customs union with Turkey. In November 1998, the EU formally launched substantive accession negotiations with six "first-tier" candidate countries: Poland, the Czech Republic, Hungary, Slovenia, Estonia and Cyprus. In late 1999, the EU declared it would also begin formal negotiations for accession with Slovakia, Romania, Bulgaria, Lithuania, Latvia and Malta (Turkey remains an accession candidate, with no EU commitment to commence formal negotiations). No firm target has been set for completing any of the accession negotiations, but some candidate states have expressed concern that the process could last for a number of years.

In 1999, USTR devoted considerable resources to addressing pressing or potential trade problems with the EU and its individual member states, as well as to efforts to enhance the transatlantic economic relationship. As part on our ongoing dialogue with the European Union under the TEP, we now have agreement with the EU to launch negotiations on: mutual recognition agreements (MRA) in key services sectors (insurance, engineering and architecture); an additional MRA annex for marine safety equipment; and an agreement on the mutual acceptance of calibration certificates. We also have agreed to establish a pilot project to track biotechnology product approvals simultaneously through our respective regulatory systems. We have continued efforts to reach understandings with the EU that would lead to EU compliance with WTO dispute settlement rulings on bananas and beef and to resolve other bilateral trade problems. In addition, with respect

to the WTO ruling in the Foreign Sales Corporation (FSC) case (see Chapter VI for a fuller discussion of this case), we will work to resolve the situation in a mutually satisfactory manner and to ensure that this issue does not seriously damage our overall bilateral relationship.

The extent of USTR activity on a bilateral basis with respect to the EFTA states in 1999 was modest, though both Norway and Switzerland have made inquiries concerning possibilities for further regulatory cooperation.

1. Transatlantic Economic Partnership

At the May 1998 U.S.-EU Summit in London, President Clinton and EU Leaders announced the Transatlantic Economic Partnership initiative, which seeks to deepen and systematize the cooperation in the trade field launched under the New Transatlantic Agenda process begun in 1995 (see below). In the TEP, the two sides identified a number of broad areas in which they committed to work together in order to increase trade, avoid disputes, address disagreements, remove barriers and achieve mutual interests. These areas include: technical barriers to trade, agriculture, intellectual property, government procurement, services, electronic commerce, environment and labor. In addition, the United States and EU agreed to put an emphasis throughout the initiative on shared values, i.e. they agreed to more fully involve citizens and civil society on both sides of the Atlantic in trade policy so as to strengthen the consensus for open trade. Cooperation under the TEP occurs with respect to bilateral matters, as well as in the context of multilateral activities such as in the WTO. The TEP Action Plan, endorsed by Leaders at the December 1998 U.S.-EU Summit in Washington, lays out specific goals under each of the above categories which the two sides hope to achieve as soon as possible.

Under the TEP in 1999, the United States and EU agreed to establish a project to examine the regulatory processes on each side connected with the issue of biotechnology. The two sides also agreed to attempt development of common guidelines for cooperation in the regulatory field – an area increasingly seen by the business community as impacting the further deepening of transatlantic commercial ties. In addition, under TEP auspices, the United States and EU will begin negotiating new agreements and other forms of cooperation for mutual recognition of regulatory processes in various industrial and services sectors (see next section). Finally, U.S. and EU leaders agreed at the June 1999 U.S.-EU Summit to use TEP mechanisms to carry out part of a joint effort to identify – and hopefully defuse – potential trade problems at an early stage, before they become irritants to the bilateral economic relationship.

Public Dialogues: Important companions to the Transatlantic Economic Partnership initiative are the various private dialogues among European and American businesses, labor organizations and environmental and consumer groups. The first of these to be established, the Transatlantic Business Dialogue (TABD), is a forum in which American and European business leaders can meet to discuss ways to reduce barriers to U.S.-European trade and investment. Other dialogues – the Transatlantic Labor Dialogue (TALD) and the Transatlantic Consumer Dialogue (TACD), along with the Transatlantic Environment Dialogue (TAED) – start from a similar premise, i.e., that corresponding organizations on both sides of the Atlantic should share views and, where possible, present joint recommendations to governments in both the United States and the EU on how to improve transatlantic relations and to elevate the debate among countries in multilateral fora. All of these dialogues held meetings in 1999, from which emerged a number of recommendations related to trade policy issues. The United States is committed to the full participation of civil society in the trade policy process and intends to cooperate closely with all the dialogues as it works to implement the TEP initiative.

2. Standards, Testing, Labeling, and Certification

A process of harmonization of technical regulations and product standards is underway within the EU. The U.S. Department of Commerce anticipates that EU legislation covering regulated products eventually may affect half of all U.S. exports to Europe. Given this trade pattern, EU legislation and standardization work in the regulated areas is of considerable importance. Although there have been improvements in some respects, a number of problems related to this evolving EU-wide regulatory process continue to cause concerns for U.S. exporters. Among these concerns are: lags in the development of EU standards; lags in the drafting of harmonized legislation for regulated areas; inconsistent application and interpretation by Member States of the legislation that is in place; overlap among directives dealing with specific product areas; gray areas among the scope of various directives; and unclear marking and labeling requirements for these regulated products before they can be placed on the market.

In December 1998, the United States and the EU began implementation of the U.S.-EU Mutual Recognition Agreement (MRA) – in sectors representing over $50 billion of annual two-way trade. The MRA is designed to reduce duplicative conformity assessment procedures, while maintaining our current high levels of health, safety and environmental protection. Once fully implemented, the MRA will permit U.S. exporters to conduct required conformity assessment procedures (such as product testing and inspection) in the United States according to EU requirements, and vice versa. The sectors covered by the current MRA include: telecommunications and information technology equipment; network and electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft.

In 1999, the United States continued work to enhance regulatory cooperation and reduce unnecessary technical barriers to transatlantic trade. Under the Transatlantic Economic Partnership (TEP), the United States and EU advanced our bilateral regulatory cooperation workplan, including agreement to: negotiate an additional annex to the U.S.-EU MRA on marine safety equipment; complete preparatory work on a possible MRA annex on road safety equipment; and reach an agreement on mutual acceptance of calibration certificates. We aim to conclude these agreements in 2000, as well as to develop jointly agreed guidelines and principles for effective regulatory cooperation and more transparent regulatory procedures. In addition, the TEP will be used to conclude precedent-setting mutual recognition agreements and other cooperation in the services field – beginning with sector-specific negotiations in the areas of insurance, engineering services and architectural services.

3. Telecommunications

Since 1985, the United States has pressed European nations to open their markets to foreign telecommunications equipment. Important items of concern remain, such as the discriminatory procurement policies of some state-owned telecommunications firms. For example, telecommunications administrations in some EU countries still procure their network equipment from domestic national suppliers whenever possible without opening up the process to foreign competition.

The United States is concerned that the EU's adoption of a Common Position on the Introduction of Universal Mobile Telecommunications Services (UMTS) in December 1998 does not adequately reflect the advent of competition under the WTO Basic Telecommunications Agreement, which took effect on February 5, 1998. While the stated intention may be to assure a minimum level of interoperability in Europe, the fact remains that the Common Position confers regulatory certainty

and therefore a market advantage upon the subset of third generation mobile telecommunications technologies eventually authorized by the European Telecommunications Standards Institute to provide UMTS. In accordance with the European Community and Member States' WTO commitments, EC Member States should instead license and assign radio spectrums to the maximum number of service providers without regard to technology, based on the third generation standards that have emerged from industry-led negotiations in the International Telecommunication Union (ITU). (More details on 1999 developments are provided in the Telecommunications section of Chapter VI.)

Europe is in the process of implementing wide-ranging liberalization in its telecommunications services market. The European Community and Member States, with limited exceptions, committed to provide market access, national treatment, and fair regulatory practices as part of the WTO Basic Telecommunications Agreement. Greece, Ireland, Portugal, and Spain made subsector-specific reservations in the WTO agreement, mirroring derogations granted under EU law that permit an extra one to five years before the introduction of competition. Ireland and Spain abandoned these derogations and, as of December 1, 1998, opened their markets to full competition.

The record of implementation under the agreement so far is mixed. Many Member States have begun licensing new entrants, and have begun taking the steps necessary to compel former monopolies to meet pro-competitive obligations set forth in the WTO Agreement. However, some governments have been slow to adopt or put in place the legislative and regulatory mechanisms necessary to implement EU directives. The European Commission's competition directorate, formerly DG-IV, has taken an active stance in bringing actions for noncompliance with EU directives in order to compel implementation.

4. Monitoring of the Large Civil Aircraft Agreement

The United States held formal consultations with the European Commission in March 1999 under the terms of the 1992 U.S.-EU Agreement Concerning the Application of the WTO Agreement on Trade in Civil Aircraft on Trade in Large Civil Aircraft. The Agreement established special limits governing government support to large civil aircraft of 100 seats or more. At the March 1999 meeting, the parties exchanged information under the Agreement's transparency provisions on direct and indirect government support and discussed current developments with respect to government involvement in large civil aircraft manufacture and marketing, such as government launch aid for new Airbus aircraft. The United States made proposals for improving the implementation of the Agreement with respect to transparency and for progressively reducing government support as called for by the Agreement. However, no common basis was found for making progress.

5. EU Banana Regime

In 1997, the United States won two WTO proceedings (an independent WTO panel and the WTO Appellate Body) against the EU's discriminatory banana regime, which has been in effect since 1993. The WTO found that the EU had violated numerous provisions of the GATT and GATS. The WTO determined that the EU had deliberately confiscated a major share of the banana business developed by United States and Latin American companies and transferred it to EU companies and EU domestic banana growers. The WTO also determined that the EU unfairly restricted imports of bananas grown in Latin American countries compared to imports from the EU's former colonies.

In 1999, the United States won a WTO arbitration that determined that the EU banana regime is hurting the U.S. economy by over $191 million each year – i.e., over $1.3 billion since 1993 – and

authorized U.S. retaliation, namely imposing 100 percent duties on selected products we import from the EU. The United States took this action after nearly a decade of trying to convince the EU to honor its international trade commitments and after the EU had lost two cases in the GATT.

The WTO rulings against the EU are a victory for U.S. exporters of services and agricultural products. The EU cannot impose discriminatory laws against U.S. service providers (e.g., wireless communication, delivery services) without running afoul of WTO rules. The EU cannot erect agricultural barriers that treat U.S. exports differently than those from other countries without violating its WTO obligations.

U.S. policy consistently has been to press the EU to adopt a WTO-consistent banana regime that also enables the vulnerable Caribbean countries to continue exporting their bananas. U.S. officials have presented the EU several proposals that would do just that, and have coordinated these views with Latin American countries involved in this dispute. The Caribbean countries themselves recently submitted a proposals to the EU that would achieve these twin goals. The United States has endorsed the Caribbean proposal; the EU has not. The United States will continue to press the EU to comply with its WTO obligations, including by intensifying on-going negotiations with the Commission, consultations with EU Member States, and statements in the WTO Dispute Settlement Body.

6. Approval of Biotechnology Products in the EU

EU legislation covering biotechnology has proven to be unpredictable, cumbersome, and non-transparent, and the EU's approval system has ceased to function. While in the past the EU approved several U.S. agri-biotech products, none has been approved since April 1998. In June 1999, some of the EU's Environmental Ministers declared a moratorium on new approvals of agri-biotech products until amendments are completed to the EU's Directive 90/220, which governs approval of agri-biotech products. The United States has lost $200 million annually in corn sales since 1998 because of the delay, and additional losses are possible in 2000 because of continued approval delays for other agri-biotech corn varieties.

The United States continues to press concerns about the EU's regulatory processes for approving agri-biotech products and is continuing a dialogue with the EU on these issues. Both sides agreed in late 1998 to use the Transatlantic Economic Partnership to set up a Biotechnology Group to identify and address differences in regulatory processes that delay the approval process in the EU. This Group met periodically during 1999 and will meet again in the spring of 2000. In addition, President Clinton and EU Commission President Prodi agreed to a high-level dialogue to try to address a wide range of issues involving this technology. These senior officials have met twice and plan to meet again in March and April, and regularly thereafter to address these issues, including market access obstacles. U.S. agencies are developing proposals to overcome difficulties in the EU's approval process.

7. Ban on Growth Promoting Hormones in Meat Production

The United States won two WTO proceedings against the EU's ban on U.S. beef, which it imposed due to the use of certain growth promoting hormones in livestock production. Because the EU has insisted on maintaining its 1989 ban on U.S. beef – despite years of international scientific evidence indicating use of the hormones in questions presented no health risk – in 1996 the United States initiated formal WTO dispute settlement proceedings with the EU. In June 1997, an independent WTO panel found in favor of the United States on the basis that the EU's ban on imported meat from animals treated with certain growth-promoting hormones is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary

and Phytosanitary Measures (SPS Agreement). In particular, the panel report affirmed that the EU's ban is not based on a scientific risk assessment. In January 1998, the WTO Appellate Body upheld the panel's finding that the EU's ban on imported meat from animals treated with certain growth-promoting hormones is inconsistent with its obligations under the WTO SPS Agreement.

In 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with the WTO rulings by the WTO-mandated deadline of May 13, 1999. In July, the United States suspended concessions on $116.8 million of U.S. imports from the EU after receiving WTO authorization. The U.S. action involved increasing duties to 100 percent on imports of certain products from the EU.

The United States has proposed to the EU ways to provide access for U.S. beef, including labeling U.S. beef and expansion of the EU's non-hormone beef quota, as a temporary measure while the EU is taking the necessary steps to comply with the WTO. U.S. and EU officials are assessing whether the latter approach is feasible; if so, negotiations would begin in the spring of 2000.

8. Veterinary Equivalence

As a part of the Single Market initiative, the EU harmonized its animal and public health standards among Member States. In harmonizing these standards, the EU introduced new import controls for animal and animal products that threatened to disrupt U.S. exports to the EU. On April 30, 1997, USDA Secretary Glickman announced that the United States and the European Union had reached an agreement on an overall framework for recognizing each other's veterinary inspection systems as equivalent. The agreement is expected to open new opportunities for red meat exports and preserve most pre-existing trade in products such as pet food, dairy and egg products. Without this agreement, U.S. exports of some products, including egg products and dairy products, would have been blocked from the EU market unless U.S. industries invested in costly adjustments to their facilities to comply with each EU internal market requirement. The agreement was signed on July 20, 1999 and became effective on August 1. The two parties are now consulting on ways to implement the agreement, which covers more than $1.5 billion in U.S. animal and animal product exports to the EU and an equal value of EU exports to the United States.

While conditions for trading poultry and poultry products will be less restrictive under the agreement, U.S. poultry plants using certain anti-microbial treatment are not able to ship to the EU. The EU will not accept our use of certain anti-microbial treatments such as chlorine despite the fact that such treatments are an important element in modern poultry and red meat processing. The United States continues to explore ways of resolving this issue in connection with its overall review of implementation of the Equivalence Agreement.

9. EC Communications on Food Safety and the Precautionary Principle

In January and February 2000, the European Commission (EC) published two papers: "White Paper on Food Safety" and " Communication on the Precautionary Principle."

The paper on food safety describes a new European Food Authority to be established in 2002. Although it will lack regulatory authority, it will provide scientific advise to the EC and the European Parliament by virtue of its analysis. The United States plans to review this new institution to identify new opportunities to exchange experiences and information on the application of science-based approaches to assure food safety.

The communication on the precautionary principle is a document purporting to define the concept of the "Precautionary Principle" (i.e., the idea that scientific uncertainty should not keep a country from exercising precaution to protect the environment, human, animal and plant health and

life). The purpose of the document is to inform all interested parties on how the EC intends to apply this concept and to establish guidelines for the use of its version of the principle.

During 1999, precaution as a topic has been under discussion in numerous international fora, including the Codex Committee on General Principle, the Codex Committee on Food Import and Export Inspection and Certification Systems and the Organization for Economic Cooperation and Development ad hoc Group on Food Safety. This international dialogue is expected to continue well into 2000. The United States plans to review the EC's perspective on this important, complex topic, including its implications for a new European Food Authority.

The United States understands the European Commission's interest in developing guidance for its Member States on the uniform application of precaution across the European Union in matters relating to the protection of the environment, plant, animal and human health and life. But, like the EC, we agree that the term "precaution" must not be used as a guise for trade protectionism.

Given that regulators often have to act on the frontiers of knowledge and in the absence of full scientific certainty, precaution has been an essential element of the U.S. regulatory system for food and environmental safety, manufacturing, construction, and production, since before the turn of the last century. We believe that precaution must be exercised as part of a science-based approach to regulation, not a substitute for that approach, in order to provide the highest level of consumer and environmental protection.

We continue to seek ways to improve this protection – nationally and internationally.

10. Specified Risk Material Ban

On July 30, 1997, the European Commission adopted Commission Decision 97/534/EU, commonly known as the Specified Risk Material (SRM) ban. However, the decision has not been implemented. The goal of the ban is to avoid health risks related to Transmissible Spongiform Encephalopathies (TSEs), such as, Bovine Spongiform Encephalopathy (BSE or "mad cow disease") or new variant Cruetzfeld-Jakob Disease (nvCJD). The ban prohibits the use of specified risk materials (defined as the skull, including the brain and eyes, tonsils, and spinal cord of cattle, sheep and goats aged over one year and the spleens of sheep and goats) in any products sold in the European market.

If implemented as currently written, the Decision could unnecessarily result in shortages of critical medications in Europe and cause significant disruption of international trade. The Decision threatens U.S. exports to the EU of pharmaceuticals, cosmetics, gelatin, tallow and its derivatives, pet food and many other food and consumer products. The estimated trade impact for the United States exceeds $4 billion in exports; sales of products manufactured in Europe by U.S. companies also may be affected. In addition to the trade impact, U.S. public health agencies are concerned that the measure would cause international shortages of needed pharmaceutical products containing gelatin and tallow, adversely affecting public health.

The United States continues to press the EU for an exemption from the SRM ban based on the fact that BSE does not exist in the United States, and that U.S.-sourced products are therefore safe. A new proposal was put forth by the Commission in December 1999, which would replace the prior SRM ban decision (97/534). The new decision does differentiate between high-risk and low-risk animal products and takes into account the level of BSE incidence in the Member State or third country of origin. The EU delayed implementation of its SRM ban several times with the most recent being to July 1, 2000. During these delays, the EU was working to amend the ban to avoid a public health crisis and unnecessary trade disruption.

11. Wine

U.S.-EU wine negotiations were successfully launched in 1999 following several years of discussions concerning various market access problems. The negotiations became possible when, in response to U.S. insistence, the EC Council in December 1998 approved an extension of the existing derogations for U.S. wine making practices for 5 years or until an agreement is reached, whichever comes first. EC Commission and United States' negotiators met three times in 1999, gaining valuable information about each other's regulatory systems for wine that will help them achieve a bilateral agreement. Negotiations will continue in 2000 with the next meeting planned for mid-March. The United States continues to be concerned about the EU's requirements for the review and approval of wine making practices, and has questioned the EU's export subsidies and subsidies to its grape growers and wine producers. A major EU concern is the use of semi-generic names on some U.S. wines. Other issues include tariffs, approval procedures for labels, the use of certain terms on labels, and import certification. The United States will continue in the negotiations to press the EU to give U.S. wine makers equitable access to the EU wine market.

E. Mediterranean/Middle East

Overview

U.S. trade relations with the countries of Northern Africa and the Middle East, while to date relatively modest, have considerable potential value in terms of both U.S. commercial and foreign policy interests. The U.S.-Israel Free Trade Agreement, together with the Trade and Investment Framework Agreements (TIFAs) established with several countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the development of intra-regional trade.

Highlights of the achievements of this Administration since 1993 include:

- *Extending the Benefits of Free Trade to the Palestinian Authority by Expanding the U.S.-Israel Free Trade Agreement.* In 1996, the Administration expanded the 1985 U.S.-Israel Free Trade Area Agreement with an Agreement on Trade in Agricultural Products that provides for improved market access for U.S. agricultural commodities. In 1998, the Administration succeeded in increasing the tariff-rate quota for U.S. in-shell almonds; facilitating the importation of U.S.-manufactured automobiles, and simplifying packaging and pricing procedures for U.S. exports to Israel. In 1996, the Administration strengthened trade and the peace process by extending duty-free treatment under the U.S.-Israel FTA to products from the West Bank and Gaza Strip. Under this arrangement, the United States has received assurances from the Palestinian Authority of reciprocal duty-free treatment of U.S. products entering those areas.

- *Promoting the Middle East Peace Process by Establishing Qualifying Industrial Zones (QIZ).* In 1998, the Administration passed legislation to designate the first of several industrial parks in Jordan, Israel and Egypt as a "Qualifying Industrial Zone" from which goods can enter the United States duty-free. By attracting Jordanian, Israeli and outside investors, these industrial zones are part of the Administration's broader efforts to bring peace to the Middle East, by encouraging greater economic cooperation and interdependence among countries in the region. The first QIZ in Jordan, Irbid, opened in 1998. The Administration continues to designate additional qualifying industrial zones, further increasing employment and investment,

and encouraging stability in a volatile region.

1999 Activities

With respect to the Mediterranean/Middle Eastern region, in 1999 we expanded and strengthened our bilateral and regional trade relationships with key partners Jordan, Morocco, Egypt and Turkey by negotiating bilateral Trade and Investment Framework Agreements (TIFA) with each. Each TIFA establishes a bilateral Trade and Investment Council that enables USTR-chaired representatives to meet directly with our counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment. In 1999, we further expanded the establishment of Qualifying Industrial Zones. Working closely with the Governments of Israel and Jordan, we succeeded in designating additional qualifying industrial zones in the region in order to help attract investment and strengthen economic integration in the region. In 1999, we designated the Industrial Park in Gateway, Al-Kerak Industrial Estate, Ad-Dulayl Industrial Park, and Al-Tajamouat Industrial City in Jordan as four additional qualifying industrial zones.

1. Qualifying Industrial Zones

On March 6, 1998, USTR designated an industrial park in the city of Irbid, Jordan as the first "Qualifying Industrial Zone" (QIZ) from which goods can enter the United States duty-free. This action was pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Israel and Jordan and Israel and Egypt. While so far Egypt has decided not to take advantage of this option, Israel and Jordan have moved ahead. By 1999, four zones had been designated as qualifying industrial zones, from which goods produced through Israeli-Jordanian cooperation can enter the United States duty-free. These QIZs support the Administration's overall goal of encouraging inter-regional cooperation. President Clinton issued a November 1996 proclamation delegating the authority to designate qualifying industrial zones to the U.S. Trade Representative and providing duty-free treatment to products of the West Bank and Gaza.

2. Trade and Investment Framework Agreements

In 1999, the Administration negotiated three Trade and Investment Framework Agreements with key regional partners, Egypt, Jordan, and Turkey and began negotiations with Tunisia. An earlier TIFA with Morocco was signed in 1995. The Administration inaugurated successful biannual Trade and Investment Council talks with the Government of Egypt and annual talks with the Government of Jordan in 1999 to review bilateral and regional trade and investment issues such as improving market access for U.S. industrial and agricultural products, improving intellectual property rights protection, and promoting duty-free e-commerce. The United States also negotiated a Trade and Investment Framework Agreement with Turkey in September 1999, further expanding our bilateral relationship and strengthening our regional approach. We expect to have our first meeting in March 2000.

3. WTO Accession

The Administration supported Jordan's successful accession to the WTO in 1999. Negotiations with Saudi Arabia and Oman on their accession to the WTO continue. In both accession negotiations, the Administration continues to insist on entry based on implementation of WTO provisions upon accession and commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

4. Intellectual Property Rights

Intellectual property rights protection remains a leading Administration priority in the

Mediterranean region. Because of continuing concerns with Israeli efforts to reduce and eliminate piracy of intellectual property, on May 1, 1999, Israel remained on the "Special 301 Priority Watch List." Egypt, Turkey, and Kuwait also are on the Priority Watch List; while Lebanon, Oman, Qatar, Saudi Arabia, and the UAE are on the Watch List. Jordan, Yemen, and Bahrain were removed from the list in recognition of their efforts.

F. Central Europe and the Newly Independent States

Overview

The United States has actively supported political and economic reforms in Central Europe and the Newly Independent States (NIS) of the former Soviet Union. The United States continues to provide financial, technical, and administrative assistance designed to support movement within these countries toward democracy and market economies. A primary focus of U.S. efforts has been to construct a framework for the development of strong trade and investment links between the United States and Central Europe and the NIS. This framework includes negotiating trade agreements to extend Normal Trade Relations (formerly referred to as "most-favored nation" or "MFN") tariff treatment to these countries and to enhance intellectual property rights (IPR) protection; extending Generalized System of Preferences (GSP) benefits to eligible countries; encouraging accession to the WTO; and negotiating bilateral investment treaties to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures.

Highlights of the achievements of this Administration since 1993 include:

- *Promoting Stability and Economic Reform in Central Europe, Russia and the other Newly Independent States.* The Administration from its start in 1993 to the present has worked bilaterally and multilaterally to promote economic reform and cement democratic institutions in order to ensure a permanent end to the Cold War. Thus, it has sought to develop strong, healthy trade and investment relations with the countries of Central Europe and Eurasia. Bilaterally, the Administration has negotiated trade agreements and investment treaties throughout Central Europe and Eurasia. These agreements have led countries of the region to take key steps in liberalizing their trade regimes and removing barriers to investment. In addition, the Administration has encouraged these countries to join the WTO and to take on obligations to keep their markets open. Since 1993, eight countries in the region have become members of the WTO and another 14 states – including Russia and Ukraine – applied for WTO membership. Albania, Croatia and Georgia are expected to join the WTO in 2000.

- *Significantly Improving the Protection of Intellectual Property Rights in Central Europe.* The Administration has vigorously sought to upgrade the level of protection for intellectual property rights in Central Europe and Eurasia. The United States signed seven bilateral intellectual property right agreements in the region, including, with the Baltic states (1994), Hungary (1993), and Croatia (1998). These agreements require the introduction of domestic legislation and the joining of international conventions that will provide adequate and effective protection for copyrights, including computer software, patents, trademarks, and trade secrets. Further, the Administration persuaded Bulgaria in 1998 to close down pirate CD-production facilities, which the U.S. copyright industry estimated resulted in around

$200 million a year in lost revenues. Overall, these countries have made great strides in improving the level of protection for intellectual property rights since 1993, when they generally had woefully inadequate legislation.

- *Ensuring Fair Competition in the International Commercial Space Launch Market.* The Administration negotiated bilateral agreements with Russia (1993) and Ukraine (1996) setting out conditions under which Russian and Ukrainian commercial space launch services providers could participate in the international commercial space launch market, so that the international market was not disrupted by unfair competition (the vast majority of commercial satellites launched in this market are U.S.-built and require U.S. government authorization for export to other countries for launch). The agreements contain requirements related to the number of commercial launches these countries can make while the agreements remain in effect as well as the terms (including price) Russian and Ukrainian launch providers can offer their customers.

1999 Activities

In 1999, most Central European and Newly Independent States (NIS) countries overcame significant impediments to make progress in their efforts to develop vibrant market-based economies. Much of the region suffered substantial economic hardship in 1999 primarily stemming from the financial crisis in Russia and the economic slowdown in the region's leading trade partner, the European Union. Furthermore, the war in Kosovo seriously disrupted trade and economic development throughout the Balkans. Since the formal dissolution of the Soviet Union at the end of 1991, each of the new independent republics has also been working towards the goal of developing market-based economies; however, progress in some of these countries is limited. The nature of the reforms adopted and the speed with which they are being implemented varies considerably from country to country.

Against this backdrop, USTR undertook a number of efforts in 1999 to stabilize and enhance U.S. trade ties with Central European/NIS. We negotiated an increase in the number of launches to geo-synchronous Earth orbit permitted to Russian space launch services providers under the 1993 Commercial Space Launch Agreement. We drafted legislation, entitled the "Southeast Europe Trade Preference Act," which was transmitted to Congress in November. This bill is an integral part of the United States' commitment to promote economic and political stability in this war-torn region. The legislation would provide the authority to establish duty-free treatment for certain imports from the Balkans region for a five-year term. In the agriculture area, the Polish Government, responding to massive farmer protests, proposed to exercise its right to raise applied tariff rates on agricultural goods to the much higher bound rates. Such a step could have closed off one of the United States largest agriculture exports markets in Central Europe and Eurasia, which accounted for over $120 million of exports a year. Heavy and sustained U.S. pressure combined with opposition from the European Union convinced the Poles to abandon this proposal.

We also in 1999 assisted in making substantial progress in efforts to integrate the countries of Central Europe and Eurasia into the global economic system through WTO membership. In 1999, Latvia and Estonia became WTO members; they have a combined GDP of more than $10 billion. Also, we contributed to completing negotiations with Albania, Croatia and Georgia, which will be the first Balkan countries and only the second country from the Newly Independent States to join the WTO. These countries, which have a combined GDP of over $20 billion, are expected to join the WTO in 2000. Finally, we

played an instrumental role in bringing to closure Jordan's WTO accession.

United States efforts to address specific trade issues and problems in the Europe and Mediterranean region are described below:

1. Normal Trade Relations Status

All of the Central European countries, except Serbia-Montenegro, and all of the NIS countries receive NTR tariff treatment. As part of U.S. sanctions policy, the President revoked NTR from Serbia-Montenegro. While certain sanctions against Serbia-Montenegro were lifted in 1996 pursuant to the peace accords negotiated in Dayton, Ohio, NTR tariff treatment was not restored.

The United States has some form of trade agreement with all of the Central European and NIS countries. In addition to these general trade agreements, the United States has concluded a variety of trade agreements concerning specific product areas with various Central European countries and the NIS, such as on firearms with Russia, textiles with Romania and Macedonia, poultry with Poland and Russia, and space launches with Ukraine and Russia (see below).

Under Title IV of the Trade Act of 1974 (the Jackson-Vanik provisions), the President is required to deny NTR tariff treatment to any non-market economy that was not eligible for such treatment and that the President determines denies or seriously restricts or burdens its citizens' right to emigrate, unless the President determines that a waiver of the requirement will substantially promote the legislation's objectives, or has reported to Congress that an affected country complies fully with the legislation's emigration requirements. In addition, the Jackson-Vanik provisions require affected countries to have a trade agreement with the United States, including certain specified elements. Title IV applies to Russia, Ukraine, the other ten NIS republics and Albania within the region. In the region, the President has determined that Albania, Russia and all of the other NIS except Belarus are in full compliance. Belarus continues to receive NTR tariff treatment under annual waivers. Congress must enact a law to terminate application of Title IV to a country.

In December 1991, Congress confirmed that Title IV no longer applies to Estonia, Latvia, and Lithuania. Pursuant to specific legislation, the President also terminated application of Title IV to the following countries and accorded them unconditional NTR status: the Czech and Slovak Federal Republic (now the Czech Republic and Slovakia -- April 1992), Hungary (April 1992), Bulgaria (September 1996), and Romania (November 1996). Title IV never applied to Poland or the former Socialist Federal Republic of Yugoslavia. As of January 1999, legislation to permanently remove the Kyrgyz Republic and Albania from application of Title IV has passed the Senate and is awaiting passage by the House of Representatives.

2. Intellectual Property Rights

As part of the effort to ensure adequate and effective protection of intellectual property rights, the United States has concluded bilateral agreements covering IPR protection throughout Central Europe and the NIS. The IPR provisions are typically contained in either a bilateral trade agreement or a bilateral investment treaty or, less frequently, in a stand-alone bilateral IPR agreement. Further, all the countries in the region that are members of the WTO are required to afford the protections specified in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The United States has worked closely with countries in the region to improve the level of IPR protection and has provided significant technical assistance in this regard. During the 1990s, customs and law enforcement authorities throughout Central Europe and the NIS made slow progress in improving their enforcement efforts. Consequently, piracy remains a serious problem.

Moreover, Russia, Ukraine and many of the NIS countries still have not fully implemented the IPR provisions of their bilateral agreements; the United States continues to work with them to bring them into compliance. Also, USTR has consulted with many of the WTO members in the region to help them prepare to meet the TRIPS obligations that entered into force on January 1, 2000 for developing countries and countries whose economy is in transition. IPR issues in four countries merit special mention.

a. Ukraine

Ukraine has made significant progress in enacting IPR legislation and joining key IPR international conventions since gaining its independence in 1991. It ratified the Geneva Phonogram Convention in 1999. However, major deficiencies in the IPR regime continue, especially in the area of enforcement, which remains weak and sporadic. Piracy of U.S. films, videos, sound recordings, and computer software is widespread. Most urgently, several plants that produce unauthorized optical media products (CDs and CD-ROMs) have sprung up in Ukraine. These plants export their pirated products to other countries in Europe, resulting in large estimated lost revenues for the U.S. recording industry. In response, USTR in April 1999 elevated Ukraine to the Special 301 "Priority Watch List" and held high-level consultations in December with Ukrainian authorities about addressing this problem. Re-elected President Leonid Kuchma and other key Ukrainian officials have expressed a willingness to tackle this problem. Other problems include registration and protection of trademarks and the need for Ukraine to provide protection, as required by the bilateral trade agreement, to pre-existing U.S. copyrighted works and sound recordings still under protection in the United States. Another major deficiency is the lack of authority on the part of Ukrainian Customs for border enforcement.

b. Bulgaria

In 1999, Bulgaria successfully turned around its serious problem with the production and export of pirated optical media. In January 1998, USTR elevated Bulgaria to the Special 301 "Priority Watch List" during an out of cycle review because of its failure to adequately combat this piracy. In consultation with U.S. officials and U.S. industry, Bulgarian authorities undertook a series of strong enforcement measures to reduce significantly the production and export of pirated optical media. Because of these measures, USTR was able to move Bulgaria to the Special 301 "Watch List" in November 1998 and to remove it from all Special 301 lists in April 1999.

c. Poland

Poland has a WTO TRIPS obligation to provide by January 1, 2000, fifty-year protection for sound recordings. The Polish Government submitted draft legislation in 1999 to Parliament that would provide such protection. Although Poland failed to meet the deadline for enacting such legislation by the end of 1999, the Polish Government predicts that the legislation will be passed in 2000.

d. The Russian Federation

Russia has enacted comprehensive laws to protect IPR, but certain major deficiencies remain. Most notably, enforcement of IPR remains a pervasive problem. The prosecution and adjudication of intellectual property cases remains weak and sporadic, there is a lack of transparency, and a failure to impose deterrent penalties. Customs administration also needs significant strengthening. Piracy of U.S. films, videos, sound recordings, and computer software remains pervasive. Russia has yet to provide protection, as required by our bilateral trade agreement, to pre-existing U.S. copyrighted works and sound recordings still under protection in the United States. Some U.S. companies have also had difficulty registering well-known marks, and trademark infringement is reportedly on the rise.

In April 1999, Russia was again placed on the Special 301 "Priority Watch List" because of these and other problems. In 1998, the U.S. Government began a U.S. Government-wide IP law enforcement technical cooperation program with Russia which was proposed as part of the U.S.-Russia Joint Commission chaired by Vice President Gore and the Russian Prime Minister. Since 1998, this group has intensified technical assistance on both enforcement and WTO requirements. Training for 12 key Moscow-based prosecutors took place in Washington during the week of July 26, 1999 with positive results. In addition, the U.S.-Russia Bilateral Intellectual Property Working Group met in March 1999 and engaged Russian senior policy and technical level officials on key issues. On enforcement, the GOR has been able to show increases in investigations, but no progress in prosecution of cases.

3. Generalized System of Preferences

Under the GSP program, developing countries are eligible to receive duty-free access to the U.S. market for many items, if it is determined that these countries meet certain statutory criteria. In addition, a country must first have NTR status to apply for GSP treatment. Most Central European countries have been beneficiaries of this program since the early 1990s. Until 1993, however, most of the NIS were not eligible to receive GSP benefits because they were considered successor states of the former USSR, and therefore were prohibited by statute from receiving GSP benefits. The prohibition against granting GSP to the successor states was removed as part of the 1993 Budget Act. By the beginning of 1996, all of the former Soviet republics that had requested beneficiary status received GSP, although Azerbaijan, Tajikistan, and Turkmenistan have never requested GSP and therefore do not benefit from the program. In late 1997, Georgia petitioned for eligibility as a GSP beneficiary country; that petition is under review. Estonia, Latvia, and Lithuania are not considered successor states of the USSR, and therefore became beneficiaries of the GSP program in February 1992.

I n 1997 the AFL/CIO petitioned USTR to remove Belarus from eligibility for the GSP program due to violation of worker rights. A public hearing was held in November 1997 as part of USTR's ongoing review. In December 1999, after affording the Government of Belarus ample time to improve its worker rights situation and after seeing no progress on this front, the U.S. Government decided to begin the process of removing Belarus from the GSP program.

In 1997, the Government of Russia petitioned the U.S. for duty-free treatment under the GSP program for exports of both unwrought titanium and wrought titanium. On July 1, 1998 President Clinton granted the request on wrought titanium. The petition on unwrought titanium was "pended" based on the situation in the U.S. titanium industry. Russia has expressed a continuing interest in a GSP designation for unwrought titanium; however, the domestic industry faces a situation of weakened demand and depressed prices. In late 1999, USTR wrote to the Government of Russia proposing that the petition on unwrought titanium be withdrawn.

The GSP legislation contains a provision that makes a country ineligible for GSP benefits if it affords preferential treatment that has a significant adverse effect on U.S. commerce to the exports of a developed country. The U.S. Government has been consulting with the Central European countries about addressing the problem of preferential tariffs given EU exporters vis-a-vis U.S. exporters pursuant to their Association Agreements with the EU. (See section on EU Association Agreements and EU Membership below.)

4. The Southeast Europe Trade Preference Act

On November 12, 1999, the Administration transmitted a draft bill, the "Southeast Europe

Trade Preference Act" (SETPA), to Congress for its consideration. The SETPA would implement, in part, President Clinton's commitments to the countries of Southeast Europe pursuant to the Southeast Europe Trade Expansion Initiative announced at the Sarajevo Summit in July 1999. The SETPA would promote economic development and stability in Southeast Europe by increasing access to the U.S. market and facilitating regional investment. The SETPA, which is patterned after the Andean Trade Preference Act, would provide the authority to establish duty-free treatment of certain imports from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Romania, Slovenia, and the territories of Kosovo and Montenegro on the basis of specified criteria. Duty-free treatment under the SETPA would extend for a period of five years in order to provide investors adequate time to take advantage of the unilateral preferences that the program offers.

5. WTO Accession

Almost all of the Central European and NIS countries are members of or are in the process of acceding to the WTO. Bulgaria, the Czech Republic, Hungary, Poland, Romania, Slovakia, and Slovenia joined the WTO prior to 1999. In December 1998, the Kyrgyz Republic became the first NIS country to join the WTO. Latvia and Estonia joined the WTO in 1999, and Georgia will ratify its WTO accession package and become a member in early 2000. WTO accession working parties have been established for Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kazakhstan, Lithuania, Moldova, the Russian Federation (See section on Country Specific Issues below), Ukraine and Uzbekistan. The United States supports the accession of these countries into the WTO on commercial terms and on the basis of implementation of WTO provisions. WTO accession and the adoption of WTO provisions can be an important method of supporting economic reform. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in support of the WTO accession process. (See Chapter II for further information on accessions.)

6. Bilateral Investment Treaties

Bilateral Investment Treaties (BITs) protect U.S. investment abroad in countries where U.S. investors' rights are not protected through existing agreements such as our Treaties of Friendship, Commerce and Navigation. The United States has placed a priority on negotiating BITs with countries undergoing economic reform where we believe we can have a significant impact on the adoption of liberal policies on the treatment of foreign direct investment. They also lay the policy groundwork for joining the WTO. BITs provide that U.S. companies will be treated as favorably as their competitors (by providing the better of national or NTR treatment). In addition they: (1) establish clear limits on the expropriation of investments and ensure prompt, adequate, and effective compensation when expropriation occurs; (2) guarantee U.S. investors the freedom to transfer funds in and out of a country without delay, using a market rate of exchange; (3) restrict the ability of local governments to require inefficient and trade distorting practices by prohibiting performance requirements such as local content or export quotas; (4) give U.S. investors the right to submit an investment dispute with the Treaty partner's government to international arbitration; and (5) give U.S. investors the right to engage the top managerial personnel of their choice, regardless of nationality.

The United States has BITs in force with six NIS countries – Armenia, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, and Ukraine. Azerbaijan, Belarus, Russia, and Uzbekistan have also signed BITs with the United States, but the formal process of ratification has not been completed. Discussions for BITs are also underway with most of the other NIS republics.

In Central Europe, the United States has BITs in force with Albania, Bulgaria, the Czech Republic, Estonia, Latvia, Poland, Romania, and Slovakia. The BITs with Croatia and Lithuania have been signed but await ratification by both sides. In 1999, the United States held negotiations with Slovenia and will be working to conclude those negotiations this year.

7. Commercial Space Launch

The United States maintains agreements on commercial space launch services with both Russia and Ukraine. On September 2, 1993, Vice President Gore and Russian Prime Minister Chernomyrdin signed an agreement on Russia's participation in the commercial space launch market. The agreement gives Russia an opportunity for its space launch industry to participate in the international launch services market and offers Western satellite companies an additional source of competitive launch capacity. It also provides general rules of the road for fair competition in commercial space launches and requires Russia to charge prices comparable to those of Western launch providers for similar services during the period of its space launch industries' transition to market-based operations. As originally concluded, the agreement afforded Russia the opportunity to compete for contracts to launch up to eight commercial payloads to geosynchronous earth orbit (GEO) for international customers (in addition to the INMARSAT 3 satellite and three launches to low-earth-orbit for the Iridium system) between signature and December 31, 2000. On January 30, 1996, Vice President Gore and Prime Minister Chernomyrdin signed an agreement that amended the September 2, 1993, text to allow Russia the opportunity to launch up to 15 commercial payloads (in addition to INMARSAT 3) to GEO, with four more launches possible if future market demand proved more robust than anticipated. The amendments also gave Russia additional flexibility on pricing in exchange for greater transparency in price setting, and liberalize rules governing the launch of satellites to low-earth orbit.

In late 1998, the Administration informed the Russian Government that it could not foresee increasing the quantitative restriction on GEO launches until Russia showed greater cooperation in preventing the transfer of missile technology to nations such as Iran. By July of 1999, the Administration decided that Russian cooperation in the non-proliferation area was sufficient to permit an amendment to the agreement providing for an increase in the number of GEO launches from 16 to 20 (market demand had not developed to the point where the "conditional" increase of four launches mentioned above could be justified). The amendment permitting the increase of four launches became effective in late 1999.

On February 21, 1996, Vice President Gore and Ukrainian President Kuchma signed an agreement on Ukraine's entry into the commercial space launch market. The agreement with Ukraine is meant to serve the same basic function as the pre-existing agreements with China and Russia, and its provisions are broadly similar to those of the other two agreements. The agreement affords Ukraine the opportunity, between signature and December 31, 2001, to launch up to 16 commercial payloads to GEO for international customers (11 of which must be reserved for a joint venture involving a U.S. company). In addition, Ukraine will have the opportunity to launch up to four more commercial payloads (three of which must be reserved for a joint venture with a U.S. firm) to GEO if future market demand proves more robust than anticipated. The liberalized rules governing pricing and launches to low-earth-orbit contained in the China and amended Russia agreements are mirrored in the agreement with Ukraine. There was no need to revisit the terms of the agreement in 1999.

8. EU Association Agreements and EU Membership

The United States strongly supports the integration of the Central European countries into Western Europe. Ten Central European countries – all except some of the former Yugoslav republics – have concluded Association Agreements (now called Europe Agreements) with the EU. These Association Agreements are meant to set the stage for eventual full EU membership; they establish preferential trade relationships with the EU phased in over several years. When fully implemented, these agreements provide that tariff rates on virtually all industrial products will be reduced to zero and preferential rates and quotas will be established for many agriculture products. These countries' Most Favored Nation (MFN) tariff rates on industrial goods are generally higher, and the rates on agricultural goods are usually lower, than comparable EU rates. Consequently, U.S. exporters often face relatively high MFN tariff rates in contrast with the zero or preferential rates borne by EU exporters. Much of this tariff differential problem with respect to industrial goods will dissipate when the candidate countries join the EU and adopt its generally low industrial tariff rates.

In the interim period prior to these countries' accession to the EU, the United States is consulting with the Central European countries to address this tariff differential problem. In 1999, the United States held talks with Poland, the Czech Republic, Hungary, Slovenia and other candidate countries on this issue. Slovenia has announced a plan to lower its high MFN tariff rates down to the EU's over a three year period. Negotiations with Poland, Hungary and the Czech Republic are ongoing; talks on the tariff differential problem with the other candidate countries are set to be launched in 2000.

As part of the accession process, the candidate countries are harmonizing their laws and regulations to those specified in the EU's common legislative regime, the "acquis communautaire." Frequently, harmonization represents an improvement over the existing regimes in the candidate countries. In the case of audio-visual policy, candidate countries must harmonize their laws with the EU's Television Without Frontiers Directive, which establishes broadcast quotas for European and domestic production on television. This directive provides a country with flexibility in implementing the quotas. The United States in 1999 continued to work with the candidate countries to encourage them to include the flexibility option in their legislation.

The EU has not declared a target date for new members to join. The EU in 1999 conducted extensive accession negotiations with five of Central European countries (the Czech Republic, Estonia, Hungary, Poland and Slovenia). In December 1999, the EU Council at Helsinki announced plans to launch accession negotiations in 2000 with the other five Central and Eastern European candidate countries (Bulgaria, Latvia, Lithuania, Romania and Slovakia). The EU also will be conducting accession negotiations with Cyprus and Malta; it has announced that Turkey is a candidate for membership, but has not set a date for beginning accession negotiations. The EU probably will not take in any new members before 2003 and for some candidates membership may not come for many years later.

9. Country Specific Issues

The United States encountered or continued to have a number of country specific trade issues in the region, which were not described above. The major items are discussed below:

a. Russia: Aircraft Market Access

In 1996, the United States and Russia concluded a joint Memorandum of Understanding (MOU) that addresses U.S. concerns about access to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. Under the MOU, the Russian Federation

confirmed that it will become a signatory to the WTO Agreement on Trade in Civil Aircraft. In the interim, the MOU commits the Russian Federation to provide fair and reasonable access for foreign aircraft to its market. Russia agreed to take steps, such as the granting of tariff waivers and the reduction of tariffs, to enable its airlines to meet their needs for U.S. and other non-Russian aircraft on a non-discriminatory basis.

In consultations in 1998, the United States raised objections to the Russian Ministry of Economy's Resolution #716 which sets conditions for tariff waivers on imported aircraft. Among other things, the resolution requires Russian airlines to commit to acquire Russian-made aircraft equivalent to three times the amount of the duties waived, in order to receive tariff waivers for the import of foreign-made aircraft.

In 1999, informal consultations were held concerning tariff waivers for four Boeing B767 aircraft to be leased by Aeroflot and the application of Resolution #716. After a year's delay, tariff waivers for this transaction were granted on December 28, 1999. Aeroflot also agreed to acquire seven Russian-made Ilyushin IL-96-300 aircraft in addition to the imported Boeing aircraft. The United States continues to oppose this type of offset requirement.

Through 1999, Russian airlines have been able to import approximately 20 non-Russian aircraft under the MOU, the majority of which were of U.S.-origin. In accordance with the MOU, the Russian Federation also lowered tariffs on aircraft from 30 to 20 percent.

b. Russia: Potential Restrictions on Investment & Services Sectors

The United States was active in opposing proposed Russian legislation in two services sectors, tourism and insurance, which could potentially have deprived U.S. investors and services providers of meaningful market access. Following timely U.S. intervention, market-access restricting draft Amendments to Russia's Tourism Law, which was passed by the Russian Parliament in late 1998, were subsequently vetoed by Russian President Yeltsin. In addition, the U.S. Government expressed concern that draft amendments to the "Law on Foreign Investment in the Russian Federation," which passed the Duma and Federation Council in July 1998, would have restricted or prohibited foreign investment in a wide range of sectors, including tourism and insurance. These also were vetoed. In July 1999, the U.S. was successful in persuading President Yeltsin to veto a restrictive insurance bill which had passed the upper house of the Duma. An insurance law was passed by the Duma in October 1999 which contains some improvements but which also includes certain restrictions that the U.S. will seek to eliminate. In late 1999, a restrictive draft companion law to the Foreign Investment Law, which was passed in July 1999, entitled "On Bans and Restrictions on Foreign Investment into the Russian Federation," was passed by the Duma in first reading. While we have registered our concerns with an overall positive effect, forces in the Russian Parliament may still pursue similarly restrictive legislation. The United States will continue to monitor carefully legislative developments in these areas.

c. Russia: Product Standards, Testing, Labeling and Certification

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, we continue to urge Russia to bring its standards and certification regime into compliance with international practice. The Russian Government is now attempting to put in place the necessary legal and administrative framework to establish standards procedures and processes for certification and licensing of products in Russia in order to better align with WTO rules.

There has been some movement to eliminate duplication among regulatory agencies and to

clarify categories of products subject to certification. However, businesses are still experiencing difficulties in getting product approvals in key sectors. Manufacturer declaration of conformity is now feasible under Russian law, but is not applied in practice. In 1998, the Russian State Committee on Standards adopted a new nomenclature of goods subject to mandatory certification, effective January 1, 1999, and the Russian Government has been moving to revise problematic legislation, as provided under its Technical Barriers to Trade action plan.

Certification is a particularly costly and prolonged procedure in the case of telecommunications equipment. In many sectors, type certification or self-certification by manufacturers is currently not possible. Veterinary certification is often arbitrary and needs to be more transparent and based on science. Russian phytosanitary import requirements for certain planting seeds (notably corn, soybeans and sunflowers) appear to lack scientific basis and have blocked imports from the United States. Discussions to ease or eliminate burdensome Russian requirements are ongoing.

d. Russia: WTO Accession

Russia has been an observer in the GATT and WTO since 1990 (initially as the Soviet Union), and formally applied for accession to the GATT 1947 in 1993. Its request for WTO accession has been under discussion since 1995. The United States has strongly supported Russia's efforts to join the GATT and WTO, through active participation in the WTO Working Party established to conduct the negotiations and through technical assistance on how to move Russia's trade regime into conformity with WTO rules. In a series of Working Party meetings through December 1998, Russia described its trade regime and WTO delegations noted specific aspects of the trade regime that require legislative action to become compatible with the WTO. Russia also provided initial offers on goods and services market access, in 1998 and 1999 respectively. Bilateral discussions on these offers will continue in 2000. It is also expected that Russia will announce its strategy for legislative implementation of the WTO during the next Working Party meeting sometime during 2000. WTO-based reforms to Russia's trade regime will strengthen its ongoing efforts for broader-based market-oriented economic reform and can help Russia integrate more smoothly into the global economy. Adopting WTO provisions will give Russia a world-class framework for intellectual property protection, customs duties and procedures, and application of other requirements to imports that will encourage increased investment and economic growth. Completion of the accession negotiations will depend on how rapidly Russia implements WTO rules and moves to conclude negotiations on goods and services with current WTO members.

e. Poland: Phytosanitary Restrictions

Poland's zero tolerance for weed seeds in imports of grain and oilseeds significantly restricts U.S. agriculture exports to Poland. Several of the weeds included on Poland's quarantine list do not meet the international definition of a quarantine pest, and the United States has argued that these weeds should be removed from the list. Beginning in late 1998, the United States has held consultations with Polish officials both informally and under the auspices of the WTO Secretariat pursuant to Article 12 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The United States continues to press for Poland to remove these weeds from its quarantine list or, at least, to agree to a review of Poland's risk assessment by an independent panel of international experts. Also in 1999, the United States consulted with U.S. agriculture associations about additional steps to take, including the possibility of bringing a WTO dispute settlement case in 2000.

f. Poland: Proposal to Raise Agriculture Tariffs

The Polish Government in the second half of 1999 proposed to raise applied tariff rates on agricultural goods across the board to the generally much higher bound rates. The Polish agriculture sector had a difficult year due in large part to the collapse of the Russian export market and to a flood of EU subsidized farm products. Massive farmer protests throughout Poland forced the dismissal of the Agriculture Minister and led the government to pledge to take action. The United States strenuously opposed raising tariff rates and strongly urged the Poles not to take this step. The EU also voiced its objections to this proposal. The Polish Government in late December reconsidered and decided not to take this step. Instead, it decreed a very limited number of tariff increases, which should have little effect on U.S. exports.

g. Romania: Minimum Reference Prices

In 1998, Romania arbitrarily established minimum and maximum prices for imported meat, eggs, rice, sugar, fruits and vegetables, clothing, and footwear. Romania also instituted burdensome procedures for investigating import prices when the C.I.F. value falls below the minimum import price. This customs valuation regime appears inconsistent with Romania's WTO obligations, especially those under the WTO Agreement on Customs Valuation. In 1999, the United States raised this matter with the Romanian Government. Subsequently, the Agriculture Ministry signaled interest in dropping the use of minimum reference prices in customs valuation. The United States continues to press this issue and is considering the option of bringing a WTO Dispute Settlement case in the matter.

G. Western Hemisphere

Overview

The Western Hemisphere is the largest regional destination for U.S. merchandise exports, accounting for approximately 44 percent of total U.S. goods exports in 1999. Canada is our largest bilateral trading relationship in the world. Our two-way trade in goods with Canada exceeds that with the EU-15. More than a billion dollars a day in trade crosses our border with Canada. Mexico is our second largest single-country trading partner and has been the fastest growing major export market for goods since 1993, with exports up over 100 percent despite the 1994 peso crisis and the resulting economic contraction in Mexico. The NAFTA has fostered this enormous expansion in trade with our two immediate neighbors by opening markets for American goods and services and by establishing fair rules for competing with these two trading partners.

Elsewhere in the hemisphere, dramatic changes have occurred during the past decade. Many Latin American countries have restructured key sectors, enacted reforms, and increased transparency and competitiveness through economic liberalization. Although the Asian financial crisis did have significant adverse effects on most countries in Latin America, on the whole the governments have responded effectively. The strength of the U.S. economy has also helped foster recovery in Latin America. As a result, in most of the region the economic indicators point to stabilization and moderate growth for 2000. Therefore, the region should continue to offer a promising, market-oriented environment in which to do business. The United States will continue to encourage such reforms and to pursue the opportunities presented by dynamic hemispheric growth.

Highlights of the achievements of this Administration since 1993 include:

- *Solidifying the Trilateral Relationship of the US, Canada, and Mexico.* The

Administration completed negotiation of, and secured Congressional approval for, the North American Free Trade Agreement (NAFTA), which created the world's largest and most comprehensive free trade area, and is the first agreement to include penalties for the violation of environmental or labor laws. Since the NAFTA implemented, trade among the three signatories has expanded by more than 85 percent. Moreover, U.S. exports to Mexico have increased 100 percent. Mexico is the United States' fastest growing major export market and has become our second largest trading partner. The comprehensive nature of the NAFTA and its side agreements on labor and environmental cooperation are unprecedented and are generating more economic opportunities and a fairer trading environment for Americans in addition to encouraging improved protection for workers and the environment.

- *Advancing the President's Hemispheric Vision.* President Clinton and the 33 other democratically-elected leaders of the Western Hemisphere launched the negotiations for a Free Trade Area of the Americas (FTAA) which would eliminate tariffs and non-tariff barriers to trade in goods and services throughout the Hemisphere and establish a single set of rules for fair trade in the region. The negotiations are to be concluded by December 2004. Work has begun on draft chapters of the agreement, and the FTAA recently adopted a package of business facilitation measures to remove bureaucratic obstacles in the customs procedures of the 34 countries. The FTAA will be the first hemisphere-wide trade agreement and advances the President's vision for a stronger, more prosperous region.

- *Resolving Trade Issues with Our Largest Trading Parmer.* During the Clinton Administration, the United States has resolved several disputes with Canada through a combination of bilateral negotiations, GATT and WTO dispute settlement, and use of U.S. trade law, including Section 301. Among the issues on which we have reached agreements with Canada are: beer (1993), softwood lumber (1996), country music television (1996), agriculture (1998), dairy export subsidies (1999), magazines (1999), and sport fishing and tourism in the boundary waters (1999). We continue to work on issues of concern in agriculture, lumber, media industries, and intellectual property rights.

- *Promoting Intellectual Property Protection in the Western Hemisphere.* By working with the countries of the region to improve their intellectual property legislation and enforcement, the Administration has achieved substantial progress in protecting the fruits of U.S. inventiveness and creativity. Among the advances that have occurred in the hemisphere are: improved legislation in Brazil on computer software, copyrights, patents and trademarks; a comprehensive Enforcement Action Plan in Paraguay; a Plan of Action for enhanced enforcement in Peru; an intensified anti-piracy campaign in Mexico, as well as legislation to increase penalties and resources for enforcement; new IPR legislation in Ecuador, Honduras and Nicaragua; and improved enforcement in Panama.

- *Encouraging Reform and Liberalization in Mercosur.* The Common Market of the South, usually referred to as Mercosur, from its Spanish abbreviation, is the largest preferential trade agreement in Latin America. Consisting of Brazil, Argentina, Uruguay and Paraguay and

representing over half of Latin America's GDP, the Mercosur market represents nearly 39 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico. The Administration has continued to strengthen our trade relationship with this important group of countries and to encourage Mercosur to be a force for trade liberalization in the region and the world. The U.S. will continue to pursue vigorously its interests in Mercosur, particularly in areas such as: protection of intellectual property, fair treatment of U.S. products under these countries' trade remedy laws (e.g., footwear and textiles in Argentina, toys in Brazil), and curbing the use of trade-related investment measures in the automobile sector.

- *Enhancing Our Relationship with Chile.* On the occasion of the April 1998 State Visit to Chile, Presidents Clinton and Frei agreed to establish a bilateral consultative mechanism on trade and investment to enhance our engagement on a broad range of trade issues, including cooperation in the trade institutions that we have in common, i.e., WTO, FTAA, and APEC. Chile has consistently been a recognized leader of economic reform and trade liberalization in Latin America. It has aggressively pursued free trade and tariff-reducing agreements with its trading partners in the Americas and beyond and is implementing a five-year unilateral reduction of its unitary tariff.

- *Implementation of ATPA and CBI.* The Administration has implemented the Andean Trade Preferences Act (ATPA) and the Caribbean Basin Initiative (CBI) in a manner designed to promote sound trade policies and investment regimes and to prepare countries for the obligations necessary to establish the Free Trade Area of the Americas on a reciprocal basis. The ATPA provides reduced-duty or duty-free treatment to most imports from Bolivia, Colombia, Ecuador and Peru. It is helping the four beneficiary countries expand economic alternatives in their fight against drug production and trafficking. The Caribbean Basin Economic Recovery Act (CBERA), also known as the Caribbean Basin Initiative (CBI), was enacted by Congress in 1984 to promote the economic revitalization and export diversification of the Caribbean Basin. The program allows the President to grant unilateral duty-free treatment on eligible articles from beneficiary countries. On October 1, 1999, the Administration submitted to Congress the Third Report on the Operation of the Caribbean Basin Economic Recovery Act (CBERA). The report, which is available on USTR's homepage at www.ustr.gov, concludes that the program has had a very positive impact on both U.S. and CBI country exports and has contributed to export diversification in beneficiary countries. The report also finds that the CBI program has helped to improve protection of worker rights and intellectual property in beneficiary countries. In the fall of 1999, both the House and Senate took up legislation to enhance CBERA benefits. The Administration is committed to continuing to work with both Houses of Congress to obtain passage of CBI enhancement in 2000.

1999 Activities

The Western Hemisphere is the largest regional destination for U.S. merchandise exports, accounting for approximately 44 percent of total U.S. goods exports in 1999, the same share as in 1998. During 1999, U.S. exports to Canada and Mexico, with which the United States has a free trade agreement, increased by 6.1 percent and 10.3 percent respectively, while U.S. exports to

the rest of Latin America and the Caribbean declined by 12.9 percent. This decrease was caused by a decline in growth rates in the region due to global market turbulence, as well as recent currency devaluations in several of the larger Latin American economies. However, on the whole, the governments have responded effectively to the challenges produced by the Asian economic crisis. Many Latin American countries have over the last decade restructured key sectors, enacted reforms, and increased transparency and competitiveness through economic liberalization. The strength of the U.S. economy has also helped foster recovery in Latin America. As a result, in most of the region the economic indicators point to stabilization and moderate growth for 2000. Therefore, the Latin American region continues to be an attractive market for U.S. exports and investments. The region should continue to offer a promising, market-oriented environment in which to do business. The United States will continue to encourage such reforms.

This economic restructuring, which characterized the region over the past decade, has enabled the United States to pursue the opportunities presented by dynamic hemispheric growth. At the 1994 Summit of the Americas in Miami, the 34 democratically-elected leaders of the region agreed to create a comprehensive Free Trade Area of the Americas (FTAA) by 2005. At the April 1998 Santiago Summit the hemispheric leaders formally initiated the FTAA negotiations, based on the March 1998 San Jose Declaration of the hemisphere's trade ministers. The United States has played a key role in the FTAA process. In fulfilment of the Miami Summit's objective of concrete progress in constructing the FTAA by the end of the century, at the November 1999 FTAA Ministerial in Toronto the Ministers announced agreement on a set of important business facilitation measures by FTAA countries for implementation during 2000.

Concurrent with the FTAA process, many countries have sought to deepen and expand their trading arrangements. To give just a few examples, in 1999 Mexico concluded free trade agreements (FTAs) with the EU and with Uruguay, Chile signed an FTA with several Central American countries, and Brazil reached a trade preference agreement with the Andean Community. Mercosur also is slated to begin FTA discussions with the European Union (EU). Chile now has FTAs with every major economy in the hemisphere with the exception of the United States.

Meanwhile, the United States continues to work toward building the FTAA in a manner consistent with U.S. interests and with the objective of encouraging hemispheric growth. President Clinton demonstrated his commitment to the Americas through again traveling to the region, this time to Mexico in February 1999 and Guatemala in March 1999. By pursuing the FTAA, and by vigorously enforcing the bilateral and multilateral agreements that the United States maintains in the region, in particular the North American Free Trade Agreement (NAFTA), the Administration seeks to expand economic opportunities for the United States in the Americas.

1. Canada

Canada is our largest trading relationship and one of the most vibrant, with U.S. exports of goods to our northern neighbor up more than 83 percent since 1992. This is particularly impressive given the very large base from which this growth has occurred. Our two-way trade in goods with Canada exceeds that with the EU-15. More than a billion dollars a day in trade crosses our border with Canada. The U.S.-Canada Free Trade Agreement and the subsequent NAFTA have helped to foster this trade expansion. At the same time, this highly productive trade relationship has had specific areas of difficulty, some of which are longstanding. The Administration is pleased that we have been able to make progress in some of

the most traditionally difficult areas with Canada over the last year and will pursue more progress in 2000.

a. Discriminatory Magazine Practices

In 1997, the United States successfully challenged Canada's protectionist magazine regime in the World Trade Organization. A WTO panel found three components of Canada's magazine polices to be illegal under the *General Agreement on Tariffs and Trade* (GATT), a key trade agreement administered by the WTO. On October 30, 1998, Canada terminated its longstanding ban on split-run imports, eliminated the 1995 special excise tax on split-runs, and modified its discriminatory postal rates and postal subsidies for magazines. However, Canada introduced Bill C-55, which simply accomplished the same result as the import ban and excise tax, and would have kept U.S. and other foreign-produced split run magazines from competing in the Canadian market. Bill C-55 would have prohibited U.S. and other non-Canadian publishing companies, on pain of criminal fines, from using the magazines they produce to advertise directly to Canadian readers.

On May 29, 1999, the United States and Canada reached an agreement resolving the dispute over Canada's discriminatory magazine practices that will significantly increase market access for U.S. companies. As a result of the agreement, the scope of Bill C-55 was narrowed from covering all foreign-owned publications to covering only foreign-owned magazines exported to Canada which carry advertisements directed primarily at the Canadian market over the approved level of advertising space. Initially, 12 percent of the total advertising space in foreign magazines exported to Canada could contain advertisements directed primarily at the Canadian market without penalty under Bill C-55. Under this agreement, the permissible level increases to 15 percent after 18 months and further increases to18 percent after 36 months.

Section 19 of the Canadian Tax Act will be amended this year to include tax deductions for advertisers in split-run magazines regardless of the nationality of the publisher or place of publication. Section 19 will also be amended to allow advertisers one-half of the standard business deduction if original Canadian content is less than 80 percent of the total non-advertisement content in the magazines. The full deduction remains available to advertisers in magazines with 80 percent or more original Canadian content. The de-linking of the tax deduction from the "content" requirement is beneficial to U.S. firms.

The agreement also liberalizes Canada's foreign investment restrictions in the magazine publishing sector. Prior to this agreement, Canada did not permit majority foreign ownership of a magazine publisher. Now, foreign equity up to 51 percent is permitted, and 100 percent foreign equity will be permitted by the end of May 2000. Investments, however, will continue to be subject to Canada's net benefits review.

Finally, the agreement also includes a consultation clause that permits annual consultations on any matter that may affect the agreement. The United States will pursue bilateral consultations with Canada this year.

b. Discriminatory Measures Against Sport Fishing and Tourism Services

The Province of Ontario had sought to induce U.S. recreational fishermen to use Ontario resort facilities and services (lodging, fishing guides, boats, etc.) by limiting the amount of certain fish they could catch and keep in certain lakes that straddle the Minnesota-Ontario border, unless these same fishermen lodged or otherwise spent money in Ontario. These restrictions, applied to the 150 miles of border, unfairly discriminated against U.S. resorts, fishing guides, and other businesses tied to sport fishing along the Minnesota-Ontario border. On April 29, 1999, USTR initiated a Section 301 investigation pursuant to a petition filed by the Border Waters

Coalition. After several sessions, including consultations under Article 2006 of the NAFTA, Ontario revoked its "stay overnight" requirement and other discriminatory measures. On October 29, 1999, the Province of Ontario further announced that it had revoked other provincial measures that were under investigation in this matter. On November 4, 1999, the Government of Canada agreed that the immigration measure under investigation as a result of this dispute would be reviewed by the NAFTA Temporary Entry Working Group (TEWG) thereby ending the Section 301 investigation. The elimination of the problematic practice in Ontario coupled with the constructive approach to the work permit issue for fishing guides in the TEWG resulted in the resolution of the dispute on November 5, 1999. USTR will continue to monitor the situation pursuant to Section 306 of the Trade Act in addition to pursuing the work permit issue in the TEWG.

The Administration's handling of this matter is an example of how open markets and environmental concerns can be pursued concurrently. Unfair commercial barriers were eliminated while the United States also encouraged sustainable fisheries in the border lakes. Minnesota state officials, responsible for trade and economic development and natural resources, participated at every stage of the consultations and were part of the negotiating team with Canada. This was also a good example of how cooperative working relationships among federal and state officials can successfully advance U.S. trade and environmental concerns.

c. British Columbia's Timber Pricing Practices

On August 26, 1999, USTR announced that the United States and Canada agreed to a settlement resolving U.S. complaints over a major timber pricing (i.e., stumpage) reduction that British Columbia put into effect in 1998. The United States considered the stumpage reduction implemented by British Columbia to be in violation of the 1996 U.S.-Canada Softwood Lumber Agreement (SLA). Shortly after the reduction took effect, the United States brought the dispute before an arbitration panel under the SLA, arguing that the B.C. timber price reduction undermined the effectiveness of the export fee system under the SLA.

This settlement will ensure that the export fee system works as intended and will serve to offset British Columbia's 1998 government-mandated lumber price reduction over the past year. The settlement calls for Canada to impose a new, higher fee on B.C. lumber exports when they exceed recent average annual shipments to the United States from the province.

d. Intellectual Property Rights

On May 6, 1999, USTR initiated a WTO dispute settlement case against Canada for its failure to amend its patent law to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The TRIPS Agreement requires that Canada provide a patent term of at least twenty years from the date that a patent application is filed for all patents existing on January 1, 1996. The Canadian Patent Act, however, provides that the term of patents based on applications filed before October 1, 1989, is seventeen years from the date that the patent is issued. With respect to a large number of existing patents, Canada is in violation of the TRIPS Agreement as a result of its failure to provide an adequate patent term. This case is presently before a WTO Dispute Settlement Panel, and a decision is expected in the coming months.

e. Agriculture

On December 4, 1998, the United States and Canada entered into a Record of Understanding (ROU) providing for a number of initiatives to move agricultural trade issues toward resolution. As a result of the ROU, the U.S./Canada Consultative Committee (CCA) was formed in April 1999, holding its first meeting in September

1999, to provide a forum to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. A Province/State Advisory Group to the CCA was also established in June 1999 which serves as a forum for producers and exporters, through their provincial and state governments, to raise bilateral agricultural trade issues before the CCA, thus ensuring stakeholder input into the bilateral discussions.

As a result of this initiative, Canada has implemented a number of market opening measures. On October 5, 1999, Canada implemented regulations reducing the restrictions under which U.S. hogs could enter Canada. Similarly, U.S. feeder cattle are now allowed entry from six states, and Canada is publishing enhanced market information on cattle trade. U.S. and Canadian cooperation has also facilitated the harmonization of efforts to improve animal drug and pest control registrations, including the examination of pesticide price differentials. Finally, issues affecting potato trade were examined, including the elimination of duplicate testing requirements.

Furthermore, the Administration set up new procedures to monitor imports of Canadian wheat. In 1999, procedures were established to collect information on the quality and value of Canadian wheat imports, which is important to monitoring the implications of Canadian Wheat Board practices. On April 1, 1999, Canada amended its regulations recognizing 14 states as free of karnal bunt, and implemented regulations facilitating the rail transport of U.S. wheat through Canada.

In April 1999, the United States successfully challenged Canada's subsidized dairy industry. A WTO panel found that the Canadian Government, through its government-managed provincial marketing boards, was subsidizing the price of exported milk by way of a two-tiered pricing system. In light of this finding, the Panel also concluded that Canada had violated its export subsidy reduction commitments by exporting a higher volume of subsidized dairy products than permitted by Canada's obligations under the WTO Agreement on Agriculture. In addition, the Panel found that Canada had improperly imposed a limit on the value of milk that could be imported in any single entry under the relevant tariff-quota.

The Panel's findings were sustained by the WTO Appellate Body in October 1999 in an appeal initiated by Canada. As the result of an agreement concluded on December 22, Canada will comply immediately with its WTO export subsidy commitments on butter, skimmed milk powder, and an array of other dairy products. Canada also has committed to reduce subsidized cheese exports and is scheduled to comply with its reduction commitments on cheese by August 1, 2000. The necessary regulatory reform of the tariff-rate quota will be accomplished no later than February 1, 2000.

2. Mexico

Mexico is our second largest single-country trading partner and has been the fastest growing major export market for goods since 1993, with exports up over 100 percent despite the 1994 peso crisis and the resulting economic contraction in Mexico. The potential of this trade is just beginning to be tapped. The NAFTA has fostered this enormous relationship with its unprecedented comprehensive market opening rules. Furthermore, it is building a fairer trade relationship as Mexican trade barriers are being reduced or eliminated. While barriers to U.S. exports of goods and services to Mexico are now less, the United States has continued to seek improved access to the Mexican market in several areas.

a. Intellectual Property Rights

Piracy and counterfeiting of U.S. intellectual property in Mexico continue to be serious concerns despite several positive developments in Mexico. In November 1998, Mexico announced a new anti-piracy campaign, providing greater

penalties and greater resources for enforcement and training. In March 1999, the Mexican Congress approved legislation increasing penalties and resources for enforcement. Mexico also agreed to a high level U.S.-Mexico bilateral intellectual property rights (IPR) working group to promote IPR protection in a manner consistent with the NAFTA. Efforts are underway to convene the first session of the group this spring.

b. Standards and Technical Regulations

The United States has repeatedly called on Mexico to recognize its obligation to publish changes in regulations with adequate time for public comment. This has been of particular concern with regulations under the jurisdiction of its Ministry of Health. Technical barriers to trade have been the focus of work in the NAFTA trilateral Standards Committee, and that effort will continue. The Committee's work will be supplemented by higher-level discussions when appropriate.

c. Agriculture

North American agricultural trade has grown significantly since the NAFTA. Mexico is currently our third largest agricultural export market. For the last fiscal year, (October 1998-September 1999), Mexico's share of total U.S. agricultural exports increased. Overall levels were the second-highest ever, at nearly $5.7 billion, with value-added consumer agricultural products at an all-time high.

Current trade irritants include Mexico's limits on the importation and domestic consumption of high fructose corn syrup (HFCS). At the request of the U.S. Government, a dispute settlement panel was established by the World Trade Organization on November 25, 1998. The panel's report, circulated to WTO Members on January 28, 2000, concludes that Mexico's antidumping measure on HFCS violated several provisions of the WTO Antidumping Agreement. The panel recommended that Mexico bring its final antidumping measure into conformity with its WTO obligations. Mexico is appealing the decision. U.S. exporters of HFCS also are challenging Mexico's measure under the Chapter 19 provisions of the NAFTA.

The United States and Mexico also are seeking to resolve a dispute over the NAFTA's sugar provisions. Mexico imposed preliminary antidumping duties in 1999 on several U.S. exporters of beef and beef offals, and final duties on imports of live swine. Mexico has not administered its tariff rate quota on U.S. dry bean exports in a timely manner in 1999. The Administration will continue to work with affected industries to address these problems, particularly given the importance of continued growth in export opportunities for U.S. agricultural producers.

d. Telecommunications

Mexico's telecommunications services market barriers are a serious source of concern. A policy review by Mexico, which promised to reform international and domestic service regulations to prevent abuses by the dominant carrier, Telmex, is not yet completed. In addition, U.S. carriers indicate that from August 1999 Telmex failed to provide private lines and circuits that are essential for many purposes, including the provision of end-to-end private line service between the United States and Mexico. The United States will continue to encourage a more open telecommunications services market in Mexico, including reviewing this matter under Section 1377 and in light of Mexico's WTO obligations.

e. Customs Valuation

The Mexican Ministry of Finance has established minimum import prices for a specified list of products. Under Mexico's regime, if the declared value of an imported product is below the established minimum price, the importer must post a "guarantee" bond – the value of which is the difference in applicable duties – to obtain the

release of the goods. In the meantime, Mexican customs officials will conduct an investigation to verify the declared value, and will require additional documentation, such as a certification by a chamber of commerce, from the importer. This system poses a serious impediment to trade. The Administration has been consulting with Mexico and will continue to pursue the issue in 2000.

3. Brazil and Southern Cone

a. Mercosur

The Common Market of the South, usually referred to as "Mercosur," from its Spanish abbreviation, is the largest preferential trade agreement in Latin America. It consists of Brazil, Argentina, Uruguay and Paraguay and represents over half of Latin America's GDP. Chile and Bolivia are Associate Members of the group. They each have the equivalent of a Free Trade Agreement (FTA) with Mercosur, participate in many of the group's meetings, but do not partake in the Mercosur common external tariff (CET). Under the Chilean agreement, for example, 67 percent of Chilean exports and 62 percent of imports from Mercosur will be duty-free by 2005. Mercosur was originally established in 1991, with the goal of creating a common market. Implementation of the Mercosur customs union commenced January 1, 1995, with the establishment of a CET, covering most intra-Mercosur trade. Convergence on excepted items is slated for completion by January 1, 2006. Mercosur had a difficult year in 1999, largely reflecting bilateral trade tensions generated by Brazil's devaluation of the *Real* and exacerbated by the group's lack of an internal safeguard mechanism. Mercosur's weak dispute resolution procedures and the growing tendency of individual Mercosur members to negotiate preferential trade agreements with third countries also diluted the group's cohesion. However, Mercosur closed the year with a Presidential-level meeting in Uruguay that re-affirmed the leaders' commitment to progress and unity in Mercosur.

The Mercosur market represents nearly 35 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico. U.S. goods exports to Mercosur were $19.2 billion in 1999, with a U.S. trade surplus of just over $5 billion. This is a considerably smaller surplus than in 1998, due primarily to two factors. First, there was a general decline in trade volume with Mercosur due to continued slower-than-average growth in member countries. In Brazil, real GDP growth was less than 1 percent in 1999, and Argentina experienced a real GDP contraction of 4 percent. The second factor was the impact of the January 13, 1999, float of the Brazilian *Real*, which led to a devaluation of approximately 35 percent over the course of the year. Despite challenges faced by Mercosur during 1999, most analysts expect growth to rebound in 2000.

The United States continues to develop our trade relationship with this important group of countries and to encourage Mercosur to be a force for trade liberalization in the region and the world. In preparation for the trade Ministerials held in the fall of 1999 – the World Trade Organization (WTO) Ministerial and the Free Trade Area of the Americas (FTAA) Toronto Ministerial – the U.S. Government worked closely with our Mercosur trading partners and Chile to build consensus on our positions, through both informal discussions and meetings of our bilateral consultative mechanisms with Chile and Uruguay. While we did not reach full agreement on WTO positions, we found significant areas of cooperation, particularly on agricultural issues. In this area, the United States has much in common with the Cairns Group, which includes Mercosur countries among its members. At the Toronto Ministerial, where the 34 FTAA countries agreed to begin to draft text of the FTAA Agreement and to implement business facilitation measures in the next stage of the negotiations, Argentina assumed the Chairmanship of the process. Other Mercosur countries are playing a leadership role in the

FTAA negotiations as well. Brazil holds the Chair of the Negotiating Group on Agriculture, Uruguay chairs the FTAA's Expert Committee on Electronic Commerce, and Paraguay is the Vice Chair of the Intellectual Property Negotiating Group. For its part, Chile chairs the Market Access Negotiating Group, which includes safeguards, tariffs and standards issues. The United States will continue to pursue vigorously its interests in Mercosur, particularly as these countries work on trade negotiations with others, such as Canada, Mexico, the Andean Community (AC) and the European Union (EU), and as it deepens its institutional reach.

Autos

Throughout 1999, Mercosur was engaged in negotiations to unify its members' investment regimes in the automotive sector, and the U.S. Government has closely followed these talks. Brazil and Argentina, the Mercosur countries with the largest interest in autos, have been the primary participants in these talks, which failed to reach resolution by the January 1, 2000, deadline. On that date, Argentina's obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMS) came into effect due to the termination of its transition period, and Brazil was due to meet the requirements of a March 1998 bilateral agreement with the United States to terminate its TRIMS-inconsistent auto regime, which had been enacted in December 1995. The Brazilian Government committed to eliminate the trade and investment distorting measures in its auto regime and not to extend the measures to its Mercosur partners in the course of the Mercosur auto regime negotiations. In late December, Brazil and Argentina signed a bilateral agreement allowing 60 additional days to reach agreement on a common automotive regime for Mercosur. At the same time, Argentina requested a seven-year extension of its transition period under TRIMS. The U.S. Government is now reviewing its options to respond to Mercosur's failure to establish a TRIMS-consistent automotive regime by the end of 1999.

b. Argentina

U.S. exports to Argentina were down in 1999, but Argentina remained in the top 26 export markets of the United States. Overall bilateral trade declined, and the U.S. surplus narrowed by over $1 billion to $2.3 billion in 1999. A key factor in the Argentine economy is not only its trade profile with the United States but with Brazil, Argentina's number one trading partner. After ten years in office in which President Carlos Menem tamed hyperinflation and began to open the Argentine economy to the outside world, President Fernando de la Rua took office on December 10, 1999. In initial contacts with U.S. Government officials, the new Administration has given no indication that it will take a radically different path on trade issues. President de la Rua and his cabinet have best expressed their dedication to continued trade liberalization by effecting a smooth transfer to Argentine leadership of the FTAA negotiations.

In addition to working with the Government of Argentina to ensure the success of the next stage of the FTAA negotiations, the United States will pursue with the new Administration resolution of existing trade disputes, such as the lack of intellectual property protection for pharmaceuticals and Argentina's failure to comply with its Uruguay Round obligations on footwear. Trade in agricultural commodities is another important element of our bilateral economic relationship. In 1997, Argentina beef gained entry to the United States, after demonstrating that beef from certain regions in Argentina was free of foot-and-mouth disease (FMD). In October 1998, the Government of Argentina agreed to initiate the importation of fresh and processed pork meat from the United States, and we are continuing to work out the implementation of that pledge. Argentina is seeking approval to export its citrus to the United States, and the United States is working to gain access for Florida citrus to Argentina. Our Governments have worked on these matters using a science-based approach, as is the WTO rule, to

assure the health and safety of our animal, plant and human populations.

Intellectual Property Rights

Argentina's intellectual property regime does not meet TRIPS standards and fails to fulfill long-standing bilateral commitments. Serious concerns regarding Argentina's IPR regime, particularly as regards pharmaceutical patent protection, led the Administration in 1997 to withdraw half of Argentina's benefits under the Generalized System of Preferences.

Rather than witnessing improvements in Argentina's intellectual property regime as the January 1, 2000, date for implementation drew near, we saw a deterioration of intellectual property protection. Administrative difficulties at the Argentine patent office exacerbated the situation. This deterioration occurred despite U.S. Government efforts to resolve our concerns, including through bilateral IPR consultations. In April 1999 the USTR announced that we would initiate WTO consultations with the Government of Argentina on two intellectual property issues that were immediately actionable at the WTO: (1) modifications in the protection accorded confidential test data submitted to Argentine regulatory authorities that appear to violate WTO standstill obligations, and (2) the failure to provide Exclusive Marketing Rights (EMR) to qualifying pharmaceutical products. As of January 1, 2000, when most of Argentina's TRIPS obligations came into effect, Argentina appears to have failed to bring its patent regime in line with its international obligations. The U.S. Government also has maintained a dialogue with Argentina on its review of its copyright legislation.

Textiles and Apparel

In November 1997 a WTO dispute settlement panel ruled in favor of a U.S. challenge to duties and taxes assessed by Argentina that hindered market access for U.S. products. This decision was later upheld by the WTO Appellate Body. The panel found that Argentina's specific duties on textiles and apparel were excessive and violated Article II of the GATT. The panel also ruled that Argentina's three percent statistical tax on almost all imports was an impermissible charge in violation of GATT Article VIII. In conjunction with the affected industries, USTR has worked in 1999 to ensure that Argentina fully implements the WTO panel finding, and we will continue to do so in 2000.

Footwear

The U.S. textiles and apparel challenge had originally included a complaint on illegal footwear duties as well. However, the WTO panel determination did not specifically address footwear, given that the Government of Argentina had recast the specific duties on footwear as a safeguard measure immediately prior to the formulation of the panel in February 1997. This panel subsequently determined that it could not provide relief with respect to measures that were no longer in effect.

The U.S. Government believed that this safeguard raised serious questions about Argentina's compliance with its WTO obligations, leading us to assert third party rights in an EU panel on the matter. Despite the questions raised regarding the WTO-consistency of the safeguard, Argentina in November 1998 established a stringent tariff rate quota (TRQ) on footwear imports in addition to the safeguard duties already in effect; moreover, Argentina delayed the time period for liberalizing the safeguard measure. The United States initiated its own WTO consultations and subsequently formed a panel on this non-liberalizing modification of the safeguard measure – particularly problematic in light of the requirements of Article 7.4 of the WTO Agreement on Safeguards. This article clearly states that safeguard measures shall be progressively liberalized at regular intervals during the period of application.

The EU-led panel proceeding on the original safeguard measure, in which the U.S. Government vigorously defended its rights, determined that Argentina's footwear safeguard was WTO inconsistent, and the Appellate Body confirmed this finding on December 14, 1999. In the January 2000 meeting of the WTO Dispute Settlement Body in Geneva and in U.S. Government presentations in Buenos Aires, we have stressed Argentina's responsibility to ensure the expeditious elimination of this measure, which is due to expire on February 24, 2000.

c. Brazil

The United States exported goods valued at more than $13 billion to Brazil in 1999, $1.9 billion less than in 1998. This decline was reflective of an overall reduction in Brazil's imports last year, during which Brazil was still our 11th export destination. Brazil's market accounts for 24 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico, and 69 percent of U.S. goods exports to Mercosur. Despite some experts' predictions last January, the Brazilian economy weathered its first year under a devalued *Real* with little difficulty; 1999 closed with an exchange rate of R$1.8 to the U.S. dollar and an inflation rate of six percent. Predictions of GDP growth for Brazil in 2000 range from two to four percent.

Intellectual Property Rights

In 1997, Brazil enacted laws to provide protection of computer software, copyrights, patents and trademarks, thus making substantial movement toward developing a solid legal regime for the provision of TRIPS-consistent IPR protection. However, deficiencies remain. Notably, the patent law contains a local working requirement that appears to be inconsistent with TRIPS requirements. In addition, the lack of effective copyright and trademark enforcement is a serious concern, particularly regarding protections for sound recordings and movies. Also of concern is the backlog of pending patent applications. The United States is considering what actions are appropriate in light of our concerns about the Brazilian IPR regime. Brazil is currently on the "Special 301" Watch List. Improving intellectual property protection in Brazil remains a top priority for the United States.

Reference Prices

We have reports from affected U.S. industries, particularly textile manufacturers, that the Government of Brazil requires some products to meet minimum prices for the issuance of import licenses and/or in order to receive normal customs processing. Imports falling below set price levels are either unable to obtain licenses or sent to what is known as the "grey line" for enhanced customs scrutiny. We are concerned that these minimum price levels may be set arbitrarily in contravention of WTO Agreements, and have discussed this matter with Brazilian Government officials in Brasilia, Washington and Geneva. Further, the U.S. actively participated as an interested third party in the EU's WTO consultations on Brazil's use of reference prices in November 1999, and we are reviewing whether to pursue our own WTO consultations on this issue.

d. Paraguay

With a population of just over five million, Paraguay is one of the smaller U.S. markets in Latin America. To illustrate, in 1999 the United States exported a mere $515 million to Paraguay. However, Paraguay is a major exporter of and transshipment point for pirate and counterfeit products in the region, particularly to Brazil.

Intellectual Property Rights

On January 16, 1998, the USTR identified Paraguay as a "Priority Foreign Country" under the "Special 301" provisions of the Trade Act. On February 17, 1998, the United States initiated a Section 301 investigation of Paraguay's acts, policies and practices regarding intellectual property. On November 17, 1998, Paraguay and

the United States signed a comprehensive Memorandum of Understanding (MOU) and Enforcement Action Plan, which, in conjunction with the passage of trademark and copyright laws and Paraguayan efforts to improve enforcement, enabled USTR to conclude the Section 301 investigation without applying sanctions. We currently monitor Paraguay's compliance with the MOU under Section 306 of the Trade Act and consult with the Government of Paraguay at regular intervals under the MOU terms of reference. In 1999, U.S. Government officials worked continually on intellectual property issues with the GOP, consulting formally twice – in March and September. Our next set of formal bilateral consultations should take place in early 2000.

In the MOU, the Government of Paraguay committed to take a number of near-term and longer-term actions to address the practices that were the subject of the investigation, including implementing institutional reforms to strengthen enforcement and taking immediate action against known centers of IPR violations. Failure to comply with the terms of the MOU could lead to trade sanctions. While piracy and counterfeiting continue to be widespread problems in Paraguay, we have seen efforts by the current Paraguayan Administration to take steps to address this problem. For example, in 1999 the Government of Paraguay conducted several impressive enforcement raids and passed legislation to ensure that copyright infringement is designated as a "public crime" and is enforceable as such in Paraguayan courts. Much remains to be done, however, and the U.S. Government continues to coordinate closely with affected U.S. industries and to work with the Government of Paraguay (GOP) to achieve improvements in the intellectual property regime of Paraguay.

e. Uruguay

The smallest economy of Mercosur with a population of just over three million, Uruguay nonetheless imported $492 million of goods from the United States in 1999. In September 1999, our Governments held the first meeting of the U.S.-Uruguay Bilateral Commercial and Trade Review, the initiation of which was a fruit of the 1998 visit of President Julio Maria Sanguinetti to Washington. This mechanism provides our Governments the opportunity to deepen our bilateral dialogue on trade matters and to better coordinate for meetings in multilateral fora, such as the FTAA and WTO. The U.S. Government was able to use our September meeting with the Uruguayan Government to prepare for the ALCA and WTO Ministerial meetings and to highlight the importance of achieving TRIPS-consistency in Uruguay by January 1, 2000. We continue to press the importance of providing adequate and effective intellectual property rights protection with the Government of Uruguay.

f. Chile

On the occasion of the April 1998 State Visit to Chile, Presidents Clinton and Frei agreed to establish a rejuvenated bilateral consultative mechanism on trade and investment to replace the Trade and Investment Council (TIC) from October 1990 that had lapsed into disuse. We wanted to enhance our engagement on the broad range of trade issues, and the Joint Commission on Trade and Investment (JCTI) was subsequently established by USTR and the Chilean Foreign Ministry. The first meeting of the JCTI was held in Washington in October 1998. We followed up on this meeting through a number of Study Group meetings, including on business facilitation and issues related to management of the social dimension of trade. The Joint Commission has been a welcome mechanism for both enhancing our bilateral relationship and encouraging increased cooperation and coordination in the multilateral fora in which our countries participate, such as the FTAA, WTO and APEC. The Commission met most recently in October 1999 in Santiago.

Chile is our 32nd export market, absorbing nearly $3.1 billion in U.S. exports in 1999. This is no

small feat given that Chile has only 15 million inhabitants. Chile has consistently been a recognized leader of economic reform and trade liberalization in Latin America, with growth averaging eight percent for the decade prior to the economic slow-down experienced in 1998-99. Chile's real GDP grew by approximately 3.3 percent in 1998 and contracted by 1.1 percent in 1999. As a resource-based, export-dependent economy, Chile has been seriously affected by the global drop in commodity prices. In addition, continued sluggishness in the economies of Mercosur and Asia, two major destinations for Chilean exports, contributed to slower Chilean growth in 1999.

Chile has a history of aggressively pursuing free trade and tariff-reducing agreements with its trading partners in the Americas and beyond. This leaves the United States at a growing disadvantage in the Chilean market. Those countries with which Chile maintains special trade arrangements, which include most of our hemispheric trading partners, are exempt from Chilean tariffs or enjoy reduced rates. In addition, the Government of Chile engages in unilateral liberalization, reducing its flat tariff by one percentage point a year until the applied tariff rate for virtually all goods in Chile reaches six percent on January 1, 2003. As of January 1, 2000, the applied tariff rate on most goods in Chile is nine percent, low by regional standards.

Distilled Spirits

Chile historically has maintained a taxation system that discriminates against imported distilled spirits. In December 1997, Chile changed its law to phase in a system that is less obviously discriminatory, but that continues to burden U.S. exports. In January 1998, the United States and the EU participated in GATT Article XXII consultations with Chile on this issue, and a WTO panel was subsequently established at the EU's request. The United States asserted third party interest in the subsequent procedure, and actively represented U.S. concerns throughout. The panel, in June 1999, and the WTO Appellate Body, in December 1999, found Chile's tax regime inconsistent with Article III:2 of the GATT. These findings were adopted at the January 2000 Dispute Settlement Body meeting, at which Chile stated its intention to comply. The United States will continue to press the Chilean Government to provide expeditiously non-discriminatory tax treatment to all distilled spirits, as required by the GATT.

4. The Andean Community

The U.S. trade deficit with the Andean region increased from $2.5 billion in 1998 to $9.7 billion in 1999, in large part due to the increase in the price of oil imported from the region and the slowdown in the Andean economies. U.S. goods exports to the region were down 23.5 percent in 1999, totaling $11.8 billion.

The Andean Community originated as the Andean Pact in 1969, with Bolivia, Colombia, Ecuador, Peru and Venezuela as its members. However, it was only in the 1990s that the Andean Pact's commitment to form a customs union took on momentum, with reduction and elimination of most duties among the members and an increasingly common external tariff. In 1997 the Andean Community became operational. Among its features are strengthened institutions, such as a Council of Presidents and a Council of Foreign Ministers in addition to meetings of Trade Ministers, and creation of a General Secretariat of the Andean Community mandated to act as the group's executive body.

The Andean Trade Preference Act (ATPA) of 1991 authorizes the President to provide reduced-duty or duty-free treatment to most imports from Bolivia, Colombia, Ecuador and Peru. It is intended to help the four beneficiary countries expand economic alternatives in their fight against drug production and trafficking. ATPA preferential trade benefits are similar to those granted to beneficiaries of the Caribbean Basin Economic Recovery Act. ATPA preferences are

scheduled to end on December 4, 2001. In December 1997 USTR submitted a triennial report to Congress on the operation of the program which indicated that the ATPA has facilitated economic development and export diversification in the ATPA beneficiary countries. The next report to Congress on the ATPA is due December 4, 2000.

a. Trade and Investment Council Meetings

In May 1999 the U.S. and Andean Governments held the inaugural meeting of the U.S.-Andean Community Trade and Investment Council (TIC) in Cartagena, Colombia. The creation of this new partnership with the Andean Community members reflects the increasing importance the Andean Community has attained as a regional decision-making body and reflects the U.S. Government's interest in expanding our trade relationships in the region. This first meeting of the TIC addressed key issues, such as the FTAA negotiations, the WTO, protection of intellectual property rights, and trade issues under the Andean Trade Preference Act. On the margins of the TIC meeting, USTR officials met with the presidents of the Andean countries to discuss trade issues in our relationship. Additional consultations with our Andean trading partners were held in Lima in October 1999, to help prepare for both the FTAA Ministerial and the WTO Ministerial.

b. Bilateral Investment Treaties

In April 1998 the U.S. Government signed a Bilateral Investment Treaty (BIT) with the Bolivian Government. The BIT will soon be submitted for ratification by the U.S. Senate. It will help make Bolivia more attractive to potential U.S. investors and will provide investors in both countries guarantees of access and fair treatment in the other's market. During 1999 the U.S. Government initiated formal BIT negotiations with the Government of Peru and began exploratory discussions with the Government of Colombia. A U.S.-Ecuador BIT went into effect in May 1997. BIT talks with the Government of Venezuela are on hold pending a review by the incoming Chavez Administration.

c. Intellectual Property Rights

In the area of intellectual property the Andean Community countries have developed common disciplines with legal effect throughout the Community. The various Andean Pact decisions, while generally an improvement from previous disciplines, fell short in a number of ways in meeting WTO TRIPS requirements. The Andean countries have just reached agreement on modifications to the decisions. The U.S. Government is in the process of translating and analyzing the revised legislation to determine TRIPS compatibility.

While Peru is on the Special 301 Priority Watch List, it has developed a plan of action for improved intellectual property enforcement. In November 1999 the Colombian Government resolved a particularly onerous situation facing U.S. television programmers by issuing licenses to legitimate subscription television stations. We are continuing to monitor IPR enforcement efforts in the region, which in general have improved marginally but remain inadequate.

d. Auto Regime

In late 1999 the Governments of Colombia, Ecuador and Venezuela adopted modifications to their automotive trade-related investment measures which they assert bring the program into conformity with their WTO obligations. The U.S. Government is currently analyzing the decision and seeking clarification on a number of points.

5. Central America

The United States remains Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Panama, which has observer status, and Belize

participate in CACM summits but not in regional trade integration efforts. As a group, the countries of the CACM exported a total of $11 billion of goods to the United States in 1999, importing $8.5 billion of U.S. goods. Trade within the CACM was $2 billion in 1998. The CACM is an internal market of almost 32 million people with a combined GDP of over $56 billion. GDP per capita varies widely within the region, with the relatively developed service-oriented economy of Panama registering $3,315 per capita. At the other extreme, Nicaraguan GDP per capita was only $437 in 1998. Furthermore, these figures do not capture the broad disparities of income evident within most Central American countries.

The CACM signed a trade agreement with Chile in the fall of 1999. Beyond the CACM, countries in the region have also been active in pursuing regional trade liberalization bilaterally or in regional sub-groups. Costa Rica has signed free trade agreements with the Dominican Republic and Mexico. Nicaragua also has a free trade agreement with Mexico. El Salvador has a free trade agreement with the Dominican Republic. Guatemala, Honduras and El Salvador, the so-called "Northern Triangle", are negotiating free trade agreements with Mexico and the Dominican Republic.

All of the countries of the region are participating in the Free Trade Area of the Americas (FTAA) negotiations. Central American countries take an active role in the negotiating process. In the current negotiating phase, Costa Rica chairs the Negotiating Group on Dispute Settlement and Guatemala chairs the Consultative Group on Smaller Economies.

In March 1999, President Clinton joined leaders from Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua at the Antigua, Guatemala Summit. The President assured his counterparts from Central America and the Dominican Republic of his commitment to seek enhancement of the Caribbean Basin Initiative for the region. Also, the leaders reaffirmed their desire to address issues of mutual concern with the United States both bilaterally and at the regional level through the Trade and Investment Council mechanism. These meetings provide fora for discussion of common trade and investment interests. The United States held a Trade and Investment Council meeting with Nicaragua in February, 1999. In November, 1999, the United States held trade and economic discussions with Panama in the context of broader bilateral consultations in advance of the transfer of the Panama Canal on December 31, 1999.

a. Agriculture

Falling international prices for agricultural commodities has led to a protectionist backlash in several Central American countries. Agricultural tariffs were raised in Costa Rica, Nicaragua and Panama, although they are still within WTO-bound rates. Costa Rica instituted a special safeguard on imported rice. Costa Rica also began enforcing a WTO-inconsistent law already on its books, requiring that all rice imports be channeled through a Rice Office (which is dominated by domestic Costa Rican rice producers) that has the discretionary authority to limit the sale of imported rice. Panama has also undertaken a wide range of WTO-illegal actions (in the U.S. view) to keep out imported agricultural products, including the arbitrary denial of SPS (sanitary phytosanitary) permits to restrict import levels and requiring importers to purchase certain quantities of local products in order to obtain SPS permits. The United States is working to address these problems with the relevant countries.

b. Intellectual Property Rights

In general, protection of intellectual property rights has improved in the region. Honduras and Nicaragua passed new legislation to improve the protection of intellectual property rights in 1999 in an effort to comply with the TRIPS provisions of the WTO. Enforcement efforts have also been

stepped up in a number of countries, such as Panama and Honduras.

However, inadequate IPR protection continues to be a problem. Guatemala remains on the Special 301 Priority Watch List for its failure to afford acceptable IPR protection. Costa Rica is on the Special 301 Watch List. A number of countries in the region have yet to meet the January 1, 2000 deadline for TRIPS compliance. Remaining issues include both providing an adequate legislative framework and enforcing intellectual property rights.

c. Worker Rights

A June 1998 report by the General Accounting Office (GAO) concluded that major CBI countries have made efforts to improve worker rights in recent years by reforming their labor laws and making efforts to upgrade their labor departments. However, the report noted that many problems remain. This is particularly true in Guatemala, where efforts to address serious worker rights violations have been hampered by an unresponsive and inadequate legal system. International labor organizations continue to file Generalized System of Preferences petitions alleging violations of internationally accepted worker rights in Guatemala. The Administration raised these issues with the previous Guatemalan Government and attaches a high priority to the resolution of these issues by the incoming government.

6. The Caribbean

a. CARICOM

Countries in the Caribbean region include members of the Caribbean Community and Common Market (CARICOM) and the Dominican Republic. Current members of CARICOM are: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress toward economic integration and a common external tariff (CET) has been limited.

A meeting of the U.S.-CARICOM Trade and Investment Council was held in September 1999, in Washington. The Trade and Investment Council mechanism has provided a useful opportunity for consultation on issues of mutual interest, such as the EU banana case in the WTO. This meeting, together with other discussions held under the "quick consult" mechanism, has facilitated the development of a joint U.S.-Latin-Caribbean approach to resolve the banana dispute. The meeting also afforded an opportunity to discuss hemispheric and multilateral developments in the FTAA and WTO.

CARICOM countries have played an active role in the FTAA process. At the November 1999 FTAA Summit in Toronto, ministers agreed that Trinidad and Tobago will chair the Negotiating Group on Investment, and the Bahamas will serve as Vice Chair of the Consultative Group on Smaller Economies for the current phase of negotiations.

b. Other Caribbean Countries

Several countries in the region are not members of any of the subregional trade blocs discussed above. The Dominican Republic, the largest beneficiary of the Caribbean Basin Initiative program, does not belong to any regional trade association, but has increased cooperation with both Central America and CARICOM. President Leonel Fernandez envisions a "strategic alliance" of the Caribbean and Central America, aimed at increasing the regions' leverage in trade talks, with the Dominican Republic as the "bridge" between the two areas.

The Dominican Republic's record in trade is mixed. On the one hand, the Dominican Republic has taken full advantage of unilateral preferential trade benefits extended by the U.S., attracting

investment in its free trade zones and assembly operations and registering the highest growth rate in the hemisphere. On the other hand, the Dominican Republic has lagged behind other countries in the region in meeting its WTO commitments to provide adequate IPR protection. The Dominican Republic remains on USTR's Special 301 Priority Watch List.

Cuba is not a member of any regional trade agreement, although it is a member of the Association of Caribbean States (ACS), a political and economic organization. Cuba has initiated a dialogue with CARICOM for possible membership, but to date there have been no serious negotiations. Cuba does not participate in the FTAA process or the Summits of the Americas.

c. The Caribbean Basin Economic Recovery Act

The Caribbean Basin Economic Recovery Act (CBERA), also known as the Caribbean Basin Initiative (CBI), was enacted by Congress in 1984 to promote the economic revitalization and export diversification of the Caribbean Basin. The program allows the President to grant unilateral duty-free treatment on eligible articles from beneficiary countries. The CBERA program, originally set to expire in 1995, was made permanent in 1990, with expanded product eligibility. CBERA beneficiaries include: Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the Cayman Islands, Montserrat, the Netherlands Antilles, Saint Kitts-Nevis, the Turks and Caicos Islands and the British Virgin Islands.

On October 1, 1999, the Third Report on the Operation of the Caribbean Basin Economic Recovery Act (CBERA) was submitted to Congress. The report is available on USTR's homepage at www.ustr.gov. The report concludes that the program has had a very positive impact on both U.S. and CBI country exports and has contributed to export diversification in beneficiary countries. The report also finds that the CBI program has helped to improve protection of worker rights and intellectual property in beneficiary countries.

d. Caribbean Basin Trade Enhancement

In the fall of 1999, both the House and Senate took up legislation to enhance CBERA benefits. The Administration also submitted legislation that would expand the coverage of the CBI to products currently excluded by statute. However, House and Senate versions of CBI enhancement vary. The Administration has been working with the supporters of the legislation in both Houses of Congress, and with the affected industries, to find a compromise between the different versions of the legislation. The Administration will continue these efforts and is committed to work with the Congress in 2000 to obtain passage of CBI enhancement.

H. Africa

Overview

As a part of President Clinton's Partnership for Economic Growth and Opportunity in Africa initiative, the Administration has endeavored to develop and implement three central trade policy objectives: (1) strengthening U.S.-Africa economic engagement; (2) integration of sub-Saharan countries into the multilateral trading system; and (3) promoting economic reform and growth. As one element in this initiative USTR established the position of Assistant United States Trade Representative for Africa and the Office of African Affairs in 1998.

Highlights of the achievements of this Administration since 1993 include:

Strengthened U.S.-Africa Engagement

The Administration has worked with Members of Congress in a bi-partisan effort to support enactment of the African Growth and Opportunity Act (AGOA), which would establish a framework for a trade and investment-based approach to promoting economic growth in sub-Saharan Africa. The Act passed both chambers of Congress in 1999 and as of the date of this report was awaiting action by a House-Senate Conference Committee. USTR played a leadership role during the March 1999 U.S.-Africa Ministerial, the largest meeting ever held between American Cabinet Members and African Ministers. As part of the Ministerial, the United States co-chaired with the Organization of African Unity/African Economic Community, the first-ever ministerial Round Table on U.S.-Africa trade cooperation.

In 1999, the United States concluded historic Trade and Investment Framework Agreements with South Africa and Ghana, the first with any countries in sub-Saharan Africa. In addition to formal consultations under TIFAs or other bilateral mechanisms, USTR has conducted extensive trade-related consultations throughout Africa and in Washington with African trade officials.

Fuller African Integration into the Multilateral Trading System

Increased African participation in the global trading system creates greater opportunities and a stronger foundation for economic growth in sub-Saharan Africa. Increased African participation also strengthens the international trading system. USTR has expanded its efforts to engage African countries on WTO issues through increased bilateral and multilateral consultations, new consultative mechanisms, and technical assistance. As a result, the United States and a number of African countries have identified significant areas of common interest in the WTO. One example is the development and tabling of a joint proposal from the United States, Lesotho, Nigeria, Senegal and Zambia to the WTO on improving trade-related technical assistance.

USTR has worked with other agencies, especially USAID, to increase WTO-related technical assistance to sub-Saharan African countries. USTR and USAID have coordinated WTO-awareness workshops in Zambia (a regional workshop for the Common Market for Eastern and Southern Africa), Cote d'Ivoire, Mali, Senegal, South Africa, and Uganda. During the 1999 WTO Ministerial Conference, USTR and USAID conducted a Technical Assistance Symposium for African trade ministers on WTO-related technical assistance resources and published a comprehensive guide to these resources.

Economic Reform and Growth

Economic reform and growth in Africa benefits the United States and Africa by providing new opportunities for U.S. businesses in sub-Saharan Africa, a market of 640 million people, and by creating stronger and more stable economies that allow African countries to better combat transnational challenges such as disease, poverty, environmental degradation, narcotics trafficking, and terrorism. The African Growth and Opportunity Act would support economic reform in the region by providing incentives for sub-Saharan African countries to adopt more free market-oriented policies.

USTR also has used a number of formal and informal consultations to promote economic reform. For the first time in ten years, in December 1998, the United States concluded a Bilateral Investment Treaty with a sub-Saharan African country, Mozambique. The BIT will protect U.S. investment in Mozambique and ensure a predictable environment for investment guided by market forces. In addition, USTR has been active in the Trade Policy Review Mechanisms that are conducted by the World Trade Organization and has used these reviews as a tool to encourage further trade and investment

liberalization and reform. In the past few years, more than ten African countries have benefitted from these reviews.

In June 1997, USTR enhanced the Generalized System of Preferences Program by adding 1,783 new tariff lines for least developed beneficiary countries (LDBDCs). Of the 39 LDBDCs worldwide, 30 are in sub-Saharan Africa. The enhancement allows these 30 sub-Saharan African countries duty-free access to the U.S. market for products listed in these tariff lines, promoting greater African use of the GSP program, diversification of African exports and growth of the African private sector. In 1999, the United States extended GSP benefits to two additional sub-Saharan African countries, Gabon and Mauritania. African use of the GSP program has increased significantly as a result of these efforts. USTR also has utilized the GSP program to promote regional economic integration by determining (in June 1998) that eligible members of certain regional organizations could combine their value-added contributions to products exported to the United States in order meet GSP rule-of-origin requirements.

Public Outreach

The U.S. Government has been very active in promoting U.S. private and public sector understanding of the U.S.-Africa trade policy and has increased overall American understanding of the opportunities and challenges of trade with Africa. USTR has coordinated five annual reports for the President's submission to Congress on the United States' Comprehensive Trade and Development Policy Toward Sub-Saharan Africa. USTR officials have participated in town hall meetings and have briefed numerous private sector, faith, academic and other NGO groups throughout the country on U.S.-Africa trade policy.

1999 Activities

In 1999, the Administration strengthened both its bilateral and multilateral engagement with the countries of sub-Saharan Africa. The United States' largest trading partners in sub-Saharan Africa remained South Africa and Nigeria. Other major trading partners included: Angola, Gabon, Ghana, and Cote d'Ivoire. In 1999, the U.S. exported $5.6 billion to sub-Saharan Africa, a decrease of 17 percent, and imported just over $14 billion, an increase of 7 percent. U.S. exports to sub-Saharan Africa were greater than to all of the former Soviet Union, including Russia. However, with a population of more than 640 million, sub-Saharan Africa's potential as a trading partner is much greater than these figures would indicate. In 1999, a number of African countries, including Nigeria, began to transition to more democratic political systems and more open and market-oriented economies. The Administration plans to support these efforts and the economic reform process in many sub-Saharan African countries by encouraging trade and investment flows between the United States and these countries and by providing appropriate technical assistance to help these countries better participate in the multilateral trading system, including the WTO.

The African Growth and Opportunity Act, currently pending a Conference in the U.S. Congress, would substantially enhance U.S. efforts to support economic reform in sub-Saharan Africa by providing increased access to the U.S. market for reforming countries, establishing a formal U.S.-Africa Trade and Economic Cooperation Forum, and encouraging creation of funds and guarantees to promote trade and investment with sub-Saharan Africa. The Administration continues to support rapid enactment of the AGOA.

1. South Africa

South Africa is the United States' largest trading partner and the largest economy in sub-Saharan

Africa. In 1999, U.S.-South Africa trade totaled $5.8 billion with U.S. exports of $2.6 billion – a 29 percent decrease from 1998 – and U.S. imports from South Africa of $3.2 billion – a 5 percent increase. The decline in trade was due in part to slower growth of the South African economy which was still recovering from the world-wide financial turmoil of 1998.

In February 1999, the United States and South Africa signed a Trade and Investment Framework Agreement (TIFA). TIFAs establish a mechanism for addressing trade and investment issues and for identifying and eliminating or reducing barriers to trade and investment. The inaugural U.S.-South Africa TIFA council meeting was held in July 1999 by video-conference and produced progress on a number of issues including intellectual property rights and WTO cooperation.

Throughout 1999, USTR worked with the Government of South Africa on a number of intellectual property issues, including concerns regarding the protection of patent rights for pharmaceuticals under South Africa's Medicines Act in conjunction with South Africa's efforts to address HIV/AIDS. In September 1999, USTR concluded a bilateral understanding with South Africa under which both Governments reaffirmed their shared objective of addressing South Africa's major health needs, including the treatment of HIV/AIDS, in a manner also consistent with the provisions of the WTO TRIPS Agreement. On December 1, the United States removed South Africa from the Special 301 Watch List. This action was based on South Africa's agreement that it would address health needs in a manner that fully protects intellectual property rights, as well as other steps South Africa has taken and is taking to improve further the protection of intellectual property.

In 1999, South Africa also concluded a number of agreements that may affect U.S.-South Africa relations. South Africa ratified the Southern African Development Community (SADC) Trade Protocol, which is expected to come into force for participating countries during the first half of 2000. The United States has supported South Africa's and the other members of SADC's (through provision of technical assistance in some cases) efforts to increase regional economic integration. Regional integration offers increased market efficiencies, promotes competitiveness and improved allocation of resources, and creates larger markets that are more attractive to traders and investors.

On October 11, 1999, South Africa and the European Union signed an "Agreement on Trade, Development and Cooperation." Under the agreement, the EU and South Africa agreed to establish a Free Trade Area over a transitional period lasting a maximum of 12 years for South Africa and a maximum of 10 years for the European Union. Trade provisions of the agreement were to have come into force on a provisional basis (pending ratification by all EU members) on January 1, 2000, but a dispute has made it unclear exactly when the agreement was or will be implemented. USTR is reviewing the agreement to determine if and what detrimental effects it may have on U.S. interests and to ensure that it is consistent with WTO provisions.

Promoting increased trade and investment between the United States and South Africa remains a priority and will be a major topic for discussion during future TIFA Council meetings planned for 2000.

2. Nigeria

With the inauguration of a democratically elected President in March 1999, the United States has increased its engagement with the Government of Nigeria. During his November 1999 visit to the United States, Nigerian President Obasanjo expressed his strong commitment to implementing economic reforms in Nigeria and to seeing Nigeria take its place as a leader in the multilateral trading system. In 1999, the United States initiated negotiation of a U.S.-Nigeria TIFA, which was signed on February 16, 2000. The TIFA creates a

mechanism in which trade, investment, intellectual property, and other issues can be addressed and resolved. Nigeria, which is not currently eligible for the U.S. Generalized System of Preferences Program, has indicated its interest in participating in the program.

3. Other African Countries

The Administration has increased its engagement on trade issues with a number of other sub-Saharan African countries including Ghana, Senegal, and Uganda. In February 1999, the United States and Ghana signed a Trade and Investment Framework Agreement. In August 1999, the Administration worked extensively with Senegal's Minister of Commerce, during his visit to the United States, to highlight opportunities for increased U.S.-Senegal trade and areas for U.S.-Senegal cooperation in the WTO. In November 1999, during a visit of Uganda's Deputy Prime Minister/Minister of Trade, USTR began a U.S.-Uganda dialogue on a wide-range of WTO issues. The Administration plans to continue to enhance economic relations with a number of African countries and to work to diversify our trade with Africa.

a. Regional Trade and Investment Framework Agreements

Negotiation of a TIFA with the West African Economic and Monetary Union (WAEMU) began in 1998, and the Administration is hopeful that the TIFA will be concluded in 2000. In addition, the United States is discussing a TIFA with the Southern African Development Community. Regional TIFAs have been effective in other parts of the world as tools to institutionalize dialogue with regional leaders on trade and investment liberalization, regulatory and judicial reforms, intellectual property rights protection, and other measures to enhance trade.

b. GSP

The worldwide GSP program expired on June 30, 1999, but was re-authorized in November 1999 with benefits retroactive to July 1, 1999. Unlike in past years, the GSP program was re-authorized until September 30, 2001, providing greater incentives for importers to use the program because of the added security that the program will exist for the next two years. Implementation of the African Growth and Opportunity Act would further extend GSP benefits to sub-Saharan African countries for either 6 or 9 years (depending on whether the House or Senate version is enacted). The African Growth and Opportunity Act also would expand for qualifying sub-Saharan African countries the list of products given duty-free treatment under the GSP program, to include textiles and apparel and certain other items previously excluded.

In 1999, USTR extended GSP benefits to two additional sub-Saharan African countries, Gabon and Mauritania. USTR also worked with a number of African countries to help them understand how the GSP program works. In addition, during 1999, a number of new countries became eligible to utilize a regional cumulation benefit aimed at promoting regional economic integration and increased cross-border trade and investment. In June 1998, the President determined that eligible members of WAEMU, SADC, and the Tripartite Commission of East African Cooperation (EAC) could combine their value-added contributions to products exported to the United States in order to meet GSP rule-of-origin requirements. To be eligible, SADC and EAC members had to ratify their organization's respective trade protocol. By SADC's January 2000 deadline, ten SADC members had ratified the SADC trade protocol – Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, and Zimbabwe – making them eligible to receive the cumulation benefit. In 1999, all three members of the EAC (Kenya, Tanzania, and Uganda) signed the EAC Treaty making these

countries eligible for cumulation benefits. All eight WAEMU countries (Burkina Faso, Benin, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo) already were eligible for the new GSP cumulation benefit.

c. Enhanced Engagement on WTO Issues

Working with the countries of sub-Saharan Africa to assist them to actively participate in the WTO is a priority for the Administration. Participation in the WTO and the multilateral trading system are essential for promoting sustainable economic growth in Africa. Participation in the WTO includes sub-Saharan African members in a rules-based trading system in which they have an equal voice with all other WTO Members and an ability to influence decision-making. However, African WTO members will be able to benefit fully from the WTO only by understanding all their rights and obligations and by fully implementing their commitments under WTO agreements, commitments which will make their countries more attractive to international commerce and investment.

The Administration has been working with a number of African countries to increase their understanding of the issues before the WTO and to provide technical assistance to enable them to implement their WTO commitments and to enjoy fully the benefits of the international trading system. In October 1999, the United States with four African countries (Lesotho, Nigeria, Senegal, and Zambia) tabled a WTO proposal on technical assistance. Among other initiatives, USTR and USAID sponsored a Symposium on WTO-Related Technical Assistance Resources during the 1999 WTO Ministerial Conference. USTR and USAID also coordinated WTO-awareness workshops at the regional level in Zambia (co-sponsored by the Common Market for Eastern and Southern Africa (COMESA) and at the national level in Cote d'Ivoire, Mali, Senegal, South Africa, and Uganda.

VI. Trade Enforcement Activities

A. Enforcing Our Trade Agreements

Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous enforcement enhances our ability to get the maximum benefit from our trade agreements, ensures that we can continue to open markets, and builds confidence in the trading system.

Since President Clinton took office in 1993, we have concluded nearly 300 trade agreements – including trade-related declarations that will lead to future agreements – to help open markets, address issues of increasing complexity, and create opportunity for Americans. The scope and coverage of our network of agreements has thus grown considerably, and heightened our emphasis on ensuring the full implementation of these agreements.

Consequently, we have devoted more attention and resources than ever before to ensuring that these agreements yield the maximum advantage in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open and predictable trading environment. In the broad sense, ensuring full implementation of our trade agreements is one of USTR's strategic priorities. We seek to achieve this goal through a variety of means, including:

- We assert U.S. rights through the mechanisms in the World Trade Organization, including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO Committees and Bodies charged with monitoring implementation and surveillance of agreements and disciplines.
- We vigorously monitor and enforce our bilateral agreements.
- We invoke U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance.
- We provide technical assistance to trading partners, especially in developing countries, to ensure that key agreements like the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule.
- Through NAFTA's trilateral work program, tariff acceleration and use, or threat of use, of NAFTA's dispute settlement mechanism, we seek to promote U.S. interests under that Agreement, including using its labor and environmental side agreements to promote fairness for workers and effective environmental protection.

Since 1993, the Administration has vigorously enforced U.S. rights by deploying all available trade enforcement tools at its disposal on more than 100 occasions – including the initiation of 29 investigations under Section 301 of the Trade Act of 1974. Through vigorous application of U.S. trade laws, and active use of WTO dispute settlement procedures, the Administration has effectively opened foreign markets to U.S. goods and services. The President has also used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits to U.S. firms, farmers and workers.

To enforce the WTO agreements, the United States has been the world's most frequent user of dispute settlement procedures. In enforcing the WTO agreements, we have focused in particular on foreign practices that could pose serious problems to the international trading system if they proliferated in many markets. Therefore, the Clinton Administration has implemented an effective, strategic WTO enforcement plan – aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. The Administration has further demonstrated its commitment to enforce WTO agreements by imposing retaliatory trade measures against the European Union for its failure to comply with WTO rulings on bananas and on beef from cattle treated with hormones.

In the last 5 years, we have filed 49 complaints at the WTO, thus far settling favorably 10 cases and winning 13 others through WTO panels and the Appellate Body. We have won favorable settlements and panel victories in virtually all sectors, including manufacturing, intellectual property, agriculture and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy. For example:

- The United States has filed 13 complaints under WTO dispute settlement procedures to challenge foreign government practices affecting U.S. creative works and protection of U.S. intellectual property rights. On seven of those cases, we have already obtained favorable results, either by obtaining a satisfactory settlement or by prevailing in WTO dispute settlement proceedings. We reached prompt settlements with Japan on protection of sound recordings, with Portugal and Pakistan on patent protection, with Sweden on enforcement of its intellectual property laws, and with Turkey on taxation of foreign films. We also got favorable results from WTO dispute settlement rulings against Canada on magazines and against India on exclusive marketing rights on pharmaceutical and agricultural chemical products. These achievements demonstrate that the WTO dispute settlement mechanism has already had a significant impact on our ability to protect the creative works of U.S. citizens.

- 15 of our 49 complaints have involved agricultural products or enforcement of the WTO agreement on sanitary and phytosanitary measures – including cases involving our exports of fruit to Japan, pork and poultry to the Philippines, dairy products to Canada, high-fructose corn syrup to Mexico, beef to Korea, and grains, bananas and beef to the European Union.

These and other enforcement activities are explained in more detail in other sections of this Report. In particular, see the section on WTO Dispute Settlement in Chapter II.

USTR also works to ensure the most effective use of U.S. trade laws to complement our litigation strategy and to address problems that are outside the scope of the WTO and NAFTA. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below and in Chapter V on bilateral negotiations.

The renewal in 1999 of Super 301 and the Title VII government procurement review continues the Clinton Administration's long-standing commitment to opening markets multilaterally where possible and bilaterally where necessary. While the United States is creating opportunities to open markets multilaterally through the WTO, APEC, and the FTAA, the Administration also can use all of these trade laws to complement and reinforce its multilateral efforts.

To carry out this work as effectively as possible, USTR has added new personnel to carry out a larger enforcement workload, without compromising its efforts to negotiate further market access improvements in key markets. Specifically, we have created an Enforcement unit headed by an Assistant U.S. Trade Representative, and in FY 1998 Congress provided USTR with funds to hire seven new attorneys to handle the added volume of work at the WTO and elsewhere. We also work closely with the Customs Service and the Departments of Agriculture, Commerce, Labor, State and Treasury as well as other agencies involved in enforcement of trade laws and agreements.

1. WTO Dispute Settlement

1999 Activities

The WTO dispute settlement procedures continue to yield positive results for the United States. The United States prevailed in six cases that were argued before WTO dispute settlement panels or the WTO Appellate Body in 1999. Four of these six cases involved U.S. exports of agricultural products. We successfully challenged: (1) Japan's varietal testing requirements for imports of apples and other fruits; (2) Korea's discriminatory tax regime on distilled spirits; (3) Canada's export subsidies on dairy products; (4) Australia's export subsidies on automotive leather; (5) India's import bans and other quantitative restrictions on 2,700 tariff lines of agricultural and industrial goods; and (6) Mexico's antidumping action on imports of high-fructose corn syrup from the United States. These cases, which are more fully described in Chapter II, further demonstrate the utility of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations.

In 1999 the United States also sought and obtained WTO authorization to suspend concessions with respect to certain products from the European Union, as a result of the EU's failure to lift its ban on imports of U.S. meat, as well as its adoption of a new banana regime that perpetuates WTO violations previously identified by a WTO panel and the WTO Appellate Body. The arbitrators determined the levels of suspension to be $116.8 million and $191.4 million, respectively. Moreover, the United States successfully defended Section 301 of the Trade Act of 1974 against a challenge by the EU. A WTO panel rejected the EU's claim that section 301 is inconsistent with U.S. obligations under the WTO.

In addition to these significant accomplishments, the United States also filed eight new complaints under WTO dispute settlement procedures in 1999, regarding: (1) Korean measures affecting imports of fresh, chilled, and frozen beef; (2) Korean measures regarding government procurement practices for airport construction; (3) an Argentine safeguard measure on imports of footwear; (4) Canada's patent law; (5) Argentina's patent and test data protection for pharmaceuticals and agricultural chemicals; (6) French government subsidization of flight management systems for aircraft; (7) an EU regulation regarding protection of trademarks and geographical indications for agricultural products and foodstuffs; and (8) India's measures affecting trade and investment in the motor vehicle sector. See Chapter II for a description of each case.

2. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address distortive foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures, and leads the interagency team on matters of policy. The role of Commerce's Import Administration is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the Uruguay Round Agreements Act (URAA), to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient, relevant information about a subsidy practice has been gathered to permit the matter to be reliably evaluated, USTR and Commerce confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program. In fact, a WTO dispute settlement panel recently ruled that, given the particular circumstances in a case involving Australian government subsidies for the export of

automotive leather, repayment in full of the prohibited subsidy was necessary in order to withdraw the subsidy in that case.

Of critical importance throughout 1999 has been the Administration's effort to minimize the adverse effects of the recent foreign economic crises on the U.S. economy, including through stepped-up identification and surveillance of foreign subsidy practices that may exacerbate trade frictions. One industry that experienced severe import competition last year was the steel industry. In response, the President announced Steel Action Programs in January and August 1999, which provided for, among other things, an in-depth study and report of subsidies and market-distorting trade barriers for steel and steel inputs. The SEO is charged with conducting an extensive examination of subsidies and other government actions which have led to market-distorting practices and trade barriers. SEO is preparing a report that outlines the results of this examination and offers recommendations, developed in coordination with USTR, on the most effective means to address these subsidies and market-distorting trade barriers. This report is expected to be issued in late spring, 2000.

More generally, the SEO also maintains an electronic database on foreign subsidies drawn from the subsidies information which Commerce has developed through years of conducting countervailing duty investigations. This database is now accessible through the Internet at http://www.ita.doc.gov/import_admin/records/esel. By providing this information in a centralized location, Commerce has given the U.S. trading community improved access to information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint.

b. Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member country to another. The United States carefully monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, the Department of Commerce maintains a list of foreign antidumping and countervailing duty actions involving U.S. exporters. The list is accessible in the electronic library on the Department of Commerce's Import Administration Internet website at: http://www.ita.doc.gov/import_admin/records. The list provides information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. government agencies to monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies.

Over the past year, a WTO dispute settlement panel, established at the request of the United States, examined Mexico's final action imposing antidumping duties on U.S. exports of high fructose corn syrup. The panel recently concluded that Mexico's measure is inconsistent with WTO rules. U.S. officials also met with U.S. exporters of fresh and frozen beef, swine, and urea to discuss Mexico's antidumping investigations of those products. In Mexico's swine investigation, the United States conveyed its concern about this investigation in a letter to the Mexican Government.

The United States also has been closely monitoring antidumping and countervailing duty investigations of other countries. Bilateral discussions with the European Commission were held regarding the EU's antidumping investigation of large aluminum electrolytic capacitors from the United States. The investigation was ultimately concluded without the imposition of a final antidumping measure. U.S. officials also met with U.S. exporters concerning Taiwan's antidumping investigation of certain semiconductors, Brazil's antidumping investigation of insulin, and the People's Republic of China's antidumping investigation of newsprint. Other investigations being closely monitored are Chile's countervailing duty investigation of powdered milk and India's antidumping investigations of acrylic fibers and oxo alcohols.

Twice a year, WTO Members notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Members also notify their preliminary and final determinations to the WTO on a semi-annual basis. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are maintained in hard copy by USTR and the Import Administration, and are made available to interested parties and others who wish to be apprised of the specific details of foreign antidumping or countervailing duty proceedings, or the laws and regulations governing their administration. The documents are also accessible through the USTR and Import Administration web-site "links" to the WTO's web site.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased foreign market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

The USTR has initiated 119 investigations pursuant to Section 301 since the statute was first enacted in 1974. From 1993 through 1999, the USTR initiated 29 Section 301 investigations.

Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take action. The USTR also may self-initiate an investigation. In each investigation the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act

requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

There were major developments in the following Section 301 investigations during 1999. (For those investigations involving WTO dispute settlement procedures, see Chapter II.)

Mexican Practices Affecting High Fructose Corn Syrup (HFCS) (301-118)

On May 15, 1998, the USTR initiated an investigation in response to a Section 301 petition filed by the Corn Refiners Association, Inc. with respect to certain acts, policies and practices of the Government of Mexico that affect access to the Mexican market for HFCS. In particular, the investigation concerned whether the Government of Mexico had encouraged an agreement between representatives of the Mexican sugar industry and the Mexican soft drink bottling industry to limit the soft drink industry's purchases of HFCS.

In May 1999, the USTR determined that it would be appropriate to explore further the nature and consequences of Mexican Government involvement in this matter. The USTR also determined that the United States would, as a high priority, continue consultations with the Government of Mexico on issues related to trade in HFCS, with the aim of securing fair and equitable market opportunities for U.S. producers. In tandem, the USTR used the WTO dispute settlement mechanism to successfully challenge Mexico's antidumping action on imports of HFCS from the United States. A WTO dispute settlement panel agreed with the United States that the imposition of antidumping duties on HFCS by the Government of Mexico violated WTO rules on antidumping measures. (See Chapter II for a description of that case.)

Practices of the Government of Canada and of the Province of Ontario Regarding Measures Affecting Tourism and Sport Fishing Practices (301-119)

On April 29, 1999, the USTR initiated an investigation in response to a Section 301 petition filed by the Border Waters Coalition Against Discrimination in Services Trade with respect to certain acts, policies and practices of the Government of Canada and the Province of Ontario regarding sport fishing and tourism. In particular, the investigation concerned whether Ontario impaired the ability of Minnesota tourist establishments (fishing resorts, fishing guides, outfitters, and others) to compete against their Canadian counterparts by prohibiting U.S. recreational fishermen from keeping their catch if the fishermen lodged on the Minnesota side of certain lakes that straddle the U.S.-Canadian border. The investigation also examined whether Canadian immigration officials required U.S. fishing guides to obtain Canadian work authorizations to guide fishing trips into Canada.

On November 5, 1999, the USTR announced the successful resolution of this matter. The Province of Ontario agreed to revoke the provincial measures under investigation. In addition, the Government of Canada agreed that the immigration measure under investigation would be reviewed by the NAFTA Temporary Entry Working Group. The USTR will continue to monitor implementation by the Government of Canada and the Province of Ontario of these measures and agreements.

EC - Importation, Sale, and Distribution of Bananas (301-100a)

Chapter II includes a report on WTO dispute settlement proceedings involving the EC's regime for the importation, sale, and distribution of bananas. On April 6, 1999, WTO arbitrators confirmed that the EC had failed to implement the recommendation and rulings of the WTO Dispute Settlement Body with respect to its banana regime, and the arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent banana regime was $191.4 million per year. Pursuant to the arbitrators' determination, on April 19, 1999 the DSB authorized the United States to suspend the application to the European Communities and its member States of tariff concessions and related obligations under the GATT covering trade up to $191.4 million per year. In a notice published on April 19, 1999, the USTR announced that the United States was exercising this authorization by imposing 100 percent *ad valorem* duties on certain products of certain EC member States, pursuant to Section 301. In the meantime, talks continue with the aim of reaching a mutually satisfactory solution to this longstanding dispute.

EC - Measures Concerning Meat and Meat Products (Hormones) (301-62a)

Chapter II includes a report on WTO dispute settlement proceedings regarding an EC directive prohibiting imports of animals, and meat from animals, to which certain hormones had been administered (the "hormone ban"). This measure had the effect of banning nearly all imports of beef and beef products from the United States. After a WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations – because the ban was not based on scientific evidence, a risk assessment, or relevant international standards – the EC was given until May 13, 1999, to implement the WTO rulings. However, the EC failed to do so. Accordingly, on May 17, 1999, and in accordance with U.S. rights under Article 22 of the DSU, the United States requested authorization from the DSB to suspend the application to the EC, and member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with the DSB recommendations and rulings, but it

objected to the level of suspension proposed by the United States. Pursuant to Article 22.6 of the DSU, the matter was referred to arbitration.

On July 12, 1999, the arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the European Communities and its member States of tariff concessions and related obligations under the GATT covering trade up to $116.8 million per year. In a notice published on July 27, 1999, the USTR announced that the United States was exercising this authorization by imposing 100 percent *ad valorem* duties on certain products of certain EC States. Meanwhile, discussions with the EC to resolve this matter are continuing.

Other Investigations Involving WTO Dispute Settlement

Chapter II includes information on the following Section 301 investigations that involve measures that are the subject of WTO dispute settlement proceedings filed by the United States: Canada - Practices Affecting Periodicals (301-102); India - Patent Protection for Pharmaceuticals and Agricultural Chemicals (301-106); Australia - Subsidies on Leather (301-107); Indonesia - Promotion of the Motor Vehicle Sector (301-109); Japan - Market Access Barriers to Agricultural Products (301-112); and Canada - Export Subsidies and Market Access for Dairy Products (301-113).

2. Super 301

On March 31, 1999, the President signed Executive Order 12901 re-instituting "Super 301" procedures. Those procedures direct the USTR to review U.S. trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent. Under the Executive Order, an annual Super 301 report is to be issued on April 30 of each year.

The April 1999 Super 301 Report identified as key priorities the strategic enforcement of bilateral, regional, and multilateral obligations of our trading partners. The report did not identify any "priority foreign country practices" within the meaning of the Executive Order, but found that a number of practices warranted the initiation of WTO dispute settlement proceedings or other actions in the context of our bilateral trade relationships. In particular, the report announced dispute settlement cases on EU-Avionics, India- Auto TRIMS, and Korea - Barriers to the Import and Distribution of Foreign Beef. (Information on those disputes is provided in Chapter II.) The report also announced that USTR was developing additional information regarding the compliance of WTO Members with the WTO agreement on customs valuation, and that USTR would pursue dispute settlement consultations with countries that do not satisfactorily address U.S. concerns.

3. Special 301

The successful implementation of the "Special 301" program by the Clinton Administration has vastly improved intellectual property standards around the world. Publication of the Special 301 list warns a country of our concerns, and it warns potential investors in that country that their intellectual property rights may not be satisfactorily protected.

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act of 1994, under Special 301 provisions, the USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property

protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as "Priority Foreign Countries" (PFC).

Priority foreign countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act. USTR may not designate a country as a priority foreign country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

The USTR must decide whether to identify countries each year within 30 days after issuance of the National Trade Estimate Report. In addition, the USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted.

The USTR has created a "Priority Watch List" and "Watch List" under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection or enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

a. New Initiatives

On December 1, the President announced that USTR and the Department of Health and Human Services (HHS) will develop a cooperative approach on health-related intellectual property matters consistent with our goal of helping poor countries gain access to affordable medicines, especially for the continuing war against HIV/AIDS. Through this approach, we will ensure the application of U.S. trade law related to intellectual property, such as Special 301, remains sufficiently flexible to respond to legitimate public health crises. Under this new arrangement there will be a more direct interaction between USTR and HHS on health-related intellectual property issues. When a foreign government expresses concern that U.S. trade law related to intellectual property significantly impedes its ability to address a health crisis, USTR will seek substantive information from HHS on the health conditions prevailing in that country. This will enable USTR to ensure that the application of U.S. trade law related to intellectual property is sufficiently flexible to respond to public health crises, while also ensuring that the minimum standards of the WTO TRIPS Agreement are respected in these situations.

b. Ongoing Initiatives

USTR's overriding objective during this year with respect to the protection of intellectual property rights has been to secure full and timely implementation of the WTO TRIPS Agreement. To this end, the USTR announced as part of the April 1999 Special 301 Report that USTR would conduct a special out-of-cycle review to assess the progress made by developing countries toward full implementation of their TRIPS obligations. Under the TRIPS Agreement, developing countries were given a five-year transitional period, ending on January 1, 2000, during which to bring their intellectual property regimes into compliance.

A second focus of USTR activity has been addressing pirate production and distribution of optical media like CDs, Video CDs, digital videodiscs and CD-ROMs, including through the use of new tools like licensing for optical disc manufacturing facilities and import/export licensing for manufacturing equipment. Finally, USTR has continued its efforts to more effectively protect computer software, especially by promoting the use of only licensed software by foreign government agencies. Using as a model the 1998 Executive Order

issued by President Clinton, USTR engaged numerous other governments, particularly those in need of modernizing their software management systems or where concerns have been expressed about inappropriate government use, encouraging them to adopt similar decrees directing their own government agencies to maintain appropriate, effective procedures to ensure legitimate use of software.

c. Implementation of Special 301

The specific improvements resulting from Special 301 reviews have been documented in each annual Special 301 report. However, several notable developments over the past two years are highlighted below.

- A bilateral understanding was reached with South Africa under which both Governments reaffirmed their shared objective of fully protecting intellectual property rights under the WTO TRIPS Agreement, while addressing the health issues identified by South Africa. South Africa agreed that it would address health needs in a manner that fully protects intellectual property rights. As a result South Africa was removed from all Special 301 lists.

- Several years ago Bulgaria was one of Europe's largest sources of pirate music CDs, and a major cause of concern for the U.S. copyright industry. Through intensive negotiations and increased pressure under Special 301, we worked to raise awareness and concern about the problem in Bulgaria. Today, Bulgaria has almost totally eliminated pirate production of music CDs. As a result, Bulgaria was removed from all Special 301 lists this year.

- The Jordanian Government amended its laws relating to intellectual property, providing improved protection in accordance with TRIPS standards. Jordan also joined the Berne Convention, giving U.S. copyrighted works legal protection in Jordan. Jordan also was removed from all Special 301 lists.

- Mexico passed new anti-piracy legislation which is a key part of its overall enforcement initiative announced in 1998.

- The United States and Honduras concluded negotiation of a bilateral IPR agreement.

- In light of Paraguay's commitments in a Memorandum of Understanding signed on November 17, 1998, the United States concluded an investigation of the policies and practices of the Government of Paraguay concerning the protection and enforcement of intellectual property rights.

d. Implementation of Ongoing Initiatives

Since the launch of these initiatives significant progress has been made in each area.

TRIPS Implementation

Through initiation of dispute settlement procedures and regular consultations the following progress was made on TRIPS implementation issues.

- The Government of India enacted legislation and drafted implementing regulations establishing mailbox and exclusive marketing rights systems for pharmaceutical and agricultural chemical products.

- The Government of Sweden implemented amendments to its

copyright law which provide for provisional ex parte relief in civil cases allowing the United States and Sweden to announce the settlement of our WTO dispute settlement case.

- The Government of Denmark made progress toward finalizing its consideration of options to amend its copyright law to provide for provisional ex parte relief in civil cases pursuant to our WTO dispute settlement case.

- The Government of Greece closed additional television stations for piracy during on-going WTO dispute settlement consultations regarding television piracy.

- Ireland continued to make progress toward implementation of a comprehensive new copyright law, and also implemented separate legislation raising criminal penalties for copyright infringement.

Optical Media

The Hong Kong Special Administrative Region (HKSAR) passed a new copyright law addressing software decompilation and parallel imports, and also granted customs enhanced authority to seize suspected pirated goods. The government of Hong Kong imposed a licensing requirement for the import and export of machinery and equipment used for production of compact discs, video compact discs, or CD-ROMs. The HKSAR also passed legislation calling for registration and licensing for current and future optical media production facilities, with tough penalties for non-compliance. The Hong Kong legislature approved the "Prevention of Copyright Piracy" bill on March 25, 1999. The bill provides Hong Kong customs with the power to take stronger enforcement action against violators. Malaysia also undertook a series of constructive steps toward developing and implementing a regulatory regime to control pirate optical media production, and to strengthen manufacturing and retail level enforcement efforts.

Government Use of Software

Significant progress also has been made working with other governments to modernize their software management systems. This year the Governments of China, Colombia, Paraguay, Taiwan, Jordan and Thailand have all issued a high-level decree requiring the use of only legitimate software by government ministries.

USTR will again focus special attention in the 2000 Special 301 annual review on the progress countries have made toward addressing these three issues.

1999 Special 301 Review Announcements

On February 19, 1999, the USTR announced the results of out-of-cycle reviews of Hong Kong, Ecuador, Colombia, and Vietnam. Hong Kong was removed from the Watch List in recognition of its efforts during the previous year to address piracy. However, in view of continuing high piracy rates, the USTR called upon Hong Kong to take significant new steps in the near future to address the problem. Ecuador was maintained on the Priority Watch List, and Colombia and Vietnam were maintained on the Watch List.

On April 30, 1999, USTR announced the results of the Special 301 annual review. USTR identified 57 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States artists and industries that rely upon intellectual property protection. Of the 57, 16 trading partners were placed on the Priority Watch List and 37 on the Watch List. Seven of these 57 were named for out-of-cycle reviews: Israel, Kuwait, South Africa, Colombia, Poland, the Czech Republic, and Korea. In addition, USTR announced an out-of-cycle review to

assess Malaysia's progress toward substantially reducing pirated optical media production and export, and an out-of-cycle review of Hong Kong to assess progress toward reducing piracy rates. Paraguay and China were designated for "Section 306 monitoring" to ensure that both countries comply with the commitments made to the United States under bilateral intellectual property agreements. Intensive monitoring continued in 1999 through regular bilateral consultations with both governments. Finally, USTR used the Special 301 report to announce initiation of WTO consultations with Argentina, Canada and the European Union, bringing to 13 the number of intellectual property-related WTO complaints filed by the United States since 1996.

On December 1, 1999, the USTR announced removal of South Africa from the Special 301 Watch List, based on a bilateral understanding developed with South Africa under which both Governments reaffirmed their shared objective of fully protecting intellectual property rights under the WTO TRIPS Agreement, while addressing the health issues identified by South Africa. South Africa agreed that it would address health needs in a manner that fully protects intellectual property rights. USTR took this action as a result of this understanding, as well as other steps South Africa had taken and was taking to improve further the protection of intellectual property.

On December 10, 1999, the USTR announced that Jordan was removed from the Watch List as the result of an out-of-cycle review. In actions related to its accession to the WTO, the Government of Jordan passed a number of strong intellectual property laws laying the legal foundation for an effective intellectual property regime consistent with the TRIPS Agreement. The Government of Jordan also demonstrated its determination to ensure effective enforcement of the laws comprising Jordan's improved regime for protection of intellectual property. In making the announcement, the USTR noted that implementation and enforcement will be important benchmarks for future reviews.

On December 17, 1999, the USTR announced results of out-of-cycle reviews of Colombia, the Czech Republic, Hong Kong, and Malaysia. Colombia and the Czech Republic remained on the Watch List. Hong Kong and Malaysia remained off the list, but the USTR called upon Hong Kong to redouble its efforts to reduce piracy rates, and announced that USTR would continue to monitor Malaysia's progress toward substantially reducing pirated optical media production.

4. Telecommunications

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the Section 1377 review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country. An affirmative determination under Section 1377 must be treated as an affirmative determination of a violation of a trade agreement under Section 304(a)(1)(A) of the Trade Act of 1974.

Due in large part to the 1997 WTO Agreement on Basic Telecommunications, which came into effect on February 5, 1998, mutually advantageous market opportunities for U.S. telecommunications equipment and service suppliers expanded greatly in 1999. U.S. firms are establishing facilities-based affiliates in countries in Africa, the Americas, Asia-Pacific and Europe that are newly opened to competition; exports of U.S.

telecommunications and information technology equipment advanced at double-digit rates in many areas; and, retail prices for international calls made from the United States dropped virtually across the board, reaching the 10 to 20 cent per minute range for a number of highly competitive routes. The WTO Agreement also has been instrumental in opening markets to satellite services around the world. With many countries liberalizing their satellite regulations, revenue of the commercial satellite industry is projected to enjoy double-digit growth over the next decade. These trends are expected to continue as more countries open their markets to full international competition.

Interventions by U.S. officials on behalf of U.S. industry abroad, in instances where trading partners' WTO obligations are implicated, have increased and led in several instances to rapid resolution of complaints without resort to investigations under Section 1377. Notwithstanding this favorable trend, monitoring and enforcement activities under Section 1377 have increased substantially given that, pursuant to the 1997 WTO Basic Telecom Agreement, the number of trading partners subject to the annual review under Section 1377 includes the entire WTO membership. The number of countries singled out in public comments during 1999 increased correspondingly.

The 1999 review, which was completed on March 30, 1999, focused on implementation of bilateral and WTO commitments by the European Community and Member States, Mexico, Germany and Japan. In each case, substantial progress was made in meeting the concerns of U.S. industry. In each of these cases, out-of-cycle investigations or intensive monitoring and other activities continued throughout the year.

USTR's 1999 review of the European Community and Member States focused on the "third generation" (3G) mobile systems. Private sector and government representatives of the United States, Europe and other regions concluded in the International Telecommunication Union (ITU) in late-1999 a *five*-mode international recommendation for future 3G systems, which will allow all 3G systems to offer global roaming, high-speed data and Internet access, full-motion video and other sophisticated multimedia services. However, certain decisions in Europe (by the European Telecommunications Standards Institute (1/98), the European Council of Ministers (12/98) and the European Posts and Telecommunications Commission's European Radio Committee (11/99)) suggest a strategy to promote pan-European and global adoption of a system using only *two* of the five modes, which could disadvantage U.S. users as well as manufacturers and service suppliers in the United States, European and third country markets. European Commission officials, in bilateral discussions and in responses to a series of U.S. letters expressing concern, have pledged repeatedly that EU Member States will not exclude the possibility of licensing use of the other three modes of the ITU recommendation. Most, if not all, EU Member States that have already instituted authorization systems for 3G services, have hewed to this pledge.

USTR's 1999 out-of-cycle review under Section 1377 of Mexico's compliance with its WTO telecommunications commitments focused on Mexico's consultative policy review – which included participation by U.S.-affiliated and other Mexican carriers – of the reform of international service and domestic service regulations. Mexican regulations have yet to produce lower net domestic interconnection costs for new entrants, and the Mexican regulatory authority has yet to create confidence that Telmex (the dominant Mexican carrier and former monopoly operator) is not engaging in anticompetitive cross-subsidization of different telecom services. In addition, from July 1999, Telmex failed to provide private lines and circuits essential for many purposes, including

the provision of end-to-end private line service between the United States and Mexico. As a result, the out-of-cycle review under Section 1377 has been extended for decision on March 31, 2000, as part of the 2000 review.

USTR's 1999 out-of-cycle review under Section 1377 of Germany focused on that country's compliance with its WTO telecommunications commitments. The review found that German regulatory decisions in May 1999 did not endorse restrictive and potentially WTO-inconsistent proposals made by Deutsche Telekom (the dominant German carrier and former monopoly operator). However, the review also concluded that those decisions were not sufficient to prevent anticompetitive behavior by Deutsche Telekom until new interconnection arrangements applicable from March 1, 2000 are finalized. U.S. carriers have asserted to the U.S. Government that the German licensing regime and Deutsche Telekom's anticompetitive behavior continue to impede their efforts to provide service in Germany. On December 23, 1999, the German regulatory authority announced new interconnection rates and peak and off-peak hours that will apply until February 28, 2001. As a result, the out-of-cycle review under Section 1377 has been extended for decision on March 31, 2000, as part of the 2000 review.

Japan came under close scrutiny in the 1377 review for over-priced interconnection rates that effectively prevent competition in Japan's local market, as well as for prohibiting the routing of both domestic and international traffic via combinations of owned and leased network facilities. Japan committed to address these issues in the context of the Second Joint Status Report under the Enhanced Initiative on Deregulation and Competition Policy released in May 1999. Specifically, Japan agreed: (1) to take action to ensure that interconnection rates do not impair local competition; and (2) to permit carriers to combine owned and leased facilities to provide services. In addition, the United States is currently seeking concrete action by Japan to assure that substantial reductions in interconnection rates are achieved this year in line with Japan's 1998 pledge under the Enhanced Deregulation Initiative to reduce rates to competitive levels in the year 2000.

The USTR also has undertaken an active telecommunications equipment trade agreement program, a key aspect of which is the WTO Information Technology Agreement. Concluded in 1996, this Agreement set a five-year phase-out of tariffs for a broad range of information technology equipment among the world's leading exporters and importers of such goods. The USTR also has worked to reduce non-tariff barriers to trade in this heavily-regulated sector. For instance, as a result of the NAFTA telecommunications and standards chapters, we have harmonized telephone equipment standards in North America and streamlined procedures for equipment testing, lowering barriers and bolstering trade with two of our largest trading partners. Finally, mutual recognition agreements for telecommunications equipment trade concluded with Europe (1997), as well as the Asia-Pacific (1998) and Americas (1999) regions, will speed up necessary regulatory approvals and lower their costs.

5. Government Procurement

Title VII of the 1988 Omnibus Trade and Competitiveness Act, which expired on April 30, 1996, required the U.S. Trade Representative, through authority delegated by the President, to identify foreign countries that are signatories to the WTO Government Procurement Agreement (GPA) and are in violation of their GPA obligations. The USTR also was required to identify GPA signatories that met the statutory criteria for identification in areas not covered by the GPA, as well as non-signatories that met these criteria in any area of procurement. Those criteria were: (1) a significant and persistent pattern or practice of discrimination in government procurement

against United States goods and services; (2) identifiable harm to U.S. businesses; and (3) significant purchases by the United States Government of goods or services from that country. Finally, Title VII required identification of countries that are not signatories to the GPA and fail to apply transparent and competitive procurement procedures or to maintain and enforce effective prohibitions on bribery.

Title VII provided for consultations with countries whose practices were identified as discriminatory, and for appropriate Presidential action with regard to such countries if discrimination were not addressed within specified time frames. It required initiation of dispute settlement procedures established by the GPA for apparent violations of the GPA. With respect to discrimination in procurement not covered by the GPA, it authorized the imposition of procurement sanctions. On April 30, 1996, Title VII expired pursuant to a sunset provision, except with respect to identifications made on or before that date.

Viewing Title VII as an effective tool for addressing discriminatory foreign procurement practices, the Administration re-instituted the Title VII process through Executive Order 13116 of March 31, 1999. The Executive Order requires USTR to identify countries that: (1) are not in compliance with their obligations under the GPA, Chapter 10 of the North American Free Trade Agreement (NAFTA Chapter 10), or other agreements relating to government procurement to which those countries and the United States are parties; or that (2) maintain, in government procurement, a significant pattern or practice of discrimination against U.S. products or services which results in identifiable harm to U.S. businesses, when those countries' products or services are acquired in significant amounts by the U.S. Government.

The Executive Order also mandates that USTR submit a report on the identified countries and practices to the Congressional committees of jurisdiction by April 30 (for the years 1999, 2000, and 2001), and publish these reports in the *Federal Register*. Within 90 days of the submission of the report, USTR must initiate under Section 301 of the Trade Act of 1974, as amended, an investigation with respect to any identified country unless USTR determines that a satisfactory resolution of the matter has been achieved.

From 1991-1996, the Office of the USTR conducted six annual reviews under Title VII. Two determinations remain outstanding from that period.

In 1993, Title VII sanctions were imposed against the EU and its Member States for discrimination against U.S. telecommunications products. Those sanctions remain in place today. In 1999, the EU advised the Administration that it had limited the application of the disputed provisions of its procurement regulations and suggested that the two sides seek to resolve the issue on that basis. The Administration will schedule bilateral consultations for that purpose in 2000.

In March 1996, USTR identified Germany for a "significant pattern or practice of discrimination" in the heavy electrical equipment sector. The Title VII Report noted a "pervasive institutional problem" with respect to Germany's implementation of a remedies system for challenging procurement decisions. Following a 60-day period of consultation provided for in the statute, the USTR formally identified Germany on July 1, 1996, but suspended imposition of sanctions until September 30, 1996, due to progress made in the consultations.

In October 1996, USTR announced that the German Cabinet had decided to propose legislation to reform the German procurement

system. As a result, USTR suspended imposition of sanctions pending implementation of the legislation. In May 1998, the German parliament passed legislation requiring significant reforms in the German procurement system, including with respect to bid challenge procedures. That legislation was signed and entered into effect on January 1, 1999. The Administration has advised the German government that it will continue to monitor implementation of the new law to ensure that it results in the necessary practical improvements in the German procurement system. On that basis, USTR will review the 1996 Title VII determination in 2000.

In 1999, based on the public responses to a *Federal Register* notice, consultations with the private sector, and its own information, the Administration determined that no countries met the criteria for Title VII identification at that time. However, our report took note of countries that, while not formally identified, are of ongoing concern with respect to U.S. market access because of their questionable government procurement practices. The report noted U.S. concerns with the discriminatory procurement practices of Korea's largest airport construction entity, which the Administration has challenged through WTO dispute settlement procedures. The WTO panel's report on that dispute will be issued in early 2000.

6. Antidumping Actions

Under the antidumping law, remedial duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the 1979 Trade Act, the 1984 Trade Act, the 1988 Trade Act, and the 1994 Uruguay Round Agreements Act.

An antidumping investigation starts when a U.S. industry, or a representative filing on its behalf, submits a petition alleging with respect to certain imports the dumping and injury elements described above. If the petition meets the minium evidentiary requirement, Commerce initiates an antidumping investigation. Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, the case shifts back to Commerce for preliminary and final inquiries into the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs bonds released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins and subsidy rates pursuant to Section 751 of the

Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Agreement on Antidumping.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the terms of the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998 and 46 in 1999. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 24 in 1995; 9 in 1996; 7 in 1997; 9 in 1998 and 21 in 1999.

7. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies benefitting imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures. Commerce normally initiates investigations based upon a petition submitted by an interested party. The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

The number of CVD investigations initiated in and since 1986 are: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; and 11 in 1999. The number of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; and 7 in 1999.

8. Unfair Import Practices (Section 337)

Section 337 of the Tariff Act of 1930 makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, usually involving U.S. patents.

The USITC conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve trial-type proceedings before a USITC administrative law judge. If the USITC finds a violation, it can order unfairly traded goods excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. Many Section 337

investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products.

If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review process, if the importer pays a bond set by the USITC. If the President takes no negative action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC also is authorized to issue temporary exclusion or cease and desist orders prior to completion of an investigation if the USITC determines that there is reason to believe a violation of Section 337 exists.

In 1999, the USITC initiated nine Section 337 investigations, with no formal enforcement proceedings arising out of these investigations. During the year, the USITC issued three general exclusion orders covering imports from foreign firms, as well as twenty-three cease and desist orders to U.S. firms regarding their use or further sale of imported infringing products. The President permitted these exclusion and cease and desist orders to become final without presidential action in 1999.

9. Safeguard Actions (Section 201)

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry seriously injured by increased imports. Relief may be granted for an initial period of up to four years, with the possibility of extending the action to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry, and may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also provides for the granting by the President of provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the United States International Trade Commission must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of March 1, 2000, the United States had safeguard measures in place on four imported products: wheat gluten, lamb meat, certain steel wire (wire rod) and circular welded carbon quality line pipe (line pipe).

Effective June 1, 1998, the President imposed quantitative restrictions on imports of wheat gluten for a period of 3 years and 1 day. Absent an extension, the measure will expire June 1,

2001. The measure applies to imports from all countries except Canada, Mexico, Israel, and CBI and Andean Trade Preference beneficiaries. Effective July 22, 1999, the President imposed a tariff-rate quota on imports of lamb meat, also for a period of 3 years and 1 day. The measure likewise applies to imports from all countries except Canada, Mexico, Israel, and CBI and Andean Trade Preference beneficiaries. Unless extended, the measure will expire on July 22, 2002. During 1999, the European Communities, and Australia and New Zealand requested formation of WTO dispute settlement panels to examine the U.S. safeguard measures on wheat gluten and lamb, respectively. USTR is defending the consistency of these actions under the WTO Safeguards Agreement.

Two Section 201 petitions were filed with the USITC during 1999, on imports of wire rod and line pipe. The wire rod petition was filed on January 12, 1999. On July 12, 1999, the USITC reported to the President that it was equally divided 3-3 in its wire rod injury determination; the USITC report included the remedy recommendations of the three Commissioners who made an affirmative injury determination. When the USITC is equally divided in its injury determination, Section 330(d)(1) of the Tariff Act of 1930 provides that the President may consider the determination of either group of USITC Commissioners as the determination of the USITC. On February 16, 2000, the President imposed a tariff-rate quota on imports of wire rod for a period of 3 years and 1 day effective March 1, 2000 on imports from all countries except Canada and Mexico. In the first year, steel wire rod from countries subject to the restriction will face additional duties of 10 percent once imports exceed 1.58 million net tons. In the second and third years, the quantity of imports exempt from the higher duty will increase by 2 percent a year and the level of the surcharge will decline by 2.5 percentage points a year. The safeguard action also includes a spacing mechanism designed to avoid a rush of shipments to the United States by importers seeking to avoid the new tariff surcharges. During each of the first three quarters of a quota year, any wire rod imports from countries subject to the tariff-rate quota that exceed one-third of the total in-quota quantity for that quota year will be subject to the tariff surcharge for that year. The remaining amount of the in-quota quantity may be imported in the fourth quarter without additional duties. In addition, the tariff-rate quota will not apply to a subset of wire rod products that U.S. firms do not produce in commercially significant quantities.

The line pipe petition was filed with the USITC on June 30, 1999. On December 22, 1999, the USITC reported to the President that it had made an affirmative injury determination in the investigation by a vote of 5-1. The report also included the remedy recommendations of the five USITC Commissioners who made an affirmative injury determination. On February 11, 2000, the President announced the imposition of import relief on imports of line pipe for a period of 3 years and 1 day, effective March 1, 2000. The import relief will take the form of an increase in duty of 19 percent. All countries will be able to exempt the first 9,000 short tons of line pipe imported into the United States from this increase in duty. The increase in duty will drop to 15 percent ad valorem in the second year and to 11 percent ad valorem in the third year.

10. Trade Adjustment Assistance

a. Assistance for Workers

The Trade Adjustment Assistance (TAA) program provides worker assistance through Title II of the 1974 Trade Act. Assistance includes trade adjustment allowances, training, job search and relocation allowances, plus reemployment services for workers adversely affected by increased imports. Initially authorized by the Trade Expansion Act of 1962, the program is scheduled to expire on September 30, 2001.

For workers to be certified as eligible to apply for TAA, the Secretary of Labor must determine that workers in a firm have become or are threatened to become totally or partially separated; that the firm's sales or production have decreased absolutely; and that increases in like or directly competitive imported products contributed importantly to the total or partial separation, and to the decline in the firm's sales or production.

The U.S. Department of Labor administers adjustment assistance to workers through the Employment and Training Administration (ETA). Workers certified for trade adjustment assistance are provided a certification of eligibility and may apply for TAA benefits at the nearest office of the State Employment Security Agency. The amendments require eligible workers to have completed training or be enrolled in training as a condition for receiving trade readjustment allowances. This requirement may be waived by the State if training is not feasible or not appropriate.

Fact-finding investigations were newly instituted for 2,500 petitions in fiscal year (FY) 1999. In FY 1999, 1,571 certifications or partial certifications were issued covering nearly 150,000 workers, whereas 781 petitions involving 81,820 workers resulted in negative determinations.

The number of workers applying for and receiving trade readjustment allowances was 22,400 in FY 1999. Expenditures for such benefits were $214 million in FY 1999. The Department of Labor provided training, job search, and relocation allowances valued at in excess of $94 million in FY 1999. The number of workers receiving these payments was 26,000 in FY 1999. In addition, $19 million was expended for 2500 additional workers under NAFTA Trade Adjustment Assistance and $37 million was expended for training 8200 workers under the NAFTA Trade Adjustment Assistance training program.

b. Assistance for Firms and Industries

The Planning and Development Assistance Division in the Department of Commerce's Economic Development Administration (EDA) administers the Trade Adjustment Assistance (TAA) program for firms and industries. This program is authorized by Title II, Chapter 3, of the Trade Act of 1974, as amended, through September 30, 2001. To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers.

Under the TAA program, EDA funds a network of 12 Trade Adjustment Assistance Centers (TAACs). These TAACs are sponsored by nonprofit organizations, institutions of higher education, and a state agency. In FY 1999, EDA provided $11.0 million in funding to the TAACs. That amount included $1.5 million in defense adjustment funding, which is used to assist trade impacted firms that also have been impacted by defense downsizing or are located in areas that have been impacted by defense downsizing.

A TAAC will assist a firm in completing its petition for certification of eligibility. In FY 1999, EDA certified 173 firms under the TAA program. Once EDA certifies the firm, the TAAC will assist the firm in assessing its competitive situation and in developing an adjustment proposal. The adjustment proposal must show that the firm is aware of its strengths and weaknesses and must present a clear and rational strategy for achieving economic recovery. EDA's Adjustment Proposal Review Committee (APRC) must approve the firm's adjustment proposal. During FY 1999 the APRC approved 149 adjustment proposals from certified firms.

After the adjustment proposal is approved by the APRC, the firm may request technical assistance from the TAAC to implement its strategy. Using funds provided by the TAA program, the TAAC will contract with consultants to provide the technical assistance tasks identified in the firm's strategy. The firm must typically pay 50 percent of the cost of each consultant contract. However, the maximum amount of technical assistance available to a firm under the TAA program is $75,000. Common types of technical assistance requested by firms include the development of marketing materials, identification of new products that the firm could produce, ISO 9000 certification, and identification of appropriate management information systems.

EDA also may provide technical assistance for industry-wide projects. In recent years EDA has opted to use the limited program resources to support the TAACs and their outreach efforts. However, in FY1999 EDA approved a technical assistance grant to help the Alaskan salmon fishing industry prepare a strategic marketing plan. Funds for this project were transferred to EDA from the U.S. Department of Agriculture.

On August 17, 1999, President Clinton signed into law legislation creating the Emergency Steel Loan Guarantee Act of 1999 and the Emergency Oil and Gas Guaranteed Loan Program Act (Public Law 106-51). The program has been structured to fulfill the two goals laid out in the legislation by Congressional sponsors: to assist steel and oil/gas firms injured by the import crises and to protect government funds by providing sound loan guarantees. The January 31, 2000 deadline for applications seeking this assistance has been extended to February 28, 2000. No funds for this program were disbursed in 1999.

11. Generalized System of Preferences

The Generalized System of Preferences is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The program began in 1976, when the United States joined 19 other industrialized countries in granting tariff preferences to promote the economic growth of developing countries through trade expansion. Currently, more than 4,400 products or product categories (defined at the eight-digit level in the Harmonized Tariff Schedule of the United States) are eligible for duty-free entry from countries designated as beneficiaries under GSP. In 1997, an additional 1783 products were made duty free under GSP for countries designated as least developed beneficiary developing countries (LDBDCs).

The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. In its current form, GSP is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves these ends by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while at the same time excluding from duty-free treatment under GSP those products determined by the President to be "import sensitive." The value of duty-free imports in 1998 was approximately $16 billion.

In addition, the U.S. GSP program works to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights.

An important attribute of the U.S. program is its ability to adapt, product by product, to changing

market conditions and the changing needs of producers, workers, exporters, importers and consumers. Modifications can be made in the list of articles eligible for duty-free treatment by means of an annual review. The process begins with a *Federal Register* notice requesting the submission of petitions for modifications in the list of eligible articles. Those that are accepted are made subjects of public hearings, preparation of a U.S. International Trade Commission study of the "probable economic impact" of granting the petition, and a review of all relevant material by the GSP interagency committee. Following completion of the review, the President announces his decisions in the spring on which petitions will be granted.

Although the program was originally authorized for ten years and subsequently reauthorized for eight years, Congress has recently renewed the program for only brief periods of one or two years. The GSP program has lapsed temporarily several times – September 30, 1994; July 31, 1995; May 31, 1997, June 30, 1998, and June 30, 1999. Each time it was reauthorized after a delay and applied retroactively to the previous expiration date, thus maintaining the continuity of the program benefits. In December 1999 the President signed legislation reauthorizing the program until September 20, 2001.

One major change was included in the 1996 reauthorization. Congress authorized the extension of GSP eligibility to an additional 1,895 products provided they are imported only from LDBDCs and as such are determined by the Administration not to be import sensitive. The President in 1997 determined that 1,783 of the proposed 1,895 articles could be made eligible for GSP. The intent of this change in the GSP program was to provide exclusive benefits to this class of countries which so far and with few exceptions, have not been major gainers from the program.

The 1998 Annual GSP Product Review was initiated in June 1998. Petitions for modifications in the eligibility status of GSP products were requested and processed. A Presidential Proclamation announced determinations in June 1999. However, due to the temporary suspension of the program, benefits on a retroactive basis were not authorized until December. In December 1999 the initiation of the 1999 Annual GSP Product Review was announced. The review is to be completed in the spring of 2000.

In addition to the product review, several country practice petitions were submitted dealing with intellectual property rights, worker rights, and expropriation. USTR announced its acceptance of petitions alleging intellectual property rights deficiencies in Armenia, the Dominican Republic, Kazakhstan, Moldova, Ukraine, and Uzbekistan. Eligibility reviews were initiated based on these petitions. In February 2000 USTR also solicited public comment on the USTR's intention to recommend to the President that GSP benefits be withdrawn from Belarus due to its failure to take steps to afford international recognized worker rights, as required by the GSP statute.

In 1999 the President also reinstated Mauritania as a Least Developed Developing Country GSP beneficiary and designated Gabon and Mongolia as GSP beneficiary countries.

VII. Trade Policy Development

A. Congressional Affairs

In 1999, USTR worked with the 106th Congress in the spirit of bipartisan cooperation and consultation established in previous years on a wide range of important trade issues.

Last year, action was taken on several pieces of Administration-supported legislation. The House and Senate both passed versions of the Africa Growth and Opportunity Act. The Senate also passed the Carribean Basin Enhancement Act. Congress reauthorized the GSP and TAA programs through September 30, 2001. Congress also rejected the disapproval resolution of extension of NTR status to China. In addition, Congress rejected a disapproval resolution of an extension of waiver authority for trade with Vietnam.

USTR continued to consult closely with Congress and conducted hundreds of briefings and consultations with Members of Congress and staff from over a dozen Congressional Committees and offices on a myriad of issues. USTR officials testified before numerous House and Senate Committees on issues such as, U.S.-China trade, U.S.-Vietnam trade, preparations for WTO Ministerial meeting, intellectual property, e-commerce and high-tech issues, services, and agriculture.

Consultations and briefings were provided on all of the above issues as well as on the status of China's accession to the WTO; steel issues; WTO disputes including, beef hormones, bananas and FSC; ATL; accessions to the WTO; the Subsidies Agreement in the WTO; the General Agreement on Trade in Services; Global Electronic Commerce; Canadian trade issues, including wheat exports, duty-free shops and movie production; intellectual property rights including issues regarding availability of pharmaceuticals for AIDS; trade and the environment; and, trade and labor.

The Office of Congressional Affairs continued to respond in a timely manner to all requests for information from Congressional offices and Committees. In addition, Congressional Affairs transmitted statutorily required reports to Congress on a timely basis. Congressional Affairs also continued to provide trade-related briefing materials for foreign trips by Congressional delegations.

Because of the strong interest of Members of Congress in the 1999 WTO Ministerial meeting, Congressional Affairs spent the latter part of the year preparing for the unprecedented Congressional Delegation that attended the Ministerial. With nearly 90 Members of Congress and close to 100 Congressional staff attending the Ministerial, Congressional Affairs effectively coordinated both logistically and substantively to ensure that all interested Members and staff could attend the Ministerial and participate in meetings with foreign delegations to further the U.S. agenda.

USTR looks forward to maintaining and improving its close working relationship with Congress in 2000.

B. Private Sector Advisory System and Intergovernmental Affairs

Executive Summary

The Clinton Administration created USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) to expand and enhance USTR's partnership with and outreach to state and local governments, the business and agricultural communities, labor, environmental, consumer, and other domestic groups. The private sector advisory committee system, established by the U.S. Congress in 1974, falls under the auspices of IAPL. The advisory committee system was created to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. The Office of IAPL has also been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to all state and local governments on the implementation of the NAFTA and the WTO, and other trade issues of interest.

The Clinton Administration's 1999 trade agenda provided many opportunities for the USTR's Office of IAPL to conduct outreach to, and consultations with, the private sector advisory committees and state and local governments as well as solicit written comments from the public, consult with and brief interested constituencies, hold public hearings, and meet frequently with a broad spectrum of groups at their request.

Accomplishments realized during 1999:

- *Private Sector Outreach and Consultations:* IAPL conducted frequent meetings and briefings with USTR's trade advisory committees, the business and agricultural communities, environmental, consumer, and labor organizations, as well as other non-governmental organizations on the policy agenda in preparation for the WTO Ministerial, as well as the Asia Pacific Economic Cooperation Forum, the Free Trade Area of the Americas, and the Transatlantic Economic Partnership.

- *Coordination with States and Localities:* IAPL conducted extensive outreach to and consultations with states and localities on WTO, NAFTA, and other trade issues through a number of mechanisms, including: meetings of the Intergovernmental Policy Advisory Committee on Trade, USTR's committee composed solely of state and local officials; notifications to the 50 state points of contact designated by the governor's office in each state; briefings at USTR; bilateral consultations with states; and participation in meetings and briefings of the National Governors Association, Western Governors Association, National Conference of State Legislatures, National Association of Attorneys General, U.S. Conference of Mayors, and others.

- *Public Trade Education:* IAPL expanded its Public Trade Education outreach strategy by producing two brochures designed to inform the general public about the World Trade Organization, covering the WTO's history, functions, U.S. positions on the WTO negotiating agenda, and benefits for the United States.

1999 Activities

The Clinton Administration created USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) to expand and enhance USTR's partnership with and outreach to state and local governments, the business and agricultural communities, labor, environmental, consumer,

and other domestic groups. The private sector advisory committee system falls under the auspices of IAPL.

The Office of IAPL has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to all state and local governments on the efforts to implement the NAFTA and the WTO. Consultations are ongoing throughout the year.

The U.S. Congress established the private sector advisory committee system in 1974 to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Congress expanded and enhanced the role of this system in three subsequent trade acts.

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The private sector advisory committee system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. Recommendations for candidates for committee membership are collected from a number of sources including Members of Congress, associations and organizations, publications, and other individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); six policy advisory committees; and 26 technical, sectoral, and functional advisory committees.

The President appoints 45 ACTPN members for two-year terms. The 1974 Trade Act requires that membership broadly represent key economic sectors affected by trade. The committee considers trade policy issues in the context of the overall national interest.

The six policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. Those managed solely by USTR are the Intergovernmental Policy Advisory Committee, and the Trade Advisory Committee on Africa (TACA). Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and Defense and the Environmental Protection Agency are, respectively, Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee (LAC), Defense Policy Advisory Committee (DPACT), and Trade and Environment Policy Advisory Committee (TEPAC). Each committee provides advice based upon the perspective of its specific sector or area.

The 26 sectoral, functional, and technical advisory committees are organized in two areas: industry and agriculture. Representatives are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group (such as textiles or dairy products) and provides specific technical advice concerning the effect that trade policy decisions may have on its sector. The four functional advisory committees provide cross-sectoral advice on customs, standards, intellectual property issues, and electronic commerce.

Private sector advice is both a critical and integral part of the trade policy process. USTR already maintains an ongoing dialogue with interested private sector parties on trade agenda

issues. The advisory committee system is unique, however, since the committees meet on a regular basis, receive sensitive information about ongoing trade negotiations and other trade policy issues and developments, and are required to report to the President on any trade agreement entered into under Section 1102 of the 1988 Trade Act.

1. Public and Private Sector Outreach

The Clinton Administration's 1999 trade agenda provided many opportunities for the USTR's Office of IAPL to conduct outreach to, and consultations with, the private sector advisory committees and state and local governments as well as solicit written comments from the public, consult with and brief interested constituencies, hold public hearings, and meet frequently with a broad spectrum of groups at their request.

a. World Trade Organization

Throughout 1999, the U.S. Trade Representative and the Administration worked very closely with business and agricultural communities, environmental, consumer, and labor organizations, as well as other non-governmental organizations on the policy agenda in preparation for the Ministerial. IAPL assisted with outreach to, and consultations with, the private sector advisory committees, state and local governments, and numerous public groups.

In addition to meetings with the private sector advisory committees and public groups, IAPL assisted with five interagency Trade Policy Staff Committee hearings held in June and conducted in Washington, D.C., Chicago, IL, Los Angeles, CA, Dallas, TX and Atlanta, GA. Notice of each of these hearings were published in the federal register and open to the public at-large. IAPL also assisted with twelve agricultural listening sessions held in conjunction with USDA across the country. Although these sessions were designed for the agricultural community, other organizations were welcome to attend and express their views. These hearings were held in the following cities: Des Moines, IA, Lincoln, NE, Richland, WA, Sacramento, CA, Newark, DE, Burlington, VT, Bozeman, MT, Austin, TX, Winter Haven, FL, Minneapolis, MN, Memphis, TN and Indianapolis, IN.

Efforts of IAPL's outreach for the 1999 WTO Ministerial culminated in coordinating the U.S. private sector's participation as U.S. Delegation members. Advisory committee chairpersons and members representing a broad cross section of the 33 federal trade advisory committees were invited to serve on the delegation to the Ministerial. The U.S. private sector delegation resulted in the largest such delegation of any member or observer country participating at the Ministerial, with executive representatives of the top U.S. labor, environmental, business, and agricultural organizations as well as state and local governments.

Furthermore, IAPL led the coordinated interagency effort for daily briefings provided to stakeholders during Ministerial week. To keep all interested parties abreast of the latest developments in the Ministerial proceedings, briefings were conducted by senior officials from USTR and the U.S. Departments of Commerce, Treasury, State, Labor, Agriculture, and the EPA. In addition to sessions conducted for the congressional and private sector delegations, these officials provided daily updates to all advisory committee members, WTO accredited NGOs, state and local officials, and members of the general public.

b. The Asia Pacific Economic Cooperation Forum

The Office of IAPL briefed and facilitated consultations with all private sector advisors as well as public groups on the APEC agenda,

issues, and strategy. It also participated in inter-agency efforts to promote the goals and objectives of APEC and to educate the public regarding the same.

c. Free Trade Area of the Americas

IAPL briefed and facilitated consultations with all private sector advisors as well as public groups on the FTAA agenda and strategy in advance of the 1999 FTAA Ministerial in Toronto.

d. Transatlantic Economic Partnership

IAPL briefed and facilitated consultations with all private sector advisors as well as public groups on the TEP including active participation in meetings of the Transatlantic Business Dialogue, the Transatlantic Consumer Dialogue, and the Transatlantic Environmental Dialogue.

2. Public Trade Education

The Office of IAPL continues its efforts to promote and educate the public on trade issues. USTR's Internet Home Page serves as a vehicle to communicate to the public. The USTR Internet address is http://www.ustr.gov.

In 1999, IAPL expanded its outreach strategy by producing two brochures designed to inform the general public about the World Trade Organization, covering the WTO's history, functions, U.S. positions on the WTO negotiating agenda, and benefits for the United States. Twenty thousand copies of "The World Trade Organization Works for You" and "America and the World Trade Organization" were disseminated widely, and can be found on USTR's website under "What's New."

3. State and Local Government Relations

The passage of the NAFTA and the Uruguay Round implementing acts created expanded consultative procedures between federal trade officials and state and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." The Coordinator carries out the functions of informing the states on an ongoing basis of trade-related matters that directly relate to or that may have a direct effect on them. The Coordinator also serves as a liaison point in the Executive Branch for state and local governments and federal agencies, to transmit information to interested state and local governments, and relaying advice and information from the states on trade-related matters.

In order to work with the Coordinator for State Matters, the Governor's office in each state designates a single point of contact within the state responsible for the transmittal of information to USTR and the dissemination to relevant state and local offices of information received from USTR.

USTR works with the single state points of contact, as well as state Governors' offices and Attorney Generals' offices, on trade-related issues of interest including the implementation of both the NAFTA and Uruguay Round agreements. Specific matters of state interest have included the implementation of the WTO Government Procurement Agreement, which 37 states have joined; negotiations to improve agricultural market access with Canada and China; and investment issues under the NAFTA.

State and Local Outreach

USTR conducted extensive outreach to inform and consult states and localities on major trade initiatives, throughout the course of 1999.

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the 33 federal trade advisory committees in the trade advisory system established by Congress under the Trade Act of 1974, as amended. The IGPAC is comprised entirely of state and local officials. Appointed on a bipartisan basis by the USTR, the committee may make recommendations to USTR and relevant Cabinet officials on trade matters. IGPAC's membership includes governors, mayors, state legislators, attorneys general, state regulators, and county officials. IGPAC was fully briefed and consulted during 1999 on U.S. positions regarding future WTO negotiations and other major trade initiatives. Several IGPAC members were invited to serve on the official U.S. Delegation to the WTO Ministerial, to represent the interests of states and localities.

Multiple briefings on the U.S. trade agenda also were conducted for state and local associations both in Washington, D.C. and in various locations around the country. Associations included the National Governors Association, Western Governors Association, National Association of Attorneys General, National Conference of State Legislatures, U.S. Conference of Mayors, Council of State Governments, and National Association of State Development Agencies. Furthermore, Governors' Washington D.C. representatives and state and local association staff were invited to numerous briefings on trade issues at USTR throughout the year.

There is significant support among state and local officials for market-opening trade initiatives. Resolutions endorsing further reduction of trade barriers through the WTO were passed this year by the National Governors Association (NGA), Western Governors Association, National Conference of State Legislatures, and U.S. Conference of Mayors (USCM).

In preparation for the Third WTO Ministerial Conference, IAPL participated in an interagency State and Local Task Force, to ensure that interested state and local officials would have a role and presence in the trade dialogue during the conference. As a result of our efforts to engage state and local associations, two trade forums were held during the week of the Ministerial specifically devoted to trade issues of interest to sub-federal governments, as determined by the participants. The NGA hosted a trade forum for governors in attendance at the Ministerial. The USCM and National Association of Counties hosted a full-day forum for mayors and county officials. There was significant Administration and USTR participation in both forums.

C. Policy Coordination

By law, USTR plays the leading role in the development of policy on trade and trade-related investment. Under the Trade Expansion Act of 1962, the President established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 60 subcommittees responsible for specialized areas and several task forces that work on particular issues.

Through the interagency process, USTR assigns responsibilities for issue analysis to members of

the appropriate TPSC subcommittee or task force. Conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are taken up by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPRG and the TPSC consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, and Health and Human Services, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The United States International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

The final tier of the interagency trade policy mechanism is the National Economic Council. Chaired by the President, the NEC is composed of the Vice President, the Secretaries of State, the Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy, the Administrator of the Environmental Protection Agency, the Chair of the Council of Economic Advisers, the Director of the Office of Management and Budget, the United States Trade Representative, the National Security Advisor, and the Assistants to the President for Economic Policy, Domestic Policy, and Science and Technology Policy. All executive departments and agencies, whether or not represented on the NEC, coordinate economic policy through the NEC.

The NEC Deputies Committee considers decision memoranda from the TPRG, as well as particularly important or controversial trade-related issues. Trade-related issues that raise important national security concerns also may be taken up in the Deputies Committee of the National Security Council.

During the interagency review stage, advice is generally sought from the private sector advisory committees and from Congress. Also, while virtually all issues are developed and formulated through the interagency process, USTR advice, in some cases, may differ from that of the interagency committees.

As policy decisions are made, USTR assumes responsibility for directing the implementation of those decisions. Where desirable or appropriate, USTR may delegate the responsibility for implementation to other agencies.

U.S. Trade in 1999

Through the Uruguay Round, the NAFTA, the Agreements on Information Technology, Basic Telecommunications and Financial Services, and the many other bilateral, regional, sectoral and multilateral agreements concluded since 1992, we have significantly reduced world trade barriers. This has contributed greatly to the record U.S. economic expansion, creating opportunities for the expansion of America's most productive industries, for the higher paying jobs at home and for raising the standard of living for all Americans through increased quality, variety, and price competitiveness of the goods and services available in the U.S. marketplace.

During this period, the U.S. trade imbalance has increased. Until the onset of the Asian financial crisis in 1997, even the U.S. goods and trade deficit, at 1.3 percent to 1.4 percent of GDP, was less than half as large as at its peak during the late 1980s. In 1998, however, the strength of the U.S. economy and the exceptional investment opportunities available here, combined with financial difficulties abroad, resulted in large increases in gross and net foreign capital inflows and corresponding increases in the U.S. trade deficit. U.S. exports were particularly affected, coming to a halt for the better part of two years. At the same time, however, wider availability of capital in the U.S. market has helped fuel exceptional rates of business investment and increased investment in America's high-tech sectors of the future.

The maintenance, and even expansion, of open markets over the last two years, in the face of economic strains abroad and depressed demand for certain vulnerable industries in the U.S. manufacturing and agricultural sectors, has contributed to notably rapid recoveries of the countries most affected by the Asian financial crisis. At the end of the period under review, in the second half of 1999, U.S. trade and the U.S. economy was clearly beginning to benefit from a return to positive growth for exports of U.S. goods and services.

I. 1999 Overview

The United States is the largest trading nation in the world. Trade (exports and imports of goods and services, and earnings and payments on foreign investment)[1] has increased nearly 21-fold since 1970 and 80 percent between 1992 and 1999, reaching a record $2.8 trillion. The dollar value of total U.S. trade increased by 11.9 percent in 1997, dipped to just 3.0 percent growth in 1998 under the impact of global financial and economic difficulties, and partially recovered to 6.4 percent growth in 1999, though mostly due to strong U.S. import growth.

Exports of goods and services and earnings on investment increased by 65 percent between 1992 and 1999. Exports increased by 2.7 percent in 1999, rebounding from the less than 0.1 percent increase in 1998, however, this growth was much smaller than the growth rate in excess of 10 percent in 1997. Export growth over the last two years has been depressed by the Asian financial crisis and economic recession in much of the region, although stabilization and recovery began in 1999.

Imports of goods and services and payments on investment continued their upward trend through most of the 1990s, increasing by 94

[1] Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. The rest of this chapter, however deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

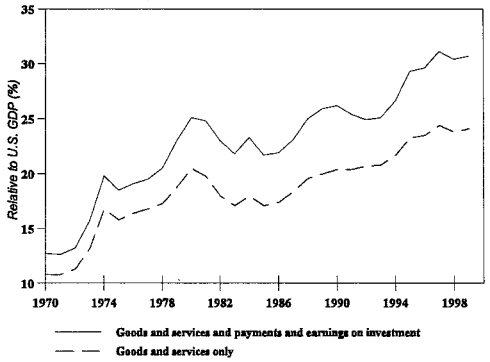
percent between 1992 and 1999. Imports increased by 9.8 percent in 1999, compared to 5.7 percent in 1998 and 12.1 percent in 1997. The greater increase in U.S. imports relative to U.S. exports expanded the overall U.S. trade deficit in 1999. Stronger growth in the United States, rising household wealth and income, and strong investment demand contributed to the sizable increase in U.S. imports. NAFTA countries (Canada and Mexico), the European Union, and the Pacific Rim (excluding China and Japan) accounted for most of the additional increases in U.S. goods exports and imports during 1999.

Even with the temporary slowdown in trade in 1998-1999, the total growth in trade between 1970 and 1999, in both nominal and real terms, has been more rapid than the growth of the overall U.S. economy. In nominal terms, trade has grown at an annual average rate of 11.1 percent per year since 1970, compared to U.S. gross domestic product growing by 7.8 percent. In real terms, the growth in trade has more than doubled the growth in GDP, 6.7 percent to 3.2 percent. The value of trade of goods and services including earnings and payments on investment, compared to the value of GDP, was 30.7 percent during 1999 (after reaching a high of 31.1 percent in 1997), as compared to 25 percent in 1992, and 13 percent in 1970 *(figure 1)*. For goods and services only, the value was 24.1 percent during 1999 (24.4 percent in 1997), as compared to 21 percent in 1992 and 11 percent in 1970.

The United States is the largest goods trading country in the world (both exporting and importing), more than 60 percent greater than Germany, the second largest goods trading country. The United States is also the largest exporter of services in the world, and the second largest importer of services (behind Germany) in the world. U.S. exports of goods and services (excluding investment earnings) in 1999 increased by 2.6 percent to $958.5 billion, as

Figure 1:

Growing Importance of Trade in the U.S. Economy



Total exports + imports as a percentage of the value of U.S. GDP
Source: U.S. Department of Commerce.

compared to 1998's decline of 0.5 percent. Despite the decline in 1998 and the modest growth in 1999, U.S. exports of goods and services have increased by more than 55 percent since 1992.

U.S. exports of goods alone increased by 1.9 percent to $683.0 billion as compared to 1998's 1.4 percent decrease. The modest export turnaround was due, in part, to the start of recovery in the Pacific Rim economies from the effects of the Asian financial crisis and severe recession, as well as continued trade with NAFTA countries. U.S. exports of goods increased 8.2 percent to the Asian Pacific Rim region (excluding Japan and China) and 7.5 percent to NAFTA countries (10.3 percent to Mexico, 6.1 percent to Canada). On a sectoral basis, U.S. goods export growth was led by sales of capital goods and autos and auto parts, increasing 3.7 percent and 2.1 percent, respectively.

Goods exports to high income countries grew 2.9 percent while exports to low and middle income countries increased by 0.7 percent in 1999. Despite the recent, and apparently temporary, economic turmoil in Southeast Asia and Latin America, these regions are likely to remain the major contributors to U.S. goods export growth in the years to come. About 85 percent of the total world population is in low and middle income countries, which import more than $1 trillion a year from high-income industrialized countries. Approximately 42 percent of U.S. exports currently go to such countries. Extensive infrastructure/economic development needs in low income countries, coupled with U.S. preeminence in many capital goods and agricultural markets, suggest that the United States remains in an excellent position to benefit from future growth in the low and middle income countries of the world.

Reflecting continued strong U.S. economic growth, imports of goods and services grew 12.0 percent in 1999 to just over $1.2 trillion, significantly above the 5.3 percent growth rate of the preceding year. U.S. imports of goods and services have increased 87.5 percent since 1992. U.S. imports of goods alone grew 12.3 percent in 1999 to more than $1 trillion, and are up 92.0 percent since 1992.

Goods import growth was led by purchases of autos and auto parts (up 20.4 percent; of which over half reflects intra-company trade within North America), and consumer goods (up 10.7 percent), encouraged by the ongoing strong consumer demand growth in the United States in 1999. Imports of industrial supplies and materials increased by 10.7 percent, and capital goods increased by 10.1 percent in 1999. Capital goods and industrial supplies and materials currently account for nearly half of U.S. imports. These goods, contributing directly to strengthening U.S. production, have accounted for 50 percent of the dollar increase in U.S. goods imports during the expansionary years from 1992 to 1999.

The fastest growing sources of goods imports in 1999 were Latin America (excluding Mexico), Mexico, China, and Canada, up 16.1 percent, 15.9 percent, 14.9 percent, and 14.5 percent, respectively. Since 1992, U.S. imports from China and Mexico have more than tripled, due principally to cost effective production shifts from other Asian countries. China is the low cost producer in Asia of many simple exportable products, while Mexico, its production of exportables using a much higher share of U.S.-produced content than Asia's production, has had the advantages of proximity and NAFTA access to the U.S. market. In addition, Mexico's international liquidity difficulties culminating in a sharp depreciation of the peso in December 1994 gave an added boost to Mexican exports. U.S. imports from Latin America (excluding Mexico) increased as petroleum prices rebounded in 1999.[2] Imports from Japan, our

[2] The per-barrel price of imported crude petroleum rose from $9.19 in January 1999 to $22.67 in

second largest supplier after Canada, increased by 7.8 percent in 1999, after increasing by 0.1 percent in 1998. And imports from the Asian Pacific Rim (excluding China and Japan) increased by 9.3 percent, more than double the 2.7 percent level that occurred in 1998. Notably, with economic recovery underway in the Pacific Rim, U.S. exports grew 8.2 percent, significantly greater than the 17.4 decline in 1998, but slightly slower than the 9.3 percent growth in U.S. imports with the region.

With U.S. import growth overall outpacing that of exports, the total deficit on trade in both goods and services rose from $164.3 billion in 1998 (2.0 percent of GDP) to $271.3 billion in 1999 (2.9 percent of GDP). The U.S. deficit in goods trade alone increased, from $246.9 billion in 1998 to $347.1 billion in 1999. The increase in the goods deficit was somewhat offset by the surplus on trade in services, which declined from $82.7 billion in 1998 to $75.8 billion in 1999. The goods and services deficit equaled 2.9 percent of GDP in 1999, and the goods deficit equaled 3.8 percent of GDP in 1999. The rise in the trade deficit largely reflects the strength of the U.S. economy – in both consumer demand and investment expansion – and the recent financial and economic difficulties experienced by a number of trade partners. Most significantly, in the period 1994-1997, the U.S. goods and services deficit had been roughly stable as a share of GDP (1.3 percent - 1.4 percent).

December, with the import bill for crude petroleum rising by $13.4 billion in 1999 to a total of $50.7.

II. Goods Trade

A. Export Growth

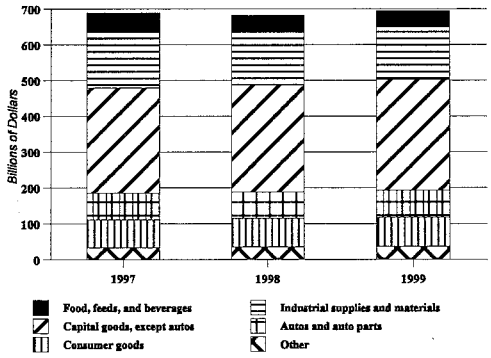
U.S. goods exports increased 1.9 percent in 1999, as compared to the 1.4 percent decrease of the preceding year. Growth in exports of capital goods, autos and auto parts, and consumer goods were 3.7 percent, 2.1percent and 1.7 percent, respectively in 1999 *(table 1 and figure 2)*. Further, exports of foods, feeds, and beverages decreased by 2.3 percent and industrial supplies and materials exports decreased by 0.9 percent. The modest gains in some areas and losses in others are primarily a reflection of poor growth conditions in a number of areas of the world in 1999, including Latin America, China, and Japan.

Since 1992, exports of capital goods have risen 76.6 percent, and accounted for 45 percent of total goods exports in 1999. Exports of advanced technology products increased by 7.3 percent in 1999, and by 86.7 percent since 1992. Exports of manufactured products overall, of which capital goods and high technology products are subcomponents rose 2.5 percent in 1999 and have increased 66.1 percent since 1992. Exports of agricultural products increased 11.7 percent since 1992, including a decline of 7.4 percent in 1999 reflecting the effects of the Asian financial crisis and the recession in Japan on some of our principal agricultural markets.

Table 1: U.S. Goods Exports						
Exports:	**1997**	**1998**	**1999**	**98-99**	**94-99**	**92-99**
	Billions of Dollars			*Percent Change*		
Total (BOP basis)	679.7	670.2	683.0	1.9%	36.0%	55.1%
Food, feeds, and beverages	51.5	46.4	45.3	-2.3%	7.9%	12.5%
Industrial supplies and materials	158.2	148.3	147.0	-0.9%	21.1%	34.7%
Capital goods, except autos	294.5	299.6	310.6	3.7%	51.5%	76.6%
Autos and auto parts	74.0	73.2	74.7	2.1%	29.2%	58.9%
Consumer goods	77.4	79.3	80.6	1.7%	34.4%	56.8%
Other	33.5	35.4	36.8	3.9%	39.0%	51.0%
Addendum: Agriculture	57.1	52	48.2	-7.4%	4.1%	11.7%
Addendum: Manufacturing	592.5	596.6	611.6	2.5%	42.0%	66.1%
Addendum: High technology	179.5	186.4	200.0	7.3%	65.7%	86.7%

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Figure 2:
U.S. Goods Exports



Source: U.S. Department of Commerce, Census Basis.

In those regions where exports increased – the Asian Pacific Rim excluding China and Japan (8.2 percent), NAFTA countries (Mexico (10.3 percent) and Canada (6.1 percent)), and the European Union (1.8 percent) – the following factors contributed to the export growth in 1999:

- competitiveness of U.S. products;
- continued recovery of the Mexican economy;
- stabilization of Asian Pacific Rim economies and improvements in economic conditions;
- continued recovery of growth in a number of high income countries; and
- reduction of trade barriers through numerous bilateral and multilateral trade agreements.

Further signaling a recovery from the effects of Asia's financial crisis, U.S. goods exports to the Pacific Rim (excluding Japan and China) increased by 8.2 percent in 1999. This has begun to reverse the very sharp U.S. export decline of 17.4 percent in 1998 – in effect, a loss of one dollar in every six of our exports to this region. *(table 2)*. The export growth has been mostly due to the economic recoveries in a number of the countries affected by the Asian crisis. For example, real GDP growth for 1999 is estimated to increase by 9 percent for South Korea, 3.9 percent for the Philippines, 5.8 percent for Singapore, and 5.3 percent for Taiwan. U.S. exports to these countries for 1999 increased by 39.2 percent to South Korea, 7.3 percent to the Philippines, 3.5 percent to Singapore, and 5.3 percent to Taiwan. U.S. exports to the Pacific Rim excluding Japan and China is up nearly 50 percent since 1992, despite the significant export decline to this region in 1998.

Table 2:
U.S. Goods Exports to Selected Countries/Region

Exports to:	1997	1998	1999	98-99	94-99	92-99
	Billions of Dollars			*Percent Change*		
Canada	151.8	156.6	166.2	6.1%	45.3%	83.5%
European Union	140.8	149.0	151.6	1.8%	40.7%	40.6%
Japan	65.5	57.8	57.5	-0.6%	7.5%	20.2%
Mexico	71.4	78.8	86.9	10.3%	70.8%	114.0%
China	12.9	14.2	13.1	-7.9%	41.4%	76.8%
Pacific Rim, except Japan and China	115.3	95.3	103.1	8.2%	21.3%	48.9%
Latin America, except Mexico	63.0	63.4	55.2	-12.9%	32.3%	56.8%
Addendum: High Income Countries	389.7	394.4	405.8	2.9%	35.5%	51.3%
Addendum: Low to Middle Income Countries	299.1	287.3	289.2	0.7%	35.9%	60.9%

Source: U.S. Department of Commerce, Census Basis.

Exports to our NAFTA partners increased 7.5 percent in 1999 and are up 78.2 percent since NAFTA entered into force. Over 36 percent of U.S. goods exports went to NAFTA countries in 1999, up from nearly 31 percent in 1993, the year before NAFTA implementation began.

Continued growth of the Canadian economy in 1999 (GDP up an estimated 3.7 percent) resulted in a 6.1 percent increase in U.S. goods exports to Canada (our largest trading partner). Since 1992, exports have increased 83.5 percent, and approximately 24 percent of U.S. goods exports last year went to our northern neighbor. U.S. exports to Mexico (our second largest single country export market), increased by 10.3 percent ($8.1 billion), reaching $86.9 billion in 1999. Exports to Mexico were 108.9 percent higher than in 1993 the year before NAFTA implementation began.

Export sales to Japan, after decreasing 11.8 percent in 1998, further decreased 0.6 percent in 1999 (to $57.5 billion). This decrease was due mostly to sluggish Japanese economic growth, with GDP up less than 1 percent in 1999 and down 3 percent in 1998.

Since 1992, exports to Japan have risen 20.2 percent, roughly one-third of the growth of U.S. goods exports to the world (up 55 percent), reflecting Japan's generally anemic economic growth over this period. Real industrial production for Japan, for example, has increased by less than 4 percent in Japan since 1992, while growing by roughly 40 percent in the United States.

U.S. goods exports to China decreased by 7.9 percent in 1999, significantly reversing the 10.7 percent export growth in 1998. This decline, in part, reflected a slowdown in China's economy. This decrease in export growth largely resulted from declines in two major sectors: aircraft (commercial aircraft and parts) and machinery (computers, generators, and turbines). Exports to China in these categories decreased by 20 percent in 1999. Despite the export decline in 1999, U.S. exports to China have increased by nearly 77 percent since 1992. U.S. exports to China are dominated by higher-valued capital goods and industrial supplies, which account for some 85 percent of U.S. exports to China.

U.S. goods exports to Latin America (excluding Mexico) fell sharply by 12.9 percent in 1999, reflecting recessionary economic conditions throughout much of Latin America. U.S. exports have increased nearly 57 percent to Latin America since 1992, despite the downturn in 1999.

B. Import Growth

With the continued strong U.S. economic expansion and demand for investment, U.S. goods imports climbed in 1999, up 12.3 percent from the previous year. In addition, the impact of the Asian financial crisis contributed to the strong growth of exports from these affected countries to the United States. For example, between the first quarter of 1998 and the second quarter of 1999 (latest data available), the increase in exports to the United States from the countries directly involved in the Asian financial crisis (Indonesia, South Korea, Malaysia, Philippines, and Thailand) accounted for 93 percent of the total increase in exports from these countries to the world. Over the last seven years, goods imports have risen 92.0 percent as the U.S. economy moved out of the recession of the early 1990s into a period of sustained expansion *(table 3 and figure 3)*.

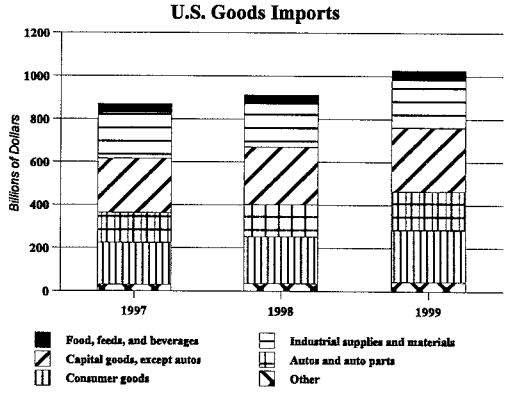
Import growth appears to be driven importantly by demands created by U.S. economic expansion (from 1992 to 1999, U.S. real GDP rose about 29 percent, or at an average annual rate of 3.7 percent). Growth has been especially strong in the past three years. In the last half of 1999, real GDP surged, growing at annualized rates of 5.7 percent in the third quarter and 6.9 percent in the fourth quarter. As a result, the

Table 3:
U.S. Goods Imports

Imports:	1997	1998	1999	98-99	94-99	92-99
	Billions of Dollars			*Percent Change*		
Total (BOP Basis)	876.4	917.2	1030.2	12.3%	54.1%	92.0%
Food, feeds, and beverages	39.7	41.2	43.6	5.7%	40.6%	57.9%
Industrial supplies and materials	213.8	200.1	222.6	10.7%	36.7%	59.9%
Capital goods, except autos	253.3	269.6	296.9	10.1%	61.0%	121.0%
Autos and auto parts	139.8	149.1	179.5	20.4%	51.7%	95.6%
Consumer goods	193.8	216.5	239.6	10.7%	63.8%	95.3%
Other	29.3	35.4	43.9	24.1%	106.1%	148.0%
Addendum: Agriculture	35.2	35.7	36.7	2.7%	41.4%	56.5%
Addendum: Manufacturing	728.9	790.8	882.7	11.6%	58.2%	103.3%
Addendum: High technology	147.3	156.8	180.6	15.2%	84.1%	151.2%

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Figure 3:
U.S. Goods Imports



Source: U.S. Department of Commerce, Census Basis.

rate of unemployment fell to 4.0 percent in January 2000, its lowest level in thirty years.

- Imports of capital goods led the way, rising 121 percent since 1992 and 10.1 percent in 1999 alone. The share of capital goods in total imports has risen from 25 percent in 1992 to 29 percent in 1999. Capital goods account for 33.3 percent of total U.S. goods import growth between 1992 and 1999.

- Imports of industrial supplies and materials rose 59.9 percent since 1992. Industrial goods accounted for nearly 22 percent of all U.S. goods imports last year. Together capital goods and industrial supplies and materials account for 50 percent of total goods import growth between 1992 and 1999.

Imports of consumer goods increased 10.7 percent in 1999, as compared to an 11.7 percent increase in 1998. Consumer goods accounted for more than 23 percent of total goods imports in 1999. Continuing a trend of steady growth, in part arising from the integration of the North American automobile industry, purchases of foreign autos and auto parts grew 20.4 percent in 1999. Since 1992, imports of automotive products and consumer goods have risen by 95.6 percent and 95.3 percent, respectively. The share of these two categories in total imports was nearly 41 percent in 1999, somewhat up from nearly 40 percent in 1998.

Purchases of foods, feeds, and beverages rose 5.7 percent in 1999. This sector's share of imports has fallen modestly from slightly more than 5 percent of goods imports in 1992 to 4.3 percent last year.

Imports of high technology products increased 15.2 percent in 1999, and since 1992, these imports are up more than 151.2 percent. Imports of manufactured products, of which capital goods and high technology products are subcomponents, rose 11.6 percent in 1999, and since 1992, manufactured goods imports overall increased 103.3 percent.

Unlike 1998, imports from low and middle income countries increased somewhat more rapidly than imports from high income countries in 1999, 13.8 percent versus 11.3 percent *(table 4)*. Imports from Mexico increased 15.9 percent in 1999 and have more than tripled in the last seven years, reaching $109.7 billion in 1999. The strength of import growth from Mexico during 1995-1999 is related to strong growth of the U.S. economy, and the Mexican economy's adjustment to its balance-of-payments difficulties in 1994 and 1995.

China continued to be among the fastest growing supplier of U.S. goods imports. Purchases from China increased by 14.9 percent in 1999. Imports from China have more than tripled since 1992, but accounted for only 8 percent of total U.S. goods imports in 1999. The increase in imports from China appears to be associated, in part, with the shift from elsewhere in Asia of parts of the production processes dependent on lower skilled workers. U.S. imports from China are primarily low value-added consumer goods, such as toys, footware, apparel, and some areas of consumer electronics. Consumer goods now make up nearly 70 percent of U.S. imports from China.

As China's share of such U.S. imports has risen, that of other Asian countries has fallen, reflecting displacement by China of goods from other suppliers. For example, China's import share of U.S. imports of footwear has increased from 9 percent to 60 percent between 1989 and 1999, while the share from four Asian countries (Hong Kong, Taiwan, South Korea, and Japan) fell from a collective 51 percent to 2 percent. Similarly, for U.S. imports of toys and sporting goods, China's share increased from 22 percent to 61 percent, while the share for the four Asian countries declined from a collective 58 percent to 21 percent. For U.S. imports of radio

broadcast receivers, China's share increased from 11 percent to 33 percent, while the share for the four Asian countries declined from a collective 49 percent to 12 percent. For 35 mm cameras, China's share increased from 4 percent to 38 percent, while the share for the four Asian countries declined from a collective 84 percent to 23 percent.

Imports from Latin America (excluding Mexico) have risen 74.1 percent since 1992, with an increase of 16.1 percent last year due to the strong U.S. economic growth, strength of the dollar and the price of oil rebounding in 1999. This region represented 5.7 percent of total U.S. imports in 1999. Imports from the Pacific Rim (excluding Japan and China) have risen 72.6 percent since 1992, but only 9.3 percent in 1999. This region represented 14.4 percent of total U.S. imports in 1999.

Imports from Canada were up 14.5 percent in 1999 (more than double since 1992), representing 19.3 percent of U.S. goods imports in 1999 while imports from the European Union rose 10.8 percent in 1999 (up 93 percent in the last seven years), representing 19 percent of U.S. goods imports in 1999.

Imports from Japan increased 7.8 percent in 1999, and have increased 34.9 percent since 1992, reflecting a slowdown in import growth from Japan since the 1980s. Purchases from Japan in 1999 represented 12.8 percent of total U.S. imports, as compared to 18.3 percent during 1992.

Table 4:
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1997	1998	1999	98-99	94-99	92-99
	Billions of Dollars			*Percent Change*		
Canada	167.2	173.3	198.3	14.5%	54.5%	101.1%
European Union	157.5	176.4	195.4	10.8%	63.5%	93.0%
Japan	121.7	121.8	131.4	7.8%	10.3	34.9%
Mexico	85.9	94.6	109.7	15.9%	121.7%	211.6%
China	62.6	71.2	81.8	14.9%	110.9%	217.9%
Pacific Rim, except Japan and China	131.1	134.7	147.2	9.3%	42.6%	72.6%
Latin America, except Mexico	53.7	50.3	58.4	16.1%	51.8%	74.1%
Addendum: High Income Countries	470.5	497.2	553.1	11.3%	43.7%	76.5%
Addendum: Low to Middle Income Countries	399.2	414.7	471.9	13.8%	69.6%	115.2%

Source: U.S. Department of Commerce, Census Basis.

III. Services Trade

The American services sector includes a vast array of industries from finance and telecommunications to distribution, health, education, environmental, travel and tourism, construction, law, engineering, architecture and others. These industries provide 86 million private-sector jobs and over $5.5 trillion worth of production – more than 75 percent of America's private-sector economic production, and more than one dollar in seven of world production.

In addition to this productive capacity, services play a subtle but essential role in our industrial economy, to which they directly contribute about 2.1 percent of GDP in the form of construction, and provide the infrastructure that allows manufacturing industry and farmers to function.

- Efficient transport and distribution allow farmers to get their products to market without spoilage, and ensures that auto parts reach the plant in time for efficient production.
- Strong insurance, accounting, finance and legal industries ensure that farmers and manufacturers have access to capital; that contracts guarantee predictable, transparent and reliable business decisions; and that consumers have high standards of protection.
- Telecommunications, software and news dissemination are essential to the functioning of all modern industries.
- And new technologies now developing, in particular, but not limited to, the Internet and electronic commerce, promise a vast increase in the efficiency and productivity of American service industries in the years ahead.

In many of these fields, the United States is the world's leader. As a general matter, our success rests on our openness to both domestic and foreign competition, combined with guarantees of high standards of consumer protection through transparent, fair and impartial regulation where relevant. The competition this creates speeds innovation and helps develop a productive, efficient economy.

American services industries are highly successful exporters. In fact, the United States is by far the world's leading exporter of commercial services, with $246 billion worth of private-sector services exports in 1998 (the U.S. government also exported approximately $18 billion in services) as compared with $165 billion in private sector services imports.

Altogether, our two-way services trade makes up roughly 15 percent of the total $1.4 trillion in world services trade. The pattern of U.S. trade in these industries is somewhat different from our trade in goods. In particular, the European Union and Japan take 46 percent ($114 billion) of our private sector services exports, as opposed to 30 percent of our goods exports.

These figures indicate how much services industries now contribute to our economic growth and to our export performance. Our goal in services trade policy, in a very broad sense, is to open markets and foster competition, transparency, and efficiency in the world economy, as in our domestic services markets. This will facilitate American exports of services and have the potential to help create a more stable, efficient and productive world economy.

A. Export Growth

Exports of services continued to grow, increasing twice as fast in 1999 as in 1998. U.S. services exports reached $275.5 billion in 1999, up 4.5 percent compared to the 2.1 percent increase in 1998. Services exports are up 56.9 percent since 1992 *(table 5 and figure 4)*.

Demand for services, both for final consumption and as inputs to manufacturing and primary industries, has continued to increase. Disciplines are being developed through implementation of the Uruguay Round Agreements with respect to curtailing U.S. trade partners' ability to discriminate against efficient U.S. services exports. The resulting more open markets will aid in expanding U.S. services exports further. As the world's largest exporter of services (and of goods, as well), the United States is in an excellent position to take advantage of continued growth in demand for services. Business, professional, technical, environmental, communication, and other services important to economic development, as well as entertainment and travel services, are areas of great U.S. strength which should benefit from more open markets and stronger global growth.

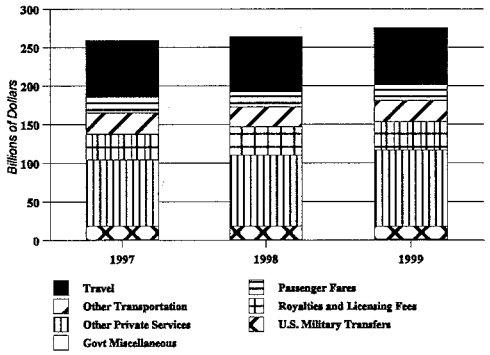
U.S. exports of services to the world were led by two of the six major services export categories, the other private services (including business and professional services, education, and financial services) and the travel categories, accounting for 63 percent of the total services exports in 1999. Other private services has been the largest export growth services category in 1999 (up 7.1 percent) and since 1992 (up 103 percent). Other transportation services exports was the second largest export category in 1999 (up 6.9 percent), but ranked 5th in export growth

Table 5:
U.S. Services Exports

Exports:	1997	1998	1999	98-99	94-99	92-99
	Billions of Dollars			*Percent Change*		
Total (BOP basis)	258.8	263.7	275.5	4.5%	37.9%	56.9%
Travel	73.3	71.3	73.7	3.4%	26.2%	34.7%
Passenger Fares	20.8	20.0	21.0	5.2%	23.8%	26.8%
Other Transportation	27.0	25.5	27.3	6.9%	14.6%	26.9%
Royalties and Licensing Fees	33.8	36.8	37.4	1.6%	40.1%	79.8%
Other Private Services	85.6	92.1	98.6	7.1%	64.1%	103.0%
Transfers under U.S. Military Sales Contracts	17.6	17.2	16.6	-3.4%	29.4%	33.6%
U.S. Government Miscellaneous Services	0.8	0.8	0.9	5.5%	-2.7%	2.6%

Source: U.S. Department of Commerce.

Figure 4:
U.S. Services Exports



Source: U.S. Department of Commerce, Census Basis.

since 1992 (up only 26.8 percent).[3] U.S. exports of royalties and licensing fees was the second largest services export growth category since 1992 (up 79.8 percent). Of the $99.9 billion increase in U.S. services exports between 1992 and 1999, two-thirds of the export growth was in the Other Private Services (up $50 billion) and Royalties and Licensing Fees (up $16.6 billion) categories.

Detailed sectoral breakdowns for exports of other private services are available only through 1998. In 1998, other private services exports totaled $92.1 billion. Of this, U.S. exports to business related parties (to a foreign parent or affiliate) accounted for $28.3 billion, or 30.7 percent of total other private service exports. For the remaining exports of other private services to unaffiliated parties, the value of exports in 1998 (and the percentage growth between 1992 and 1998) for the 7 largest exports are: business, professional and technical services, $24.3 billion (up 107.6 percent); financial services, $13.7 billion (up 239.6 percent); education, $9.0 billion (up 44.9 percent); insurance premiums, $7.0 billion (up 81.3 percent); construction, engineering, architectural and mining services, $4.1 billion (up 109.5 percent); telecommunications, $3.7 billion (up 27.9 percent); and installation, maintenance and repair of equipment, $3.7 billion (up 33.7 percent).

Japan was the largest purchaser of U.S. private services exports in 1998 (latest data available), accounting for 12.5 percent of total U.S. private services exports. The top 5 purchasers of U.S. services exports in 1998 were: Japan ($30.7 billion), the United Kingdom ($27.2 billion), Canada ($19.5 billion), Germany ($15.3 billion), and Mexico ($11.8 billion).

[3] Other transportation services are charges for the transportation of goods by ocean, air, waterway, pipeline, and rail carriers to and from the United States.

Regionally, the United States exported $68.2 billion to the Asia/Pacific Region ($37.5 billion excluding Japan), $83.3 billion to the EU, $31.3 billion to NAFTA countries, and $26.3 billion to Latin America (excluding Mexico).

B. Import Growth

U.S. services import growth was up by 10.3 percent in 1999 to $199.7 billion, and has been slightly higher than export growth during the last seven years (up 71.4 percent since 1992) *(table 6, figure 5)*. U.S. services imports from the world were led by two of the six major services import categories, the travel and other private services (led by telecommunications and by the business, professional, and technical services subcategories) categories, accounting for nearly 57 percent of total services imports in 1999.

Nearly all of the major services import categories exhibited strong growth in 1999, mostly ranging between 8.2 percent and 13.5 percent. Royalties and Licensing Fees and Other Private Services were the two largest import growth categories between 1992 and 1999, up 138.5 percent and 136.1 percent, respectively. Of the $83.2 billion increase in U.S. services imports between 1992 and 1999, the other private services category accounted for 36.5 percent ($30.4 billion) of the increase and the travel category accounted for 26.5 percent ($22.1 billion) of the increase.

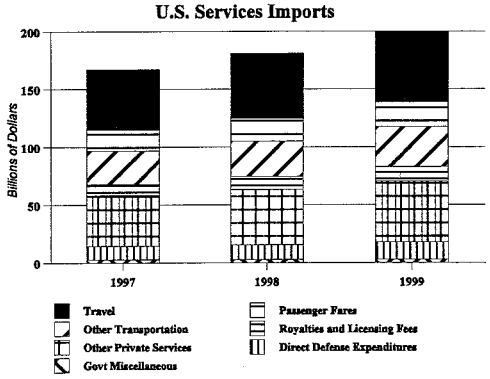
As with exports, detailed sectoral breakdowns for imports of other private services are available only through 1998. In 1998, other private services imports totaled $47.7 billion. Of this, U.S. imports from business related parties (from a foreign parent or affiliate accounted for $19.1 billion) or 40.1 percent of

Table 6:
U.S. Services Imports

Imports:	1997	1998	1999	98-99	94-99	92-99
	Billions of Dollars			*Percent Change*		
Total (BOP basis)	166.9	181.0	199.7	10.3%	51.4%	71.4%
Travel	52.1	56.1	60.7	8.3%	38.7%	57.4%
Passenger Fares	18.1	19.8	21.4	8.2%	63.5%	102.1%
Other Transportation	29.0	30.5	34.6	13.5%	32.9%	45.2%
Royalties and Licensing Fees	9.4	11.3	12.4	9.8%	110.2%	138.5%
Other Private Services	43.9	47.7	52.7	10.5%	73.2%	136.1%
Transfers under U.S. Military Sales Contracts	11.7	12.8	14.9	16.4%	46.5%	8.3%
U.S. Government Miscellaneous Services	2.8	2.8	2.9	2.4%	13.9%	26.8%

Source: U.S. Department of Commerce.

Figure 5:
U.S. Services Imports



Source: U.S. Department of Commerce, Census Basis.

total other private service imports. For the remaining imports of other private services from unaffiliated parties, the value of imports in 1998 (and the percentage growth between 1992 and 1998) for the 5 largest imports are: insurance premiums, $18.6 billion (up 58.3 percent); telecommunications, $8.1 billion (up 34.3 percent); business professional and technical services $7.7 billion (up 147.7 percent); financial services, $3.8 billion (up 282.5 percent); and education, $1.5 billion, (up 100.5 percent).

The United Kingdom remained our largest supplier of private services, providing $22.8 billion to the United States in 1998 (latest data available). This accounted for 13.8 percent of total U.S. imports of private services in 1998. The United States imported $15.1 billion from Canada, our second largest supplier, and $13.7 billion from Japan, our third largest supplier and Mexico and Germany were our fourth and fifth largest import suppliers, exporting $10.0 billion and $8.9 billion worth of services to the U.S., respectively, in 1998. Regionally, the United States imported $59.4 billion of services from the EU-15, $40.2 billion from the Asia/Pacific region ($26.5 billion excluding Japan), $25.1 billion from NAFTA, and $10.0 billion from Latin America (excluding Mexico).

IV. The U.S. Trade Deficit

The U.S. goods and services deficit increased significantly in 1999, from $164.3 billion to $271.3 billion, primarily due to the strong U.S. economy and weakness abroad (*table 7*). The most recent forecasts by the Organization of Economic Cooperation and Development estimate 1999 real GDP growth for the United States to be 3.8 percent; for the EU, 2.8 percent; and for Japan, 1.4 percent. Recent private sector estimates (Standard and Poors DRI) forecasts real U.S. GDP growth of 3.9 percent in 1999, with the rest of the world growing at a combined rate of just 0.5 percent. In this latter forecast, the United States is estimated to have accounted for nearly two-thirds of total world

growth in 1999. Reflecting such differences in growth rates, the U.S. goods trade deficit increased by $100.2 billion in 1999, from $246.9 billion to $347.1 billion, greater than the $50.2 billion increase in 1998 and the $5.4 billion increase in 1997.

The U.S. services surplus of $75.8 billion in 1999 offset 22 percent of the deficit in the goods account. Similar to the goods trade deficit, the services surplus declined in 1999 by $6.9 billion from its 1998 level of $82.7 billion. However, contrary to goods, the services surplus is up by $16.7 billion from its 1992 level of $59.1 billion. As a share of U.S. GDP, the goods and services trade deficit has risen from 0.5 percent in 1991 – the end of the recession – to 2.9 percent in 1999, whereas the goods trade deficit has risen from 1.3 percent in 1991 to 3.8 percent in 1999 and the services trade surplus has risen from 0.7 percent in 1991 to 0.8 percent in 1999 *(table 8)*.

Table 7
U.S. Trade Balances with the World

Balance:	1997	1998	1999
	Billions of Dollars		
Goods and Services (BOP Basis)	-104.7	-164.3	-271.3
Goods (BOP Basis)	-196.7	-246.9	-347.1
Services (BOP Basis)	91.9	82.7	75.8

Source: U.S. Department of Commerce, Balance of Payments Basis for World.

Table 8
U.S. Trade Balances as a share of GDP

Share of GDP:	1987	1997	1998	1999
	Percent			
Goods and Services (BOP Basis)	-3.3	-1.4	-2.0	-2.9
Goods (BOP Basis)	-3.4	-2.5	-2.9	-3.8
Services (BOP Basis)	0.1	1.1	0.9	0.8

Source: U.S. Department of Commerce.

Economists generally believe that trade deficits, *per se*, are neither good or bad. The reasons for the trade deficit are more relevant. The rise in our trade deficit since 1992, when the goods and services deficit was $37.0 billion, has most certainly been related to the favorable performance of the U.S. economy. The U.S. economy began to recover earlier than other countries from the global recession of the early 1990s and to grow faster than the markets of many of our major trade partners. Since 1992, for example, the U.S. economy has grown nearly two and one-half times faster than the average of the other major economies in the G-7. As a result, U.S. demand for imports rose at a time when foreign demand for U.S. exports was dampened by lack of economic growth abroad. For example, U.S. real industrial production grew by roughly 40 percent in real terms over the last seven years. In contrast, the level of industrial production in Japan increased by less than 4 percent and Germany grew by 6 percent. Similarly for employment, the nearly 21 million job increase since January 1993 stands in sharp contrast to the roughly 2.5 million job growth in the other high-income, large industrial economies of the G-7. Also, the U.S. rate of unemployment of 4.0 percent in January 2000 is the lowest in thirty years.

In addition, the deficit reflects stronger national investment growth in the United States rather than weaker national savings. Between 1991 and 1998, net national investment (gross investment minus depreciation) has increased by 4.4 percentage points of GDP while net saving was up 2.5 percentage points. This deficit, by also funneling large amounts of foreign savings into the United States, has helped the United States to maintain the very high rates of investment that are in part responsible for the recovery in productivity and real wage growth that we have seen since 1995. The current situation also contrasts with the late 1980s when goods and services trade deficits of well over 3 percent of GDP were accompanied by large federal budget deficits. In fiscal year 1987, for example, the federal deficit of $150 billion subtracted from the national savings pool and contributed to the trade deficit. In fiscal year 1999, however, a federal surplus of $124 billion directly contributed to the national savings pool, supporting the view that the current trade imbalance is more a sign of strong investment in the United States, rather than a result of domestic fiscal imbalance.

The surge in the U.S. trade deficit over the last two years also has reflected the financial and economic crisis in a number of Asian countries, recession in Japan, economic weakness in Latin America and slower growth in many other countries than has occurred in the United States. In response to the economic crisis, the United States assisted its stricken trade partners, in part, by maintaining the openness of its markets in the face of their balance-of-payments induced trade adjustments. With successful management of the financial crisis, prospects for global growth have improved considerably, with the first signs of recovery for U.S. exports appearing in 1999. To the extent that the U.S. trade deficit increase has reflected the sharp deterioration in foreign economic performance over the last two years, that problem is in the process of resolution to the benefit of all countries, including the United States, through improving conditions for U.S. exports.

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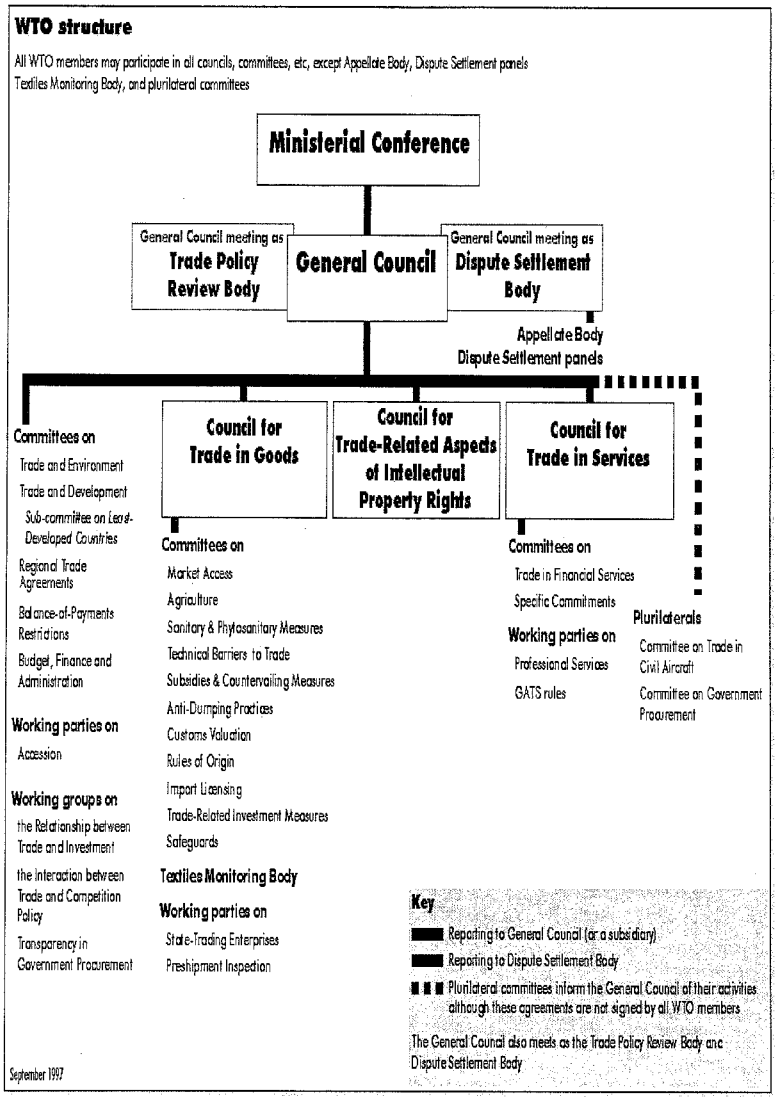
MEMBERSHIP OF THE WORLD TRADE ORGANIZATION
as of December 31, 1999 (135 Members)

Government	Entry into Force	Government	Entry into Force
Antigua and Barbuda	1 January 1995	Djibouti	31 May 1995
Angola	1 December 1996	Dominica	1 January 1995
Argentina	1 January 199	Dominican Republic	9 March 1995
Australia	1 January 1995	Ecuador	21 January 1996
Austria	1 January 1995	Egypt	30 June 1995
Bahrain	1 January 1995	El Salvador	7 May 1995
Bangladesh	1 January 1995	Estonia	13 November 1999
Barbados	1 January 1995	European Communities	1 January 1995
Belgium	1 January 1995	Fiji	14 January 1996
Belize	1 January 1995	Finland	1 January 1995
Benin	22 February 1996	France	1 January 1995
Bolivia	13 September 1995	Gabon	1 January 1995
Botswana	31 May 1995	Gambia	23 October 1996
Brazil	1 January 1995	Germany	1 January 1995
Brunei Darussalam	1 January 1995	Ghana	1 January 1995
Bulgaria	1 December 1996	Greece	1 January 1995
Burkina Faso	3 June 1995	Grenada	22 February 1996
Burundi	23 July 1995	Guatemala	21 July 1995
Cameroon	13 December 1995	Guinea Bissau	31 May 1995
Canada	1 January 1995	Guinea	25 October 1995
Central African Republic	31 May 1995	Guyana	1 January 1995
Chad	19 October 1996	Haiti	30 January 1996
Chile	1 January 1995	Honduras	1 January 1995
Colombia	30 April 1995	Hong Kong, China	1 January 1995
Congo	27 March 1997	Hungary	1 January 1995
Costa Rica	1 January 1995	Iceland	1 January 1995
Côte d'Ivoire	1 January 1995	India	1 January 1995

Government	Entry into Force	Government	Entry into Force
Cuba	20 April 1995	Indonesia	1 January 1995
Cyprus	30 July 1995	Ireland	1 January 1995
Czech Republic	1 January 1995	Israel	21 April 1995
Democratic Republic of Congo	January 1997	Italy	1 January 1995
Denmark	1 January 1995	Jamaica	9 March 1995
Japan	1 January 1995	Papua New Guinea	9 June 1996
Kenya	1 January 1995	Paraguay	1 January 1995
Korea	1 January 1995	Peru	1 January 1995
Kuwait	1 January 1995	Philippines	1 January 1995
Kyrgyz Republic	20 December 1998	Poland	1 July 1995
Latvia	10 February 1999	Portugal	1 January 1995
Lesotho	31 May 1995	Qatar	13 January 1996
Liechtenstein	1 September 1995	Romania	1 January 1995
Luxembourg	1 January 1995	Rwanda	22 May 1996
Macau	1 January 1995	Saint Kitts and Nevis	21 February 1996
Madagascar	17 November 1995	Saint Lucia	1 January 1995
Malawi	31 May 1995	Saint Vincent & the Grenadines	1 January 1995
Malaysia	1 January 1995	Senegal	1 January 1995
Maldives	31 May 1995	Sierra Leone	23 July 1995
Mali	31 May 1995	Singapore	1 January 1995
Malta	1 January 1995	Slovak Republic	1 January 1995
Mauritania	31 May 1995	Slovenia	30 July 1995
Mauritius	1 January 1995	Solomon Islands	26 July 1996
Mexico	1 January 1995	South Africa	1 January 1995
Mongolia	29 January 1997	Spain	1 January 1995
Morocco	1 January 1995	Sri Lanka	1 January 1995
Mozambique	26 August 1995	Suriname	1 January 1995
Myanmar	1 January 1995	Swaziland	1 January 1995
Namibia	1 January 1995	Sweden	1 January 1995

Government	Entry into Force	Government	Entry into Force
Netherlands - For the Kingdom and for the Netherlands Antilles	1 January 1995	Switzerland	1 July 1995
New Zealand	1 January 1995	United Kingdom	1 January 1995
Nicaragua	3 September 1995	United States	1 January 1995
Niger	13 December 1996	Uruguay	1 January 1995
Nigeria	1 January 1995	Venezuela	1 January 1995
Norway	1 January 1995	Zambia	1 January 1995
Pakistan	1 January 1995	Zimbabwe	3 March 1995
Panama	6 September 1997		
Source: WTO Secretariat			


WTO structure
All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels
Textiles Monitoring Body, and plurilateral committees
Ministerial Conference
General Council meeting as
Trade Policy
Review Body
General Council
General Council meeting as
Dispute Settlement
Body
Appellate Body
Dispute Settlement panels
Committees on
Trade and Environment
Trade and Development
Sub-committee on Least-Developed Countries
Regional Trade Agreements
Balance-of-Payments Restrictions
Budget, Finance and Administration
Working parties on
Accession
Working groups on
the Relationship between Trade and Investment
the Interaction between Trade and Competition Policy
Transparency in Government Procurement
Council for Trade in Goods
Council for Trade-Related Aspects of Intellectual Property Rights
Council for Trade in Services
Committees on
Market Access
Agriculture
Sanitary & Phytosanitary Measures
Technical Barriers to Trade
Subsidies & Countervailing Measures
Anti-Dumping Practices
Customs Valuation
Rules of Origin
Import Licensing
Trade-Related Investment Measures
Safeguards
Textiles Monitoring Body
Working parties on
State-Trading Enterprises
Preshipment Inspection
Committees on
Trade in Financial Services
Specific Commitments
Working parties on
Professional Services
GATS rules
Plurilaterals
Committee on Trade in Civil Aircraft
Committee on Government Procurement
Key
Reporting to General Council (or a subsidiary)
Reporting to Dispute Settlement Body
Plurilateral committees inform the General Council of their activities although these agreements are not signed by all WTO members
The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body
September 1997

The Plurilateral Agreements and Membership

For the most part, all WTO members subscribe to all WTO agreements. There remain, however, two agreeme originally negotiated in the in the Tokyo Round, which have a narrower group of signatories and are known th "plurilateral agreements."

The Agreement on Government Procurement

The Agreement on Government Procurement, the successor to the plurilateral "Government Procurement Code" of the Tokyo Round, entered into force on January 1, 1996. The following WTO Members are Parties to the Agreement: Austria, Belgium, Canada, Denmark, the European Communities and fifteen Member States, Finland, France, Germany, Greece, Hong Kong (China), Ireland, Israel, Italy, Japan, Korea, Liechtenstein, Luxembourg, the Kingdom of the Netherlands with respect to Aruba, Norway, Portugal, Singapore, Spain, Sweden, Switzerland and the United States. Fifteen WTO Members have observer status: Argentina, Australia, Bulgaria, Chile, Colombia, Croatia, Estonia, Iceland, Kyrgyz Republic, Lithuania, Mongolia, Panama, Poland, Slovenia and Turkey. Two non-WTO Members have observer status: Chinese Taipei and Latvia.

The Agreement on Trade in Civil Aircraft

There are 24 Signatories to the Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Japan, Macau, Norway, Romania, Switzerland and the United States. The other WTO Members with observer status in the Committee are Argentina, Australia, Bangladesh, Brazil, Cameroon, Mauritius, Nigeria, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition, China, the Russian Federation and Chinese Taipei have observer status in the Committee. The IMF and UNCTAD are also observers.

WTO ACCESSION APPLICATION AND STATUS (as of 2-15-00)[1]

Country	Status of Multilateral and Bilateral Work
Albania (1992)	Draft protocol and WP report and consolidated market access schedules completed in October 1999. Working Party adoption and General Council approval pending.
Algeria (1987)	GATT 1947 accession process never activated. One WTO Working Party held in April 1998. Additional documentation provided in early 1999. No market access offers to date.
Andorra (1997)	First WP meeting in October 1999 reviewed legislative implementation schedule and goods and services market access offers. Review of revised documentation and offers expected in first half of 2000.
Armenia (1993)	Five WP meetings held through June 24, 1999. Draft protocol and WP report under review in WP. Legislative implementation underway. Further bilateral and plurilateral meetings on goods market access expected in early 2000.
Azerbaijan (1997)	Initial documentation circulated in April 1999. No working party meetings or market access offers to date.
Belarus (1993)	Two WP meetings held through April 1998. Goods market access offer made available in March 1998. No services offer to date.
Bosnia Herzegovina (1999)	Application accepted at July1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Bhutan (1999)	Application accepted at October 1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Cambodia (1995)	Initial documentation submitted in June 1999. No working party meetings or market access offers to date.
Cape Verde (1999)	Application accepted at February 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations.
China (1986)	WP discussions well advanced, with next meeting to report on the status of market access negotiations and to continue review of draft protocol and WP report. Market access negotiations completed with some WTO members in 1998 and 1999 (including Japan and United States), while negotiations with the EU and others continue.
Croatia (1993)	Draft protocol and WP report and consolidated market access schedules completed in September 1999. Working Party adoption and General Council approval pending.
Georgia (1996)	General Council approved the accession package on October 6, 1999. Ratification is expected in early 2000, with Membership 30 days after the instrument of ratification deposited with the WTO.
Jordan (1994)	General Council approved the accession package on December 17, 1999. Ratification is expected in early 2000, with Membership 30 days after the instrument of ratification has been deposited with the WTO.
Kazakhstan (1996)	Three WP meetings held through October 1998. Legislative implementation underway. Further market access negotiations on margins of next WP meeting, expected in first half of 2000.
Laos (1998)	Has not yet submitted initial documentation to activate the accession negotiations.
Lebanon (1999)	Working Party established at April 1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Lithuania (1994)	Five formal and four informal WP meetings held through October 1999. Draft protocol and WP report under review in WP. Legislative implementation underway. Further bilateral and plurilateral meetings on goods market access on margins of next WP meeting, expected in early 2000.
Former Yugoslav Republic of Macedonia (1995)	Initial documentation submitted in May 1999. Initial responses to questions from WTO members under development. No working party meetings or market access offers to date.

[1] "Country"column Includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Country	Status of Multilateral and Bilateral Work
Moldova (1993)	Four formal and one informal WP meetings held through September 24, 1999. Draft protocol and WP report under review in WP. Legislative implementation underway. Further bilateral and plurilateral meetings on goods market access expected in early 2000.
Nepal (1989)	GATT 1947 accession process suspended in 1994. Initial documentation circulated in late 1998. Has responded to written questions from current WTO members. First WP likely in first half of 2000. No market access offers to date.
Oman (1996)	Five formal and one informal WP meetings held through October 26, 1999. Goods and services market access negotiations completed in 1999. Draft protocol and WP report under review in WP. Legislative implementation underway with package approaching final form. Next WP meeting likely in early 2000.
Russia (1993)	Nine WP meetings held through December 1998, with informal WP session, agricultural plurilaterals, and bilateral market access discussions held October 26-27, 1999. Revised goods market access offer in development. Initial services offer circulated in October 1999. Further market access negotiations on the margins of WP meeting expected in first half of 2000.
Samoa (1998)	Has not yet submitted initial documentation to activate the accession negotiations.
Saudi Arabia (1993)	Six WP meetings held through September 22, 1999. Next WP meeting scheduled for February 17-18, 2000. Work on protocol issues and development of legislative implementation schedule continues. Bilateral market access negotiations on goods and services with WTO delegations continue.
Seychelles (1995)	Two WP meeting held through March 1998. Next WP meeting to review status of legislative implementation. Further negotiations on goods and services market access awaiting revised offers.
Sudan (1995)	Initial documentation circulated in January 1999. No working party meetings or market access offers to date.
Chinese Taipei (Taiwan) (1992)	Ten WP meetings held through July 30, 1999. Legislative implementation and bilateral market access negotiations completed. Text of draft protocol and WP report agreed in substance. Verification of consolidated market access schedules reflecting completed bilateral negotiations to be completed and approved at next Working Party meeting, date to be arranged.
Tonga (1995)	Initial documentation circulated in June 1998. No working party meetings or market access offers to date.
Ukraine (1993)	Six WP meetings held through June 1998. Next WP meeting expected in first half of 2000 to examine new documentation. Principal focus in 2000 will be on Ukrainian legislative agenda to implement WTO-consistent trade regime and improvements in market access offers already under negotiation.
Uzbekistan (1995)	Initial documentation circulated in October 1998. No working party meetings or market access offers to date.
Vanuatu (1995)	Two formal and two informal WP meetings held through October 18, 1999, with bilateral negotiations on the margins. Further WP and bilateral negotiations awaiting Vanuatu response to comments by delegations on October 1999 offers.
Vietnam (1995)	Three WP meetings held though July 1999 First reading of the trade regime completed. Next WP will review Vietnam responses to request for legislative implementation strategy. No market access offers to date.

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2000
(Minimum contribution of 0.015 per cent)

MEMBERS	1999 CONTRIBUTION	2000 CONTRIBUTION		INTEREST EARNED[1]	2000 NET CONTRIBUTION
	CHF	%	CHF	CHF	CHF
Angola	72,660	0.061	77,226	-	77,226
Antigua and Barbuda	36,330	0.015	18,990	-	18,990
Argentina	581,280	0.456	577,296		577,296
Australia	1,634,850	1.302	1,648,332	(8,365)	1,639,967
Austria	1,901,270	1.505	1,905,330	(10,074)	1,895,256
Bahrain	96,880	0.076	96,216	(471)	95,745
Bangladesh	108,990	0.099	125,334	-	125,334
Barbados	36,330	0.019	24,054	(77)	23,977
Belgium	3,536,120	2.850	3,608,100	(17,089)	3,591,011
Belize	36,330	0.015	18,990	(137)	18,853
Benin	36,330	0.015	18,990	(138)	18,852
Bolivia	36,330	0.025	31,650		31,650
Botswana	48,440	0.039	49,374	(349)	49,025
Brazil	1,005,130	1.028	1,301,448		1,301,448
Brunei Darussalam	48,440	0.047	59,502	(188)	59,314
Bulgaria	133,210	0.103	130,398	(81)	130,317
Burkina Faso	36,330	0.015	18,990		18,990
Burundi	36,330	0.015	18,990		18,990
Cameroon	36,330	0.029	36,714		36,714
Canada	4,735,010	3.901	4,938,666	(23,494)	4,915,172
Central African Republic	36,330	0.015	18,990		18,990
Chad	36,330	0.015	18,990		18,990
Chile	411,740	0.335	424,110	(974)	423,136
Colombia	302,750	0.262	331,692	(1,279)	330,413
Congo	36,330	0.026	32,916		32,916
Costa Rica	72,660	0.069	87,354		87,354
Côte d' Ivoire	84,770	0.068	86,088	(262)	85,826
Cuba	60,550	0.054	68,364	(193)	68,171
Cyprus	72,660	0.059	74,694	(344)	74,350
Czech Republic	581,280	0.507	641,862	(3,120)	638,742
Democratic Republic of the Congo	48,440	0.020	25,320		25,320
Denmark	1,211,000	1.019	1,290,054	(6,712)	1,283,342
Djibouti	36,330	0.015	18,990		18,990
Dominica	36,330	0.015	18,990	(22)	18,968
Dominican Republic	121,100	0.109	137,994		137,994
Ecuador	108,990	0.089	112,674		112,674
Egypt	314,860	0.265	335,490	(1,084)	334,406
El Salvador	48,440	0.049	62,034	(176)	61,858
Estonia	0	0.062	78,492		78,492
European Communities	-	0.000	0		0
Fiji	36,330	0.018	22,788	(174)	22,614
Finland	896,140	0.719	910,254	(3,210)	907,044
France	7,266,000	5.807	7,351,662	(29,333)	7,322,329
Gabon	48,440	0.037	46,842		46,842

MEMBERS	1999 CONTRIBUTION	2000 CONTRIBUTION		INTEREST EARNED[1]	2000 NET CONTRIBUTION
	CHF	%	CHF	CHF	CHF
Gambia	36,330	0.015	18,990		18,990
Germany	12,315,870	9.693	12,271,338	(37,869)	12,233,469
Ghana	36,330	0.032	40,512	(80)	40,432
Greece	399,630	0.331	419,046	(1,339)	417,707
Grenada	36,330	0.015	18,990	(7)	18,983
Guatemala	60,550	0.055	69,630	(165)	69,465
Guinea	36,330	0.015	18,990		18,990
Guinea-Bissau	36,330	0.015	18,990		18,990
Guyana	36,330	0.015	18,990	(158)	18,832
Haiti	36,330	0.015	18,990	(60)	18,930
Honduras	36,330	0.034	43,044	(144)	42,900
Hong Kong, China	4,626,020	3.623	4,586,718	(21,613)	4,565,105
Hungary	351,190	0.390	493,740	(1,955)	491,785
Iceland	48,440	0.041	51,906	(236)	51,670
India	884,030	0.830	1,050,780		1,050,780
Indonesia	1,223,110	0.959	1,214,094	(3,526)	1,210,568
Ireland	920,360	0.961	1,216,626	(4,180)	1,212,446
Israel	641,830	0.550	696,300	(3,138)	693,162
Italy	5,982,340	4.732	5,990,712	(25,204)	5,965,508
Jamaica	60,550	0.057	72,162	(209)	71,953
Japan	9,167,270	7.214	9,132,924	(22,770)	9,110,154
Kenya	60,550	0.052	65,832	(202)	65,630
Korea, Republic of	3,003,280	2.653	3,358,698	(4,438)	3,354,260
Kuwait	290,640	0.216	273,456	(286)	273,170
Kyrgyz Republic	36,330	0.015	18,990		18,990
Latvia	0	0.052	65,832		65,832
Lesotho	36,330	0.015	18,990		18,990
Liechtenstein	36,330	0.028	35,448	(181)	35,267
Luxembourg	266,420	0.285	360,810	(1,197)	359,613
Macau	72,660	0.063	79,758	(405)	79,353
Madagascar	36,330	0.015	18,990	(44)	18,946
Malawi	36,330	0.015	18,990		18,990
Malaysia	1,428,980	1.476	1,868,616	(908)	1,867,708
Maldives	36,330	0.015	18,990	(82)	18,908
Mali	36,330	0.015	18,990		18,990
Malta	60,550	0.051	64,566	(276)	64,290
Mauritania	36,330	0.015	18,990		18,990
Mauritius	48,440	0.043	54,438	(211)	54,227
Mexico	1,889,160	1.975	2,500,350	(1,503)	2,498,847
Mongolia	36,330	0.015	18,990	(161)	18,829
Morocco	193,760	0.162	205,092	(546)	204,546
Mozambique	36,330	0.015	18,990		18,990
Myanmar, Union of	36,330	0.015	18,990	(137)	18,853
Namibia	36,330	0.030	37,980	(127)	37,853
Netherlands, Kingdom of the	4,371,710	3.449	4,366,434	(19,567)	4,346,867
New Zealand	363,300	0.291	368,406	(1,644)	366,762
Nicaragua	36,330	0.017	21,522		21,522
Niger	36,330	0.015	18,990		18,990

MEMBERS	1999 CONTRIBUTION	2000 CONTRIBUTION		INTEREST EARNED[1]	2000 NET CONTRIBUTION
	CHF	%	CHF	CHF	CHF
Nigeria	230,090	0.229	289,914	(766)	289,148
Norway	1,150,450	0.933	1,181,178	(3,881)	1,177,297
Pakistan	217,980	0.197	249,402		249,402
Panama	157,430	0.133	168,378		168,378
Papua New Guinea	48,440	0.042	53,172	(112)	53,060
Paraguay	60,550	0.047	59,502		59,502
Peru	157,430	0.144	182,304	(27)	182,277
Philippines	496,510	0.667	844,422	(10)	844,412
Poland	690,270	0.644	815,304	(2,763)	812,541
Portugal	775,040	0.604	764,664	(2,958)	761,706
Qatar	72,660	0.055	69,630	(249)	69,381
Romania	205,870	0.179	226,614	(712)	225,902
Rwanda	36,330	0.015	18,990		18,990
St. Kitts and Nevis	36,330	0.015	18,990	(124)	18,866
Saint Lucia	36,330	0.015	18,990	(135)	18,855
St. Vincent and the Grenadines	36,330	0.015	18,990	(38)	18,952
Senegal	36,330	0.023	29,118	(105)	29,013
Sierra Leone	36,330	0.015	18,990		18,990
Singapore	2,845,850	2.431	3,077,646	(9,845)	3,067,801
Slovak Republic	242,200	0.214	270,924	(1,037)	269,887
Slovenia	217,980	0.178	225,348	(712)	224,636
Solomon Islands	36,330	0.015	18,990		18,990
South Africa	653,940	0.561	710,226	(3,237)	706,989
Spain	2,966,950	2.464	3,119,424	(11,649)	3,107,775
Sri Lanka	108,990	0.092	116,472	(463)	116,009
Suriname	36,330	0.015	18,990	(133)	18,857
Swaziland	36,330	0.019	24,054	(165)	23,889
Sweden	1,755,950	1.549	1,961,034	(8,803)	1,952,231
Switzerland	2,034,480	1.777	2,249,682	(9,986)	2,239,696
Tanzania	36,330	0.027	34,182	(13)	34,169
Thailand	1,586,410	1.138	1,440,708	(3,109)	1,437,599
Togo	36,330	0.015	18,990		18,990
Trinidad and Tobago	36,330	0.032	40,512		40,512
Tunisia	169,540	0.136	172,176	(703)	171,473
Turkey	956,690	0.754	954,564		954,564
Uganda	36,330	0.019	24,054		24,054
United Arab Emirates	629,720	0.538	681,108	(70)	681,038
United Kingdom of Great Britain and Northern Ireland	7,193,340	6.035	7,640,310	(32,965)	7,607,345
United States of America	18,831,050	15.717	19,897,722	(6,835)	19,890,887
Uruguay	72,660	0.064	81,024		81,024
Venezuela	423,850	0.331	419,046		419,046
Zambia	36,330	0.022	27,852		27,852
Zimbabwe	48,440	0.036	45,576	(161)	45,415
TOTAL	121,100,000	100.000	126,600,000	363,680	126,236,320

1Interest earned in 1998 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2000 contribution,

2000 APPROVED BUDGET FOR THE WTO SECRETARIAT
(in Swiss francs)

	SECTION	1999 Budget	Total increase/ (decrease)	2000 Budget
1	Staff (Work/years)			
	(a) Salary	56,252,050	2,272,150	58,524,200
	(b) Pensions	11,073,750	821,200	11,894,950
	(c) Other Common Staff costs	9,302,150	1,076,000	10,378,150
2	Temporary Assistance	9,336,750	490,100	9,826,850
3	Communications			
	(a) Telecommunications	436,000	(50,000)	386,000
	(b) Postage charges	1,227,000		1,277,000
4	Building Facilities			
	(a) Rental	26,500		26,500
	(b) Utilities	1,388,000	160,000	1,548,000
	(c) Maintenance and Insurance	945,000	(65,000)	880,000
5	Permanent Equipment	3,022,050	277,200	3,299,250
6	Expendable Equipment	1,207,900	7,830	1,200,070
7	Contractual Services			
	(a) Reproduction	1,222,000	45,000	1,267,000
	(b) Office Automation / Informatics	1,995,600	302,790	2,298,390
	(c) Other	365,000	(8,000)	357,000
8	Staff Overhead Costs			
	(a) Training	360,000	15,000	375,000
	(b) Insurance	992,000	42,000	1,034,000
	(c) Joint Services	608,000	(95,000)	513,000
	(d) Miscellaneous	43,000	(3,500)	39,500
9	Missions			
	(a) Official	1,094,000	76,000	1,170,000
	(b) Technical Co-operation	741,000		741,000
10	Trade Policy Training Courses	1,530,000	90,000	1,440,000
11	Contribution to ITC	14,207,700	(78,000)	14,199,900
12	Various			
	(a) Representation and Hospitality	258,000		258,000
	(b) Dispute Settlement Panels	515,000	495,000	1,010,000
	(c) Permanent Group of Experts/ Arbitration under GATS	53,050	(23,050)	30,000
	(d) Appellate Body	1,990,950	319,600	2,310,550
	(e) Library	550,000	5,000	555,000
	(f) Publications	183,000	20,000	203,000
	(g) Public Information Activities	229,000	33,000	262,000
	(h) External Auditors	32,000		32,000
	(i) Ministerial Meeting	800,000	(400,000)	400,000
	(j) ISO	62,000	2,000	64,000
	(k) Other	47,000		47,000
13	Unforeseen Expenditure	100,000		100,000
	TOTAL	120,204,500	5,181,960	125,386,460
	Percentage with respect to 1999 Budget		4.31%	

2000 APPROVED BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT

(in Swiss francs)

SECTION	1999 Budget	Total increase/ (decrease)	2000 Budget
1 Staff(Work/years)			
Salary	905,400	273,400	1,178,800
(a)			
Pensions	172,500	57,300	229,800
(b)			
Other Common Staff costs	192,150	(8,600)	183,550
(c)			
2 Temporary Assistance	4,500	13,500	18,000
3 Communications			
(a) Telecommunications	6,500		6,500
(b) Postage charges			
4 Building Facilities			
(a) Rental			
(b) Utilities			
(c) Maintenance and Insurance			
5 Permanent Equipment	70,200	(38,950)	31,250
6 Expendable Equipment	2,000	20,350	22,350
7 Contractual Services			
(a) Reproduction		15,000	15,000
(b) Office Automation / Informatics	4,500	(4,500)	
(c) Other			
8 Staff Overhead Costs			
(a) Training			
(b) Insurance			
(c) Joint Services			
(d) Miscellaneous		2,000	2,000
9 Missions			
(a) Official	14,000	(5,000)	9,000
(b) Technical Co-operation			
10 Trade Policy Training Courses			
11 Contribution to ITC			
12 Various			
(a) Representation and Hospitality	1,000		1,000
(b) Dispute Settlement Panels			
(c) Permanent Group of Experts/ Arbitration under GATS			
(d) Appellate Body Members	615,200		615,200
(e) Library		3,100	3,100
(f) Publications			
(g) Public Information Activities			
(h) External Auditors			
(i) Ministerial Meeting			
(j) ISO			
(k) Other	3,000	(3,000)	
13 Unforeseen Expenditure			
TOTAL	**1,990,950**	**319,600**	**2,310,550**
Percentage with respect to 1999 Budget		16.05%	

WTO Secretariat Personnel Statistics

Number of Staff Members by Job Category --					
Country	**Senior**	**Professional**	**Administrativ**	**Support**	
Argentina		3	1	3	7
Australia	1	5	0	3	9
Austria	1	1	0	2	4
Belgium		3	1	0	4
Benin		1	0	0	1
Bolivia		2	0	1	3
Brazil	1	1	0	1	3
Burkina Faso	1	0	0	0	1
Canada	4	16	0	4	24
Chile		1	0	4	5
Colombia		2	1	1	4
Costa Rica		1	0	0	1
Cote d'Ivoire		0	1	0	1
Cuba		0	0	1	1
Denmark		1	0	1	2
Egypt		3	0	0	3
Ethiopia		1	1	0	2
Finland		1	1	1	3
France	4	31	38	54	127
Germany	1	8	2	3	14
Ghana		1	0	0	1
Greece		3	0	1	4
Hong Kong		1	0	0	1
Honduras		0	0	1	1
Hungary	1	0	0	0	1
India	1	6	1	2	10
Ireland		3	0	11	14
Italy		11	2	2	15
Japan		3	0	0	3
Korea		2	0	0	2
Malawi		1	0	0	1
Malaysia		1	0	1	2
Mauritius		0	0	1	1
Mexico		2	0	0	2
Morocco		1	0	0	1
Netherlands	2	4	0	1	7
Norway	1	1	1	0	3
New Zealand	2	1	0	1	4
Nigeria		1	0	0	1
Paraguay		0	0	1	1
Peru		1	0	6	7

Number of Staff Members by Job Category --					
Country	**Senior**	**Professional**	**Administrativ**	**Support**	
Philippines		4	0	1	5
Poland	1	1	2	0	4
Portugal		1	1	0	2
Romania		2	0	0	2
Senegal		0	1	0	1
Spain	2	16	0	14	32
Sri Lanka		2	0	2	4
Stateless		1	0	0	1
Sweden		6	1	1	8
Switzerland		13	14	5	32
Thailand		2	0	0	2
Tunisia		2	0	1	3
Turkey		2	0	0	2
United Kingdom	4	13	8	48	73
Uruguay	1	3	0	4	8
United States	2	17	2	2	23
Venezuela	1	4	0	0	5
Zaire		1	0	0	1
Zimbabwe		1	0	0	1
TOTAL	**31**	**211**	**79**	**185**	**506**

Notes -- Senior Management includes the Director-General, Deputies Director-General, the Chairman of the Textiles Monitoring Body and Division Directors.
For the Professional category, four staff have dual nationality. The column adds to 215, but 211 is the actual staff count.

Source: WTO Secretariat (as of 12/31/99)

WORLD TRADE ORGANIZATION

WT/DSB/17
3 November 1999

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

2. In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

3. The attached consolidated list contains the names of governmental and non-governmental panelists which appeared in the previous list of panelists (WT/DSB/13), and the names which have been subsequently approved by the DSB in the period between 1 October 1998 and 27 October 1999.[1]

4. As indicated by the Chairman at the DSB meeting on 22 and 24 September 1999, Members are invited to forward to the Secretariat any modifications they wish to make in order to update curricula vitae of persons contained on this list. As proposed by the Chairman such modifications should be indicated by the end of December 1999 in order to enable the Secretariat to circulate an updated indicative list in January 2000.

[1]Curricula vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025). The curricula vitae which have been submitted on diskette are also available on the Document Dissemination Facility.

COUNTRY	NAME	SECTORAL EXPERIENCE
AUSTRALIA	ARNOTT, Mr. R.J.	Trade in Goods
	CHESTER, Mr. D.O.	TRIPS
	CHURCHE, Mr. M.	Trade in Goods
	DUNN, Ms. J.M.	Trade in Services; TRIPS
	GALLAGHER, Mr. B.J.	Trade in Goods
	GASCOINE, Mr. D.F.	Trade in Goods
	GOODE, Mr. W.	Trade in Goods and Services
	HALL, Mr. R.J.	Trade in Goods
	HANNOUSH, Mr. J.	Trade in Goods; TRIPS
	HAWES, Mr. D.C.	Trade in Goods and Services
	HIRD, Miss J.M.	Trade in Goods
	HUSSIN, Mr. P.A.	Trade in Goods
	MAY, Mr. P.H.	Trade in Goods
	O'CONNOR, Mr. P.R.	Trade in Goods
	SMITH, Mr. P.A.	TRIPS
	THOMSON, Mr. G.A.	Trade in Goods and Services
	WILKINSON, Mr. K.W.	Trade in Goods
	YOUNG, Ms. E.	Trade in Goods
CANADA	BERNIER, Mr. I.	Trade in Goods and Services
	BRADFORD, Mr. M.V.M.	Trade in Goods and Services
	BROWN, Ms. C.A.	Trade in Goods and Services; TRIPS
	CLARK, Mr. P.J.	Trade in Goods and Services
	CLOSE, Ms. P.	Trade in Goods
	DE MESTRAL, Mr. A.	Trade in Goods
	EYTON, Mr. A.T.	Trade in Goods
	GHERSON, Mr. R.	Trade in Goods
	GOODWIN, Ms. K.M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. A.L.	Trade in Goods and Services
	HERMAN, Mr. L.L.	Trade in Goods
	HINES, Mr. W.R.	Trade in Goods
	MACMILLAN, Ms. K.E.	Trade in Goods
CANADA (cont'd)	MCRAE, Mr. D.	Trade in Goods
	OSTRY, Ms. S.	Trade in Goods
	RICHIE, Mr. G.	Trade in Goods
	THOMAS, Mr. J.C.	Trade in Goods and Services
	WINHAM, Mr. M.M.	Trade in Goods
CHILE	BIGGS, Mr. G.	Trade in Goods
	JARA, Mr. A.	Trade in Goods and Services
	MATUS, Mr. M.	Trade in Goods
	PEÑA, Ms. G.	Trade in Goods
	SAEZ, Mr. S.	Trade in Goods and Services
	SATELER, Mr. R.	TRIPS
	TIRONI, Mr. E.	Trade in Goods
COLOMBIA	CÁRDENAS, Mr. M.J.	Trade in Goods and Services; TRIPS
	IBARRA PARDO, Mr. G.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
	JARAMILLO, Mr. F.	Trade in Goods and Services
	LEAL ANGARITA, Mr. M.	Trade in Goods and Services
	OROZCO JARAMILLO, Ms. C.Y.	Trade in Goods
CUBA	CABALLERO RODRÍGUEZ, Mr. E.	Trade in Goods and Services
CZECH REP.	JUNG, Mr. Z.	Trade in Goods and Services
	PRAVDA, Mr. M.	Trade in Goods
	ŠRONĚK, Mr. I.	TRIPS
EGYPT	ABOUL-ENEIN, Mr. M.I.M.	Trade in Goods and Services
	HATEM, Mr. S.A.	Trade in Goods and Services
	SHAHIN, Ms. M.	Trade in Goods and Services; TRIPS
	SHARAFELDIN, Mr. A.	Trade in Goods; TRIPS
	ZAHRAN, Mr. M.M.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. W.	Trade in Goods
	MARTINS, Mr. R.	Trade in Goods
	REITERER, Mr. M.G.K.	Trade in Goods and Services; TRIPS
	WEISS, Mr. J.F.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. F.	Trade in Goods
BELGIUM	DASSESSE, Mr. M.P.A.	Trade in Goods and Services
	DIDIER, Mr. P.	Trade in Goods
	VANDER SCHUEREN, Ms. P.	Trade in Goods and Services
DENMARK	BOESGAARD, Mr. H.	Trade in Goods
FINLAND	BERGHOLM, Mr. K.A.	Trade in Goods
	JULIN, Mr. J.K.J.	Trade in Goods and Services
	LUOTONEN, Mr. Y.K.D.	Trade in Goods
	PULLINEN, Mr. M.Y.	Trade in Goods
	RANTANEN, Mr. P.I.	Trade in Goods
FRANCE	ARMAIGNAC, Ms. M.-C.	Trade in Services; TRIPS
	BEAURAIN, Mr. C.	Trade in Services
	DELLEUR, Mr. P.	Trade in Services
	JENNY, Mr. F.Y.	Trade in Goods and Services; TRIPS
	METZGER, Mr. J-M.	Trade in Goods
GERMANY	BARTH, Mr. D.	Trade in Services
	BARTKOWSKI, Mr. D.H.H.	Trade in Services
	DELBRÜCK, Mr. K.	Trade in Goods
	HILF, Mr. M.	Trade in Goods and Services
	MENG, Mr. W.	Trade in Goods, TRIPS
	MÖHLER, Mr. R.	Trade in Goods
	von MÜHLENDAHL, Mr. A.	TRIPS
	OPPERMANN, Mr. T.	Trade in Goods; TRIPS

COUNTRY	NAME	SECTORAL EXPERIENCE
	PETERSMANN, Mr. E-U	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. S.	Trade in Goods
	WITT, Mr. P.J.	Trade in Goods
GREECE	MYROGIANNIS, Mr. G.	Trade in Goods
	STANGOS, Mr. P.N.	Trade in Goods and Services; TRIPS
IRELAND	LONG, Mr. R.	Trade in Goods; TRIPS
	MATTHEWS, Mr. A.H.	Trade in Goods
	MOCKLER, Mr. T.F.	Trade in Goods
ITALY	GERBINO, Mr. M.	Trade in Goods
	GIARDINA, Mr. A.	Trade in Goods and Services
	SACERDOTI, Mr. G.	Trade in Goods and Services
	SCHIRATTI, Mr. G.	Trade in Goods
NETHERLANDS	BLOKKER, Mr. N.M.	Trade in Goods
	HOEKMAN, Mr. B.M.	Trade in Goods and Services; TRIPS
	van de LOCHT, Mr. P.	Trade in Goods and Services
	NEERVOORT, Mr. W.	TRIPS
	de ZEEUW, Mr. I.A.	Trade in Goods
SPAIN	CASTILLO URRUTIA, Mr. J.A.	Trade in Goods
SWEDEN	ANDERSSON, Mr. T.M.	Trade in Goods
	ANELL, Mr. L.	Trade in Goods; TRIPS
	FALLENIUS, Mr. C.H.	Trade in Goods
	HÅKANSSON, Mr. G.P.-O.	Trade in Services
	HOLGERSSON, Mr. J.	Trade in Goods and Services
	KLEEN, Mr. P.	Trade in Goods
	LINDSTRÖM, Mr. J.M.	Trade in Goods
	MANHUSEN, Mr. C.	Trade in Goods and Services
	RISINGGÅRD, Mr. A.B.	Trade in Goods
	RODIN, Mr. A.	Trade in Goods; TRIPS
	STÅLBERG, Mr. L.A.	Trade in Goods
UNITED KINGDOM	ARKELL, Mr. J.	Trade in Services
	CROFT, Mr. R.H.F.	Trade in Services
	HINDLEY, Mr. B.V.	Trade in Goods and Services
	JOHNSON, Mr. M.D.C.	Trade in Goods
	MUIR, Mr. T.	Trade in Goods and Services; TRIPS
	ROBERTS, Mr. C.W.	Trade in Goods and Services
	TOULMIN, Mr. J.K.	Trade in Services
HONG KONG, CHINA	CARTLAND, Mr. M.D.	Trade in Goods and Services
	FOOTMAN, Mr. R.	Trade in Goods and Services
	LO, Mr. P.Y.F.	Trade in Goods
	MILLER, Mr. J.A.	Trade in Goods and Services
	SZE, Mr. M.C.C.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
HUNGARY	FURULYÁS, Mr. F.	Trade in Goods
	LAKATOS, Mr. A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. D.T.	Trade in Goods and Services
	JÓHANNSSON, Mr. E.M.	Trade in Goods
	SANDHOLT, Mr. B.	Trade in Goods
INDIA	AGARWAL, Mr. V.K.	Trade in Goods; TRIPS
	BHATTACHARYA, Mr. G.C.	Trade in Goods
	CHANDRASEKHAR, Mr. K.M	Trade in Goods and Services; TRIPS
	DAS, Mr. B.L.	Trade in Goods
INDIA (continued)	DASGUPTA, Mr. J.	Trade in Goods
	GANESAN, Mr. A.V.	Trade in Goods, Services; TRIPS
	GOYAL, Mr. A.	Trade in Services
	KUMAR, Mr. M.	Trade in Goods and Services
	MOHANTY, Mr. P.K.	Trade in Goods
	MUKERJI, Mr. A.	Trade in Goods and Services; TRIPS
	PRASAD, Ms. A.	Trade in Goods and Services; TRIPS
	RAI, Mr. P.	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. P.S.	Trade in Goods
	REGE, Mr. N.V.	Trade in Goods
	SAJJANHAR, Mr. A.	Trade in Goods
	SHARMA, Mr. L.	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. K.	Trade in Goods; TRIPS
	WATAL, Mrs. J.	TRIPS
	ZUTSHI, Mr. B.K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. M.	Trade in Goods
	GABAY, Mr. M.	TRIPS
	HARAN, Mr. E.F.	Trade in Services
	SEMADAR, Mr. M.	Trade in Goods
	SHATON, Mr. M.	Trade in Goods and Services
	TALBAR, Mr. M.A.	Trade in Goods
	WEILER, Mr. J.	Trade in Goods
JAPAN	ARAKI, Mr. I	Trade in Goods and Services; TRIPS
	ASAKURA, Mr. H.	Trade in Goods
	ISHIGURO, Mr. K.	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Y.	Trade in Goods
	KANDA, Mr. H.	Trade in Services
	KEMMOCHI, Mr. N.	Trade in Goods and Services
	KOTERA, Mr. A.	Trade in Goods and Services
	OHARA, Mr. Y.	Trade in Goods; TRIPS
	SHIMIZU, Mr. A.	Trade in Goods
	TAKASE, Mr. T.	Trade in Goods and Services
	TSURUOKA, Mr. K.	Trade in Services
KOREA	CHO, Mr. D.Y.	Trade in Goods and Services

COUNTRY	NAME	SECTORAL EXPERIENCE
	CHO, Mr. T-U	Trade in Goods
	HAN, Mr. D.S.	Trade in Goods
	KIM, Mr. H.C.	Trade in Goods
	KIM, Mr. H.J.	Trade in Goods and Services; TRIPS
	PARK, Mr. N.	Trade in Goods
	YUN, Mr. Y. G.	Trade in Goods
MADAGASCAR	ANDRIANARIVONY, Mr. M.	Trade in Goods and Services; TRIPS
MAURITIUS	BHUGLAH, Mr. A.	Trade in Goods and Services
NEW ZEALAND	FALCONER, Mr. C.D.	Trade in Goods
	FALCONER, Mr. W.J.	Trade in Goods and Services; TRIPS
	HAMILTON, Mr. P.W	Trade in Goods
	MACEY, Mr. A.	Trade in Goods; TRIPS
	MCPHAIL, Mr. A.H.	Trade in Goods
	WALKER, Mr. D.J.	Trade in Goods and Services
	WOODFIELD, Mr. E.A.	Trade in Goods
NORWAY	BAKKE, Mr. E.	Trade in Goods and Services; TRIPS
	LILLERUD, Mr. K.	Trade in Goods
	SIVERTSEN, Mr. A.	Trade in Goods
	THORVIK, Mr. A.	Trade in Goods
POLAND	PIETRAS, Mr. J.	Trade in Services
SRI LANKA	JAYASEKERA, Mr. D.	Trade in Goods; TRIPS
SWITZERLAND	BALDI, Mr. M.	Trade in Services
	BLATTNER, Mr. N.	Trade in Services
	CHAMBOVEY, Mr. D.	Trade in Goods
	COTTIER, Mr. Th.	Trade in Goods and Services; TRIPS
	GETAZ, Mr. H.A.	Trade in Services
	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services
	KRAFFT, Mr. M-C.	Trade in Goods
	TRAN, Ms. T.T.-L.	TRIPS
	WASESCHA, Mr. L.	Trade in Goods and Services; TRIPS
	WEBER, Mr. R.	Trade in Services
UNITED STATES	BIRENBAUM, Mr. D.E.	Trade in Goods
	GORDON, Mr. M.W.	Trade in Goods
	GREENWALD, Mr. J.A.	Trade in Goods; TRIPS
	HUDEC, Mr. R.E.	Trade in Goods and Services
	KASSINGER, Mr. T.W.	Trade in Goods and Services
	KIRK, Mr. M.K.	TRIPS
	LICHTENSTEIN, Ms. C.C.	Trade in Services
	PARTAN, Mr. D.G.	Trade in Goods
	REYNA, Mr. J.V.	Trade in Goods and Services

COUNTRY	NAME	SECTORAL EXPERIENCE
	VERRILL, Jr. Mr. C.O.	Trade in Goods
URUGUAY	AMORÍN, Mr. C.	Trade in Goods; TRIPS
	ROSSELLI, Mr. A.O.	Trade in Goods
	VANERIO, Mr. G.	Trade in Goods and Services
VENEZUELA	ESCOBAR, Mr. J.B.	Trade in Services
	MARQUEZ, Mr. G.	Trade in Services

WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/W/120
17 January 2000
(00-0195)

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[2]

COUNTRY	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
UNITED KINGDOM	PLENDER, Mr. R.	Trade in Goods
NORWAY	LUNDBY, Mr. O.	Trade in Goods and Services; TRIPS
	SELAND Mr. H.A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. D.	Trade in Goods and Services; TRIPS
QATAR	MAKKI, Mr. F.	Trade in Goods and Services

[2]Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025).

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements." The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by

proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns." It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council." A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU." The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached as an Annex.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List

1.	**Name:**	full name
2.	**Sectoral Experience**	
	List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.)	
3.	**Nationality(ies)**	all citizenships
4.	**Nominating Member:**	the nominating Member
5.	**Date of birth:**	full date of birth
6.	**Current occupations:**	year beginning, employer, title, responsibilities
7.	**Post-secondary education**	year, degree, name of institution
8.	**Professional qualifications**	year, title
9.	**Trade-related experience in Geneva in the WTO/GATT system**	
	a. Served as a panelist	year, dispute name, role as chairperson/member
	b. Presented a case to a panel	year, dispute name, representing which party
	c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof	year, body, role
	d. Worked for the WTO or GATT Secretariat	year, title, activity
10.	**Other trade-related experience**	
	a. Government trade work	year, employer, activity
	b. Private sector trade work	year, employer, activity
11.	**Teaching and publications**	
	a. Teaching in trade law and policy	year, institution, course title
	b. Publications in trade law and policy	year, title, name of periodical/book, author/editor (if book)

MEMBERSHIP OF THE WTO APPELLATE BODY

The membership of the WTO Appellate Body is as follows:

Mr. James Bacchus (United States)
Professor Claus-Dieter Ehlermann (Germany)
Justice Florentino Feliciano (the Philippines)
Professor Mitsuo Matsushita (Japan)
, Mr. Christopher Beeby (New Zealand),
, Dr. Said El-Naggar (Egypt),
Mr. Julio Lacarte Muro (Uruguay),

BIOGRAPHICAL NOTES:

James Bacchus

James Bacchus of the United States, born 1949, is an attorney who has been closely involved with international trade matters in both his public and professional careers for more than twenty years.

During his tenure in the US Congress, where he served two terms of office in the House of Representatives from 1991-1994, he was appointed to the ad hoc Trade Policy Coordinating Committee. From 1979-1981, he had served as Special Assistant to the United States Trade Representative Reubin Askew. Since leaving Congress in January 1995, Mr. Bacchus has returned to the Florida-based private law firm of Greenberg Traurig where he began his legal career before he joined the USTR in 1979. He has practised widely in the areas of corporate banking and international law.

Mr. Bacchus' educational distinctions include Bachelor of Arts with High Honours in History, Vanderbilt University, 1971; Master of Arts in History, Yale University, 1973 and Woodrow Wilson Fellow; and Juris Doctor, Florida State University College of Law, 1978. He has been the Thomas P. Johnson Distinguished Visiting Scholar at Rollins College in Florida, and remains an Adjunct Professor in the Department of Politics at Rollins, where he teaches political philosophy and public policy on a variety of issues including international trade.

Christopher Beeby

Christopher Beeby of New Zealand, born 1935, has been a career diplomat for more than thirty years, specialising in legal and economic affairs. He retired from government service in mid-1995.

Having gained his law degrees from Victoria University of Wellington and the London School of Economics, Mr. Beeby joined the legal division of the Department of Foreign Affairs in 1963, where he worked as the legal adviser to his government's delegation that negotiated the New Zealand-Australia Free Trade Agreement. In 1969 he became divisional head. In 1976 he was appointed head of the economic division and held that position until he was posted abroad as the ambassador to Iran and Pakistan from 1978-80. Upon returning to Wellington, he served first as Assistant Secretary and then, from 1985, as Deputy Secretary supervising, among other things, the legal and economic divisions. In 1992, he became New Zealand's Ambassador to France and Algeria, and Permanent Representative to the OECD.

Throughout his long public career, Mr. Beeby has gathered extensive expertise and experience in international law, dealing closely with trade, the GATT and the Uruguay Round instruments, and the construction and application of dispute settlement mechanisms in several different contexts.

Claus-Dieter Ehlermann

Professor Claus-Dieter Ehlermann of Germany, born 1931, is an internationally-recognized authority on international economic law who currently holds the Chair of Economic Law at the European University Institute in Florence and is Honorary Professor at the University of Hamburg. In May 1995, after more than 34 years of service for the European Commission, he retired from his post of Director-General of the Directorate General for Competition to the Commission.

In 1961 Professor Ehlermann joined the Legal Service of the European Commission and rose to become its head in 1977. He served as Director-General of the Legal Service for ten years until 1987 when he was appointed spokesman of the Commission and special adviser of the President on institutional questions. In 1990 he became Director-General of the Directorate-General for Competition, bringing him into close contact with competition authorities in the United States (within the framework of the bilateral US-EU Cooperation Agreement negotiated in 1990/91) and in Japan, Australia and New Zealand. He also assisted the fledgling competition authorities in the transition economies of Central and Eastern Europe.

Since 1972, Professor Ehlermann has also pursued an academic career, teaching Community Law in Bruges, Brussels, Hamburg, and, since May 1995, in Florence. He has written more than 160 publications which, since 1991, have dealt primarily with competition law and policy, industrial policy and international cooperation. He also serves as a member on several academic advisory bodies, in particular with respect to law reviews.

Said El-Naggar

Dr. Said El-Naggar of Egypt, born in 1920, is Professor Emeritus of Economics at Cairo University and has combined his academic expertise with public service for more than thirty years.

After a teaching career at Cairo University Dr. El-Naggar joined the United Nations Conference on Trade and Development (UNCTAD) in 1965 as Deputy Director of the Research Division, a post he held for six years until he was appointed Director of the United Nations Economic and Social Office in Beirut, Lebanon. From 1976 to 1984, he served as Executive Director of the World Bank representing the Arab Countries, before returning to Cairo University as Professor Emeritus. Since 1991, he has also been President of the New Civic Forum, an NGO dedicated to economic, political and social liberalization in Egypt.

Dr. El-Naggar graduated from the Faculty of Law at Cairo University in 1942 and completed graduate studies in economics at London University where he obtained a masters degree in 1948 and doctorate in 1951. He has also been a research fellow at the University of Michigan, Ann Arbor, Michigan, and a visiting professor at Princeton University, New Jersey. He is the author of several books and papers on international trade and finance, economic development, and the Egyptian economy.

Florentino Feliciano

Mr. Justice Florentino Feliciano of the Philippines, born 1928, is Senior Associate Justice of the Supreme Court of the Philippines and Vice-Chairman of the Academic Council of the Institute of International Business Law and Practice of the International Chamber of Commerce in Paris.

Before joining the Judiciary in 1986, Mr. Feliciano had been a Member since 1962 of the law firm Sycip, Salazar, Feliciano and Hernandez, where he was extremely involved in trade and corporate law cases and transactions concerning anti-dumping, intellectual property rights, banking and insurance services, shipping and telecommunications.

Mr. Feliciano also has extensive experience as an arbitrator in international investment and commercial disputes at the International Centre for Settlement of Investment Disputes in Washington, and at the ICC in Paris. He has been on the Arbitrators Panel of the American Arbitration Association in New York and was also a Member of the Asian Development Bank Administrative Tribunal.

Having graduated in law from the University of the Philippines, Mr. Feliciano went on to earn his Masters and Doctorate Degrees in law from Yale University. He taught in the Faculty of Law of the University of the Philippines and of Yale University. A Member of Institut de Droit International, he has lectured at the Hague Academy of International Law. He has written and published on various aspects of international business law and public international law.

Julio Lacarte Muro

Mr. Julio Lacarte Muro of Uruguay, born 1918, was a career diplomat who has been involved with the GATT/WTO trading system since its creation almost fifty years ago and has participated in all eight rounds of multilateral trade negotiations under the GATT.

Mr. Lacarte served as the Deputy Executive Secretary of the GATT in 1947-48. He returned to the GATT as Uruguay's Permanent Representative in 1961-66 and 1982-92, during which periods he served as Chairman of the Council, the Contracting Parties, several dispute settlement panels, and the Uruguay Round negotiating groups on dispute settlement and institutional questions.

Mr. Lacarte has also served as the Deputy Director of the International Trade and Balance-of-Payments Division of the United Nations and as the Director of Economic Cooperation among Developing Countries of UNCTAD. He has also been Uruguay's Ambassador to several countries, including the European Communities, India, Japan, the United States and Thailand.

In his academic career, Mr. Lacarte has been a professor at the International Association of Comparative Law and at the University of Comparative Law at Strasbourg University. He has written several publications, including a recently-published book covering all the subject matter of the Uruguay Round from its inception to the Marrakesh Final Act.

Mitsuo Matsushita

Professor Mitsuo Matsushita of Japan, born 1933, is Professor of Law at Seikei University and Professor Emeritus at Tokyo University.

Having gained his degrees from Tulane University, USA, and Tokyo University, Professor Matsushita went on to become widely acknowledged as one of the most authoritative Japanese scholars in the field of international economic law. In his academic career he has held professorships at many universities including Harvard, Georgetown, Michigan, Columbia, and at the College of Europe in Bruges, Belgium. He has written many publications on various aspects of international trade and competition and investment law.

In his public career, Professor Matsushita has been attached to the Ministry of Finance and the Ministry of International Trade and Industry as a member of various councils dealing with telecommunications, customs and tariffs, export and import transactions, and industrial property . He has also served as a member of the Special Grievance Resolution Council attached to the Office of Trade and Investment Ombudsman.

Source: WTO Secretariat

WORLD TRADE ORGANIZATION

WT/DSB/RC/1
11 December 1996

(96-5267)

RULES OF CONDUCT FOR THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

I. Preamble

Members,

Recalling that on 15 April 1994 in Marrakesh, Ministers welcomed the stronger and clearer legal framework they had adopted for the conduct of international trade, including a more effective and reliable dispute settlement mechanism;

Recognizing the importance of full adherence to the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and the principles for the management of disputes applied under Articles XXII and XXIII of GATT 1947, as further elaborated and modified by the DSU;

Affirming that the operation of the DSU would be strengthened by rules of conduct designed to maintain the integrity, impartiality and confidentiality of proceedings conducted under the DSU thereby enhancing confidence in the new dispute settlement mechanism;

Hereby establish the following Rules of Conduct.

II. Governing Principle

1. Each person covered by these Rules (as defined in paragraph 1 of Section IV below and hereinafter called "covered person") shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of proceedings of bodies pursuant to the dispute settlement mechanism, so that through the observance of such standards of conduct the integrity and impartiality of that mechanism are preserved. These Rules shall in no way modify the rights and obligations of Members under the DSU nor the rules and procedures therein.

III. Observance of the Governing Principle

1. To ensure the observance of the Governing Principle of these Rules, each covered person is expected (1) to adhere strictly to the provisions of the DSU; (2) to disclose the existence or

development of any interest, relationship or matter that that person could reasonably be expected to know and that is likely to affect, or give rise to justifiable doubts as to, that person's independence or impartiality; and (3) to take due care in the performance of their duties to fulfil these expectations, including through avoidance of any direct or indirect conflicts of interest in respect of the subject matter of the proceedings.

2. Pursuant to the Governing Principle, each covered person, shall be independent and impartial, and shall maintain confidentiality. Moreover, such persons shall consider only issues raised in, and necessary to fulfil their responsibilities within, the dispute settlement proceeding and shall not delegate this responsibility to any other person. Such person shall not incur any obligation or accept any benefit that would in anyway interfere with, or which could give rise to, justifiable doubts as to the proper performance of that person's dispute settlement duties.

IV. Scope

1. These Rules shall apply, as specified in the text, to each person serving: (a) on a panel; (b) on the Standing Appellate Body; (c) as an arbitrator pursuant to the provisions mentioned in Annex "1a"; or (d) as an expert participating in the dispute settlement mechanism pursuant to the provisions mentioned in Annex "1b". These Rules shall also apply, as specified in this text and the relevant provisions of the Staff Regulations, to those members of the Secretariat called upon to assist the panel in accordance with Article 27.1 of the DSU or to assist in formal arbitration proceedings pursuant to Annex "1a"; to the Chairman of the Textiles Monitoring Body (hereinafter called "TMB") and other members of the TMB Secretariat called upon to assist the TMB in formulating recommendations, findings or observations pursuant to the WTO Agreement on Textiles and Clothing; and to Standing Appellate Body support staff called upon to provide the Standing Appellate Body with administrative or legal support in accordance with Article 17.7 of the DSU (hereinafter "Member of the Secretariat or Standing Appellate Body support staff"), reflecting their acceptance of established norms regulating the conduct of such persons as international civil servants and the Governing Principle of these Rules.

2. The application of these Rules shall not in any way impede the Secretariat's discharge of its responsibility to continue to respond to Members' requests for assistance and information.

3. These Rules shall apply to the members of the TMB to the extent prescribed in Section V.

V. Textiles Monitoring Body

1. Members of the TMB shall discharge their functions on an *ad personam* basis, in accordance with the requirement of Article 8.1 of the Agreement on Textiles and Clothing, as further elaborated in the working procedures of the TMB, so as to preserve the integrity and impartiality of its proceedings.[3]

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[3] These working procedures, as adopted by the TMB on 26 July 1995 (G/TMB/R/1), currently include, *inter alia*, the following language in paragraph 1.4: "In discharging their functions in accordance with paragraph 1.1 above, the TMB members and alternates shall undertake not to solicit, accept or act upon instructions from governments, nor to be influenced by any other organisations or undue extraneous factors. They shall disclose to the Chairman any information that they may consider likely to impede their capacity to discharge their functions on an *ad personam* basis. Should serious doubts arise during the deliberations of the TMB regarding the ability of a TMB member to act on an *ad personam* basis, they shall be communicated to the Chairman. The Chairman shall deal with the particular matter as necessary".

VI. Self-Disclosure Requirements by Covered Persons

1. (a) Each person requested to serve on a panel, on the Standing Appellate Body, as an arbitrator, or as an expert shall, at the time of the request, receive from the Secretariat these Rules, which include an Illustrative List (Annex 2) of examples of the matters subject to disclosure.

(b) Any member of the Secretariat described in paragraph IV:1, who may expect to be called upon to assist in a dispute, and Standing Appellate Body support staff, shall be familiar with these Rules.

2. As set out in paragraph VI:4 below, all covered persons described in paragraph VI.1(a) and VI.1(b) shall disclose any information that could reasonably be expected to be known to them at the time which, coming within the scope of the Governing Principle of these Rules, is likely to affect or give rise to justifiable doubts as to their independence or impartiality. These disclosures include the type of information described in the Illustrative List, if relevant.

3. These disclosure requirements shall not extend to the identification of matters whose relevance to the issues to be considered in the proceedings would be insignificant. They shall take into account the need to respect the personal privacy of those to whom these Rules apply and shall not be so administratively burdensome as to make it impracticable for otherwise qualified persons to serve on panels, the Standing Appellate Body, or in other dispute settlement roles.

4. (a) All panelists, arbitrators and experts, prior to confirmation of their appointment, shall complete the form at Annex 3 of these Rules. Such information would be disclosed to the Chair of the Dispute Settlement Body ("DSB") for consideration by the parties to the dispute.

(b) (i) Persons serving on the Standing Appellate Body who, through rotation, are selected to hear the appeal of a particular panel case, shall review the factual portion of the Panel report and complete the form at Annex 3. Such information would be disclosed to the Standing Appellate Body for its consideration whether the member concerned should hear a particular appeal.

(ii) Standing Appellate Body support staff shall disclose any relevant matter to the Standing Appellate Body, for its consideration in deciding on the assignment of staff to assist in a particular appeal.

(c) When considered to assist in a dispute, members of the Secretariat shall disclose to the Director-General of the WTO the information required under paragraph VI:2 of these Rules and any other relevant information required under the Staff Regulations, including the information described in the footnote.[****]

5. During a dispute, each covered person shall also disclose any new information relevant to paragraph VI:2 above at the earliest time they become aware of it.

[****] Pending adoption of the Staff Regulations, members of the Secretariat shall make disclosures to the Director-General in accordance with the following draft provision to be included in the Staff Regulations:

" When paragraph VI:4(c) of the Rules of Conduct for the DSU is applicable, members of the Secretariat would disclose to the Director-General of the WTO the information required in paragraph VI:2 of those Rules, as well as any information regarding their participation in earlier formal consideration of the specific measure at issue in a dispute under any provisions of the WTO Agreement, including through formal legal advice under Article 27.2 of the DSU, as well as any involvement with the dispute as an official of a WTO Member government or otherwise professionally, before having joined the Secretariat.

The Director-General shall consider any such disclosures in deciding on the assignment of members of the Secretariat to assist in a dispute.

When the Director-General, in the light of his consideration, including of available Secretariat resources, decides that a potential conflict of interest is not sufficiently material to warrant non-assignment of a particular member of the Secretariat to assist in a dispute, the Director-General shall inform the panel of his decision and of the relevant supporting information."

6. The Chair of the DSB, the Secretariat, parties to the dispute, and other individuals involved in the dispute settlement mechanism shall maintain the confidentiality of any information revealed through this disclosure process, even after the panel process and its enforcement procedures, if any, are completed.

VII. Confidentiality

1. Each covered person shall at all times maintain the confidentiality of dispute settlement deliberations and proceedings together with any information identified by a party as confidential. No covered person shall at any time use such information acquired during such deliberations and proceedings to gain personal advantage or advantage for others.

2. During the proceedings, no covered person shall engage in *ex parte* contacts concerning matters under consideration. Subject to paragraph VII:1, no covered person shall make any statements on such proceedings or the issues in dispute in which that person is participating, until the report of the panel or the Standing Appellate Body has been derestricted.

VIII. Procedures Concerning Subsequent Disclosure and Possible Material Violations

1. Any party to a dispute, conducted pursuant to the WTO Agreement, who possesses or comes into possession of evidence of a material violation of the obligations of independence, impartiality or confidentiality or the avoidance of direct or indirect conflicts of interest by covered persons which may impair the integrity, impartiality or confidentiality of the dispute settlement mechanism, shall at the earliest possible time and on a confidential basis, submit such evidence to the Chair of the DSB, the Director-General or the Standing Appellate Body, as appropriate according to the respective procedures detailed in paragraphs VIII:5 to VIII:17 below, in a written statement specifying the relevant facts and circumstances. Other Members who possess or come into possession of such evidence, may provide such evidence to the parties to the dispute in the interest of maintaining the integrity and impartiality of the dispute settlement mechanism.

2. When evidence as described in paragraph VIII:1 is based on an alleged failure of a covered person to disclose a relevant interest, relationship or matter, that failure to disclose, as such, shall not be a sufficient ground for disqualification unless there is also evidence of a material violation of the obligations of independence, impartiality, confidentiality or the avoidance of direct or indirect conflicts of interests and that the integrity, impartiality or confidentiality of the dispute settlement mechanism would be impaired thereby.

3. When such evidence is not provided at the earliest practicable time, the party submitting the evidence shall explain why it did not do so earlier and this explanation shall be taken into account in the procedures initiated in paragraph VIII:1.

4. Following the submission of such evidence to the Chair of the DSB, the Director-General of the WTO or the Standing Appellate Body, as specified below, the procedures outlined in paragraphs VIII:5 to VIII:17 below shall be completed within fifteen working days.

Panelists, Arbitrators, Experts

5. If the covered person who is the subject of the evidence is a panelist, an arbitrator or an expert, the party shall provide such evidence to the Chair of the DSB.

6. Upon receipt of the evidence referred to in paragraphs VIII:1 and VIII:2, the Chair of the DSB shall forthwith provide the evidence to the person who is the subject of such evidence, for consideration by the latter.

7. If, after having consulted with the person concerned, the matter is not resolved, the Chair of the DSB shall forthwith provide all the evidence, and any additional information from the person concerned, to the parties to the dispute. If the person concerned resigns, the Chair of the DSB shall inform the parties to the dispute and, as the case may be, the panelists, the arbitrator(s) or experts.

8. In all cases, the Chair of the DSB, in consultation with the Director-General and a sufficient number of Chairs of the relevant Council or Councils to provide an odd number, and after having provided a reasonable opportunity for the views of the person concerned and the parties to the dispute to be heard, would decide whether a material violation of these Rules as referred to in paragraphs VIII:1 and VIII:2 above has occurred. Where the parties agree that a material violation of these Rules has occurred, it would be expected that, consistent with maintaining the integrity of the dispute settlement mechanism, the disqualification of the person concerned would be confirmed.

9. The person who is the subject of the evidence shall continue to participate in the consideration of the dispute unless it is decided that a material violation of these Rules has occurred.

10. The Chair of the DSB shall thereafter take the necessary steps for the appointment of the person who is the subject of the evidence to be formally revoked, or excused from the dispute as the case may be, as of that time.

Secretariat

11. If the covered person who is the subject of the evidence is a member of the Secretariat, the party shall only provide the evidence to the Director-General of the WTO, who shall forthwith provide the evidence to the person who is the subject of such evidence and shall further inform the other party or parties to the dispute and the panel.

12. It shall be for the Director-General to take any appropriate action in accordance with the Staff Regulations.*****

13. The Director-General shall inform the parties to the dispute, the panel and the Chair of the DSB of his decision, together with relevant supporting information.

Standing Appellate Body

14. If the covered person who is the subject of the evidence is a member of the Standing Appellate Body or of the Standing Appellate Body support staff, the party shall provide the evidence to the other party to the dispute and the evidence shall thereafter be provided to the Standing Appellate Body.

15. Upon receipt of the evidence referred to in paragraphs VIII:1 and VIII:2 above, the Standing Appellate Body shall forthwith provide it to the person who is the subject of such evidence, for consideration by the latter.

16. It shall be for the Standing Appellate Body to take any appropriate action after having provided a reasonable opportunity for the views of the person concerned and the parties to the dispute to be heard.

17. The Standing Appellate Body shall inform the parties to the dispute and the Chair of the DSB of its decision, together with relevant supporting information.

*****Pending adoption of the Staff Regulations, the Director-General would act in accordance with the following draft provision for the Staff Regulations: "If paragraph VIII:11 of the Rules of Conduct for the DSU governing the settlement of disputes is invoked, the Director-General shall consult with the person who is the subject of the evidence and the panel and shall, if necessary, take appropriate disciplinary action".

***

18. Following completion of the procedures in paragraphs VIII:5 to VIII:17, if the appointment of a covered person, other than a member of the Standing Appellate Body, is revoked or that person is excused or resigns, the procedures specified in the DSU for initial appointment shall be followed for appointment of a replacement, but the time periods shall be half those specified in the DSU.****** The member of the Standing Appellate Body who, under that Body's rules, would next be selected through rotation to consider the dispute, would automatically be assigned to the appeal. The panel, members of the Standing Appellate Body hearing the appeal, or the arbitrator, as the case may be, may then decide after consulting with the parties to the dispute, on any necessary modifications to their working procedures or proposed timetable.

19. All covered persons and Members concerned shall resolve matters involving possible material violations of these Rules as expeditiously as possible so as not to delay the completion of proceedings, as provided in the DSU.

20. Except to the extent strictly necessary to carry out this decision, all information concerning possible or actual material violations of these Rules shall be kept confidential.

IX. Review

1. These Rules of Conduct shall be reviewed within two years of their adoption and a decision shall be taken by the DSB as to whether to continue, modify or terminate these Rules.

****** Appropriate adjustments would be made in the case of appointments pursuant to the Agreement on Subsidies and Countervailing Measures.

ANNEX 1a

Arbitrators acting pursuant to the following provisions:

- Articles 21.3(c); 22.6 and 22.7; 26.1(c) and 25 of the DSU;
- Article 8.5 of the Agreement on Subsidies and Countervailing Measures;
- Articles XXI.3 and XXII.3 of the General Agreement on Trade in Services.

ANNEX 1b

Experts advising or providing information pursuant to the following provisions:

- Article 13.1; 13.2 of the DSU;
- Article 4.5 of the Agreement on Subsidies and Countervailing Measures;
- Article 11.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures;
- Article 14.2; 14.3 of the Agreement on Technical Barriers to Trade.

ANNEX 2

ILLUSTRATIVE LIST OF INFORMATION TO BE DISCLOSED

This list contains examples of information of the type that a person called upon to serve in a dispute should disclose pursuant to the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes.

Each covered person, as defined in Section IV:1 of these Rules of Conduct has a continuing duty to disclose the information described in Section VI:2 of these Rules which may include the following:

(a) financial interests (e.g. investments, loans, shares, interests, other debts); business interests (e.g. directorship or other contractual interests); and property interests relevant to the dispute in question;

(b) professional interests (e.g. a past or present relationship with private clients, or any interests the person may have in domestic or international proceedings, and their implications, where these involve issues similar to those addressed in the dispute in question);

(c) other active interests (e.g. active participation in public interest groups or other organisations which may have a declared agenda relevant to the dispute in question);

(d) considered statements of personal opinion on issues relevant to the dispute in question (e.g. publications, public statements);

(e) employment or family interests (e.g. the possibility of any indirect advantage or any likelihood of pressure which could arise from their employer, business associates or immediate family members).

ANNEX 3

Dispute Number: _____

WORLD TRADE ORGANIZATION
DISCLOSURE FORM

I have read the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and the Rules of Conduct for the DSU. I understand my continuing duty, while participating in the dispute settlement mechanism, and until such time as the Dispute Settlement Body (DSB) makes a decision on adoption of a report relating to the proceeding or notes its settlement, to disclose herewith and in future any information likely to affect my independence or impartiality, or which could give rise to justifiable doubts as to the integrity and impartiality of the dispute settlement mechanism; and to respect my obligations regarding the confidentiality of dispute settlement proceedings.

Signed: Dated:

1998 WTO Ministerial Declaration

WORLD TRADE ORGANIZATION

WT/MIN(98)/DEC/1
25 May 1998

(98-2149)

MINISTERIAL CONFERENCE
Second Session
Geneva, 18 and 20 May 1998

MINISTERIAL DECLARATION

Adopted on 20 May 1998

1. This Second Session of the Ministerial Conference of the WTO is taking place at a particularly significant time for the multilateral trading system, when the fiftieth anniversary of its establishment is being commemorated. On this occasion we pay tribute to the system's important contribution over the past half-century to growth, employment and stability by promoting the liberalization and expansion of trade and providing a framework for the conduct of international trade relations, in accordance with the objectives embodied in the Preambles to the General Agreement on Tariffs and Trade and the World Trade Organization Agreement. We agree, however, that more remains to be done to enable all the world's peoples to share fully and equitably in these achievements.

2. We underline the crucial importance of the multilateral rule-based trading system. We reaffirm the commitments and assessments we made at Singapore, and we note that the work under existing agreements and decisions has resulted in significant new steps forward since we last met. In particular, we welcome the successful conclusion of the negotiations on basic telecommunications and financial services and we take note of the implementation of the Information Technology Agreement. We renew our commitment to achieve progressive liberalization of trade in goods and services.

3. The fiftieth anniversary comes at a time when the economies of a number of WTO Members are experiencing difficulties as a result of disturbances in financial markets. We take this opportunity to underline that keeping all markets open must be a key element in a durable solution to these difficulties. With this in mind, we reject the use of any protectionist measures and agree to work together in the WTO as in the IMF and the World Bank to improve the coherence of international economic policy-making with a view to maximizing the contribution that an open, rule-based trading system can make to fostering stable growth for economies at all levels of development.

4. We recognize the importance of enhancing public understanding of the benefits of the multilateral trading system in order to build support for it and agree to work towards this end. In this context we will consider how to improve the transparency of WTO operations. We shall also continue to improve our efforts towards the objectives of sustained economic growth and sustainable development.

5. We renew our commitment to ensuring that the benefits of the multilateral trading system are extended as widely as possible. We recognize the need for the system to make its own contribution in response to the particular trade interests and development needs of developing-country Members. We welcome the work already underway in the Committee on Trade and Development for reviewing the application of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members, and in particular the least-developed among them. We agree on the need for effective implementation of these special provisions.

6. We remain deeply concerned over the marginalization of least-developed countries and certain small economies, and recognize the urgent need to address this issue which has been compounded by the chronic foreign debt problem facing many of them. In this context we welcome the initiatives taken by the WTO in cooperation with other agencies to implement in an integrated manner the Plan of Action for the least-developed countries which we agreed at Singapore, especially through the High-Level Meeting on Least-Developed Countries held in Geneva in October 1997. We also welcome the report of the Director-General on the follow-up of this initiative, to which we attach great importance. We commit ourselves to continue to improve market access conditions for products exported

by the least-developed countries on as broad and liberal a basis as possible. We urge Members to implement the market-access commitments that they have undertaken at the High-Level Meeting.

7. We welcome the WTO Members who have joined since we met in Singapore: Congo, Democratic Republic of Congo, Mongolia, Niger and Panama. We welcome the progress made with 31 applicants currently negotiating their accession and renew our resolution to ensure that the accession processes proceed as rapidly as possible. We recall that accession to the WTO requires full respect of WTO rules and disciplines as well as meaningful market access commitments on the part of acceding candidates.

8. Full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system and indispensable for maintaining the momentum for expanding global trade, fostering job creation and raising standards of living in all parts of the world. When we meet at the Third Session we shall further pursue our evaluation of the implementation of individual agreements and the realization of their objectives. Such evaluation would cover, *inter alia*, the problems encountered in implementation and the consequent impact on the trade and development prospects of Members. We reaffirm our commitment to respect the existing schedules for reviews, negotiations and other work to which we have already agreed.

9. We recall that the Marrakesh Agreement Establishing the World Trade Organization states that the WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to the Agreement, and that it may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference. In the light of paragraphs 1-8 above, we decide that a process will be established under the direction of the General Council to ensure full and faithful implementation of existing agreements, and to prepare for the Third Session of the Ministerial Conference. This process shall enable the General Council to submit recommendations regarding the WTO's work programme, including further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members, within the WTO framework, that will enable us to take decisions at the Third Session of the Ministerial Conference. In this regard, the General Council will meet in special session in September 1998 and periodically thereafter to ensure full and timely completion of its work, fully respecting the principle of decision-making by consensus. The General Council's work programme shall encompass the following:

(a) recommendations concerning:

  (i) the issues, including those brought forward by Members, relating to implementation of existing agreements and decisions;

  (ii) the negotiations already mandated at Marrakesh, to ensure that such negotiations begin on schedule;

  (iii) future work already provided for under other existing agreements and decisions taken at Marrakesh;

(b) recommendations concerning other possible future work on the basis of the work programme initiated at Singapore;

(c) recommendations on the follow-up to the High-Level Meeting on Least-Developed Countries;

(d) recommendations arising from consideration of other matters proposed and agreed to by Members concerning their multilateral trade relations.

10. The General Council will also submit to the Third Session of the Ministerial Conference, on the basis of consensus, recommendations for decision concerning the further organization and management of the work programme arising from the above, including the scope, structure and time-frames, that will ensure that the work programme is begun and concluded expeditiously.

11. The above work programme shall be aimed at achieving overall balance of interests of all Members.

WORLD TRADE ORGANIZATION

WT/MIN(98)/DEC/2

25 May 1998

(98-2148)

MINISTERIAL CONFERENCE
Second Session
Geneva, 18 and 20 May 1998

DECLARATION ON GLOBAL ELECTRONIC COMMERCE

Adopted on 20 May 1998

Ministers,

Recognizing that global electronic commerce is growing and creating new opportunities for trade,

Declare that:

The General Council shall, by its next meeting in special session, establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, including those issues identified by Members. The work programme will involve the relevant World Trade Organization ("WTO") bodies, take into account the economic, financial, and development needs of developing countries, and recognize that work is also being undertaken in other international fora. The General Council should produce a report on the progress of the work programme and any recommendations for action to be submitted at our third session. Without prejudice to the outcome of the work programme or the rights and obligations of Members under the WTO Agreements, we also declare that Members will continue their current practice of not imposing customs duties on electronic transmissions. When reporting to our third session, the General Council will review this declaration, the extension of which will be decided by consensus, taking into account the progress of the work programme.

WTO SUBSIDY NOTIFICATIONS REVIEWED IN 1999

WTO MEMBER	1995 Full Notification	1996 Update	1997 Update	1998 Full Notification	1999 Update
Argentina				X	X
Benin				X	
Canada				X	
Chile				X	
Costa Rica				X	
Cyprus			X		
Dominica				X	
Ecuador				X	
Egypt				X	
EU			X	X	
Gambia				X	X
Ghana				X	
Guatemala				X	X
Hong Kong, China				X	X
Iceland				X	X
India				X	
Japan				X	X
Korea				X	X
Latvia				X	
Liechtenstein				X	X
Mexico				X	
Namibia	X	X	X	X	X
New Zealand				X	
Norway				X	
Panama				X	
Paraguay				X	
Poland				X	
Qatar				X	
St. Kitts & Nevis				X	
Singapore				X	X
Slovenia				X	
Switzerland				X	X
Thailand				X	
Turkey				X	
United States				X	
Zimbabwe				X	

Regional Trade Agreements Notified to the GATT/WTO and in Force in January 1999

Free Trade Agreements and Customs Unions (Goods) notified under GATT Article XXIV

Parties and Agreements	Date of Entry into Force	Notification Date
Austria/Belgium/Denmark/Finland/France/Germany/Greece/Ireland/Italy/Luxembourg/Netherlands/Portugal/Spain/Sweden/United Kingdom		
Treaty of Rome, establishing the European Communities - EC (and Enlargements)	01.01.58	24.04.57
EC/Turkey		
Ankara Agreement (and Customs Union)	01.12.64	12.03.64
EC/Andorra		
Customs Union	01.07.91	23.02.98
EC/		
Algeria	01.07.76	28.07.76
Bulgaria	31.12.93	23.12.94
Cyprus	01.06.73	13.06.7
Czech Republic	01.03.92	13.05.96
Egypt	01.07.77	15.07.77
Estonia	01.01.95	30.06.95
Faroe Islands	01.01.97	19.02.97
Hungary	01.03.92	03.04.92
Israel	01.07.75	03.07.75
Jordan	01.07.77	15.07.77
Latvia	01.01.95	30.06.95
Lebanon	01.07.77	15.07.77
Lithuania	01.01.95	26.09.95
Malta	01.04.71	24.03.71
Morocco	01.07.76	28.07.76
Palestinian Authority		30.06.97
Poland	01.03.92	03.04.92
Certain Non-European Countries and Territories (PTOM II)	01.01.71	14.12.70
Romania	01.05.93	23.12.94
Slovak Republic	01.03.92	13.05.96
Slovenia	01.01.97	11.11.96
Syria	01.07.77	15.07.77
Tunisia	01.07.76	28.07.76
Tunisia-EuroMed Agreement	01.03.98	15.01.99
EC/EFTA Member States:		
Iceland	01.04.73	24.11.72
Norway	01.07.73	13.07.73
Switzerland and Liechtenstein	01.01.73	27.10.7
Iceland/Norway/Switzerland/Liechtenstein		
Stockholm Convention, establishing the European Free Trade Association - EFTA	03.05.60	14.11.59

Parties and Agreements	Date of Entry into Force	Notification Date
Faroe Islands/EFTA Member States:		
Iceland	01.07.93	23.01.96
Norway	01.07.93	13.03.96
Switzerland	01.03.95	08.03.96
EFTA/		
Bulgaria	01.07.93	30.06.93
Czech Republic	01.07.92	03.07.92
Slovak Republic	01.07.92	03.07.92
Hungary	01.10.93	23.12.93
Israel	01.01.93	01.12.92
Latvia	01.06.96	25.07.96
Lithuania	01.08.96	25.07.96
Palestinian Authority	01.07.99	23.07.99
Poland	15.11.93	20.10.93
Romania	01.05.93	24.05.93
Slovenia	01.07.95	18.10.95
Turkey	01.04.92	06.03.92
Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russian Federation, Tajikistan, Ukraine, and Uzbekistan		
Free Trade Area	15.04.94	29.06.99
Czech Republic/Slovak Republic		
Customs Union	01.01.93	30.04.93
Czech Republic/Hungary/Poland/Romania/ Slovak Republic/Slovenia		
Central European Free Trade Area -CEFTA	01.03.93	30.06.94
Czech Republic/Bulgaria	07.06.96	29.05.97
Czech Republic/Estonia	01.07.96	03.09.98
Czech Republic/Latvia	01.07.97	13.11.97
Czech Republic/Lithuania	01.09.97	13.11.97
Czech Republic/Turkey	01.09.98	12.01.99
Estonia/Faroe Islands	01.12.98	09.12.98
Estonia/Latvia/Lithuania	01.04.94 01.01.97	19.05.99
Hungary/Latvia	01.01.00	20.12.99
Hungary/Lithuania	01.03.00	20.12.99
Israel/Czech Republic	01.12.97	30.03.98
Israel/Hungary	01.02.98	23.02.98
Israel/Poland	01.03.98	18.12.98
Israel/Slovak Republic	01.12.97	30.03.98

Parties and Agreements	Date of Entry into Force	Notification Date
Israel/Slovenia	01.09.98	18.12.98
Kyrgyz Republic/Kazakhstan	TBD	29.06.99
Kyrgyz Republic/Moldova	21.11.96	15.06.99
Kyrgyz Republic/ Russian Federation	24.04.93	15.06.99
Kyrgyz Republic/Ukraine	19.01.98	15.06.99
Kyrgyz Republic/Uzbekistan	20.03.98	15.06.99
Kyrgyz Republic/Russian Federation/Belarus/Kazakhstan CU	18.10.97	21.04.99
Poland/Faroe Islands	01.06.99	05.07.99
Poland/Latvia	01.06.99	28.07.99
Slovak Republic/Bulgaria	11.03.96	29.05.97
Slovak Republic/Estonia	01.07.96	03.09.98
Slovak Republic/Latvia	01.07.97	14.11.97
Slovak Republic/Lithuania	01.07.97	14.11.97
Slovak Republic/Turkey	01.09.98	12.01.99
Poland/Lithuania	01.01.97	30.12.97
Slovenia/Bulgaria	01.01.97	20.02.97
Slovenia-Croatia	01.01.98	30.03.98
Slovenia/Estonia	01.01.97	20.02.97
Slovenia/Latvia	01.08.96	20.02.97
Slovenia/Lithuania	01.03.97	20.02.97
Slovenia/Former Yugoslav Republic of Macedonia	01.09.96	20.02.97
Romania/Moldova	01.01.95	24.09.97
Turkey/Israel	25.07.97	18.05.98
Turkey/Romania	01.02.98	16.04.98
Turkey/Hungary	01.04.98	16.04.98
Turkey/Lithuania	01.03.98	16.04.98
Turkey/Bulgaria	01.01.99	06.04.99
Turkey/Estonia	01.07.98	12.01.99
Turkey/Lithuania	01.03.98	16.04.98
United States/Israel	19.08.85	13.09.85
Canada/Chile	05.07.97	26.08.97
Canada/Israel	01.01.97	23.01.97
Canada/Mexico/United States		
North American Free Trade Agreement - NAFTA	01.01.94	01.02.93
Costa Rica/El Salvador/Guatemala/Honduras/Nicaragua		
Central American Common Market - CACM	12.10.61	24.02.61
Barbados/Guyana/Jamaica/Trinidad and Tobago		
Caribbean Community and Common Market-CARICOM	01.08.73	14.10.74
Jordan/Kuwait/Morocco/Syria/Egypt		

Parties and Agreements	Date of Entry into Force	Notification Date
Arab Common Market	30.04.64	05.03.65
Australia/Papua New Guinea		
Australia-Papua New Guinea Agreement - PATCRA	01.02.77	20.12.76
Australia/New Zealand		
Australia-New Zealand Closer Economic Relations Trade Agreement - ANZCERTA	01.01.83	14.04.83

Regional Integration Agreements (Goods) notified under the Enabling Clause

Parties and Agreements	Date of Entry into Force	Notification Date
Argentina/Bolivia/Brazil/Chile/Colombia/Ecuador/Mexico/ Paraguay/Peru/Uruguay/Venezuela		
Montevideo Treaty (1980), establishing the Latin American Integration Association - LAIA	18.03.81	01.07.82
Argentina/Brazil/Paraguay/Uruguay Asunción Treaty - MERCOSUR	29.11.91	05.03.92
Bolivia, Colombia, Ecuador, Venezuela		
Cartagena Agreement - Andean Group	25.05.88	(12.10.92)
Egypt/India/Yugoslavia		
Tripartite Agreement	01.04.68	23.02.68
Bahrain/Kuwait/Oman/Qatar/Saudi Arabia/United Arab Emirates		
Unified Economic Agreement among member states of the Gulf Cooperation Council - GCC		11.10.84
Angola, Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, Somalia,Sudan, Swaziland, Tanzania, Uganda, Zaire, Zambia and Zimbabwe		
Common Market for Eastern and Southern Africa (COMESA)	08.12.94	29.6.95
Iran/Pakistan/Turkey		
Preferential Tariffs among members of the Economic Cooperation Organization - ECO		22.7.92
Bangladesh/Bhutan/India/Maldives/Nepal/ Pakistan/Sri Lanka		
South Asian Preferential Trade Arrangement - SAPTA	07.12.95	22.09.93
Bangladesh/India/Republic of Korea/Sri Lanka/Laos		
Bangkok Agreement	17.06.76	02.11.76
Brunei Darussalam/Indonesia/Malaysia/Philippines/Singapore/Thailand/Laos/Myanmar		
Agreement on ASEAN Preferential Trade Arrangements	31.08.77	01.11.77
Common Effective Preferential Tariff Scheme for the ASEAN Free trade area (AFTA)	28.01.92	30.10.92
Laos/Thailand	20.06.91	29.11.91
Australia and New Zealand / Cook Isl., Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Isl., Tonga, Tuvalu, Vanuatu and Western Samoa		

Parties and Agreements	Date of Entry into Force	Notification Date
South Pacific Regional Trade and Economic Cooperation Agreement - SPARTECA	01.01.81	20.02.81
Bangladesh, Brazil, Chile, Egypt, Israel, Mexico, Pakistan, Peru, Republic of Korea, Romania, Tunisia, Turkey, Uruguay		
Protocol relating to Trade Negotiations among Developing Countries	11.02.73	09.11.71
Papua New Guinea, Solomon Islands, and Vanuatu		
Melanesian Spearhead Group Trade Agreement	14.08.88	03.08.99
Algeria, Angola, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Ghana, Guinea, Guyana, Haiti, India, Indonesia, Islamic Republic of Iran, Iraq, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Romania, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire and Zimbabwe		
Global System of Trade Preferences - GSTP	19.04.89	25.09.89

Regional Integration Agreements (Services) notified under GATS Article V

Parties and Agreements	Date of Entry into Force	Notification Date
Austria/Belgium/Denmark/Finland/France/Germany/Greece/Ireland/Italy/Luxembourg/Netherlands/Portugal/Spain/Sweden/United Kingdom		
Treaty of Rome	01.01.58	10.11.95
EC/Iceland/Norway/Liechtenstein		
European Economic Area - EEA	01.01.94	10.10.96
Canada/Mexico/United States		
North American Free Trade Agreement - NAFTA	01.04.94	01.07.82
Canada/Chile	05.07.97	13.11.97
EC/		
Bulgaria	01.02.95	25.04.97
Czech Republic	01.02.95	09.10.96
Hungary	01.02.94	27.08.96
Poland	01.02.94	27.08.96
Romania	01.02.95	09.10.96
Slovak Republic	01.02.95	27.08.96
Australia/New Zealand		
ANZCERTA	01.01.89	22.11.95

Source: WTO Secretariat

Waivers Currently in Force

The following waivers, granted under Article IX: of the Agreement Establishing the World Trade Organization, are currently in effect. Waivers granted for a period exceeding one year are reviewed annually by the General Council. The General Council may extend, modify or terminate a waiver as part of the annual review process. The last review of multi-year waivers took place on 3 November 1999.

WTO Member/Waiver	Valid Through	Date Granted
Canada - CARIBCAN: To allow Canada to extend tariff preferences to CARIBCAN nations.	31 December 2006	14 October 1996
Cuba - Article XV:6: To Cuba not to have a special exchange arrangement, which is required for those WTO Members that are not IMF members.	31 December 2001	14 October 1996
European Community - Lomé IV: To allow the EC to extend tariff preferences to African, Caribbean and Pacific member countries under the Lome Agreement	29 February 2000	14 October 1996
France - Trading arrangements with Morocco: To allow France to extend historical trading preferences to Morocco until the EU-Morocco free trade agreement is ratified.	31 December 2001	9 December 1998
Hungary-Agricultural export subsidies: To allow Hungary to a transition period to come into compliance with its Uruguay Round agricultural export subsidy commitments.	31 December 2001	22 October 1997
Peru-Implementation of Article VII: To allow Peru an additional period of months to come into compliance with its Uruguay Round customs valuation commitments.	1 April 2000	15 July 1999
Preferential Tariff Treatment for Least Developed Countries To allow developing countries to extend unilateral tariff preferences to least developed countries.	30 June 2009	15 June 1999
US - Former Trust Territory of the Pacific Islands: To allow the United States to extend historical tariff preferences to the Mariana Islands, Palau, the Marshall Islands and Micronesia.	31 December 2006	14 October 1996
US - Caribbean Basin Economic Recovery Act: To allow the United States to extend tariff preferences to eligible Caribbean countries under CBERA.	31 December 2005	15 November 1995
US - ANDEAN Trade Preference Act: To allow the United States to extend tariff preferences to eligible Andean countries under the ATPA.	4 December 2001	14 October 1996

GATS Commitments on Telecommunications Services
All governments which have scheduled telecom commitments

Country and Level of Commitment		
a=basic telecom services listed in schedule annexed to the 4th Protocol b=basic telecom services taken as a result of Uruguay Round, accession, or unilateral commitments c=value-added services listed in schedule d=incorporated all, parts, or modifications to Reference Paper e=acceptance of 4th protocol overdue		
Antigua and Barbuda (a,c,d)	Ghana (a,d)	Norway (a,c,d)
Argentina (a,c,d)	Grenada (a,c,d)	Pakistan (a,c,d)
Australia (a,c,d)	Guatemala (a,d,e)	Panama (c)
Bangladesh (a)	Guyana (c)	Papua New Guinea (a,d,e)
Barbados (b,c,d)	Hong Kong, China (a,c,d)	Peru (a,c,d)
Belize (a, c)	Hungary (a,c,d)	Philippines (a,c,d,e)
Bolivia (a,d)	Iceland (a,c,d)	Poland (a,c,d)
Brazil (a,c,e)	India (a,c,d)	Romania (a,c,d)
Brunei Darussalam (a,c,d)	Indonesia (a,c,d)	Saint Kitts and Nevis (c)
Bulgaria (a,c,d)	Israel (a,d)	Senegal (a,c,d)
Canada (a,c,d)	Jamaica (a,c,d)	Singapore (a,c,d)
Chile (a,c,d)	Japan (a,c,d)	Slovak Republic (a,c,d)
Colombia (a,c,d)	Kenya (b,c,d)	Slovenia (c)
Côte d'Ivoire (a,d)	Korea (a,c,d)	South Africa (a,c,d)
Cuba (b)	Kyrgyz Republic (b,c,d)	Suriname (b)
Cyprus (b)	Latvia (b,c,d)	Sri Lanka (a,d)
Czech Republic (a,c,d)	Lesotho (c)	Switzerland (a,b,c,d)
Dem. Rep. of Congo (b)	Liechtenstein (b,c)	Thailand (a,c)
Djibouti (b,c)	Malaysia (a,c,d)	Trinidad and Tobago (a,c,d)
Dominica (a,c,d,e)	Mauritius (a)	Tunisia (a)
Dominican Republic (a,d)	Mexico (a,c,d)	Turkey (a,c,)
Ecuador (a,c)	Mongolia (c)	Uganda (b,d)
El Salvador (a,d)	Morocco (a,c,d)	United States (a,c,d)
Estonia (b,c,d)	New Zealand (a,c,d)	Venezuela (a,d)
European Community + Member States (a,c,d)	Nicaragua (b,c)	Zimbabwe (b,c)
Gambia (b)	Nigeria (b,c)	

WTO MEMBERS WHICH PROVIDED NEW OR IMPROVED COMMITMENTS AS PART OF THE 1997 FINANCIAL SERVICES AGREEMENT

Australia
Bahrain
Bolivia*
Brazil*
Bulgaria
Canada
Chile
Colombia
Costa Rica
Cyprus
Czech Republic
Dominican Republic*
Ecuador
El Salvador
Egypt

EC Member States
Austria
Belgium
Denmark
Finland
France
Germany
Greece
Ireland
Italy
Luxembourg
Portugal
The Kingdom of the Netherlands
Spain
Sweden
United Kingdom

Ghana*
Honduras
Hong Kong, China
Hungary
Iceland

India
Indonesia
Israel
Jamaica*
Japan
Kenya*
Republic of Korea
Kuwait
Macau
Malaysia
Malta
Mauritius
Mexico
New Zealand
Nicaragua
Nigeria*
Norway
Pakistan
Peru
The Philippines*
Poland*
Romania
Senegal
Singapore
Slovak Republic
Slovenia
South Africa
Sri Lanka
Switzerland
Thailand
Tunisia
Turkey
United States
Uruguay*
Venezuela

* awaiting ratification and acceptance of Fifth Protocol

Where to Find More Information on the WTO

A great deal of information about the WTO and trends in international trade is available to the public at the following Internet sites:

- The USTR home page: http://www.ustr.gov
- The WTO home page: http://www.wto.org

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Biographic backgrounds
- Briefing Papers on WTO activities in individual sectors

Press Releases, such as:

- Appellate Body Reports and Panel Reports
- Appointments to WTO Bodies
- Cooperation between the WTO and other international organizations
- Summaries of Trade Policy Review Mechanism reports on individual Members' trade practices

Focus (a newsletter published by the WTO, available on-line with the use of free, downloadable Adobe® software), with articles addressing topics such as:

- Status of dispute settlement cases
- Schedules of future WTO meetings

Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- Working Procedures for Appellate Review
- Report of the General Council to the Ministerial Conference

Synopses and Information on How to Order WTO Publications, such as:

- WTO Annual Reports
- Special studies on key WTO issues
- Legal Texts and Instruments of the WTO

WTO publications may be ordered directly from the following sources:

The World Trade Organization
Publications Services
Centre William Rappard
Rue de Lausanne 154
CH - 1211 Geneva 21
Switzerland

tel: (41 22) 739-5208
fax: (41 22) 731-5458
e-mail: publications@wto.org

Berman Associates
4611-F Assembly Drive
Lanham, Md. 20706-4391

tel: 800/274-4888
301/459-7666
fax: 301/459-0056

ANNEX III

LIST OF TRADE AGREEMENTS

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (signed April 15, 1994) and the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993

  a. Multilateral Agreements on Trade in Goods

     i. General Agreement on Tariffs and Trade 1994
     ii. Agreement on Agriculture
     iii. Agreement on the Application of Sanitary and Phytosanitary Measures
     iv. Agreement on Textiles and Clothing[1]
     v. Agreement on Technical Barriers to Trade
     vi. Agreement on Trade-Related Investment Measures
     vii. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
     viii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
     ix. Agreement on Preshipment Inspection
     x. Agreement on Rules of Origin
     xi. Agreement on Import Licensing Procedures
     xii. Agreement on Subsidies and Countervailing Measures
     xiii. Agreement on Safeguards
     xiv. Information Technology Agreement (ITA) (March 26, 1997)

  b. General Agreement on Trade in Services

     i. Basic Telecommunications Services Agreement (February 15, 1997)
     ii. Financial Services Agreement (March 1, 1999)

[1] Members with whom the United States maintains bilateral quota arrangements under the provisions of the Agreement on Textiles and Clothing are: Bahrain, Bangladesh, Brazil, Bulgaria, Burma/Myanmar, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Hong Kong/China, Hungary, India, Indonesia, Jamaica, Kenya, Kuwait, Macau, Malaysia, Mauritius, Pakistan, Philippines, Poland, Qatar, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, United Arab Emirates and Uruguay.

c. Agreement on Trade-Related Aspects of Intellectual Property Rights

d. Plurilateral Trade Agreements

i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended by protocol in 1986)
ii. Agreement on Government Procurement (April 15, 1994)

- International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement; signed January 26, 1994; entered into force January 1, 1997)
- North American Free Trade Agreement (signed December 17, 1992; implementing legislation signed December 8, 1993)

i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)

ii Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)

- Joint Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea. (June 10, 1999)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunication Agreement (June 5, 1998)

Bilateral Agreements

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)
- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)
- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)

Brazil

- Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement Between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)
- Agreement on Trade in Textiles and Textile Products (1999)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)

- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Trade in Softwood Lumber (April 1, 1996)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Amendment to the Softwood Lumber Agreement Resolving Dispute over British Columbia's 1998 Reduction in Stumpage Pricing (August 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Memorandum of Agreement to Renew the Bilateral Agreement on International Trade in Commercial Space Launch Services (January 27, 1995)
- Agreement on Trade Relations Between the United States of America and the People's Republic of China (signed July 7, 1979; entered into force February 1, 1980; renewed February 1, 1998)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)

- Agreement to Strengthen Space Launch Trade Terms (October 27, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)
- Agreements on Trade in Textiles and Textile Products (signed February 1, 1997; provisional implementation pending final exchange of notes)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)

Czech Republic

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997)

European Union

- Agreement for the Conclusion of Negotiations Between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Wine Accord (1987)
- Agreement Regarding the Application of Competition Laws (September 23, 1991)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft (July 17, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)

- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition Between the United States of America and the European Community (signed May 18, 1997; entered into force December 1, 1998)

France

- Memorandum of Understanding Relating to the Development of Technology-Based Joint Ventures between Small United States and French Companies (February 1986)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protection (March 1993)
- Agreement on Import Restrictions (December 28, 1999)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 1992)

Israel

- U.S.-Israel Free Trade Agreement (August 19, 1985)
- U.S.-Israel Agreement on Trade in Agriculture (December 4, 1996)
- U.S.-Israel Agreement on Almonds and Certain Other Agricultural Trade Issues (November 30, 1997)

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Measures Concerning Cellular Telephone and Third Party Radio System Telecommunications Issues (June 28, 1989)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)

- U.S.-Japan Framework for a New Economic partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- Action Plan on Reform of the Bidding and Contracting Procedures for Public Works in Japan (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Exchange of Letters Regarding Implementation of the Measures Regarding Cellular Telephone and Third-Party Radio Systems (March 12, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Agreement to Increase Market Access to the Japanese Market for Autos and Auto Parts (August 23, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- U.S.-Japan Insurance Agreement (December 15, 1996)
- Japan's Recognition of U.S.-Grademarked Lumber (January 13, 1997)

- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency procurement of VHF Radio Communications System (March 31, 1997)
- U.S.-Japan Agreement on Deregulation Initiative (June 19, 1997)
- U.S.-Japan Agreement on Distilled Spirits (December 17, 1997)
- U.S.-Japan Joint Deregulation Report (May 29, 1998, renewed May 3, 1999)
- U.S.-Japan Joint Report on Investment (April 28, 1999)
- U.S.-Japan Agreement on NTT Procurement Procedures (July 1, 1999)

Kazakstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)

- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Laos

- Exchange of notes extending bilateral agreement on Textiles and Textile Products (1997)

Latvia

- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- Bilateral Investment Treaty (December 26, 1996)

Macedonia

- Agreement on Trade in Textiles and Textile Products and Visa Arrangements (1997)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

Morocco

- Bilateral Investment Treaty (May 29, 1991)

Nepal

- Agreement on Trade in Textiles and Textile Products (1996)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- Agreement on Trade in Textiles and Textile Products (1997)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights (November 17, 1998)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)

Poland

- Business and Economic Treaty (August 6, 1994)
- Bilateral Investment Treaty (August 6, 1994)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- U.S.-Russia Agreement on Trade in Commercial Space Launch Services (September 1993; amended January 1996)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)

- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Agreement on Russian Firearms & Ammunition (April 3, 1996)
- Agreement on Trade in Textiles and Textile Products (1996)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)

Slovakia

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)

- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- U.S.-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Trade in Textiles and Textile Products (1997)
- Agreement on Market Access (February 20, 1998)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)
- Agreement on Trade in Textiles and Textile Products (1997)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- U.S. -Ukraine Agreement on Trade in Commercial Space Launch Services (February 21, 1996)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement on Trade in Textiles and Textile Products (1997)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Copyright Agreement (June 27, 1997)

II. Agreements That Have Been Negotiated But Have Not Yet Entered Into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Inter-American Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)

Bilateral Agreements

Azerbaijan

- Bilateral Investment Treaty (signed August 1, 1997; pending U.S. ratification and exchange of instruments of ratification)

Bahrain

- Bilateral Investment Treaty (signed September 29, 1999; pending ratification by both parties and exchange of instruments of ratification.)

Belarus

- Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments of ratification)

Bolivia

- Bilateral Investment Treaty (signed April 17, 1998; ratified by Bolivia; pending U.S. ratification and exchange of instruments)

Croatia

- Bilateral Investment Treaty (signed July 13, 1996; pending ratification by both parties and exchange of instruments of ratification)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999; pending ratification by both parties and exchange of instruments of ratification.)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

European Union

- Agreement on Mutual Recognition of Product Testing or Approval Requirements (June 20, 1997 – not yet ratified)

Honduras

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by both parties and exchange of instruments of ratification.)

Jordan

- Bilateral Investment Treaty (signed July 2, 1997; pending ratification by both parties and exchange of instruments of ratification.)

Laos

- Bilateral Trade Agreement (initialed August 13, 1997)
- Bilateral Investment Treaty (initialed August 13, 1997)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)
- Bilateral Investment Treaty (signed January 14, 1998; pending ratification by both parties and exchange of instruments of ratification.)

Mozambique

- Bilateral Investment Treaty (signed December 1, 1998; pending ratification by both parties and exchange of instruments of ratification.)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by both parties and exchange of instruments of ratification.)

Russia

- Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994; pending U.S. ratification and exchange of instruments of ratification)

Vietnam

- Agreement in Principle to Normalize Trade Relations with Vietnam (July 26, 1999) (pending final signature by the governments and approval by U.S. Congress)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through February 2000. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Free Trade Area of the Americas
  - Summit of the Americas Declaration and Action Plan (December 11, 1994)
  - Joint Declaration of the Trade Ministers (June 30, 1995)
  - Joint Declaration of the Trade Ministers (March 21, 1996)
  - Joint Ministerial Declaration of Belo Horizonte (May 16, 1997)
  - Joint Ministerial Declaration of San Jose (March 19, 1998)
  - Summit of the Americas Declaration and Action Plan (April 19, 1998)
  - Joint Declaration of Toronto (November 4, 1999)
- Asia Pacific Economic Cooperation
  - Declaration of Common Resolve (November 15, 1994)
  - Declaration for Action (November 19, 1995)
  - Declaration on an APEC Framework for Strengthening Economic Cooperation and Development (November 22-23, 1996)
  - Declaration on Connecting the APEC Community (November 25, 1997)

- Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Declaration: the Auckland Challenge (September 13, 1999)

- U.S.-Andean Community Trade and Investment Council Agreement (October 30, 1998)
- United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)

Bilateral Agreements and Declarations

Chile

- U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

Egypt

- U.S.-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- U.S.-EU Transatlantic Economic Partnership (May 18, 1998)
- U.S.-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Ghana

- U.S.-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Japan

- U.S.-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

Jordan

- U.S.-Jordan Trade and Investment Framework Agreement (February 18, 1999)

Morocco

- U.S.-Morocco Trade and Investment Framework Agreement (March 16, 1995)

Nigeria

- U.S.-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

South Africa

- U.S.-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Turkey

- U.S.-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Uruguay

- U.S.-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)