

EXECUTIVE OFFICE OF THE PRESIDENT
**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

OFFICE OF PUBLIC & MEDIA AFFAIRS
600 17th Street, N.W.
Washington, D.C. 20508
Phone: 202.395.3230/ Fax: 202.395.7226

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**RECOMMENDATIONS ON APEC
OF THE PRESIDENT'S
ADVISORY COMMITTEE ON TRADE POLICY AND NEGOTIATIONS**

October 31, 1994

**The Honorable Susan Hammer
Mayor, City of San Jose
Chair of The Advisory Committee
on Trade Policy and Negotiations**

**W.L. Lyons Brown, Jr.
Chairman, Brown Forman
Corporation
Chair of East Asia & the
Pacific Task Force**

RECOMMENDATIONS ON APEC
OF THE PRESIDENT'S
ADVISORY COMMITTEE ON TRADE POLICY AND NEGOTIATIONS

October 1994

Summary

The President's Advisory Committee on Trade Policy and Negotiations (ACTPN) applauds the Administration's commitment to expanding economic and commercial ties with the nations of the Asia Pacific. During the Asia Pacific Economic Cooperation¹ (APEC) Leaders meeting in Bogor, Indonesia next month, we recommend that the United States support a three-part agenda for APEC which would move towards a balanced, fair trade environment progressively. *First*, the Leaders should set short-term, twenty-four month, objectives for existing APEC working groups in areas that will make a tangible difference in private sector commercial dealings, such as investment, mutual recognition agreements, and customs facilitation. *Second*, we urge the Leaders to set equally short-term objectives for further progress in APEC on unresolved issues from the Uruguay Round, such as financial services and telecommunications. *Finally*, we propose that APEC use Uruguay Round commitments and discussions as a point of departure for further APEC work on tariffs, non-tariff barriers, intellectual property protections, and other issues in the same time frame.

The ACTPN believes that the pursuit of "free" trade, if defined in the broadest terms, in the Asia Pacific is in the interest of the United States. In the Asia Pacific, the United States should seek to build on the broad range of liberalization it has achieved there and elsewhere, including trade in goods and services, protections for intellectual property, and continuing progress on the environment, and worker rights. In seeking the free flow of goods, services, technology, and capital, the agenda should include, but *not* be limited to, the pursuit of:

- ◆ elimination of tariff and non-tariff barriers to trade in goods and services, including structural and regulatory barriers;
- ◆ protection for intellectual property rights;
- ◆ national treatment for foreign investors, free of performance or domestic content requirements or limitations on equity held by a foreign company;
- ◆ non-discriminatory tax treatment;
- ◆ open and transparent government procurement;
- ◆ regulatory transparency;

¹ Founded in 1989 as an informal arrangement between 12 countries, APEC has continued to grow. The 17 current members are: Australia; Brunei; Canada; People's Republic of China; Hong Kong; Indonesia; Japan; South Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Philippines; Singapore; Chinese Taipei; Thailand; and United States. Chile will join during this November's meeting in Bogor, after which a three-year moratorium on new members will go into effect.

- ◆ absence of technology transfer requirements;
- ◆ elimination of government intervention in imposing market limitations;
- ◆ environmental protection;
- ◆ expanded international recognition of worker rights.

The ACTPN believes that pursuit of free trade in the Asia Pacific is a laudable goal if it does not detract from progress toward intermediate steps that will advance U.S. and regional economic interests in the short term. Thus, the ACTPN believes that sustained attention within APEC to the important building block initiatives already underway, complemented by continued U.S. emphasis on and engagement in its bilateral, sub-regional, and multilateral efforts *vis-à-vis* the Asia Pacific region are essential.

Consequently, the ACTPN has three principal concerns about making free trade by a date certain the linchpin of either U.S. policy or the APEC agenda. *First*, any date that we have seen suggested is too far away. The U.S. private sector will have irrevocably lost too many opportunities if real progress takes decades. *Second*, if the Leaders were to shift the focus of APEC's efforts to such a broad agenda too soon, the resulting reallocation of APEC's limited resources could derail the useful progress being made in the working groups. *Third*, putting broad free trade negotiations at the top of the regional agenda may provide key members of APEC with an excuse to delay settling crucial, unresolved bilateral market access issues by deflecting such discussions to the APEC forum on a more protracted timetable.

Background

In November of last year, the APEC Task Force² of the ACTPN made preliminary recommendations to the Administration as it prepared for the APEC Leaders Meeting in Seattle. The Task Force recommended that the United States take every advantage of the historic opportunity provided by the Seattle meeting to demonstrate the U.S. commitment to and interest in the Asia Pacific.

The Task Force endorsed efforts to encourage the expansion of investment ties among APEC members. It urged recognition of the importance of cross-border capital flows and the adoption of national treatment for foreign investment capital. It encouraged the establishment of APEC consultations on financial issues and on trade and the environment, and urged continued work on standards harmonization. The Task Force also advocated greater opportunities for business leader involvement in APEC's ongoing development.

² Chaired by Maurice Greenberg, chairman of American International Group, eleven members of the ACTPN served on the APEC Task Force. Under the ACTPN's new chair, Mayor Susan Hammer, the work of the APEC Task Force has been delegated to a sixteen-member task force on Asia Pacific issues, chaired by W. L. Lyons Brown, Jr., chairman of Brown-Forman Corporation.

While recognizing APEC's potential for work on these issues and its importance in creating momentum toward completion of the Uruguay Round negotiations, the Task Force cautioned against "burdening APEC's potential with unrealistic expectations." The Task Force urged a "balanced approach" to APEC and cautioned against seeing APEC as a substitute for bilateral or subregional consultations or organizations. Instead, the Task Force viewed APEC as a potential supplement or complement to other U.S. efforts to expand economic and commercial ties in the region.

Many of the Task Force's recommendations bore fruit during the 1993 Seattle meeting. The Committee on Trade and Investment (CTI) became a permanent arm of the APEC structure and has worked in this intervening year to develop a non-binding investment code for APEC. In addition, the CTI work program has led to improvements in the availability of customs information among APEC members and development of both an APEC tariff manual and an on-line database of current APEC tariff rates (scheduled for testing early next year). The Leaders created the Pacific Business Forum (PBF) as a vehicle for providing regional private sector input to the APEC process.³ The various working groups have moved ahead on such practical tasks as surveying the state of telecommunications infrastructure in the region and establishing electronic data interchange among telecommunications companies within APEC.

Introduction

As the United States prepares for the 1994 APEC meetings in Bogor next month, the ACTPN believed it appropriate to review the prospects for APEC again and to consider them in the larger context of overall U.S. economic objectives in the Asia Pacific.

In many significant ways, the ACTPN's advice this year is similar to last year. The ACTPN continues to believe that closer economic ties to the Asia Pacific are in the best interest of U.S. consumers, workers, and employers. Through its various work programs APEC is emerging as an important forum for the nurturing of these economic relationships. Through APEC's working groups, representatives of diverse economic and political systems are working together, trying to resolve issues which impede the free flow of goods, services, technology, and capital among APEC economies.

APEC can be an important element of multilateral efforts by the United States to achieve its objectives in Asia. However, the ACTPN again cautions against "burdening APEC's potential with unrealistic expectations." The ACTPN believes that APEC is ready to make measurable progress on specific issues that will liberalize trade in the region, but it cautions

³ The Pacific Business Forum is composed of two private sector members, one large and one small or medium size entity, from each APEC economy. The U.S. representatives are Les McCraw, Chairman and CEO of Fluor Corporation, and John Hendricks, Chairman and CEO of Discovery Communications. The PBF was co-chaired by Mr. McCraw and the small business representative from Indonesia. The PBF report was presented to President Soeharto of Indonesia, 1994 Chairman of APEC, on October 15.

strongly against an agenda which might suggest that APEC can bypass these building block issues and jump immediately into wide-ranging free trade discussions.

What the U.S. Should Be Seeking in the Asia Pacific

Dynamic Asia Pacific private sectors are the engines producing spectacular growth rates in the region. Yet, many foreign companies encounter frustratingly uneven commercial environments in APEC markets which discourage trade and investment. A complex patchwork of national barriers limits the ability of companies to move goods, services, technology, and capital within the region.

In the Asia Pacific, as elsewhere, the U.S. objective must be to advance U.S. trade and economic interests and to ensure that any trade agreements move all economies in the region toward the "ideal" of free trade. As a strong supporter of open markets, the ACTPN supports a process that brings U.S. companies and workers closer to the day when trade barriers in the Asia Pacific are removed. They can then focus on producing the goods and services at which they excel and selling them in APEC markets without having to devote resources to penetrating government-imposed or government-tolerated trade barriers.

In the Asia Pacific, as elsewhere, the United States should use every available means to pursue the elements of free trade and to attain the free flow of goods, services, technology, and capital. These means should include multilateral, regional, sub-regional, *and* bilateral negotiations on issues such as tariff and non-tariff barriers, investor rights, government procurement, non-discriminatory tax treatment, regulatory transparency, technology transfer requirements, government intervention in imposing market limitations, and intellectual property protections. The United States should also support and utilize available dispute resolution mechanisms at the regional level and through the proposed WTO. As a last resort, the United States also retains the option of actions under its trade laws.

Agreements between the United States and one or more APEC member economies on voluntary codes or statements of principle on issues such as investment rights can also be a useful tool for making progress toward liberalized trade in goods, services, technology, and capital. However, the U.S. government should not acquiesce to statements of principle or to voluntary codes if doing so will have the effect of lowering U.S., GATT, or OECD standards. The United States must constantly seek to move the ball forward and rebuff efforts by other countries to consider such voluntary codes or statements as ceilings rather than floors for future negotiations. NAFTA and the Uruguay Round agreements should be the starting point for further U.S. market-opening initiatives in Asia and elsewhere.

The development of cooperative working relationships and continued progress on liberalizing trade in the Asia Pacific may provide the United States with opportunities to advance its goals on evolving issues such as worker rights and the environment through APEC. A number of APEC member countries have already engaged in discussions with the Administration on worker rights as part of the GSP process. Current commercial practices in the region with respect to fisheries, timber, and trade in endangered species raise environmental issues that could

benefit from regional attention. Progress on these and other issues will broaden domestic U.S. support for future trade initiatives.

The array of available tools and the opportunities for reaching mutually beneficial arrangements with one or more APEC trading partners are plentiful. The U.S. should be taking advantage of the cooperative atmosphere fostered by APEC's development to address issues of particular concern to the U.S. private sector.

Successful bilateral negotiations on investment treaties (BITs) and intellectual property (IP) agreements with one or more APEC partners who are prepared to comply with established BIT and IP standards would make a significant contribution to U.S. private sector efforts to develop a meaningful presence in these markets and would lay the precedent for similar future agreements. Similarly, accession by other APEC members to NAFTA or possibly elements thereof, could build on existing agreements and form the foundation for later, broader regional or sub-regional accords.

The diversity of U.S. interests and the diversity of the Asia Pacific economies demand a flexible, multifaceted approach if the United States and the other APEC members are to make useful progress toward improving the atmosphere for trade, business, and investment in the Asia Pacific. The ACTPN urges the U.S. government to use the upcoming meeting in Bogor as an opportunity to reiterate the U.S. commitment to the region and to make clear its unambiguous intention to move forward on many fronts to advance both mutual and domestic interests in the year ahead.

Finally, the ACTPN urges the United States to encourage President Soeharto, the host for the 1994 Leaders Meeting, to ensure that all leaders of APEC members, including Taiwan and Hong Kong, are able to participate in this important meeting. APEC's ultimate success depends on the participation and commitment of *all* APEC leaders. Taiwan, for example, is the thirteenth largest trading economy in the world and a major economic power in the region. It should not be relegated to a different participatory status in meetings among APEC Leaders.

The Role of APEC

In 1994, APEC has proved itself increasingly capable of providing a forum for productive discussion and progress on a relatively limited agenda. When they meet in Bogor next month, the APEC Leaders should set clear, executable objectives for the next twenty-four months. The ACTPN's suggestions for such an agenda are detailed later in this report.

Over the next five years, APEC will continue to mature. Steady progress on discrete issues like that made in 1994 will further increase regional confidence in its efforts. However, APEC is not sufficiently developed to be the central element in U.S. economic policy in the Asia Pacific. Nor is APEC's two-year old secretariat yet capable of coordinating wide-ranging free trade negotiations. The burden of too ambitious an effort on both APEC and its members could undermine the important work they are prepared to achieve, by diverting resources and forestalling progress on important discrete or bilateral issues until all issues are resolved in a comprehensive agreement.

We are unanimous in our belief that the establishment and achievement of short term goals for APEC is essential to making progress toward long-term free trade objectives. The work conducted in the various APEC working groups and committees should complement the efforts already underway in other multilateral, regional, or subregional forums. APEC priorities should be determined by the level of strategic benefit businesses and workers in the region would derive from APEC-wide agreements on the issues chosen. Such agreements should lay the groundwork to ensure that market integration in APEC proceeds in a manner that advances the interests of U.S. consumers, workers, and businesses. We are convinced that the momentum flowing from these efforts will spill over into other problem areas, making additional agreements more feasible. In a very few years, this network of agreements can become the foundation for regional free trade.

This bottom-up approach will do more to promote the emergence of a stable, predictable, and transparent APEC commercial environment than any other agenda APEC could pursue. The distant goal of achieving free trade in the APEC region by the year 2020 proposed by the Eminent Persons Group (EPG) or by 2002 and 2010 as proposed by the PBF is commendable. However, we in the American private sector seek action today to improve the environment within which all companies do business throughout the Asia Pacific. Unless APEC demonstrates the will to immediately and consistently attack key trade and investment barriers, it will lose private sector support and the goal of free trade in the APEC region will recede onto ever more distant horizons.

We worry that APEC's real progress may bog down if governments seek quick least common denominator approaches in the discussions of issues affecting regulation, investment, intellectual property, workers rights, and the protection of the environment. Such an outcome would dampen if not paralyze the movement toward more open markets. Thus, working groups in these areas should not produce heavily brokered documents which then harden into cant. The United States must constantly seek to move the ball forward and deter efforts by other countries to consider voluntary codes or statements as ceilings rather than floors for future negotiations. The United States must ensure that the work of these groups continues evolving toward an APEC environment where governments encourage rather than stymie the easy movement of goods, services, technology, and capital in their efforts to promote increased employment and better living standards for their citizens.

This bottom-up approach also gives major APEC countries with whom the United States has important outstanding bilateral issues the opportunity to demonstrate their commitment to free trade by agreeing to and implementing specific market-opening measures. Such a demonstration will be essential if future efforts toward broader trade liberalization agreements in the region are to win the support of Congress or the U.S. private sector.

A Two-Year Agenda for APEC

In order to continue the process of building confidence within APEC and simultaneously to advance concrete U.S. economic interests, the ACTPN recommends a twenty-four month work program that tackles three types of projects. APEC should *first* build on work already under way in its working groups and the subcommittees of the Committee on Trade & Investment (CTI). *Second*, APEC should begin tackling the unfinished business of the Uruguay Round. *Third*, APEC should establish timetables for progress on new issues, including accelerating the implementation of some Uruguay Round commitments.

Such an agenda builds predominantly on efforts which the United States and its APEC partners have already undertaken either through existing APEC working groups or through the Uruguay Round negotiations and thus should neither burden APEC unduly nor heighten undue concern about a U.S.-centered agenda among our APEC partners.

I. Building on Existing APEC Projects

During their meeting next month, the Leaders should direct that specific measurable progress be made in at least three current agenda areas: investment, mutual recognition agreements (MRAs), and customs, by the time of the next Leaders meeting in Tokyo in November of 1995.

A: Investment Principles

The climate for investment within the APEC region is not always conducive to foreign or even domestic companies seeking to establish operations throughout the Asia Pacific. Creating a more hospitable environment for investment was high on the APEC Leaders' agenda last year and should remain so.

Today, foreign investors cannot be sure of getting national treatment in every APEC market. They can be subjected to onerous performance requirements which can frustrate planned entries into particular markets. The work to date on a voluntary code of investment principles has increased understanding among APEC members, and the ACTPN urges the Administration to continue its commitment to this process.

Potential investors in the APEC region are often deterred by national restrictions which limit companies' ability to bring capital, technology and jobs into some APEC economies. In addition, exporters to certain APEC economies confront not only high tariff barriers for key products but also a web of national regulations and regulators in sectors ranging from distribution to telecommunications and from construction to software. Before they can penetrate markets, companies often must navigate through complex building codes and zoning laws, opaque if not arbitrary health and safety regulations, burdensome tax laws, and anti-competitive business practices.

We believe that all foreign investors should have unqualified guarantees that they will enjoy national treatment in all APEC markets and that they will not be subject to performance

requirements. The magnitude of infrastructure investment required in these markets is immense; markets where such guarantees exist will ultimately attract the lion's share of foreign direct investment.

We also recognize the realities which often confront governments seeking resources to accelerate growth and development. At any point in time, it is very difficult to find compromises between the seemingly divergent interests of national governments, their domestic industries, and the foreign investors seeking to enter their markets. However, governments anxious to attract capital and technology often do not understand, let alone care about the risks of losing in the competition for foreign investment. The private sector throughout the region needs to educate these governments about its needs in this area.

APEC governments should accelerate the movement toward a non-discriminatory set of investment principles by phasing out exceptions to national treatment, performance requirements, and qualifications to other elements in the current draft of the APEC non-binding investment principles. If the Ministers come to consensus on the investment principles during their meeting next month, we recommend that they agree to seek the inclusion of such sunset language in the current investment principles document and that the final sunset date be December 31, 1997.

B: Mutual Recognition Agreements

Market access and regulation cross paths in the area of standards, certification and testing requirements. For example, national mandates for the protection of consumer health and safety affect trade and investment in pharmaceuticals, food, cosmetics, beverage alcohol, and other products which can command vast markets in the APEC region. Similarly, national regulations affecting different aspects of telecommunications, construction, automotive products, distribution, professional services, and other sectors often present insuperable barriers to companies seeking to do business in many APEC markets. Often these requirements serve as non-tariff barriers to these markets.

One means of introducing a degree of order into the regulatory/market access arena is via MRAs. Simply put, an MRA marks a first step toward harmonizing regulations across the APEC region. In an MRA, two or more countries agree to recognize the competence of regulatory authorities in the other(s) to assess whether a product conforms to the requirements of their own national laws.

The MRA approach is currently being used by the European Union as it seeks agreements with its major trading partners on conformity assessment in a number of different sectors. In APEC, there is already interest in pursuing an MRA approach. The ACTPN believes that efforts to conclude MRAs in APEC should be strengthened and given greater priority. Companies throughout the APEC region can only benefit from agreements that will accelerate the process of compliance with standards, certification, and testing requirements. The ACTPN recommends that the APEC Leaders endorse the MRA approach, as the Trade Ministers of the United States, Japan, Canada and the European Union did at their recent Quadrilateral Meeting in California.

More specifically, we recommend the establishment of teams which include the relevant regulatory authorities from each APEC country with a mandate to negotiate a discrete number of APEC-wide sectoral MRAs by the end of 1996. The teams would work out issues involving the testing of products important to U.S. commerce, such as pharmaceuticals, food and beverage products, and others, as well as products of importance to our APEC partners.

C: Customs

The Customs working group has attempted to improve Customs operations and facilitate entry procedures in APEC countries. Among other important training efforts in the Customs arena, the ACTPN applauds the upcoming November workshop which will tackle Customs' role in fighting trade in pirated and counterfeited goods. This workshop will be APEC's first initiative in the area of intellectual property rights (IPR). The ACTPN recommends that this initial effort be followed by similar APEC-wide enforcement seminars on the domestic aspects of IPR enforcement, such as specific training for police, prosecutors, and judges.

II. *Unfinished Uruguay Round Work*

A: Financial Services

Substantially improved market access for financial services remains an important goal for the United States, particularly throughout the Asia Pacific. In 1993, APEC's commitment to the Uruguay Round helped create the momentum to bring the Round to conclusion. Similarly, direction from the Ministers or the Leaders to reach consensus on financial services in the short-term could provide needed impetus for the extended negotiations on financial services that will take place in the six months following the entry into force of the Uruguay Round agreements.

B: Telecommunications

The Uruguay Round did not result in agreements on telecommunications market access, which is now the subject of continuing negotiations. Some of our APEC partners were resistant to the idea of access to basic telecommunications services markets.

Improved telecommunications are vital to the Asia Pacific's economic growth and development. Increased market access will provide greater incentives to investors and thus more capital for infrastructure development and the growth of business. The United States should encourage the opening of basic services markets overseas. APEC's work to provide models for region-wide international value-added network services (IVANs) is constructive. Bilateral efforts by the United States to open enhanced services markets in certain Asian countries also has a beneficial effect. The United States should seek the cooperation of its APEC partners in the ongoing Uruguay Round negotiations and should encourage them to be forthcoming in opening their basic services markets to competition.

Finally, in addition to APEC cooperation on completing the Uruguay Round negotiations on basic telecommunications, we applaud efforts underway to begin an APEC dialogue on the Global Information Infrastructure. Such a dialogue would include issues relating to

infrastructure and technology as well as issues relating to content. Critical issues relating to content include non-discriminatory access for providers, protection of intellectual property, and technological security safeguards.

III: New Issues for APEC

A: Accelerating/Building on Uruguay Round Discussions

We understand that there has been agreement in principle among APEC countries to provide educational and technical assistance to APEC country officials implementing their Uruguay Round commitments. The ACTPN strongly supports this endeavor.

1. Tariffs

Despite the movement toward significantly lower tariffs in the Uruguay Round, high tariffs, well in excess of 20%, on certain widely traded goods still impede access to many APEC markets. Such tariffs can also be a serious problem for investors in increasingly active distribution sectors around the region. Automotive products, food and agricultural products, toys, candy, confectionery and beverage alcohol, among other U.S. exports, face very high duties in several APEC markets. The ACTPN recommends that APEC move quickly to negotiate major reductions in the tariff rates on these and other high-tariff items in a manner consistent with GATT rules. The Leaders should direct the achievement of results by the 1996 APEC Leaders meeting.

2. Intellectual Property

Strong, uniform intellectual property protection in the Asia Pacific is a crucial element in the competitiveness of U.S. industry and will contribute to the economic development of all APEC members. Currently, progress toward such protections among key APEC members is tenuous at best. For example, the Government of Singapore is considering a draft patent bill which would reduce protection from current levels and take the level of patent protection and enforcement below the standards mandated by the Uruguay Round TRIPs Agreement. In addition, ASEAN economic ministers are considering the adoption of a common code on intellectual property protection, reportedly to present a common front in future intellectual property negotiations with the United States. Finally, the United States is engaged in very intensive bilateral negotiations with the People's Republic of China on the enforcement of copyrights, trademarks, and patents.

These recent events, coupled with the obligation of all APEC members to implement their Uruguay Round TRIPs commitments and the ongoing and expected U.S. bilateral negotiations with a number of countries in the region, make it imperative that the adequate and effective protection of intellectual property continue to be a prominent issue within APEC.

The ACTPN welcomes the APEC decision to hold a symposium in early 1995 on the implementation of the TRIPs Agreement, which the ACTPN believes should focus on the substantive standards of intellectual property protection, especially those TRIPs provisions, such

as Article 70(8), that must be implemented immediately by all WTO members. APEC should consider organizing other seminars and workshops that would bring together technical specialists who would focus on specific intellectual property-related (e.g. patent, copyright, trademark) issues and the institutional and legal infrastructure needed to implement and support such strong protection.

In developing the APEC program on intellectual property, U.S. officials must ensure that the seminars support the strongest standards of intellectual property protection and enforcement. In this regard, the ACTPN recalls the conclusion of its January 15, 1994 report on the Uruguay Round that the TRIPs Agreement would "at best...when fully implemented in the year 2006...establish a floor for the worldwide protection of intellectual property." The ACTPN went on to urge the United States to seek higher standards of intellectual property protection than those found in TRIPs. The ACTPN reiterates this view in the APEC context. While in many respects TRIPs provides high standards of protection, it must not be used as the sole benchmark in APEC discussions or in bilateral intellectual property negotiations with countries in the Asia Pacific. The ACTPN strongly believes that the United States should seek more adequate levels of protection than are found in the Uruguay Round TRIPs Agreement on several key issues, some of which were outlined in the *Report to Congress on the Uruguay Round by the Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters* (January 10, 1994). These include the prevention of sale of parallel imports if the holder of the valid patent objects (the "international exhaustion" issue); protection for the remainder of the patent life of certain products in countries that failed to provide patent protection for those products under their old patent laws (the "pipeline protection" issue); protection for biotechnology and its products; full national treatment in copyright, which is particularly important to the audio-visual industry; and further protection of trade secrets against third-party disclosure and of proprietary registration information given to governments.

Although the holding of seminars is laudable and an important step in promoting the protection of intellectual property rights, the United States should encourage APEC members to establish strong court systems and administrative organizations to enforce the various IPR laws and regulations uniformly, consistently, and fairly.

Finally, the ACTPN notes that the development of the broad U.S. consensus in support of adequate and effective intellectual property protection over the course of the GATT, NAFTA, and the numerous bilateral negotiations both in the Asia Pacific and other regions resulted from a close collaboration between the U.S. government and private sector. The ACTPN urges the United States to use the expertise on intellectual property found among the members of the ACTPN and within the other private sector advisory groups in the planning and, where appropriate, the implementation of the intellectual property-related activities of APEC.

3. *Agricultural Subsidies*

A major barrier to expansion of U.S. agricultural exports in the Asia-Pacific region is the extensive use of subsidies by countries outside the region to export products to APEC member countries, which has heavily distorted world trade in many such products. The Uruguay Round agreements partially address this issue by requiring some reductions in both overall volumes and outlays of agricultural export subsidies. However, significant subsidized exports from countries outside the region to destinations within it will continue throughout the implementation period for the Uruguay Round agreements.

The creation of a trading environment in the Asia Pacific that is largely free of export subsidies for exports originating from both inside and outside the region is high on the agenda of U.S. agricultural exporting industries. We recommend that an APEC working group be established to explore means of achieving this objective.

4. *Environment*

The ACTPN also notes ongoing efforts at the working group and ministerial level with respect to environmental issues. APEC should foster discussion among regional government, industry, and environmental groups so they can work together to identify environmental concerns and possible solutions to those problems. Regional cooperation on these important issues and efforts to develop regional consensus in support of the GATT work program on the evolving issue of trade and environment would be a valuable contribution to APEC and the WTO.

B: Other New Issues for APEC

1. Labor

The U.S. government devoted substantial energy to its effort to establish a GATT working party on the relationship between worker rights and trade from the opening of the Uruguay Round until its conclusion. Because the controversy surrounding this issue has been intense throughout APEC, establishing a dialogue within APEC to craft an agenda on labor issues could help to develop an important foundation for U.S. efforts on worker rights in the WTO.

A full airing of the different views on the relationship of worker issues to trade will benefit workers and businesses, and will enhance APEC's ability to contribute constructively to the multilateral discussion at the WTO. Initiating a discussion within APEC of the relationship between worker issues and trade and seeking to reach common understanding in the near future could help broaden support for trade liberalization efforts.

2. Automotive Products

Because of the high value of the automotive products sector and the extreme trade imbalances which are being exacerbated by increasing capacity in the region, a working group on this sector should be considered to avoid continuing and escalating trade friction

resulting from a lack of reciprocal trade in the sector. This should not be seen as a substitute for on-going negotiations between the United States and individual nations. However, it should elevate the sector to the level of importance it plays in the overall economy among most APEC nations.

Conclusion

The ACTPN strongly supports trade liberalization in the dynamic Asia Pacific region. APEC is a vehicle that can be used to achieve trade liberalization and should continue to be an important component of the President's trade policy. However, APEC is a young institution, and the United States should recognize its limitations. The President should continue to vigorously pursue all means of achieving free trade with Asian nations, including multilateral, regional, sub-regional, and bilateral negotiations. The issues are multitudinous and complex, and APEC is not the forum for resolving all problems.

For businesses, consumers, workers, local governments, and environmental groups to have confidence that APEC members are serious about the pursuit of "free trade," there must be concrete accomplishments in the short term. The ACTPN's proposed two-year agenda is meant to provide guidance to the President on constructive steps toward the ideal of free trade.

We wish the President well in his trip next month and stand ready to assist him on these and other issues.

Supplemental Statement

of

Mr. Maurice R. Greenberg
American International Group, Inc.

The Honorable Susan Hammer

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October 27, 1994

The report criticizes the notion of a date certain for achieving free trade in the APEC region as being too distant to obtain improvement for the business environment which is needed today. I am uncomfortable with this characterization, given what appears to be a strong consensus now behind the political decision to move ahead with this goal among the APEC economies.

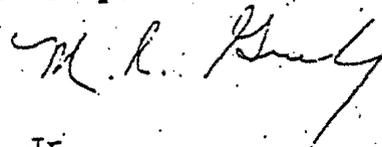
While these and other objectives laid out for the two year agenda might be desirable from the point of view of American business, I have serious reservations about their practicality and feasibility.

There is more to the APEC process than simply realizing short term U.S. commercial objectives. In fact, I would argue that few, if any, short term U.S. commercial objectives are achievable at all in the APEC context. We Americans must be extra careful to avoid loading up the APEC agenda with activity that simply cannot be accomplished within a reasonable period of time.

More importantly, we must force ourselves to step back and allow the host nations for each annual event to assume the lead and responsibility for pushing the APEC agenda forward. Were the recommendations of the ACTPN draft, for example, to be those of this year's host, President Suharto, we could wholeheartedly support them. But, appearing as they do in a U.S. report, the ACTPN may be quite justifiably accused of pushing too hard certain American themes which will set off a counter reaction that will inevitably occur within certain APEC economies.

I appreciate that the ACTPN is under considerable pressure to produce a document soon for the Administration's consideration. However, I think it goes too far, too fast, and could do just what the report warns against by burdening APEC with unrealistic expectations.

Sincerely,



MRG/mb

cc: Mr. W.L. Lyons Brown, Jr.
Chairman and CEO
Brown - Forman Corporation

Statement

of

Ms. Kathryn S. Fuller
World Wildlife Fund

and

Mr. Frederick Krupp
Environmental Defense Fund

Recommendations on APEC of the President's
Advisory Committee on Trade Policy and Negotiations

STATEMENT BY KATHRYN S. FULLER AND FRED KRUPP

If market integration in the Asia-Pacific is to serve the long-term interests of the United States and its trading partners, environmental and trade policies must be integrated in support of sustainable development. The advice of the majority of the ACTPN, as expressed in the foregoing pages of these *Recommendations on APEC* ("the Report"), fails to take adequate account of this basic truth, and in some instances appears to contradict it outright. In the NAFTA context, U.S. negotiators were able to produce an agreement that for the first time recognized the vital links between trade and the environment. This accomplishment depended on vigorous U.S. leadership throughout the negotiating process. The majority portion of this Report would leave U.S. negotiators without advice to pursue environmental objectives with equal vigor in the APEC arena. Despite recognizing the relevance of environmental issues, and issuing a welcome call for "continuing progress on the environment" in the Asia-Pacific, the majority view does not constitute a sufficient basis for U.S. negotiations in the region, and we decline to endorse it.

The majority view errs fundamentally in omitting the goal of sustainable development from its description of U.S. priorities in the Asia-Pacific, and in treating the environment as an ancillary concern, capable of opportunistic advancement through the APEC process, but not to be integrated into the core of U.S. negotiating objectives. This failure is difficult to understand in the face of U.S. international obligations, of the bi-partisan policies adopted by a succession of U.S. administrations, and of the advice repeatedly rendered to the United States by a wide variety of bodies, including the Eminent Persons Group, the APEC environmental ministers and experts, various business groups, and the ACTPN itself.¹

¹ U.S. international obligations to pursue sustainable development through appropriate trade-environment links include those contained in the *Rio Declaration on Environment and Development* and in *Agenda 21*; the preamble to the *Agreement Establishing the World Trade Organization*, as well as the *Decision on Trade and Environment* adopted earlier this year by the GATT CONTRACTING PARTIES reinforce these commitments. Regarding specific U.S. commitments in the APEC context, *see, e.g., APEC Environmental Vision Statement* (issued by APEC Ministers Responsible for the Environment, Vancouver, March 1994) (calling for "a strategic approach" to the trade-environment link in APEC, and stating, "We reaffirm the inseparable linkages between environment [sic] protection and economic growth to build an enduring foundation for sustainable development in our region. . . . by integrating environmental considerations into relevant policy development and economic decisions throughout the region"); *see also Framework of Principles for Integrating Economy and Environment in APEC* (issued with the foregoing *Vision Statement*). Regarding advice previously rendered to the United States, *see, e.g., A Vision for APEC* (Report of the Eminent Persons Group to APEC Ministers, October 1993) at pp. 46-47 ("The need to integrate environmental considerations into broader economic policies was a central theme at last year's Rio Earth Summit and is now widely accepted. Thus, the APEC members should ensure that they are embarked on a course of sustainable development. . . . APEC members

(continued...)

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The APEC process itself, although meriting the environmental criticisms discussed below, has begun to lay the groundwork for a regional trade strategy that fosters sustainable development. Thus, our strong disappointment with the majority view should not be read as pure dissatisfaction with APEC, or with the U.S. approach to APEC negotiations. In particular, three of the ten APEC working groups have mandates covering a range of environmental questions, while at least three others cover topics where environmental issues should play a key role. Moreover, APEC Leaders have discussed the environmental dimension of APEC relations, while their ministers have issued a clear call for APEC "to develop a strategic approach, based on sustainable development principles, for environment considerations to be fully integrated into the program of each APEC working group and policy committee."²

Nevertheless, APEC has so far produced little concrete progress on environmental issues, and has kept them too far sequestered from current trade talks. The working groups have tended to focus on narrow questions of "technical cooperation", and, in the case of trade in timber, the absence of an appropriate working group has assured APEC's inattention. As noted in the majority report, many of APEC's environmental problems (such as the unsustainable depletion of marine and forest resources, and trade in endangered species) relate directly to trade

(...continued)

should make sure that their trade and environmental policies are mutually reinforcing"); Achieving the APEC Vision (Second Report of the Eminent Persons Group, August 1994) at pp. 27-29 (noting endorsement by APEC ministers of EPG's call for goal of sustainable development, urging APEC to make trade and environment "mutually reinforcing", and setting out several specific recommendations for implementing the trade-environment link); Environmental Policy Paper (draft issued by the Pacific Basin Economic Council, August 1994) (noting the importance of liberalized trade to achieving sustainable development, and stating, "Trade and environmental policies can and should be mutually supportive"); A Business Blueprint for APEC (Report of the Pacific Business Forum, October 1994) at pp. 23-24 (noting it is important "for economic development in the region to occur on an environmentally sustainable basis"). The International Chamber of Commerce has also endorsed the principle of sustainable development in its Business Charter for Sustainable Development (ICC, April 1991). Regarding previous ACTPN advice, see ACTPN NAFTA Report (September 1992) at pp. 81-83 (welcoming the "recognition that liberalized trade and environmental health cannot be separated," advising that "environmental considerations must be addressed within the context of trade agreements, both bilateral and multilateral," and praising NAFTA's commitment to "the principle of sustainable development"); ACTPN Uruguay Round Report (January 1994) (repeating NAFTA Report language and urging U.S. trade negotiators to pursue appropriate environmental reforms to international trade rules).

² APEC Environmental Vision Statement (Vancouver, March 1994); see also Summary Action Plan for Integrating Environmental Considerations into APEC (APEC Environment Experts, August 1994) (setting out a series of recommended actions for implementation by the ETI, the CTI, and eight of the APEC working groups "to integrate environmental and sustainable development considerations into the work plan of APEC").

and commercial practices in the region (including practices of the United States). Solutions to them not only will broaden domestic U.S. support for future trade initiatives, but are necessary if regional trade liberalization is to help correct market and policy failures that today cause profound environmental effects.

The majority portion of this Report not only fails to advise U.S. negotiators to address these important issues, it appears to recommend some specific steps that would be inconsistent with an environmentally responsible trade policy. For example, the recommendation that the U.S. pursue the "absence of technology transfer requirements", if taken literally, is inconsistent with the recommendation by the Eminent Persons Group that APEC members explore tech-transfer policies, including arrangements by which "more advanced members [can contribute] to the costs of pollution control in less advanced parts of the region."³ While unfair commercial disadvantages to private companies should be avoided, a regional tech-transfer policy that moves beyond pure reliance on market behavior could bring significant benefits to the region, including through mutually agreed tech-transfer obligations (i.e., "requirements"). Just as market integration in Europe (and, historically, in the United States) has benefitted from policies to transfer resources for the development of productive capacities, so too could prosperity in the APEC region be enhanced.

The majority view also recommends that U.S. negotiators seek to reduce "barriers" to trade and investment posed by, *inter alia*, national health and safety regulations. While we agree on the need for increased transparency in regulatory processes, and join the calls for convergence of national standards through appropriate mutual recognition agreements, health and safety regulations must not be treated as "barriers to trade" unless they are unjustifiably discriminatory or are patent disguises for protectionism. Here again, we believe our views are consistent with the policies and interests of the United States, and with advice previously rendered by the ACTPN.⁴

In sum, we believe the majority report would better serve the interests of the United States if it included the following recommendations:

- ▶ The U.S. should vigorously pursue responsibly liberalized trade in the Asia-Pacific through integrated trade and environmental policies that support

³ *Achieving the APEC Vision* (EPG, August 1994) at pp. 27-28.

⁴ See, e.g., *ACTPN Uruguay Round Report* (January 1994) at pp. 108, 115 (advising that trade agreements should not weaken health, safety, or environmental laws, and recommending U.S. policies to ensure that legitimate standards are insulated from attack as barriers to trade).

sustainable development;

- ▶ APEC Leaders at Bogor should approve the Vancouver APEC Environmental Vision Statement, and the Framework of Principles for Integrating Economy and Environment in APEC, and should take steps to ensure their implementation, including through the actions recommended by APEC Environment Experts for fully integrating environmental considerations into the work of all APEC working groups and policy committees;
- ▶ APEC Leaders at Bogor should take public note of the urgency of environmental problems in the Asia-Pacific, and dedicate themselves to pursuing solutions to them as an indispensable part of market liberalization in the region; accordingly, the establishment of an APEC working group on timber trade should be considered;
- ▶ In discussions of APEC investment rules and otherwise, the U.S. should pursue policies designed to promote appropriate transfers of technology from the more advanced to the less developed members of APEC, including through mutual tech-transfer agreements and through appropriate national policies; and
- ▶ U.S. negotiators should pursue policies in APEC consistent with the complete right of APEC members to establish national and local health, safety, and environmental regulations so long as they are not unjustifiably discriminatory or patently disguised protectionism.

These recommendations can (and should) be implemented in a manner that avoids "overburdening" the complex and delicate APEC process. Moreover, we believe they are fully consistent with promoting the responsible penetration of U.S. trade and investment in the Asia-Pacific, which we see as an important means to help bring improved commercial practices to the region.

Given their consistency with the express goals of the U.S. private sector, the exclusion of these recommendations from the majority view is especially disappointing. The majority report was authored by an ACTPN task force that did not include a representative of the environmental community. Despite some input at the ACTPN staff level, final deliberations regarding its contents were reserved to task force members, and the full ACTPN lacked time for a meaningful discussion the report text. We regret that under these circumstances a majority report will now issue that appears to ignore the need—already recognized by APEC, by the EPG, by the United States, and by the international community generally—to liberalize trade in the Asia-Pacific through integrated policies that promote sustainable development.

Dissenting Statement

of

**Mr. Owen F. Bieber
International Union, United Autoworkers Union**

Joined in by:

**Ms. Lenore Miller
Retail, Wholesale & Department Store Union**

**Dr. Rudolph A. Oswald
Department of Economic Research, AFL-CIO**

**Mr. Jack Sheinkman
Amalgated Clothing & Textile
Workers Union, AFL-CIO**



INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

OWEN F. BIEBER, PRESIDENT

BILL CASSTEVENS, SECRETARY-TREASURER

VICE PRESIDENTS

CAROLYN FORREST • ERNEST LOFTON • STAN MARSHALL • STEPHEN P. YOKICH

October 19, 1994

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500
FAX (202) 393-3457
TELEX 710-822-1941

Mr. W. L. Lyons Brown, Jr., Chairman
ACTPN Asia Pacific Task Force
Brown-Forman Corporation
Louisville, KY

BY FAX: 502-774-6720

Dear Mr. Brown:

I appreciate all the work you and the other members of the Asia Pacific Task Force have done on recommendations to ACTPN on APEC. I do have some dissenting views I want to share with you.

The UAW believes that setting a date certain for achieving the goal of an APEC "free trade" agreement would undermine serious negotiations to reduce the tremendous trade imbalances that characterize the current trade relationship between the U.S. and many, including the largest, Asian economies. While the Recommendations point out the limitations of such "free trade" negotiations, these are not strong enough. We do not believe it is possible for such negotiations to fail to distract attention from more pressing bilateral and regional trade problems and needed solutions. We disagree with the suggestion that a less distant date certain would be a preferable target. The Administration's apparent willingness to endorse such "free trade" negotiations is very troubling.

If the recent history of negotiations with Asian countries, particularly with Japan and China, shows anything, it is that talks between countries with different institutional and structural economic arrangements result in interminable disagreements about the meaning of "free trade". It is our experience, repeated again and again, that these discussions are fruitless; yet, they have served to prevent the U.S. from using the trade tools available to defend the jobs and incomes of American workers from injurious trade practices.

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The inclusion of recognition of worker rights in the Recommendations among the issues that need to be addressed within the APEC framework and in any "free trade" discussions is welcome. However, the absence of an endorsement of the creation of an APEC working group on this subject mirrors the shortcomings of the GATT process to date. The Recommendations call for making "continuing progress" on worker rights in Asia, but they provide no commitment to gaining the incorporation of rules governing worker rights and standards into the evolving APEC trade regime. This must be an essential element of any trade negotiations that will receive the support of the UAW and the American labor movement.

It is true, as stated in the Recommendations, that advances in achieving U.S. goals in the relationship between trade and worker rights and standards and the environment would broaden domestic support for trade initiatives. However, a more concrete, time-limited endorsement of the progress that must occur in these areas to generate that support is missing from the Recommendations.

In the rush to adopt "free trade", insufficient consideration has been given to the positive role that governments play in ensuring that economic growth and development is balanced, sustainable and equitably distributed. We cannot endorse the blanket opposition in the Recommendations to all performance requirements and government intervention. In fact, the enforcement of worker rights and standards, the protection of the environment and even the protection of property rights require government intervention. It is unfair and unacceptable to limit the government's role only to the protection of property rights.

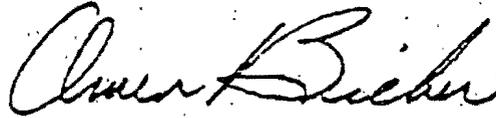
Many of the issues that have been identified in APEC working groups that are targeted by the Recommendations for early resolution focus on investment issues rather than trade issues. This emphasis on investment in negotiations in Asia indicates an interest by the American business community in winning the right to sell in the region's markets without necessarily dismantling trade barriers. This strategy serves the interests of multinational companies that can earn profits from Asian investments, but it does not have more than a minimal and indirect benefit for American workers.

The current focus of the American business community on investment issues caters to the preference of Asian governments that participation in their economies come through investment and local production rather than imports. This is consistent with the mercantilist strategies for development that have been so popular and successful in the region. Such strategies are not beneficial to the interests of American workers; the U.S. government should not be reinforcing them by placing too much emphasis on investment in the region by U.S.-based firms.

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I wish to thank you and your staff for their efforts in responding to the concerns we raised. We look forward to continuing to work with the Task Force on its upcoming activities.

Sincerely,



Owen Bieber
President

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MK Interview with TV Asahi
Monday, October 24...Room 203

MK: ...some concern whether it is big enough... You have to give Prime Minister Muriyama, Kono, Hashimoto deserve great credit, you have cut taxes, income taxes for three years. You have not raised consumption taxes for three years. You have a ten year plan of public investment. We credit that. We think that will help stimulate the Japanese economy. The third part that works for us is to open up various sectors of the Japanese economy that are critical in nature to foreign competitive goods and enterprises and services and substantially increase access to these markets. In order to make sure that we build global growth, that we raise the standard of living over in Japan and around the world, Japan is the world's second largest market of any country, the United States being the largest. Japan's market aren't as open as most of the developed nations of the world, I mean we have done studies that have shown that. That doesn't mean that Japan should be blamed, it doesn't mean Japan should be in anyway ashamed of that. It means we need to make progress. That is what the Framework is all about. We try to make progress, open markets, to stimulate the Japanese economy, the U.S. to take responsibility to lower our budget deficit, to invest in education. Both of which the President has done so that we have a mutual responsibility for global growth. Both of us. We're in a special position as the two greatest economic powers on earth and so we look to work with our Japanese friends and allies, not only in the political area which we do constantly but the economic area as well.

Q: So, do you expect any (progress)....

MK: Yes I do. In fact the income taxes cuts of three years and the delay of the consumption tax, help conduct...help opening these sectors of glass, insurance and medical technology and telecommunications, with Nippon Telephone and Telegraph for cellular agreement and construction agreement in government procurement will surely make a difference. I think implementation of the Uruguay Round will make a difference. I think what we can do together at the APEC forum is take steps toward breaking down barriers to trade, making the rules fair for everyone, Japan as well as the United States, as well as all of our allies, are great steps forward. Doing what we want to do, raising standards of living, not only in our countries but around the world. We're given an enormous challenge and, I believe, working together we can meet it and we intend to do so.

Q: What about President Clinton's

MK: It's a step forward, not the last step, the first major step forward, in terms of the Framework. It didn't solve all of our problems, no single trade agreement will. Trade is a process, an ongoing process, you need to continue to work to make sure that we increase trade and that we grow in our confidence, so therefore this is step number one. We are going to have to take, it is our obligation to take more steps to make our best effort and I know our job for the United States is to make those efforts on a bilateral basis or a regional basis or a multi-level basis, whichever is more appropriate.

Q: So your saying we have a long way to go...

MK: We have a long way to go, but let me go back here for this question because it is good. These are not ambiguous agreements. The whole idea, and I really have great praise for Ministers Kono and Hashimoto is to make these agreements tangible and concrete.

Q: How so...

MK: Not numerical pawns, not manage trade, but make them specific so that we can carry them out without frustrating each other, without being angry, without three or four years from now looking back and saying I wish we'd been more specific and more concrete and more results oriented. We accomplished that and for that I think the Japanese people should be very proud of their negotiators both the ministers and the officials.

Q: And still there will be more negotiations...is this unusual..

MK: When we where unable to reach an agreement back in February I stayed up all night. I have had all night negotiating sessions over the Uruguay Round and the North American Free Trade Agreement over government procurement ratings in Europe which is the largest of procurement agreements in world history. I don't think it is unusual. No negotiation ever affords too much time. Negotiators, and I am one of them, will go down to the last moment in order to make sure that their goal is our cause to the best extent possible. Since I'm not neither surprised by it nor should be concerned about it that is just the nature of negotiations.

Q: Do you think the Japanese Bureaucrats are more...

MK: You use the word bureaucrats, I want to call them Japanese officials, I have great respect for Mr. Hiashi, and others. They work with Ambassador Barshevsky and my staff and others here on this floor and I think they have made great progress. They should be admired for the hardwork and diligence of the effort they put in. But, there are times in negotiations among two great countries that politics have to come in to it. Political decision, in the vast sense of the word, have to be made. Only ministers who are responsible directly to the people or in our the president can do that. So this is not any criticism of individuals, I would never do that. It is really just a recognition that there times when negotiations have to go to the ministerial realm in order to be a political loyalty if you understand me. Not a partial political decision but a political decision made with best interest of all our people in the United States or Japan is made. That is what happens in this case and took place in these negotiations. It happens in other cases as well.

Q: Have you found that Japanese attitudes...

MK: One thing that I don't do is comment on the internal policy and attitudes of any government. I think that would be inappropriate. I have enjoyed working with each of the Japanese governments since we have been in office. I have made a number of personal friends. I look forward to continuing to work with the Prime Minister Hashimoto, Muriyama and Kono as we try to work together and make sure we have good commerce and

to make sure we make the rules fair. To make sure that we break down trade barriers, that we raise standards. That is what we should be working on. My goals are the same on behalf of the American people and the President of the United States no matter who is my opposite number. But, I can't say that each of these people representing Japan have Japan's best interest at heart. They have done a marvelous job and I have nothing but great respect for them.

Q: You don't criticize them...

MK: No, I do not criticize anyone personally. We are all trying to do our jobs. I am sure that you will believe that there are times when I am not correct. I can't remember a time, but I'm sure there must be sometime. I'm just kidding. But, the fact is that negotiations are serious issues and complicated and some of these talks have gone on for a large number of years. It is very difficult to unravel. Each person beginning fifteen to sixteen months ago, even longer eighteen to twenty months ago, has represented Japan in the best sense of that word. I have nothing but total respect for them.

Q: Japanese still have so many regulations...

MK: We believe, of course, in taking regulations out of the economy, allowing to market themselves properly, giving people the sense that they can be creative and innovative and compete without the heavy hand of government holding them back. This is not only internal for a country but external as well. Now, this is something Japan, we of course will work with Japan and we would like to see the economy deregulated and administratively as other wise make the rules with less force to make sure that we can with other part of competitive providers can penetrate the market not just because we need to grow. Now, obviously that is the point that I am trying to break. Japanese workers are the second highest paid workers in the entire world. Yet, your standard of living is not as high as some other developed countries because the cost of living is so high. Now why the cost of living is so high, it is high because you have less competition in particular areas. Now, if you let in foreign competitive products you'll lower the cost of goods and thus raise the standard of living. You would do something very interesting, the Japanese companies faced with new competition in their home market would be even more competitive and innovative than ever before and therefore would do better in foreign markets. So, everyone would win. Trade is not a zero sum game. In other words, if there is a winner there doesn't have to necessarily be a loser. You can have both sides win and sometimes both sides lose. But, what we would like to do, of course, is have both sides win. That is in our interest and Japan's interest as well.

Q: Is it true Japanese officials...

MK: I think Japanese officials do. I think they get the wrong recognition. On the one hand they want to keep their regulation. It is very difficult to break old habits, whether that be Japan or the United States. It is a challenge and a challenge we need to undertake. I'm not discouraged at all. I don't believe you can accomplish everything you want to accomplish in one day, one week, one month, one year or even one term of office. We have to continue to

move forward. We've made great progress. We have had more agreements with Japan in trade over the last fifteen months than any time in US - Japan history by far. We need to keep moving in that direction. As we continue to build agreements we will continue to build confidence between these countries. American business people and other foreign competitors business people will say that we can invest in the Japanese business market and be treated fair. Japanese business people can will say that the atmosphere is better, we can expand if we invest in both sides of the world.

Q: So, you believe everything is on the right course...

MK: We're going in the right direction. Is everything on the right course? No. We have some areas where we need to make progress. In the auto parts area we have some difficult challenges and the investment area and financial services and in wood and paper and computers. We have some areas where we need to make some progress. But, that does not mean we should be discouraged. It took us fifteen months to get the agreements under the framework that we just reached. However, along the way we agreed on glass and harmonizing chemical tariffs, we agreed on copper, we agreed on cellular telephones, we agreed on apples, we agreed on government procurement construction. So, we agreed on glass and insurance, medical technology and telecommunications. We have lots of agreements including the frameworks that came within this period. So, I'm someone who sees the glass half-full. I'm an optimist. As opposed to someone who sees the glass half-empty. They are the pessimists. I think the optimists are winning right now.

Q: The agreements between the two governments...

MK: We agreed in good faith on the generals but not all the great detail of each agreement. We have not finished drafting all the actual documents as you can imagine. We finished about forty-five minutes before the Ministers Kono and Hashimoto had to go catch an airplane. In Tokyo today, they are working on the documents. I have full confidence that we will reach agreements on all details necessary for these agreements.

Q: How after these agreements...

MK: We will continue even after the documents are signed. We will have to monitor and work to enforce that we are correct for both sides. This does not end with just the signing of a document. We have to work together to make that it is implemented correctly.

Q: As far as the telegraph agreement...

MK: The implementing of the telephone and telegraph agreement will be a lettered agreement. So, there are some letters involved. But, the side letters that haven't been made public, no everything has been made public. There will be more details later made public after the drafting process is completed and both sides have signed the document. But, we have no secret agreement in implementing framework talks that have not been revealed to the press or the public.

Q: The documents use words like achieve...

MK: In reference to the documents, to achieve significant progress in sales and act more competitive in its services is the documents goal and that it reaches each sector. It is important. It modifies all the main objectives and criteria. Therefore, it is also important to review annually value and share. To make sure that we make progress in those areas is also part of what we did. That is all part of being concrete and tangible and result-oriented. That is to avoid the kind of frustration that we all have over past agreements. Some of it has worked in the past, some didn't. That isn't to say that anyone is to blame. It is to say that we have to do better in our future works and learn from our mistakes and learn from what we did right. Take what we did right and replicate that or reproduce it in these agreements in order to make progress.

Q: And the Japanese...

MK: We use those words, we all agreed to use those words.

Q: On the document...

MK: Of course, on the document. We would have not signed the Framework agreement if we hadn't. Let me say that this in the best interest focus. No one wins and someone loses. Everybody wins with this agreement.

Q: Have you mentioned before that the future developments...

MK: Well, we'll see. We will soon as possible begin discussion. It is really broken into three areas, auto agreements, equipment auto parts which is the part from the factory and the after market and spare parts which are installed in Japan by a certified mechanic in a certified garage. The United States are not any different as you know. The fact is that all three needs need to be addressed. Even though we are doing better selling automobiles to Japan it is on a very small base. The original equipment auto parts market, which is one the biggest in the world, over \$120 billion dollars, very few foreign competitive parts were as for instance the US suppliers in this area have a large share of the world market. We almost no share of the Japanese market, none of course in the after market and spare parts where there is a tremendous number of regulations that are nearly indecipherable. Foreign competitive enterprise which keep US and other foreign competitive suppliers off the so-called critical parts list. We need to work on all three areas. I think that we made it clear that part of these discussions should be between our industries and not particularly subject to government control or government direction. Part should be between the governments themselves. I think that we are creating enough and dedicating enough time to do that.

Q: Do you have any expectations...

MK: I never have any expectations. I just work as hard as a can and hope that we resolve the issue.

Q: Some people have said (auto parts)...

MK: No. I called them and they sent me two letters just in case about volunteering to move between the two industries which may or may not be viewed next year in March 1995. I discussed that with them but I never mentioned any numbers. I never mentioned any number of years and I never negotiated with them, that would have been inappropriate on my part. However, I did have a discussion with Minister Hashimoto and will continue to discuss it in the future. But, this is a voluntary agreement. Strictly voluntary between the two industries. So, I call the Japanese Automobile Manufacturers Association to respond to the letter, or two letters they had sent me. I did not call them initially or originally.

Q: You believe that the government shouldn't enforce...

MK: We're not as we said not going to manage trade on all parties. Should the government enforce its anti-trust or anti-competitive laws, yes they should. I think that everyone agrees to that. Should the government get rid of unnecessary regulations that get in the way of increased trade and growing standards of living, yes the government should. Should the government be involved encouraging its prime industries to make progress in talks such as these, yes I believe the government should be involved in that. There are ways for us to be involved without dominating. We can be a partner of private industry, we can be the catalyst for change. But, what we shouldn't do is sit back and accept the situation we know is not going to be helpful for government.

Q: Would it be helpful to sit down...

MK: It would be very helpful but that is up to them. We have no way to enforce our issues at hand and engage in such discussions. But, we can encourage them because we hope when working with Japan as a partner and industry as a partner to say let's make markets. Let's make sure these markets are open. Make sure we undertake our responsibility. Make sure we are best effort to move forward.

Q: Does it help to talk...

MK: It is better to speak of what I'm involved in that is trade. When you have agreements under the Framework like we have been able to reach, on one hand we both took responsibility and really geared to dictate the Frameworks. We had goals, we had deregulation measures and administrative measures to open markets and we have objective criteria and we agreed on what Framework would have. They entrust in the beginning that there are priority sections. So we did not make enough progress in automobile parts, in other areas we made tremendous progress. We need to keep going forward. We have the goals to have the markets opening devices to try to determine whether we were successful in making progress in substantially increasing access to foreign goods and services. This is critical as move towards building greater and greater confidence between Japan and the United States and our trade and economic relations. Our political and strategic relations have never been strong. We need to make sure that our economic relations to grow now.

Q: In the next years what is important...

MK: It is hard to tell. I would mention auto parts as one area. The preliminary is I discussed earlier is paper, computers, wood. There are a number of areas to discuss. When two such great powers are so interdependable and all the world leaders can not agree there will always be a number of changes.

Q: Is this understanding...

MK: I think your Ministers and officials understand how important this is. No one in this range of responsibility in government is unaware how important this relationship is. I have appreciated the personal kindness of your Prime Ministers and especially your foreign ministers and Minister Hashimoto who has been very helpful to me. I think we work well together. We need to continue to do so.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 17, 1994

The President signed the attached proclamation on Friday, October 14, 1994.

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 14, 1994

TO ESTABLISH TARIFF-RATE QUOTAS ON CERTAIN WHEAT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. In accordance with section 22 of the Agricultural Adjustment Act, as amended ("the Act") (7 U.S.C. 624), the Secretary of Agriculture has advised me that he has reason to believe that wheat, classified in heading 1001 of the Harmonized Tariff Schedule of the United States (HTS), is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture.

2. Based upon this advice, I directed the United States International Trade Commission ("the Commission") to initiate an investigation with respect to this matter under section 22 of the Act.

3. Based on the investigation and report of the Commission, I have determined that certain articles of wheat are being imported or are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture. Further, I have determined that the imposition of the tariff-rate quotas, as hereinafter proclaimed, is necessary in order that the entry, or withdrawal from warehouse for consumption, of such articles will not materially interfere with the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture. I have also determined that imports of wheat from Canada have increased significantly as a result of a substantial change in the wheat support programs of the United States and Canada.

4. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, of other Acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 22 of the Agricultural Adjustment Act, as amended, and section 604 of the Trade Act of 1974, as amended, do proclaim that:

(1) In order to establish tariff-rate quotas on imports of certain wheat, subchapter IV of chapter 99 of the HTS is modified as set forth in the Annex to this proclamation.

more

(OVER)

(2) For durum wheat entered during a specified quota year, other than qualifying goods of Mexico or seed wheat, the aggregate quantity exceeding 300,000,000 kilograms but not exceeding 450,000,000 kilograms is subject to the in-quota rate of duty established in such Annex and the aggregate quantity exceeding 450,000,000 kilograms is subject to the over-quota rate of duty established in such Annex. For other wheat and meslin entered during a specified quota year, other than qualifying goods of Mexico or white winter wheat, the aggregate quantity exceeding 1,050,000,000 kilograms is subject to the over-quota rate of duty established in the Annex.

(3) The modifications made by this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after September 12, 1994, and before the close of September 11, 1995, unless expressly suspended, modified, or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

WILLIAM J. CLINTON

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OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 17, 1994

94-53
CONTACT: ANNE LUZZATTO
DIANNE WILDMAN
KIRSTEN POWERS
JAMAL SIMMONS
(202) 395-3230

USTR Kantor Initiates Section 301 Investigation
of European Union Banana Import Regime

United States Trade Representative Michael Kantor today initiated an investigation under Section 301 of the 1974 Trade Act of European Union practices that discriminate against U.S. banana marketing and distribution companies.

Section 301 provides the means for businesses and workers in the United States to seek the aid of the government in gaining relief from unfair trade practices which burden or restrict U.S. commerce.

Last month Chiquita Brands International, Inc. and the Hawaiian Banana Industry Association filed a petition requesting a section 301 investigation.

"American banana marketing companies should be able to compete on a fair basis in the European market, just as European firms can here," Kantor said.

Background

In July, 1993, the European Union (EU) instituted an EU-wide banana regime to replace the discriminatory regimes many EU member countries had maintained in favor of banana imports from their former colonies in Africa and the Caribbean.

Subsequently, five Latin American banana exporting countries brought and won a GATT dispute settlement proceeding which found that the EU banana import regime was discriminatory and GATT-illegal. The five had previously successfully challenged the national bananas regimes of certain EU members. However, the EU blocked adoption of both panel reports.

This spring, the EU and four of these five Latin governments

signed a "Framework Agreement on Bananas", in which the four governments settled their GATT cases against the EU in exchange for modifications in the EU banana import regime. Some of the modifications agreed upon, however, permit the four Latin governments to impose, in a discriminatory manner, export quotas and licenses on U.S. banana marketing and distribution companies. Furthermore, the Framework Agreement did not address the import licensing provisions of the July, 1993 EU-wide regime, which the petitioners allege are discriminatory and designed to maintain market share for certain European firms.

Since the Framework Agreement has not yet been implemented, the U.S. Trade Representative decided not to grant at this time the petitioners' request to initiate section 301 investigations of the practices of the four Latin American signatories to the Framework Agreement. The Trade Representative has called upon these governments to work with him in withdrawing from the Framework Agreement before its implementation and in seeking reform of the EU's banana policy. If any of these governments implements the Framework Agreement or takes alternative steps that appear to be unreasonable, unjustifiable or discriminatory against U.S. companies, the Trade Representative will expeditiously initiate an investigation of the practices concerned.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20506

FOR IMMEDIATE RELEASE
Wednesday, October 19, 1994

Contact: 94-54
Anne Luzzatto
Dianne Wildman
Kirsten Powers
Jamal Simmons
(202) 395-3230

Pakistan Agrees to Open Its Market to U.S. Textiles and Apparel

U.S. Trade Representative Mickey Kantor announced today that the United States had reached a tentative agreement with the Government of Pakistan which would open Pakistani markets to U.S. exports of textiles and clothing. "This is a landmark agreement," said Kantor, "and represents the first time in at least two decades that U.S. textiles and clothing will be permitted into Pakistan. It is a victory for American textile and clothing workers."

The agreement, reached in Brussels last week, calls for Pakistan to remove all prohibitions on the importation of fibers, yarns, fabrics, home furnishings and clothing by July 1, 1995, and to bind tariffs at agreed-upon levels. The agreement is tentative until formally ratified by Pakistan's cabinet.

The United States made it clear throughout the Uruguay Round negotiations that its commitment to phase out textile and apparel quotas under the Multifiber Arrangement over a ten-year period is connected to other nations' commitments to open their markets to U.S. textile and apparel products. Pakistan was one of the few textile exporting countries that had yet to make such a commitment. "Consequently," said Kantor, "this agreement is a critical component of our efforts to ensure that everyone plays by the same rules and opens their markets to our products."

The agreement calls for Pakistan to lower its tariffs over a 10-year period to levels no higher than 10% for many key U.S.-made yarns; 20% for many of our most competitive fabrics and carpets; 30% for many home furnishings, and 35% for apparel items. In addition, Pakistan agreed to eliminate its prohibitions and duties on the export of raw cotton, which the U.S. textile industry contends have resulted in artificially low cotton prices in Pakistan, creating an unfair competitive advantage for Pakistan's cotton spinners and weavers.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

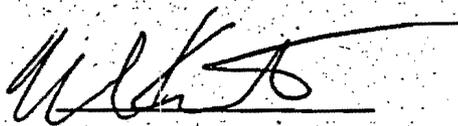
October 11, 1994

The Japanese Cabinet, as expected, approved the text of the insurance agreement today. Based on this confirmation, Ambassador Kuriyama signed the agreement this morning. Please find attached a copy of the signed text.

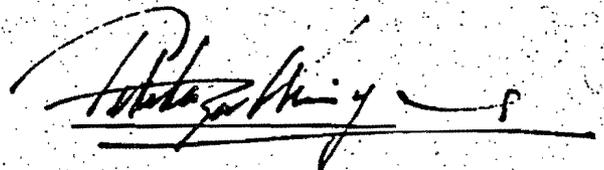
MEASURES BY THE GOVERNMENT OF THE UNITED STATES
AND THE GOVERNMENT OF JAPAN
REGARDING INSURANCE

October 11, 1994
Washington, D.C.

As a result of consultations under the Joint Statement on the United States-Japan Framework for a New Economic Partnership regarding measures in the insurance sector, the Government of the United States and the Government of Japan each has decided to implement the measures on insurance described herein.



Michael Kantor
United States Trade
Representative



Takakazu Kuriyama
Ambassador of Japan

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I. PURPOSE AND GENERAL POLICIES

- (1) The goals of the Framework are to deal with structural and sectoral issues in order substantially to increase access and sales of competitive foreign goods and services through market-opening and macroeconomic measures; to increase investment; to promote international competitiveness; and to enhance bilateral economic cooperation between the United States and Japan. To accomplish these goals with respect to the insurance sector, this document, "Measures by the Government of Japan and the Government of the United States Regarding Insurance" (the "Measures"), has been adopted. It addresses reform of relevant government laws, regulations, and guidance which have the effect of substantially impeding market access for competitive foreign goods and services, and significant improvement in market access for competitive foreign insurance providers* and intermediaries.
- (2) Each Government reaffirms its commitments related to insurance in the Code of Liberalization of Capital Movements and the Code of Current Invisible Operations, adopted by the Organisation for Economic Cooperation and Development.
- (3) Each Government reaffirms its commitment to the principles of national treatment and most-favored-nation treatment, and its commitments related to insurance in the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations.

II. RECOGNITION OF JAPANESE INSURANCE SECTOR REFORM

- (1) Both Governments recognize that the Government of Japan currently is in the process of preparing for the reform of insurance sector laws and regulations based on recommendations contained in a June 1992 Report by the Insurance Council, established under Article 8 of the National Government Organizations Law (*Kokka gyosei soshiki ho*). The Legislative Study Group under this Council deliberated on the legal aspects of the reform, and, based on the Legislative Study Group Report, the Council submitted its report to the Minister of Finance in June, 1994. The Government of Japan intends to submit such legislation to the Diet in 1995.
- (2) The Government of Japan has informed the Government of the United States that the reform is being conducted based on the following three principles contained in the Insurance Council's recommendations:
 - i. Promoting competition and enhancing efficiency through deregulation and liberalization;

* In the Measures, "insurance provider" means one who is licensed to engage in insurance business.

- ii. Preserving soundness of business; and
 - iii. Ensuring fairness and equity in business operations.
- (3) Unless otherwise specified in the Measures, measures in Section IV below which are closely related to matters under consideration in connection with the Government of Japan's insurance sector reform efforts are to be implemented upon implementation of insurance reform legislation. All measures in the Measures pertaining to domestic legislative action are subject to, and do not prejudice, deliberations by the Japanese Diet.
- (4) Notwithstanding the above, the Government of Japan is prepared to implement the other measures in the Measures by administrative means, independently of insurance reform legislation.
- i. Measures referencing the Administrative Procedures Law ("APL") (*Gyosei tetsuzuki ho*) will be implemented according to the Government-wide schedule for implementation of that law. The Government of Japan has explained to the Government of the United States that implementation of this law with respect to the insurance sector currently is expected by November 1994.
 - ii. All other measures will be implemented expeditiously, in advance of insurance sector reform legislation where possible.

III. TRANSPARENCY AND PROCEDURAL PROTECTIONS

- (1) Both Governments welcome passage of the APL in the 128th Diet session, which has the purpose of ensuring fairness and enhancing transparency of administrative operations, and thereby contributing to the protection of the rights and welfare of citizens, by establishing common procedures for dispositions, administrative guidance, and the processing of filings.
- (2) Compilation, Publication, and Standardization of Measures of General Application
- a. The Government of Japan confirms the following, pursuant to the APL, with regard to the provision of insurance in Japan:
 - i. Standards relating to licensing to provide insurance and approval of new products and rates will be compiled, published and made available to the public, unless it causes undue hindrance to administration.
 - ii. Administrative guidance that is delivered orally, upon request, will be delivered in writing, unless it causes undue hindrance to administration.

- iii. When conducting the same type of administrative guidance on a multiple number of persons with the same set of conditions and to achieve the same administrative purpose, an administrative agency should stipulate in advance, according to each case, the items which are common to those administrative guidances, and should make it public unless such publication causes undue hindrance to administration.
- b. Under i., ii., and iii. of (2)a. above, "undue hindrance to administration" is intended to be used only in exceptional circumstances.

(3) Harmonization of State Regulation

- a. Taking note of principles of federalism under the United States Constitution, recognizing that insurance has been regulated at the state government level since the beginning of insurance regulation in the United States, and further recognizing the provision of the McCarran-Ferguson Act that "[t]he business of insurance . . . shall be subject to the laws of the several States," the Government of the United States welcomes efforts by the National Association of Insurance Commissioners ("NAIC") to promote the harmonization of state insurance regulation, through such steps as its Accreditation Program and the preparation of model insurance laws.
- b. The Government of the United States notes that under the Accreditation Program, the NAIC selects an independent team of auditors to review the compliance of states with the laws, regulations, and regulatory and organizational practices contained in the NAIC accreditation standards. The team reports to the NAIC, which determines whether a state qualifies for accreditation under the standards. Currently, 37 states are accredited by the NAIC through this program.
- c. The Government of the United States notes that NAIC Model Laws are designed to facilitate legislative and regulatory action on common problems among the states and are intended to save duplication of effort on the part of the states. Some models are adopted by all or most of the states, so there is a harmonizing effect. Some models serve as guidelines which the states may adopt, utilize or amend to fit their individual needs. Certain models have been identified as being of such import that their adoption is necessary for states to be accredited pursuant to NAIC financial regulation standards.
- d. The Government of the United States encourages the NAIC to continue its efforts to work with state governments on these programs.

(4) Developer's Benefit

- a. "Developer's benefit" means a benefit granted, for a certain period, to a developer of an original product, under which approval is not given to certain products proposed by competitors.
- b. The Government of Japan confirms that a developer's benefit currently does not exist in the non-life insurance sector in Japan.
- c. The Government of Japan will specify the scope and period of exclusivity under the developer's benefit, in the event that such benefit is introduced in the future. "Scope" includes the standards for determining when a proposed product is sufficiently different from an existing product so as not to affect the developer's benefit applicable to the existing product.

(5) Administrative Appeals

- a. The Government of Japan confirms the applicability of the Administrative Appeals Inquiries Law ("AAIL") (*Gyosei fufuku shinsa ho*) and the Administrative Case Litigation Law ("ACLL") (*Gyosei jiken sosho ho*) to all "dispositions" (including approvals for a license to provide insurance and approvals of new products and rates) of general application relating to the provision of insurance in Japan. A general description of AAIL and ACLL procedures is set forth in Appendix 1.
- b. On June 30, 1994, the Japan Fair Trade Commission ("JFTC") issued Guidelines Regarding Administrative Guidance. These guidelines state that an administrative agency should not issue administrative guidance that induces conduct that is inconsistent with the Anti-Monopoly Act ("AMA"). Any person that has received administrative guidance may seek the views of the JFTC as to whether the person's conduct proposed to be taken in response to the administrative guidance is inconsistent with the AMA.

(6) Advisory Groups

When the Government of Japan establishes, or regularly seeks recommendations from, in a manner indicative of a formal advisory role for, any council, association, committee, group or similar organization with a purpose or function relating to the provision of insurance, which includes the participation of members of the private sector, the Government of Japan will strongly request the entity to allow interested foreign insurance providers and intermediaries established in Japan, and associations or other organizations representing such companies, to attend its meetings and submit statements to it to the extent possible.

(7) Participation in Industry Groups

- a. In Japan, foreign insurance providers can join all trade associations such as the Life Insurance Association, and the non-life rating associations. Both Governments welcome the fact that the Marine and Fire Insurance Association of Japan amended its articles of incorporation in January 1994, so as to enable foreign insurance providers to join the Association.
- b. The Government of Japan confirms that the Life Insurance Association, the Marine and Fire Insurance Association, the non-life rating associations and other similar organizations accord foreign insurance providers and intermediaries rights, privileges, and opportunities equal to those accorded to domestic firms subject to similar fees and other obligations, in accordance with the rules set by the organizations. Such rights, privileges and opportunities include rights, privileges and opportunities regarding representation and governance of the associations.

(8) Access to Insurance Regulatory Information

- a. With respect to the insurance system reform now in process, the Insurance Council has been hearing opinions of foreign insurance providers, and the Insurance Department of the Ministry of Finance ("MOF") has been exchanging views from time to time with foreign insurance providers.
- b. The Government of Japan will ensure that foreign as well as domestic insurance providers and intermediaries are accorded meaningful and fair opportunities to be informed of, comment on, and exchange views with officials regarding measures relating to or affecting the provision of insurance in Japan.
- c. With respect to regulatory changes in the insurance sector that the Government of Japan may undertake from time to time following the completion of the regulatory reform now in process, foreign insurance providers will be accorded access to information by the Government of Japan on a national treatment basis that affords fair competitive opportunities. The following steps will further this objective:
 - i. The establishment by the MOF of a list of foreign insurance providers, as well as organizations representing such providers, that have expressed an interest in regular communication.
 - ii. Regular meetings with, and the provision of advance information to, providers or organizations on the list, to the extent that similar exchanges take place with domestic insurance providers and

organizations.

The Government of the United States will encourage foreign insurance providers and their representative organizations to take advantage of the opportunities for communication provided by the MOF.

(9) Procedural Protection for Notifications and Applications

- a. Recognizing that the Japanese courts ultimately may determine whether specific information is "secret" within the meaning of the National Public Service Law (*Kokka komuin ho*), the Government of Japan confirms that it considers "secret" information to include information in connection with applications or notifications for insurance licenses, products, or rates that is not generally available to the public, and that such information is protected by the duty of Government officials under that law not to disclose secret information, except when they are legally required to disclose it.
- b. The Government of Japan confirms that no limit, in law or in practice, exists on the number of new license or product approval applications (including rate, form, and other types of product approval applications) that an insurance provider may submit at one time, and that no requirement or regulatory practice restricts an insurance provider from submitting additional applications based upon whether the Government of Japan has completed its review of that provider's previous applications.
- c. The Government of Japan confirms that an insurance provider is not required to coordinate its notifications or applications for licenses or product or rate approvals, or to consult regarding such notifications or applications, with any other insurance providers, industry associations, or other third parties that have, or whose members have, a competitive interest or potential competitive interest in such notifications or applications. The Government of Japan notes that, under current law, when an insurance provider submits an application for a rate for a type of product for which a non-life rating association calculates rates (i.e., not including a "special" rate), the Government of Japan may advise the insurance provider to inquire with the non-life rating association.
- d. The Government of Japan confirms that the acceptance, processing, or approval of a notification or application for a license, product or rate may not be conditioned or delayed based on whether the insurance provider consults, or coordinates its notification or application with any other insurance provider, industry association, or other third parties that have, or whose members have, a competitive interest or potential competitive interest in such notification or application. The Government of Japan notes that, under current law, when an insurance provider submits an application for a rate for a type of product for

which a non-life rating association calculates rates (i.e., not including a "special" rate), the Government of Japan may advise the insurance provider to inquire with the non-life rating association.

(10) Self-Regulatory Organizations

- a. The Government of Japan confirms the following with regard to "self-regulatory organizations" in the insurance sector, including those described in the Legislative Study Group Report (such as the Life Insurance Association, the Marine and Fire Association):
 - i. Membership in such organizations is voluntary, and their operations are conducted in accordance with their respective association rules and by-laws, and the Government of Japan will not delegate any authority to such organizations.
 - ii. The purpose of stipulating in the proposed law provisions regarding self-regulatory organizations is to clarify and make transparent the scope of their operations and their supervision by the MOF under the proposed law.
 - iii. The Report does not recommend that:
 - the legislation direct self-regulatory organizations to conduct operations that are in conflict with the AMA; or
 - the legislation exempt or immunize those self-regulatory organizations from the AMA.

The Government of Japan is respecting the above in formulating the bill to be submitted to the Diet.

- iv. The guidance, recommendations, "investigation or research surveys" (*chosa*), and solution of complaints by such organizations described in the Report are advisory and/or voluntary. Insurance providers may comply with or participate in such actions as a matter of choice, but may not be sanctioned by the organizations, directly or indirectly, for not complying or not participating. However, it is noted that such organizations' rules or by-laws may maintain the right to deny or revoke membership, or take other less stringent measures, against members that do not meet the organizations' ethical standards indicated in their rules or by-laws.
- v. The Government of Japan, through the MOF as the responsible

supervisory agency for the insurance sector, will strongly recommend that such organizations' activities be conducted in an open, non-discriminatory, and transparent manner, and not unreasonably impede free business activities. In addition, the MOF will treat applications and other requests by non-members no less favorably than applications or requests from members.

- b. The JFTC will continue to vigorously deal with violations of the AMA by trade associations, including self-regulatory organizations, in all industries including those in the insurance sector, and will continue to monitor their activities.

IV. DEREGULATION MEASURES

(1) Product and Rate Approval

- a. As regards the regulation of insurance products and rates, although it is desirable from the users' standpoint that less expensive and better products be provided through promoting competition and enhancing efficiency, it is also necessary to maintain appropriate prudential measures such as to ensure a stable supply of products, ensure fairness by an insurance provider among similarly-situated policyholders, preserve the solvency of the industry, and protect consumers and other claimants against default, fraud, and deception.
- b. The Government of Japan has informed the Government of the United States that it intends to deregulate the Japanese insurance system, including liberalization of the approval process for insurance products and rates, in a step-by-step manner, with appropriate phase-in measures where necessary, while clarifying the direction of reform. Within the broader context of the reform, the specific purpose of product and rate liberalization is to promote competition and enhance efficiency among insurance providers for the benefit of Japanese consumers, allowing product differentiation and distribution based on the needs and demands of the policyholders.

Specifically, the following measures are to be taken with the schedule described in c.

- i. The Government of Japan will expedite and simplify the application review process for the approval of insurance products and rates, through such steps as reducing examination requirements and time periods, introducing expedited approval review systems such as "file and use" systems, and other possible steps. Under the expedited approval system, when an insurance provider applies for the approval of a product that is essentially the same as a product already approved

for another insurance provider, the MOF will review the application on an expedited basis. Under the file and use system, the MOF will approve certain products as eligible for file and use. Subsequently, any company which the MOF has approved to write that product may introduce changes to the product on a file-and-use basis, i.e., the company may file the product changes with the MOF and then begin using the changed product after a certain short time period unless disapproved.

- ii. With regard to rates for non-life insurance products, the current system includes fixed rates, banded rates, benchmark rates, and free rates. The Government of Japan will expand the types of products or categories of risk for which benchmark or free rates are used, to the extent possible consistent with appropriate policyholder protection and the fair application of other appropriate and reasonable prudential measures.
- iii. A foreign insurance provider will be permitted to use statistical and other data collected outside of Japan to support its application for the approval of a product in Japan, if deemed relevant by the regulatory authority on a case-by-case basis.
- iv. The two Governments recognize that the Insurance Council has recommended the introduction of a "notification system" for the review and approval or disapproval of insurance rates and products, for product lines or categories of risk for which problems are less likely to arise from the viewpoint of policyholder protection. The Government of Japan intends to submit to the Diet a proposal that implements, or allows for administrative implementation of, a notification system for specific product lines or categories of risk. If the Diet allows for administrative implementation of a notification system, the Government of Japan will implement the notification system for specific categories of risk.

c. The implementation of the above measures will be as follows:

First Stage : Measures relating to b.i., ii., and iii. will be implemented before the implementation of the insurance system reform legislation, and where possible, within 1994. For example:

-a file and use system will be applied to credit card theft and burglary insurance, boiler insurance, and machinery insurance;

-data collected outside of Japan will be allowed to support an application for approval of long-term disability insurance products;

-the expedited approval system will be applied to the approval of products essentially the same as products already approved;

-benchmark rates will be applied to earthquake rider written on industrial fire insurance and free rates will be applied to windstorm and flood rider written on industrial fire insurance; and

-with respect to the special discount rate applicable to the large commercial risks of fire insurance, the minimum threshold amount will be decreased and the discount rate will be significantly expanded.

Second Stage:

The notification system will be introduced upon implementation of the insurance system reform legislation. At this stage, notification will be applied to certain large commercial risks, including risks regarding hull, cargo, and aviation. As for lines that remain under the prior approval system, there will be further expansion of the scope of the file and use system, further expansion of benchmark rates and free rates, and consideration of the expanded use of comprehensive policies and expedient approval of specific requests. For example:

-the file and use system will be applied to computer comprehensive insurance, movable comprehensive insurance, and directors and officers liability insurance;

-benchmark rates will be applied to bankers blanket insurance;

-free rates will be applied to travellers check comprehensive insurance;

-the MOF intends to introduce the "advisory rate" system for large commercial fire insurance; and

-the MOF intends to decrease the minimum insured amount of the large commercial fire insurance policies to

which the deductibles rider can be attached and adjust the relevant schedule accordingly.

Third and Subsequent Stages : Application of the notification system will be expanded to other categories of risk, as deemed appropriate by the Government of Japan, including rent credit and other credit insurance, within a reasonable time after implementation of the insurance system reform legislation. Following this, there will be further deregulation of products and rates with respect to measures not covered above, as deemed appropriate by the Government of Japan, with no category of risk necessarily excluded from possible deregulation.

- d. With regard to mutual entry* of life and non-life insurance companies into the "third sector," the MOF intends not to allow such liberalization to be implemented as long as a substantial portion of the life and non-life areas is not deregulated, taking into account the fact that dependency of some medium to small and foreign insurance providers on the third sector is high, and that these medium to small and foreign insurance providers have made the efforts to serve the specific needs of consumers in the third sector. Furthermore, with respect to new or expanded introduction of products in the third sector, it is appropriate to avoid any radical change in the business environment, recognizing that such change should depend on medium to small and foreign insurance providers first having sufficient opportunities (i.e., a reasonable period) to compete on equal terms in major product categories in the life and non-life sectors through the flexibility to differentiate, on the basis of the risk insured, the rates, forms, and distribution of products.

(2) Licensing of Insurance Providers and Intermediaries

- a. The Government of Japan confirms that applications for licenses to provide insurance will be processed pursuant to laws pertaining to administrative procedures, including the APL.
- b. The Government of Japan will make utmost efforts to stipulate the standard review period concerning application for start-up licenses and make it available to the public.

* "Mutual entry" means the ability of life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to non-life insurance companies, and the ability of non-life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to life insurance companies.

- c. Upon the arrival of an application, the Government of Japan will begin review without delay.
- d. In the case of a disapproval, the Government of Japan will make utmost efforts to provide the reasons for disapproval.
- e. The Government of Japan intends to, as a part of the insurance system reform, provide in laws or regulations the standards regarding start-up licenses, including the requirements regarding the applicant's financial base and the qualifications of its management, taking into account similar requirements applicable to other financial sectors.
- f. The Government of Japan notes that a foreign insurance provider is not required to introduce an insurance product not yet offered in Japan as a condition for the approval of an application to provide insurance in Japan.
- g. Recognizing principles of federalism, the long history of state regulation of insurance in the United States, and the McCarran-Ferguson Act, and noting the concerns of regulators who seek to further increase internationalization of their insurance markets while addressing prudential concerns, the Government of the United States:
 - i. welcomes that the NAIC in October 1993 adopted a model law on the initial entry of non-U.S. insurance providers without their prior establishment in another state, and the Government of the United States encourages the NAIC to continue and as appropriate intensify its efforts with relevant state authorities with regard to this issue;
 - ii. would welcome consideration by the NAIC, if appropriate, of the issue of the time period for review of licensing applications of insurance providers, from the perspective that regulatory authorities should make administrative decisions on completed applications of insurance providers within a reasonable time; and
 - iii. welcomes efforts by the NAIC to review with the states the question of citizenship requirements for the boards of directors of foreign insurance providers, and the Government of the United States encourages the NAIC to continue and as appropriate intensify its efforts with relevant state authorities with regard to this issue.

- h. The Government of Japan has raised with the Government of the United States its concern that different state regulations for foreign insurance providers on lines of products permitted, trustee assets requirements, deposit requirements, remittance ceiling and reinsurance trust funds affect foreign insurance providers' ability to enter the insurance market of the United States.

(3) Insurance Brokers

- a. It is the role of insurance brokers to try to help users to select insurance products which best fit the users' needs, serving as intermediaries between the users and insurance providers.
- b. The Government of Japan expects that the introduction of a brokerage system will provide insurance consumers with objective advice on insurance products. The objective of brokers differs from that of life and non-life insurance agents. The Government of Japan expects the introduction of a brokerage system to result in a diversification of distribution channels and the promotion of sales competition in the Japanese insurance market.

Accordingly, upon the passage of necessary legislation as part of the insurance system reform, it will be possible for insurance brokers to establish and to provide insurance in Japan, subject to the fair application of appropriate and reasonable prudential measures, including those concerning the financial capability of indemnification and the prohibition of concurrent broker and agent operation.

(4) Postal Insurance

- a. With regard to the current legal structure concerning the provision of insurance in Japan by the Ministry of Posts and Telecommunications ("MPT"), the Government of Japan confirms that:
 - i. Such insurance is provided pursuant to law, independent of laws governing the provision of insurance by private insurance providers in Japan.
 - ii. Currently, the law authorizes the MPT to offer 11 basic insurance products, and the MPT offers a total of 25 variations of these 11 basic products. The law also authorizes the MPT to offer riders attached to such products.
 - iii. Approval from the Diet is required to expand or change the insurance products or riders offered by the MPT except for limited alterations within the scope of the products or riders authorized in the law.

- iv. The insurance system reform now in process, which addresses the private sector, is separate from, and does not itself involve, amendment of the law regarding provision of insurance by the MPT. Therefore, completion of the reform process itself will not lead to the expansion of the insurance products or riders which the MPT is authorized by the Diet to offer.
 - b. The MPT will ensure that foreign insurance providers in Japan are accorded, upon request, meaningful and fair opportunities to be informed of, comment on, and exchange views with MPT officials regarding the formulation of proposals to seek from the Diet an amendment to the law to expand, or change, the insurance products primarily regarding sickness, injury or nursing coverage.
- (5) Cross-Border Transactions
- a. The Government of Japan intends to, as part of the insurance system reform, liberalize cross-border insurance transactions concerning aircraft of Japanese registration and ships of Japanese registration for international transport.
 - b. With respect to space launching and freight (including satellites), necessary measures will be taken independent of the insurance systems reform.
 - c. The Government of Japan has scheduled reservations with respect to its commitments related to insurance in the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, such as a reservation on insurance contracts on goods being transported within Japanese territory.

V. GOVERNMENT CORPORATIONS

- (1) The Government of Japan will encourage public corporations listed in Appendix 2 to permit foreign insurance providers access to their insurance programs and to ensure allocation of premium shares among participating insurance providers according to fair, transparent, non-discriminatory, and competitive criteria.
- (2) The Government of the United States has scheduled a reservation with respect to its commitments related to insurance in the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations regarding the fact that branches are not permitted to provide surety bonds for U.S. federal government contracts.

VI. COMPETITION

(1) Private Analysis of Market Conditions

- a. The Government of Japan reaffirms that there are certain aspects of economic rationality of *keiretsu* relationships. However, noting the concern of foreign insurance providers, first, that certain aspects of business relationships referred to as "*keiretsu*" relationships may give rise to anti-competitive business practices, negatively affect foreign direct investment, and promote preferential group trade, and second, that "case agents" may substantially impede access to the Japanese insurance market for competitive foreign insurance providers, the two Governments will request domestic and foreign insurance providers to:
 - i. discuss the issue of "*keiretsu*" relationships and jointly select an independent research organization to conduct a study of the extent and effects of intra-*keiretsu* transactions in the Japanese insurance market; and
 - ii. discuss the issue of case agents and, if deemed necessary, include this issue in the study to be conducted by the independent research organization.
- b. The two Governments will request foreign and domestic insurance providers to instruct and allow the independent research organization to analyze "*keiretsu*" relationships as appropriate to the Japanese insurance market and as appropriate to ensure a comprehensive, useful, and rigorous study of that market.
- c. The two Governments will request foreign and domestic insurance providers to report to the two Governments by December 15, 1994, the name of the independent research organization that will conduct the study. The two Governments expect the study to be completed by April 1, 1995, and they will request foreign and domestic insurance providers to make every possible effort to realize this expectation.

(2) JFTC Study

Upon implementation of the insurance reform legislation, the JFTC is prepared to conduct a study of the Japanese insurance market within a reasonable period of time from the competition policy viewpoint, taking into account such factors as the developments observed since the implementation of the insurance reform legislation, the private sector study mentioned above and other relevant issues, as appropriate.

(3) Enforcement Measures

- a. The Government of Japan confirms its commitment to strictly enforce the AMA, in all industries including the insurance sector, against practices that, in light of market structure and other factors as appropriate, constitute violations of the AMA, such as private monopolization, unreasonable restraints of trade, or unfair trade practices.
- b. The Government of Japan, while noting the Report by the Insurance Council, will review, by Fiscal Year 1995, AMA exemptions stipulated in the Insurance Business Law.

(4) Article 28 of the AMA

Both Governments understand that, under Article 28 of the AMA, the JFTC is to perform its duties independently.

VII. CONSULTATIONS

The Government of Japan and the Government of the United States will meet annually, or at any time upon request of either Government, to review implementation of the Measures, and to discuss as necessary other issues regarding insurance.

VIII. ASSESSING IMPLEMENTATION OF THE MEASURES

(1) Data Collection

The following information on Japan will be provided on an annual basis:

- a. The number of approvals of new products, new rates, and licenses to provide insurance, in the life and non-life sectors, as well as the number of approvals of new third sector products which primarily deal with sickness, injury or nursing coverage, for:
 - i. foreign insurance providers; and
 - ii. Japanese insurance providers.
- b. The ratio of approvals (the number approved compared to the number of applications or notifications) for new products, new rates, and licenses to provide insurance, in the life and non-life sectors, as well as the ratio of approvals for new third sector products which primarily deal with sickness, injury or nursing coverage, for:

- i. foreign insurance providers;
 - ii. Japanese insurance providers; and
 - iii. all insurance providers.
- c. Total insurance premiums, in the life and non-life sectors, for:
- i. foreign insurance providers; and
 - ii. all insurance providers.

The following information on the United States will be provided on an annual basis:

- a. The number of states accredited in the NAIC accreditation program;
- b. Description and account of NAIC harmonization proposals including model laws; and
- c. Total insurance premiums, in the life and non-life sectors, for:
 - i. foreign insurance providers; and
 - ii. all insurance providers.

For the purpose of data collection, "foreign insurance provider" means an insurance provider 50 percent or more owned by foreign shareholders, including those in branch form.

(2) **Assessment**

Assessment of the implementation of the Measures, as well as the evaluation of progress achieved, will be based on the overall consideration of the following qualitative and quantitative criteria. These qualitative and quantitative criteria will be considered as a set, and no one criterion will be determinative of the assessment of the Measures, or the evaluation of progress achieved. These criteria do not constitute numerical targets, but rather are to be used for the purpose of evaluating progress achieved toward the goals of the Framework and the goals of this sector, as set forth in Section I.

a. **Qualitative Criteria**

- i. transparency and availability of standards and measures in Japan, and meaningful and fair opportunities for foreign insurance providers in

Japan to be informed of, comment on, and exchange views with officials regarding matters related to the provision of insurance and to attend meetings and submit statements to advisory groups;

- ii. prompt and fair review of applications and notifications in Japan, including without being required or advised to coordinate with or disclose information to other insurance providers or intermediaries;
- iii. efforts by the Government of the United States to encourage the NAIC regarding United States market issues addressed in the Measures, including issues regarding the review of applications for licenses;
- iv. changes that address impediments to market access in Japan, if any, arising from certain aspects of market conditions and business practices;
- v. efforts by foreign insurance providers and intermediaries to utilize new opportunities created by the Measures; and
- vi. the implementation of other measures in the Measures.

b. Quantitative Criteria

From the viewpoint of addressing significant improvement in market access for competitive foreign insurance providers:

- i. change and rate of change, from one reporting period to the next, in the number and ratio of approvals for new or modified products and rates in the life and non-life sectors in Japan, for foreign and Japanese insurance providers;
- ii. change and rate of change, from one reporting period to the next, in the value of premiums by foreign insurance providers in Japan, in the aggregate and in market sub-sectors as appropriate; and
- iii. change and rate of change, from one reporting period to the next, in the share of total insurance premiums for foreign insurance providers to those for all insurance providers in Japan, in the aggregate and in market sub-sectors as appropriate.

APPENDIX 1: Outline of the Administrative Appeals Inquiries Law (Law No. 160 of 1962) and the Administrative Case Litigation Law (Law No. 139 of 1962, as amended)

- (1) Under the Administrative Appeals Inquiries Law ("AAIL"), any person aggrieved by an order, omission or ruling of any administrative agency may file a complaint against the agency, and may obtain review and remedy of any illegality or abuse of discretion. The types of such complaints are complaints for objection, examination, and re-examination.
- (2) An administrative agency is obligated to give notice as follows:
 - a. When an administrative agency issues an order in writing, it must give notice to the person or persons addressed in the order that they may file a complaint, and it must give notice of the administrative agency with which, and the period during which, such a complaint may be filed.
 - b. Upon request by a person not directly addressed in an order but having an interest in the order, the administrative agency must give notice to such person of the information specified in paragraph a.
 - c. In the event that an administrative agency fails to give the notice required under paragraph a. or b. and the person entitled to file a complaint files it with an agency other than the agency responsible for examining the complaint (the "examining agency"), the agency that issued the challenged order must transfer the complaint to the examining agency.
- (3) When a complaint is filed, the examining agency is required to:
 - a. examine whether the complaint meets the requirements for examination and, if it does, commence examining the matter;
 - b. allow the person who has filed the complaint and any intervenor, among other things, to produce documentary evidence and make oral arguments; and
 - c. render in writing its decision and the reasons for it, and affix its name and seal impression thereto.
- (4) Further, under the Administrative Case Litigation Law ("ACLL"), if any person's specific right or interest is infringed by any illegal order or abuse of discretion by any administrative agency, that person may file a claim with a court and seek judicial review.
- (5) With respect to the insurance sector in Japan, the complaint for objection must be

filed with the Ministry of Finance in accordance with the AAIL. Following a decision by the Ministry of Finance on the objection, the person who filed the complaint for objection may file an appeal of the decision to a court for judicial review, without following any further administrative procedures such as "examination" or "re-examination" pursuant to the AAIL and ACLL.

APPENDIX 2: Government Corporations

1. The Government Housing Loan Corporation
2. The Pension Welfare Service Public Corporation
3. The Housing and Urban Development Corporation
4. The Okinawa Development Corporation
5. The Employment Promotion Corporation

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 6, 1994

94-52
CONTACT: ANNE LUZZATTO
DIANNE WILDMAN
KIRSTEN POWERS
JAMAL SIMMONS
(202) 395-3230

UNITED STATES AND MONGOLIA SIGN BILATERAL INVESTMENT TREATY

The United States and Mongolia today signed a Bilateral Investment Treaty (BIT), the first such treaty in the Asia Pacific region. United States Trade Representative (USTR) Ambassador Michael Kantor and Mongolian Foreign Minister Gombosuren signed the treaty in Washington.

The BIT guarantees the right to invest on terms no less favorable than those accorded domestic or third-country investors. It also guarantees the free transfer of capital, profits and royalties, freedom from performance requirements of any kind, access to international arbitration, and internationally recognized standards of expropriation and compensation.

"This treaty strengthens the economic ties between our countries," said Ambassador Kantor. "Together with the 1991 U.S.-Mongolia Trade and Intellectual Property Agreement, these agreements build a solid foundation for our trade and investment relations."

The BIT is the ninth signed during the Clinton Administration and 31st overall.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20506

FOR IMMEDIATE RELEASE
Thursday, October 6, 1994

Contact: 94-51
Anne Luzzatto
Dianne Wildman
Kirsten Powers
Jamal Simmons
(202) 395-3230

STATEMENT OF AMBASSADOR KANTOR ON THE U.S.
DISTRICT COURT DECISION IN
PUBLIC CITIZEN ET AL. v. MICHAEL KANTOR ET AL.

Yesterday, the U.S. District Court for the District of Columbia announced its decision that the National Environmental Policy Act (NEPA) does not require an environmental impact statement (EIS) in connection with the Uruguay Round of the General Agreement on Tariffs and Trade.

The Administration is gratified by the Court's decision. As the court of appeals ruled in a case brought by Public Citizen involving the North American Free Trade Agreement, NEPA and the EIS requirement do not apply to actions of the President. Due to the excellent work of lawyers from the Justice Department and the White House, we argued strongly - and the District Court agreed with us - that the negotiation of the UR, and the submission of implementing legislation to Congress, were the essence of Presidential action - and therefore the EIS requirement of NEPA did not apply.

Nonetheless, this Administration has never wavered from its strong resolve to ensure the protection of the environment under the UR. For example, though not required by law, we issued a report on environmental matters associated with the UR. We led the effort to establish the Committee on Trade and Environment in the World Trade Organization. The U.S. successfully urged several amendments to the text of the agreements which help make the WTO sensitive to environmental issues. And we negotiated changes in the UR which improve public access to dispute settlement cases in the WTO, enabling environmental and other non-governmental organizations to better monitor those proceedings.

The Uruguay Round and the WTO will help improve environmental protection among the world's trading partners, another reason Congressional ratification of the agreement is critical this year.

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Agriculture Washington, D.C. 20250

NEWS

Release No. 0750.94

Tom Amontree USDA (202) 720-4623
Anne Luzzatto USTR (202) 395-3230

UNITED STATES ANNOUNCES MEMBERSHIP OF U.S.-CANADA JOINT COMMISSION ON GRAINS

WASHINGTON, Oct. 3 -- The names of the five commissioners who will represent the United States on the U.S.-Canada Joint Commission on Grains were announced today.

The announcement was made by Secretary of Agriculture Mike Espy and U.S. Trade Representative Mickey Kantor.

"I am pleased to announce the U.S. members to the Joint Commission on Grains," said Espy. "We are extremely fortunate to have access to the expertise of this talented group of people. They will contribute greatly to the work of the Commission."

The creation of the Commission was agreed to in the recent U.S.-Canada Memorandum of Understanding on wheat. The binational commission will examine all aspects of the two countries' respective marketing and support systems for all grains and the impact these two systems have on Canadian and U.S. markets and on competition between the two countries in third-country markets.

The objective of the Commission is to assist the two Governments in reaching long-term solutions to existing problems in the grains sector. The Commission is scheduled to submit initial findings and non-binding recommendations to both countries by June 12, 1995, and it will conclude its work by September 11, 1995.

The commissioners are:

Alan Bergman, Wheat producer from Jud, ND, President of ND Farmers Union
James Warren Miller, Wheat and barley producer from Garfield, WA, Past
President of National Association of Wheat Growers
Herbert Karst, Barley producer from Sunburst, MT, Board member of
National Barley Growers Association
Allen Anderson, Senior Vice President, Harvest States Cooperative, St.
Paul, MN
Anthony Flagg, President, Pendleton Flour Mills, Pendleton, OR

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 3, 1994

REMARKS BY THE PRESIDENT
TO BUSINESS SUPPORTERS OF GATT

West Lobby

12:14 P.M. EDT

THE PRESIDENT: Thank you very much. Senator Mitchell, I was thinking even before you spoke how much I would miss you. Now, after that introduction, I feel it even more keenly.

Ambassador Hills, thank you for your steadfast support and your leadership on GATT. Ambassador Kantor, thank you for what you have done on this, and congratulations on the agreement with Japan, too, by the way. You did a fine job and we're proud of you. (Applause.)

To all the distinguished members of Congress who are here and those who would like to be here who cannot be, and all the members of the business community and others supporting the GATT today, I thank you for coming here. To the distinguished leaders of previous administrations who are here, including Larry Eagleburger, Brent Scowcroft, Herb Stein, and others, I thank you for being here.

Much that needs to be said about the GATT has already been said. Mickey Kantor reminded me this morning of something I confess I had not thought of on this day; it was three years ago today that I announced my candidacy for this job. And he did it because there is a line here on the first page of the talk which said, "I refuse to be part of a generation that fails to compete in the global economy, and so condemns hard-working Americans to a life of struggle without reward or security."

The great challenge of our age economically is to figure out how we can create jobs and increase incomes for people who work hard, without having too much inflation. It is obvious to me that in order to do that we have to do three things: We have to bring the deficit down; at the same time, increase investment and education training and technology, and expand trade and investment. If we can do those things, and if our neighbors do those things -- in short, if we do them together, then we will be able to create more jobs and find productive lives for our people without unacceptable inflation. We will also be able to end what is now nearly two decades of people working harder and longer without ever getting much of a pay raise.

I'm encouraged that just this year we see incomes rising at about the six percent in the United States with nowhere near that sort of inflation. Why? Because of productivity, investment, and trade. That is what we have to do. In the end, that needs to be our bipartisan commitment to our children and to our grandchildren and to our future. Our commitment to make America great in the 21st century involves a commitment to make America a good leader, but a good partner as well.

We have cut the deficit with \$255 billion in spending cuts and revenue increases, and three years now in a row the deficit will go down for the first time since Mr. Truman was here. We have

MORE

shrunk the federal bureaucracy. It's already more than 70,000 people smaller than it was when I came. But the Congress has adopted a bill to reduce it by 270,000 over six years. That will make the federal government the smallest it was since President Kennedy served here.

We have increased our investment and education and training, and we are opening the doors of trade, removing barriers to the sales of \$35 billion in high-tech export items, and of course, working hard with trade initiatives like NAFTA and GATT.

Carla already alluded to this, but I think it's worth pointing out to those who say that NAFTA would be a disaster, that our trade with Mexico is growing at three times the rate of our overall in the world; that exports of automobiles and trucks to Mexico have increased by 600 percent. A lot of those auto factory people are working overtime for the first time in a very long while.

So I feel very good about the direction in which we are going. In the last year and a half, 93 percent of all the new jobs in this country have come in the private sector. That means that the strategy will work, but we have to keep it going.

A lot of tribute has been paid to the people in the three previous administrations who have worked hard on this. I just want to add my words to those who have spoken before and to say a special word of thanks not only to Ambassador Kantor, but to all those in the administration who worked so closely with him -- to Secretary Espy, who is here and whose agriculture reform bill just passed the Congress; to Secretary Bentsen; to Secretary Brown; and to Laura Tyson, the Chair of our Council of Economic Advisors; and others.

We know, we know this is in our national interest. You might wonder, since we all know it, what are we doing here today? We all know this. I'll tell you what we're doing here today. We're trying to do this with the least possible delay. We're trying to do this in the shortest possible time.

We know that when the GATT is finally implemented, it will add to \$100 billion to \$200 billion to our economy every year. We know the GATT plays to our strengths for the reasons Ambassador Hills has already mentioned. We know that our pharmaceutical and computer software firms can harness America's brainpower and now put it to work all over the world. We know our tractors can plow the soil of every nation. We know that from cars to computers, from furniture to frozen foods, we can still make the things the world wants to buy, and when GATT is fully implemented, we'll be selling those things everywhere in the world.

The GATT passed the House Ways and Means Committee by 35 to 3; the Senate Finance Committee by 19 to 0; has a phenomenal amount of support from business, consumer, labor groups, over 400 economists. But the point I want to make is, we need to do it now. Secretary Bentsen has estimated that even a six-month delay will cost

decade -- a six-month delay.

So we are here today to say: The work has been done. The path to the future is clear. Our obligations are plain. We thank all of you for your support, and let's do it now, and do it this year.

Thank you very much. (Applause.)

END

12:21 P.M. EDT

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

FOR IMMEDIATE RELEASE
Monday, October 3, 1994

94-50
CONTACT: Anne Luzzatto
Dianne Wildman
Kirsten Powers
Jamal Simmons
(202) 395-3230

IDENTIFICATION OF TRADE EXPANSION PRIORITIES
PURSUANT TO EXECUTIVE ORDER 12901

This report is submitted pursuant to Executive Order 12901 of March 3, 1994. Under the Executive Order the United States Trade Representative is required, by September 30, 1994, to "review United States 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."

In identifying priority foreign country practices, the Trade Representative must take into account all relevant factors, including:

- (a) the major barriers and trade distorting practices described in the National Trade Estimate Report;
- (b) the trade agreements to which a foreign country is a party and its compliance with those agreements;
- (c) the medium-term and long-term implications of foreign government procurement plans; and
- (d) the international competitive position and export potential of United States products and services.

The Executive Order permits the Trade Representative to include, if appropriate, "a description of the foreign country practices that may in the future warrant identification as priority foreign country practices." The Trade Representative may also include "a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, existing bilateral trade agreements, or in trade negotiations with other countries and progress is being made toward their elimination."

The Global Context: Changes in the world economy, reinforced by the end of the Cold War, have opened up new opportunities in the global marketplace. The United States is well-positioned to take advantage of these opportunities. We are unsurpassed in innovation and flexibility. Gains in productivity

have fueled our competitiveness. Our higher education is unsurpassed. Our workers are the most skilled and productive in the world.

This new world is extremely competitive. In order to remain successful, we must pursue a strategy consisting of two interrelated parts: trade policies that will open markets around the world; and domestic policies that will help American companies and workers to remain the most productive in the world. This two-part strategy reflects the Administration's fundamental goal of higher living standards for all Americans.

The single most important component of our trade strategy is the successful implementation of the Uruguay Round of multilateral trade negotiations. The Uruguay Round agreements amount to a global tax cut of some \$744 billion. They will stimulate the creation of hundreds of thousands of jobs and, when fully implemented, add an estimated \$100-200 billion to the U.S. GDP annually.

The Uruguay Round agreements contain improvements in market access worldwide for goods and services, improved rules for trade, a new agreement protecting intellectual property worldwide, and dramatically improved procedures to enforce our rights. The improvements in dispute settlement under the new World Trade Organization (WTO) can provide real assurance to our exporters that our gains at the bargaining table will be translated into real market opportunities, and that any impairment of our rights to market access will have an expeditious remedy. But these benefits, scheduled to go into effect on January 1, 1995, will materialize only if Congress has adopted legislation approving and implementing the Uruguay Round agreements. For this reason, the Administration urges expeditious approval of the Uruguay Round Agreements Act, which the President submitted to Congress on September 27.

Enforcement: The Administration remains committed to vigorous enforcement of our rights under trade agreements -- both our rights at present, and the expanded rights we will have when the Uruguay Round results enter into effect. Section 301 will remain an essential element of our strategy in enforcing our rights in the new WTO system. Under WTO dispute settlement procedures, we will be authorized to retaliate against the trade of any government found to be violating our rights, if that government does not either eliminate the violation or provide compensation acceptable to us. Such retaliation would be carried out under the authority of section 301 as a matter of U.S. trade law.

Section 301 will also remain an important tool in addressing unfair practices not covered under the Uruguay Round agreements. And it will be available to us when we encounter trade-

restricting practices by either non-members of the WTO or governments to which we do not apply the Uruguay Round agreements.

Priority Foreign Country Practices

As a result of the review under Executive Order 12901 and the results to date of intensive negotiations, the Trade Representative has decided not to identify any priority foreign country practices at this time.

We have had serious, long-standing concerns regarding access to the Japanese market for flat glass. We have reached agreement with Japan in principle concerning access to the distribution system and access to the public and private construction markets for flat glass in Japan, and have also agreed to work to finalize that agreement within the next thirty days.

Other Practices

A. The following practices may in the future warrant identification as priority foreign country practices:

-- **Japan market access for wood and paper:**

In the 1990 U.S.-Japan Wood Products Agreement, Japan agreed to substantially reduce tariffs, to reduce subsidies, to speed up product certification, and to adopt performance-based standards and building codes. Progress has been made, but new or existing barriers continue to impede market access. Tariffs, although reduced in the Uruguay Round, remain a significant impediment. Adoption of performance-based standards and building codes has been slow and Japan maintains a parallel unliberalized set of building standards for housing loans. Subsidies to the wood products industry appear to have risen. We seek further market opening through the elimination of these remaining barriers.

In April 1992, Japan agreed to take GATT-consistent measures to increase substantially market access in Japan for foreign paper and paperboard products, to realize the objective in the January 1992 Bush-Miyazawa action plan of January 1992 "to substantially increase market access for foreign firms exporting paper products to Japan." Four consultations have been held under the agreement. In the Uruguay Round, Japan agreed to join a Quad country consensus to cut tariffs on paper to zero over 10 years. However, Japan has failed to provide detailed information on the degree to which Japanese government agencies are implementing provisions which obligate them to actively encourage use of foreign products by end-users in key market segments. We seek a full accounting by all appropriate entities within the Japanese government on their implementation of the agreement, as well as other measures to augment the agreement and make it more effective.

B. The following foreign country practices were determined not to be appropriate for identification because they are already being addressed by other provisions of United States trade law, existing bilateral agreements, or in trade negotiations with other countries and progress is being made toward their elimination. They do, however, remain significant trade negotiating objectives for the United States.

- **European Union Utilities Directive:** Under the European Union's Utilities Directive, which took effect on January 1, 1993, telecommunications utilities in 8 EU member countries now penalize bids by U.S. suppliers containing over 50% non-EU content and may reject such bids completely. In May 1993, the U.S. implemented sanctions against the EU under Title VII of the 1988 Trade Act. These sanctions ban the purchase by the U.S. government of certain goods and services from these 8 countries. We will continue to seek removal of the discriminatory aspects of the Directive through negotiation with the EU.
- **Canada dairy and poultry measures:** In implementing the Uruguay Round, Canada intends to convert its existing import quotas on dairy products, chicken, turkey and eggs to tariff-rate quotas, and raise its bound tariffs on these products. Canada has also stated its intention to apply these tariffs on imports from the United States. We believe such an action would reduce our access to the Canadian market. If it becomes appropriate, this matter could be addressed through the NAFTA process.
- **India market access for textiles:** India severely restricts imports of textiles and apparel, and maintains high tariffs. In implementing the Uruguay Round, the Administration has agreed to take all appropriate measures to obtain market access commitments from any signatory to the WTO Agreement that is a significant exporter of textiles and apparel to the United States and that we consider has failed to provide adequate access to its market for U.S. textile and apparel products. We are currently engaged in negotiations with the Indian government and will continue to seek improvements in market access for textiles and apparel.
- **Korea market access for automobiles:** Actions by the Korean government have built and reinforced perceptions among Korean consumers that the purchase of a foreign car will lead to government harassment. Other barriers to imports include excise taxes, high tariffs, standards barriers, distribution restrictions and a ban on private sector retail financing. The Korean government has taken some steps to address these barriers and has pledged to take others. Our continuing consultations are aimed at ensuring that the remaining barriers are addressed and that the Korean

government's actions result in improved access for imported motor vehicles.

- **Intellectual property rights protection in China:** On June 30, through the "Special 301" process under Section 182 of the Trade Act of 1974, as amended (19 U.S.C. 2242), the Trade Representative designated China as a priority foreign country, and initiated a section 301 investigation of China's failure to provide adequate and effective protection of intellectual property rights and fair and equitable market access to persons relying on intellectual property protection. Negotiations with the Chinese government to address these concerns are ongoing. By December 31, 1994, the Trade Representative will be required to determine whether China's failure to address our concerns represents an unreasonable or discriminatory burden or restriction on U.S. commerce and whether trade action is appropriate.
- **Financial services market access negotiations:** The WTO Agreement provides for continuing market access negotiations in the financial services sector, to conclude six months after its entry into force. The United States is seeking commitments from a wide range of commercially important developed and developing countries to reduce or eliminate barriers to the supply by U.S. financial services firms of financial services including banking, securities, insurance and other financial services. If we do not achieve our objectives, we would maintain an exemption from the most-favored-nation obligation of the General Agreement on Trade in Services.
- **Telecommunications market access:** The WTO Agreement provides for continuing market access negotiations in the basic telecommunications services sector. These negotiations cover local, long-distance, and international basic telecommunications services. In these negotiations, we will seek to ensure that U.S. firms may provide basic telecommunications services in foreign markets both through facilities-based competition -- including the right to build, own, and operate domestic and international network facilities -- and through the resale of services on existing networks. We will also seek to ensure that U.S. companies can compete in foreign markets on reasonable and non-discriminatory rates, terms, and conditions.

-- **Negotiations on accession to the World Trade Organization:**
The United States will also continue to seek market opening for our goods and services, and to achieve protection of intellectual property rights abroad, in negotiating with countries that are seeking admission as members to the World Trade Organization. The Agreement Establishing the WTO requires that all members must provide market access, and the Administration is committed to gaining appropriate market access from every applicant for membership.