

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

OFFICE OF PUBLIC & MEDIA AFFAIRS

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**TABLE OF CONTENTS
PRESS RELEASES FOR SEPTEMBER 1996**

- | | | |
|---------------------------|--------------|---|
| September 3, 1996 | 96-68 | Presidential Determination Under Section 203 of the Trade Act of 1974 and Section 304 of the North American Free-trade Agreement Implementation Act Concerning Broom Corn Brooms |
| September 6, 1996 | 96-69 | China Sanctioned with Triple charges on Textile Transshipments |
| September 16, 1996 | 96-70 | USTR Announces Allocation of the raw Cane and refined Sugar Tariff-Rate Quotas for 1996-1997 |
| September 17, 1996 | 96-71 | Joint Statement of Ambassador Barshefsky and Secretary Daniel Glickman Regarding US-Canada Grains Issues |
| September 20, 1996 | 96-72 | United States requests WTO Panel- Separate GATS case to be Expanded |
| September 27, 1996 | 96-73 | Congressional Inaction Blocks Shipbuilding Agreement |

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**TABLE OF CONTENTS
PRESS RELEASES FOR OCTOBER 1996**

October 1, 1996	96-75	USTR Announces New Trade Enforcement Actions
October 1, 1996	96-76	Japan and the US Reach Interim Understanding in Insurance Talks
October 1, 1996	96-77	Germany Agrees to reform its Procurement System
October 2, 1996	96-78	USTR Announces Results of Special 301 "OUT-of-CYCLE" Reviews on Intellectual Property Rights Compliance
October 3, 1996	96-79	Japan Delays Establishment of a Panel in WTO Film case
October 3, 1996	96-80	US Gains IPR Compliance in Portugal through WTO Case
October 3, 1996	96-81	Free Trade Area Extended to West Bank and Gaza Strip
October 4, 1996	96-82	US wins WTO Appellate Case Against Japan
October 4, 1996	96-83	President Directs USDA and USTR to Monitor Canadian Potato Shipments into Key US Markets
October 8, 1996	96-84	US Signs MFN Trade Agreement with Cambodia
October 9, 1996	96-85	President Clinton Sends report on the Operation of the Caribbean Basin Economic Recovery Act to the Congress
October 15, 1996	96-86	WTO to Launch Panel on Film Case

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Tuesday, September 3, 1996

96-68
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Presidential Determinations Under Section 203 of the Trade Act of 1974 and Section 304 of the North American Free-Trade Agreement Implementation Act Concerning Broom Corn Brooms

The U.S. Trade Representative's Office today announced that President Clinton will implement actions required under section 203 of the Trade Act of 1974 and section 304 of the North American Free-Trade Agreement Implementation Act concerning broom corn brooms. These decisions are pursuant to determinations made by the United States International Trade Commission (USITC) and submitted to the President on August 1, 1996.

Pursuant to section 203(a) of the Trade Act, the President determined he should take action to facilitate efforts by the domestic industry to make a positive adjustment to competition from imports of broom corn brooms. After considering all relevant aspects of the investigation, including the factors set forth in section 203(a)(2) of the Trade Act, the President has directed the Trade Representative to:

- seek, within 90 days, a negotiated solution with appropriate foreign countries that would address the serious injury to the domestic broom corn broom industry;
- promote positive adjustment; and,
- strike a balance among the various interests involved.

At the conclusion of the 90-day period, the President will determine which of the actions described in section 203(a)(3) should be implemented.

In addition, the President has directed the Secretaries of Agriculture, Commerce, and Labor to develop and present, within 90 days, a program of measures designed to enable the domestic industry producing broom corn brooms to adjust to import competition. USTR will coordinate this effort.

The President has also determined, consistent with the USITC's finding under section 311(a) of the NAFTA Act, and pursuant to section 312(a) of the Act, that imports of broom corn brooms from Mexico contribute importantly to the serious injury caused by imports; but the import of such brooms from Canada do not. The majority of broom corn brooms imported by the U.S. are from Mexico, while Canadian broom corn brooms do not account for substantial share of total U.S. imports. As a result, any agreements reached and action of a type described in section 203(a)(3) of the Trade Act, would apply to imports of broom corn brooms from Mexico, but would not apply to imports of broom corn brooms from Canada. Also, in light of the USITC's findings, the President determined that any agreements and action would not apply to imports of broom corn brooms from Israel.

As a result of the action the President has taken under section 203 of the Trade Act, the President has fully preserved his ability to implement tariff increases of a magnitude equal to or greater than the increases recommended by USITC commissioners under section 303 of the NAFTA Act. Section 203 of the Trade Act also authorizes a wider array of types of action than the tariff increases permitted under

the NAFTA Act. For these reasons, the President determined that additional action under section 304 of the NAFTA Act is not necessary and would not provide greater benefits than costs.

-30-

Webmaster @ USTR - 3 September 1996

TO : DIRECTOR, USTR
FROM : ASST. DIR. FOR INT. AFFS.
SUBJECT: NAFTA
DATE: 9/3/96

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Friday, September 6, 1996

96-69
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China Sanctioned With Triple Charges on Textile Transshipments

Acting United States Trade Representative Charlene Barshefsky announced today that the United States will bring enforcement action against China for illegal "transshipment" practices in violation of a 1994 bilateral trade agreement governing U.S.- China textile and apparel trade. The specific action targeted by the U.S. government is the Chinese practice of shipping textile products through other countries to circumvent quotas that limit the total of Chinese textiles and apparel that can be sold in the United States. The sanctions announced today--approximately \$19 million in punitive triple charges against China's 1996 quota allowance-- result from an extensive investigation by the U.S. Customs Service and other government agencies. In total, the Administration has applied approximately \$80 million in charges against China under the 1994 bilateral textiles agreement.

"The message of today's action is clear and straight forward," said Ambassador Barshefsky. "We must demand that countries fulfill their trade agreement obligations, and if they do not we will take action to enforce our agreements. These charges against China's quota should be seen as part of on-going efforts to ensure compliance with this agreement.

"Between 1988 and 1993, United States imports of textile and apparel products from China were growing at an explosive rate of 9% per year," Barshefsky added. "Since our 1994 agreement, those same textile and apparel imports from China were down 13% in 1995 and down another 36% so far in the first six months of 1996."

Today's charges against China mark the first imposition of triple charges, but the third time under the 1994 bilateral agreement that the Administration has applied charges to China's quotas because of transshipment violations. "Triple" charges are permitted in instances of repeated violations under our current bilateral agreement with China. Punitive charges are being invoked because investigations reveal repeated transshipment violations by Chinese firms and enterprises.

"By imposing triple charges against Chinese textile and apparel quotas, this administration has sent a strong warning to China as well as other countries that engage in these kinds of illegal trading activities," said James M. Fitzgibbons, President American Textile Manufacturers Institute.

"It is entirely appropriate that the United States government take steps to force China to live up to this agreement," added Larry Martin, President of the American Apparel Manufacturers Association. "We hope the government will continue with these enforcement procedures."

Customs investigations of quota circumvention are ongoing. If further circumvention by Chinese firms is discovered, the penalties available under the bilateral agreement will be applied, including further charges and triple charges if appropriate.

As required by the agreement, the U.S. presented information to China in bilateral consultations in recent months which outlined a series of concerted efforts to circumvent our agreement. Evidence compiled by the U.S. Customs Service in fact demonstrates that China worked aggressively to circumvent the quotas under the 1994 agreement.

The charges being applied to China's quotas represent transshipment of over 2,000,000 garments through 7 countries. The U.S. Customs Service was able to seize shipments of goods that were subject to the same transshipment scheme as goods that are being charged, thereby preventing these fraudulently shipped goods from entering the United States market. In addition, the Justice Department, acting on the basis of evidence obtained in the Customs investigations, has been able to secure convictions of U.S. individuals for violations of U.S. laws in certain of the cases represented by this set of charges. Specific examples uncovered in the investigation include:

- Cotton shorts and trousers produced in China but entered into the United States as products of Mongolia, with counterfeit certificates of origin purportedly issued by the Mongolian authorities.
- Sewing thread, wool coats and other products, manufactured in China, which entered the United States as products of Hong Kong.
- Apparel products, made in China, but which entered under false certificates of origin from Fiji, purportedly made by a non-existent company in Fiji.
- Jogging suits, produced in China, which falsely entered the U.S. identified as having been "made in Turkey."

The categories where charges will be made against China's quota include apparel and textile products from thread to cotton coats. Specific products are category 200 (sewing thread), category 335 (womens' cotton coats), category 338-S (mens' cotton knit shirts), categories 339 and 339-S (womens' cotton knit shirts), category 347 (mens' cotton trousers), category 348 (womens' cotton trousers), 351 (pajamas), 369-D (dishtowels), 369-S (shoptowels), 433 (mens' wool jackets), 641 (womens' man-made fiber blouses) and category 840 (silk blend and non-cotton vegetable fiber woven shirts and blouses). The charges involve goods valued at approximately \$19 million. Notice of the charges will be published in the Federal Register by the Committee for the Implementation of Textile Agreements.

The current bilateral agreements with China were negotiated in 1994. The bilateral agreement covering cotton, wool, man-made fiber, and silk blend and non-cotton vegetable fiber textile and apparel products and the bilateral agreement covering silk apparel products are both scheduled to expire on December 31, 1996.

In the year ending June, 1996, China has fallen from our largest single supplier of textiles and apparel (in 1995) to our third largest after Mexico and Canada. In the year ending June, 1996, total imports of textiles and apparel from China declined by 31 percent to 1.4 billion square meters equivalent, valued at \$4.2 billion. Approximately half of our textile imports from China in volume terms are apparel; the other half are yarns, fabric and household furnishings.

-30-

Webmaster @ USTR - 6 September 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Monday, September 16, 1996

96-70
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USTR Announces Allocation of the Raw Cane and Refined Sugar Tariff-Rate Quotas for 1996-97

Acting United States Trade Representative Charlene Barshefsky today announced the country-by-country allocations of the tariff rate quota of 1,700,000 metric tons (1,873,929 short tons) for raw cane sugar for Fiscal Year 1997. This allocation is based on the countries' historical trade to the United States. The allocation of 25,000 metric tons to Mexico of raw or refined sugar is made in order to fulfill obligations pursuant to the North American Free Trade Agreement (NAFTA).

The 1,700,000 metric tons for raw cane sugar are being allocated to the following countries in metric tons, raw value:

Country	FY 1997 Allocation
Argentina	69,774
Australia	134,681
Barbados	11,359
Belize	17,849
Bolivia	12,981
Brazil	235,286
Colombia	38,944
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	24,340
Dominican Republic	285,588
Ecuador	17,849
El Salvador	42,189
Fiji	14,604
Gabon	7,258
Guatemala	77,888
Guyana	19,472
Haiti	7,258
Honduras	16,227
India	12,981

Jamaica	17,849
Madagascar	7,258
Malawi	16,227
Mauritius	19,472
Mexico	25,000
Mozambique	21,095
Nicaragua	34,076
Panama	47,057
Papua New Guinea	7,258
Paraguay	7,258
Peru	66,529
Philippines	219,059
South Africa	37,321
St. Kitts & Nevis	7,258
Swaziland	25,963
Taiwan	19,472
Thailand	22,717
Trinidad-Tobago	11,359
Uruguay	7,258
Zimbabwe	19,472
Total	1,700,000

The USTR allocation for the FY 1997 TRQ for raw cane sugar includes the following minimum- quota countries: Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, Paraguay, St. Kitts & Nevis, and Uruguay.

Ambassador Barshefsky also announced that 25,000 metric tons of the 47,000 metric tons (51,808 short tons) for refined sugar will be allocated to Mexico and the remainder will be available on a first-come, first-served basis, including the 1,656 metric tons (1,825 short tons) reserved for specialty sugars.

The allocations to Mexico are subject to the condition that the total imports of raw and refined sugar from Mexico, combined, is not to exceed 25,000 metric tons raw value. The allocations to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications.

Conversion factor: 1 metric ton = 1.10231125 short tons

-30-

Webmaster @ USTR - 17 September 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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Washington, D.C.
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FOR IMMEDIATE RELEASE
Tuesday, September 17, 1996

96-71
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Joint Statement of Ambassador Charlene Barshefsky and Secretary Daniel Glickman Regarding U.S.-Canada Grains Issues

Acting United States Trade Representative Charlene Barshefsky and Secretary of Agriculture Dan Glickman announced today the Administration's position regarding U.S. Canada grains issues in light of the one year anniversary of the expiration of the U.S.-Canada Memorandum of Understanding (MOU) on Grains:

- **First**, the Administration reiterates its longstanding position that it will not accept market disruption from imports of Canadian wheat. The United States remains concerned about the non-transparent pricing practices of the Canadian Wheat Board.
- **Second**, the United States will continue to closely monitor exports of Canadian grains to the United States from September 12, 1996 to September 11, 1997.
- **Third**, the United States intends to consult with the Government of Canada to discuss potential problems before imports from Canada reach disruptive levels. The United States will request these consultations at six, nine and eleven month intervals if Canadian exports of durum wheat or other wheat exceed the proportional share of the 1994-95 tariff rate quotas (TRQs) that were in place under the MOU. Finally, following consultations, the Administration will use appropriate U.S. trade laws if it appears likely that market disruption will occur, using as a point of reference the TRQ levels that were in place under the MOU.

The TRQs on wheat imports ended on September 11, 1995 when the MOU expired. They were effective in moderating imports of Canadian wheat and were a necessary response to the market disruptions of 1993-94 and prior years. As a result of changes in the world market and continued monitoring and pressure by the United States, durum and other wheat import levels in 1995-96 were significantly lower than in the 1994-95 MOU period. Nonetheless, the United States remains concerned about the possibility of wheat imports from Canada again disrupting our market and causing financial hardship for U.S. producers. Consequently, we must continue to monitor imports and take action if necessary to avoid market disruption.

Ambassador Barshefsky and Secretary Glickman also indicated that the United States will continue to monitor the volume of barley imports. Although barley imports have moderated from the record levels in 1993-94, the Administration remains concerned about the potential for disruption of U.S. barley markets. Should barley import levels grow significantly from 1993-94 levels, the Administration will consider taking appropriate action.

Webmaster @ USTR - 17 September 1996

TO: [illegible]
FROM: [illegible]
SUBJECT: [illegible]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Friday, September 20, 1996.

96-72
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United States Requests WTO Panel--Separate GATS Case to be Expanded

Acting United States Trade Representative Charlene Barshefsky announced today that the United States Government has formally requested a panel at the World Trade Organization (WTO) to hear the United States challenge under GATT (the General Agreement on Tariffs and Trade 1994) to systemic structural barriers in the Japanese retail photographic materials sector. The United States is asking a panel to determine that the Japanese barriers violate the Government of Japan's "national treatment" and "transparency" obligations and that the barriers also nullify and impair the Government of Japan's tariff concessions on photographic film and paper. On a separate track, the United States will expand its GATS case (General Agreement on Trade in Services) to shed light on measures that impact the competitiveness of Kodak in the Japanese marketplace.

In response to the United States request, the WTO is expected to convene a special meeting during the first week of October to establish a panel to hear the film case. "The systemic barriers we have found in this sector are the types of trade barriers that pose a serious challenge to the international trading system," said Ambassador Barshefsky. "With the detailed evidence uncovered in this investigation, the WTO panel will have a clear understanding of how interacting barriers have served to exclude competitive foreign products -- particularly in the film sector."

Ambassador Barshefsky indicated today that in seeking further consultations with Japan on retail laws which impact the competitiveness of Kodak in the Japanese marketplace, it will expand the scope of its GATS case. Prior consultations under the GATS were limited to one law -- the Large Scale Retail Store Law -- which limits the number and size of retail stores that may operate in Japan. It has become clear that the Large Scale Retail Store Law is but one piece of a larger regulatory system that keeps foreign retailers out of the Japanese market. The broadened scope of the U.S. GATS consultation request will cover several additional laws so that they also can be brought before a panel, including for example, the Law to Adjust the Business Activities of Large Enterprises in Order to Secure Business Opportunities for Small and Medium-Sized Enterprises.

Should further consultations fail to resolve the GATS matters, the United States will request that a panel be established to consider the U.S. complaints under the GATS as well. "Both of these cases involve issues of fundamental importance in opening the Japanese market to foreign products, such as film and other products," Barshefsky noted.

-30-

Webmaster @ USTR - 20 September 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Friday, September 27, 1996

96-73
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CONGRESSIONAL INACTION BLOCKS SHIPBUILDING AGREEMENT

Acting U.S. Trade Representative Charlene Barshefsky today expressed disappointment in the failure of Congress to pass legislation that would allow the United States to ratify the OECD Shipbuilding Agreement.

"Enactment of this legislation would have made it possible for American shipbuilders to compete on an equal footing with their foreign competitors," said Barshefsky. "Without the legislation, they will continue to be disadvantaged by huge foreign subsidies and predatory pricing practices the Agreement sought to eliminate."

The Shipbuilding Agreement was signed by the United States in December 1994. It was primarily designed to eliminate shipbuilding subsidies in signatory countries, which account for 80 percent of global shipbuilding. The level of foreign shipbuilding subsidies over the past decade is estimated at billions of dollars annually. In contrast, U.S. subsidies amount to about \$50 million per year. Currently, the U.S. share of the expanding global shipbuilding market is estimated at less than one-half of one percent.

By placing strict disciplines on foreign government support to the shipbuilding sector, the Agreement would open the huge international shipbuilding market to U.S. shipyards and create new employment opportunities. It would also strengthen those shipbuilding companies that are seeking to compete in this market -- and an increasingly important objective given the cutbacks in military shipbuilding activities.

Legislation that would have enabled the Administration to ratify the Agreement was approved by the House Ways and Means Committee on March 21, 1996 and by the Senate Finance Committee on May 13, 1996. However, amendments to that legislation subsequently approved by the House were inconsistent with the Agreement and did not provide a basis for such ratification. Efforts to correct this situation in the Senate were unsuccessful.

"I would like to acknowledge the efforts of Sen. Breaux, Chairman Roth, Chairman Crane and Rep. Gibbons who truly recognized the importance of this agreement," Barshefsky said. "The (OECD) Shipbuilding Agreement is a good agreement that would enhance the competitiveness of our shipbuilding industry. We will now consult with our industry, Congress and our trading partners to assess our options for the future."

BACKGROUND

The OECD Shipbuilding Agreement was originally intended to enter into force on January 1, 1996; that target date was extended to July 15, 1996 at the end of last year to allow additional time for Congress to enact the necessary implementing legislation. All other Parties to the Agreement (the EU, Norway,

Japan and Korea) have now completed their legislative processes and other ratification requirements. However, the Agreement cannot be activated until all Parties to it, including the United States, ratify it.

The Agreement would prohibit virtually all subsidies to shipbuilders; establish a regime to address injurious pricing practices; impose a comprehensive discipline on government ship financing to eliminate trade-distortive financing for this sector; and create an effective and binding dispute settlement mechanism to ensure that Agreement is being properly implemented.

Unfortunately, the failure to enact implementing legislation to allow the Agreement to enter into force means that foreign subsidies will continue. A clear example is the EU's recent extension of its shipbuilding subsidy program (which allows for subsidies of up to 9 percent of contract value) through the end of 1997. Had the Agreement entered into force on January 1, 1996, as originally planned, this program would have ended on that date. The failure to put the Agreement into force now presents the risk that other shipbuilding nations will now increase or expand the scope of their subsidy programs.

-30-

Webmaster @ USTR - 27 September 1996

96-74 NOT ISSUED

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Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Tuesday, October 1, 1996

96-75
Contact: Jay Ziegler
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USTR Announces New Trade Enforcement Actions

Acting United States Trade Representative (USTR) Charlene Barshefsky announced today that USTR will initiate four new investigations of foreign trade barriers under Section 301 of the Trade Act of 1974, invoking World Trade Organization (WTO) dispute settlement in three of them.

Barshefsky said, "The Clinton Administration has adopted a strategic enforcement strategy -- aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. This strategy is particularly appropriate in the automotive sector, where trade-related investment measures affect U.S. exports in many countries." She added, "In light of the importance of the U.S. auto industry to the U.S. economy, eliminating foreign barriers to U.S. exports of autos and auto parts is of vital importance to the industry's economic growth and to U.S. national economic interests." Motor vehicle manufacturing accounts for one out of every ten U.S. durable goods manufacturing jobs, and the United States is the world's largest manufacturer of motor vehicles.

The four new investigations of unfair foreign trade barriers are:

- **Indonesia's national auto policy:** Indonesia has recently expanded a domestic auto policy that offers tax and tariff incentives to increase the local ownership of automotive companies in Indonesia and the local content of the automobiles they manufacture. Indonesia's national car policy grants tax and tariff benefits to "national car" automobile manufacturers based on the percentage of domestic content in their vehicles. This policy adversely affects U.S. exports of autos and auto parts to Indonesia. Therefore, the USTR will invoke WTO dispute settlement in the context of an investigation under Section 301 of the Trade Act of 1974.
- **Brazil's auto program:** Brazil offers auto manufacturers reduced duties on imports of assembled cars and other benefits if they export sufficient quantities of parts and vehicles and promise to meet local content targets in their Brazilian plants. The program adversely affects U.S. exports of autos and auto parts to Brazil. In August 1996 the USTR invoked WTO dispute settlement procedures and held consultations with Brazil on these measures. As a result, Brazil has agreed to enter into intensive talks with the United States, with the goal of removing the discriminatory impact of its practices on U.S. exports. The USTR will initiate a Section 301 investigation of these measures. Further steps under WTO dispute settlement procedures will depend on the outcome of the talks with Brazil.
- **Australia's export subsidies:** Australia provides significant export subsidies contrary to its obligations under the WTO Agreement on Subsidies and Countervailing Measures. In response to a Section 301 petition, the USTR will invoke WTO dispute settlement in the context of an investigation under Section 301, to challenge Australian export subsidies that adversely affect U.S. manufacturers of leather for automobile upholstery.
- **Argentina's import duties:** Argentina maintains specific import duties on textiles, apparel and footwear that exceed the rate of 35% *ad valorem* to which Argentina is bound under the WTO

agreements. Argentina also maintains other WTO-inconsistent import barriers. Therefore, the USTR will invoke WTO dispute settlement in the context of an investigation under Section 301 to challenge these Argentina practices.

The United States has secured significant agreements providing increased market access for autos in Japan and Korea over the last year and the USTR and Department of Commerce are carefully monitoring those agreements to ensure full compliance. The national car program in China is also being addressed bilaterally and in the context of negotiations on China's accession to the WTO.

Section 301 and Other Enforcement Tools

The decision to pursue these WTO cases and Section 301 investigations was made in the context of the annual review and report to the Congress on U.S. trade expansion priorities required by the "Super 301" provisions in U.S. trade law. On March 3, 1994 President Clinton reinstated the Super 301 provisions by executive order. In this year's report the Acting Trade Representative identified a number of areas where the Administration is using U.S. trade laws, WTO dispute settlement procedures, and other provisions to address foreign trade barriers adversely affecting U.S. exports.

"President Clinton's commitment to the enforcement of trade agreements and U.S. trade laws has been clear from the beginning of his Administration," Ambassador Barshefsky stated. The report notes that through aggressive application of U.S. laws, and active enforcement of U.S. rights under the new dispute settlement procedures of the WTO, the Administration has effectively opened foreign markets to U.S. goods and services, gaining major benefits for U.S. firms and workers. Since 1993, the Administration has used all of the tools at its disposal to expand U.S. exports."

More than 40 enforcement-related actions taken by the USTR during this period are outlined in the report, including the use of:

- Section 301 and Super 301 to solve problems facing U.S. exporters;
- "Special 301" provisions in U.S. trade law to improve intellectual property protection abroad;
- Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 to gain compliance with telecommunications trade agreements;
- Title VII of the Omnibus Trade and Competitiveness Act of 1988 to address discriminatory procurement practices by foreign governments;
- the Generalized System of Preferences to encourage countries to improve intellectual property protection or to afford all workers internationally recognized worker rights; and
- the WTO dispute settlement procedures to enforce U.S. rights under the WTO agreements.

Enforcement Actions Bring Results in the WTO

During the past year the United States has accelerated its use of the dispute settlement provisions of the WTO to address significant foreign trade barriers. Since the WTO began operation 21 months ago, the United States has invoked the new WTO dispute settlement procedures in 20 cases to enforce the WTO agreements, including the three new WTO disputes initiated as a result of the 1996 Super 301 annual review. This vigorous use of WTO enforcement provisions far exceeds that of any other country. By comparison, Canada has invoked WTO dispute settlement procedures in 8 disputes and the European Communities have invoked them in 7 disputes.

The WTO dispute settlement procedures have already yielded positive results. The United States won the first case that it took to the WTO, involving Japan's taxes on liquor imports; USTR has signed a settlement agreement in one case, involving EU imports of grains; in one case the defending party has already changed its practice as a result of a U.S. complaint (Portugal's term of protection for patents); and settlement is near in at least two other cases, involving Japan's protection for sound recordings, and Turkey's discriminatory box office tax on foreign films.

Recent Settlements

In recent days three other significant trade issues have been resolved by the Acting Trade

Representative, involving: the insurance market in Japan, procurement of heavy electrical equipment by the government entities in Germany, and imports of medical equipment on Taiwan.

Japan insurance. On September 30, 1996, the U.S. and Japan reached an interim agreement regarding the conditions under which the new subsidiaries of the major Japanese life and non-life companies may offer products in the third sector upon the start-up of their business on October 1, 1996. These conditions will restrict entry by the subsidiaries into the third sector until the two governments reach, before the end of the year, an overall agreement on "avoiding radical change" in the third sector and substantial deregulation of the primary sectors. In addition to temporary restrictions in the third sector, the interim agreement provides some important initial primary sector deregulation. However, significantly more primary sector deregulation will be necessary as part of an overall resolution of this issue, consistent with the 1994 agreement.

German procurement. In a separate statement, Ambassador Barshefsky announced that Germany has agreed to take steps that will effectively ensure open competition in the German heavy electrical equipment market. She decided to further delay imposition of sanctions under Title VII of the 1988 Omnibus Trade and Competitiveness Act, and she set a number of milestones for reviewing her decision.

Taiwan medical equipment. Ambassador Barshefsky also announced that Taiwan has agreed to ensure that its medical insurance authorities do not discriminate against U.S. exports of medical devices by requiring cost data from foreign manufacturers not required from domestic firms and by establishing, through non-transparent procedures, arbitrary price controls that favor domestic producers. The commitments made by Taiwan avoided the inclusion of this practice in the Super 301 report this year.

The Health Industry Manufacturers Association had complained to USTR about Taiwan's new pricing policy for medical technology products that was established on July 1, 1996.

Negotiations with Taiwan in July and September were successful in resolving the issue and in preserving access for U.S. medical device manufacturers to the rapidly growing market in Taiwan. U.S. medical device manufacturers exported \$630 million worth of products to Taiwan in 1995. Barshefsky expressed appreciation that the Taiwan authorities had sent a delegation to Washington this past weekend to resolve this important and complex issue. She noted that she expected further follow-up talks to ensure full implementation.

-30-

Items Related to this Press Release:

[Neal Lauds USTR Announcement on Argentinean Footwear](#)

[Webmaster @ USTR - 2 October 1996](#)

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Tuesday, October 1, 1996

96-76
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Japan and the U.S. Reach Interim Understanding in Insurance Talks

Acting United States Trade Representative Charlene Barshefsky today announced an interim agreement between the United States and Japan in the insurance sector that will establish the basis for a full resolution of all issues in the insurance negotiations by the end of the year. The interim agreement, reached after extensive talks between Barshefsky and Japan's Minister of Finance Wataru Kubo on September 29 and 30, ensures compliance with the 1994 U.S.-Japan insurance agreement as Japan moves forward on October 1 with the start-up of new subsidiaries of the major Japanese insurance companies.

"This agreement bars entry into the third sector in Japan until we see a comprehensive solution which will include deregulation in the primary sector," said Ambassador Barshefsky.

Negotiators from the two countries will continue intensive efforts to reach a full resolution of this issue, consistent with the 1994 agreement, by December 15.

The 1994 agreement aims at broad deregulation of the Japanese insurance market, in order to increase market access and sales for foreign insurance providers. It establishes the principle that substantial deregulation of Japan's "primary sector" insurance markets -- the major life and non-life markets which make up 95 percent of the Japanese insurance sector -- should precede "radical change" in the business environment of the third sector, the 5 percent niche of the market where foreign firms have most of their business.

For over a year, the U.S. has been concerned that Japan intended to implement insurance reform in a way that targeted the third sector without any significant deregulation of the primary sectors. This concern has focussed on whether the newly licensed subsidiaries of the major Japanese insurance companies would be allowed to surge into the third sector when they started up operations on October 1. In the interim agreement reached on September 30, Japan agreed to restrict the subsidiaries' operations in the third sector through the end of the year, pending an overall negotiated solution addressing primary sector deregulation as well as temporary limitations in the third sector.

In the interim agreement, Japan also made an important downpayment on primary sector deregulation. Among other things, Japan agreed to allow sales of automobile insurance directly to consumers by mail or telephone.

"This 'direct response' system, which is widely used in Europe and the U.S., will immediately benefit Japanese consumers by increasing choices and competition in the Japanese automobile insurance market," Barshefsky said. "It also will help foreign firms to compete in Japan, through directly reaching a larger number of consumers. We look forward to working with Japan to achieve substantial primary sector deregulation, for the benefit of Japanese consumers as well as foreign firms."

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE

Tuesday, October 1, 1996

96-77

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GERMANY AGREES TO REFORM ITS PROCUREMENT SYSTEM

Acting U.S. Trade Representative Charlene Barshefsky announced today that Germany has agreed to take steps that will effectively ensure open competition in the German heavy electrical equipment market. In announcing this agreement, Barshefsky welcomed the German Cabinet's decision to reform the public procurement remedies system.

"We have long sought changes to the German remedies system and assurances that U.S. firms will receive equitable treatment in the German heavy electrical equipment procurement market," said Barshefsky. "The German Cabinet's recent decision to implement much-needed reforms is an important step toward achieving that goal. However, I am not terminating the Title VII action today, because legislation to enact the reforms must still be drafted and passed by parliament."

Barshefsky determined to further delay imposition of sanctions and set a number of milestones for reviewing her decision. "We will closely follow the legislative process in Germany. We will impose sanctions if we are not satisfied with the details of the legislative reform package, there are unreasonable delays in the submission or passage of such legislation or U.S. firms experience difficulties with future procurements while legislation is pending," Barshefsky said.

Today's announcement came at the end of a 90-day consultation period after Barshefsky formally identified Germany under Title VII for discrimination in the heavy electrical sector. Since the conclusion of the 1993 U.S.-European Union Memorandum of Understanding on Government Procurement, U.S. firms experienced irregularities in the procurement process of two German procurements of steam turbines, each worth several hundred million dollars. Moreover, in each case, there proved to be no effective remedies available in Germany to challenge these procedures, despite such obligations in the 1993 MOU. Since January 1, 1996, Germany has been obligated to provide an effective remedy system under the WTO Government Procurement Agreement (GPA).

The United States and the Commission of the European Communities, on behalf of Germany, have conducted a series of consultations regarding German practices since Germany's identification under Title VII. Barshefsky has agreed to meet with German Economic State Secretary Lorenz Schomerus on Thursday. "I expect that Dr. Schomerus will be able to advise me of a consultative process we can undertake while the legislation is pending so as to ensure that it addresses our concerns and that U.S. bidders are protected," said Barshefsky.

The German Government also agreed to outreach, monitoring and consultation measures in the heavy electrical equipment procurement sector to ensure that procurements are carried out in accordance with Germany's international obligations. Barshefsky indicated that she expects that draft legislation would be available this fall and that it would be introduced by the end of the year. "We expect passage of this legislation within one year," said Barshefsky. "The U.S. Government will closely monitor these

developments."

-30-

Webmaster @ USTR - 2 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Wednesday, October 2, 1996

96-78
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USTR ANNOUNCES RESULTS OF SPECIAL 301 "OUT-OF-CYCLE" REVIEWS ON INTELLECTUAL PROPERTY RIGHTS COMPLIANCE

Acting United States Trade Representative Charlene Barshefsky today announced "out-of-cycle" review decisions with respect to certain countries under the U.S. Government's "special 301 program," designed to advance the protection of intellectual property rights. This series of reviews focused on five countries--Bulgaria, Paraguay, Bolivia, South Africa and Greece.

"This action reflects the Clinton Administration's continued resolve to press countries around the world to improve intellectual property protection," said Ambassador Barshefsky. "We have an unparalleled record of IPR enforcement. In the last four years, we have initiated more than 15 separate initiatives to crack down on IPR piracy in such areas as production, distribution, sales and export in countries as diverse as China, Saudi Arabia, Mexico, Brazil, Thailand, Taiwan, Singapore, Argentina, and Bulgaria."

"Our copyright industries -- computer software, film, television, book publishing, and music -- represent 5% of GDP, more than 3 million jobs, and a \$400 billion international marketplace," Barshefsky noted. "These industries collectively are a driving force that have propelled the United States to a record surplus projected at \$80 billion this year. Although similar data are not available, our trademark and patent industries also make substantial contributions to the United States economy. "The concerns of all these industries were not adequately addressed before this Administration made IPR enforcement a top priority in our trade policy."

In addition to these bilateral actions, this Administration is using the WTO's TRIPS Agreement to ensure that other countries provide higher levels of intellectual property protection. The United States has already initiated five WTO dispute settlement actions against other countries because of their failure to meet promptly their TRIPS obligations.

In April 1996, at the time of the last annual special 301 review, Ambassador Barshefsky identified 35 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States persons that rely upon intellectual property protection. At that time, Ambassador Barshefsky placed Greece on the special 301 "priority watch list" and Paraguay on the special 301 "watch list." She stated further that she would conduct out-of-cycle reviews in September regarding the situation in these countries as well as in Bulgaria, Bolivia and South Africa under the special 301 program.

Ambassador Barshefsky has completed these out-of-cycle reviews and today made the following determinations:

Bulgaria will be placed on the watch list.

Though the Government of Bulgaria has taken several steps to provide a modern legal structure for the protection of intellectual property rights, those measures have not adequately addressed the existence of significant CD and CD-ROM production capacity in Bulgaria which far exceeds domestic demand or the legitimate export market. Industry sources report that unauthorized pirate production activities occur at numerous plants and that counterfeit IPR products including CD's and CD-ROM which are routinely exported throughout Europe. Ambassador Barshefsky has specifically sought cooperation from the Government of Bulgaria to work with the U.S. Government and industry groups to ensure that CD and CD-ROM production in Bulgaria is legitimate.

Bolivia will be placed on the watch list.

Bolivia is being placed on the watch list because it has not yet taken adequate steps to combat copyright piracy, particularly in the area of illegal computer software production; to adequately implement the Andean Pact Decision 351 on copyright requirements; or to revise its copyright law to conform with international standards. Though Bolivia has established a special police unit to target intellectual property, at a minimum Ambassador Barshefsky indicated that Bolivia must immediately implement its long-delayed regulations clarifying that computer software is protected under copyright and to formally put anti-piracy laws in place.

Paraguay will be maintained on the watch list.

Piracy and counterfeiting of American intellectual property in Paraguay continues to be major problem. While Paraguay has taken some steps such as the introduction of new copyright and trademark laws to counter illicit IPR production, Ambassador Barshefsky expressed specific concerns about the illegal transshipment of IPR products from Asian countries through Paraguay to other Latin American countries. Equally important, the Government of Paraguay must take strong, coordinated, government-wide action to institute effective enforcement systems. Ambassador Barshefsky said, "Though I have decided to not elevate Paraguay to the priority watch list at this time, we expect expect significant, meaningful progress in combating piracy and counterfeiting before next April's annual review."

South Africa will remain unlisted.

A recent Supreme Court decision in South Africa which affirms the protection of well-known trademarks should provide the basis for more effective protection of well-known trademarks in South Africa. As a result, South Africa will remain off the watch list, from which it was provisionally removed in April 1996. As stated in April, changes in South Africa's trademark law are needed to bring this country fully into compliance with its international obligations and to resolve outstanding trademark concerns.

Greece will be deferred until mid-December.

Greece will remain on the priority watch list because of motion picture, software and sound recording piracy, including the widespread unauthorized broadcasts of protected films and programs by unlicensed television stations. While very serious problems remain, Greece has initiated some actions to countermand broadcast piracy and Greece has just conducted a national election. In light of these developments, Ambassador Barshefsky will defer the out-of-cycle review until mid December. In the interim, the Greek Government, inter alia, is expected to implement fully and vigorously the mass media law and to act against those TV stations broadcasting unauthorized motion pictures and other programming.

-30-

Items Related to this Press Release:

"Special 301" - Intellectual Property Protection

Webmaster @ USTR - 2 October 1996

[Faint, illegible text, possibly a list or table]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Thursday, October 3, 1996

96-79
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Japan Delays Establishment of a Panel in WTO Film Case

At a meeting today of the Dispute Settlement Body of the WTO in Geneva, the U.S. requested the formation of a dispute settlement panel to hear its case against barriers in Japan's market for photographic film and paper.

Acting United States Trade Representative Charlene Barshefsky reasserted the importance of the issues raised in this case, "The United States has strong evidence demonstrating that over a period of years, the Government of Japan systematically put in place a series of discriminatory barriers to block access to its photographic film and paper market." Ambassador Barshefsky emphasized, "the issues raised by this case should be of real concern to WTO members not only because they reveal the barriers faced by foreign firms in the Japanese film and photographic paper market, but also because they are indicative of the exclusionary policies the Japanese Government has implemented in many sectors of the Japanese economy."

Although the Government of Japan blocked the establishment of the panel at today's meeting, Japan will have no right to block a panel from being established at the next DSB meeting on October 16. "It is unfortunate that Japan blocked the panel request at this meeting. We would like to see resolution of this matter as quickly as possible," Barshefsky stated. "This position seems inconsistent with prior statements that they would welcome this case in the WTO."

In today's DSB meeting, the United States noted that many have continued to perceive or portray this case as merely an issue of private practices by a major Japanese film company, and a dispute between two companies. To the contrary, Barshefsky noted, "The case raises fundamental questions about Japanese government actions and policies to restrict its market from foreign competition."

-30-

Webmaster @ USTR - 3 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Thursday, October 3, 1996

96-80
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U.S. GAINS IPR COMPLIANCE IN PORTUGAL THROUGH WTO CASE

Acting U.S. Trade Representative Charlene Barshefsky announced today that the United States and Portugal have formally settled WTO dispute settlement proceedings brought by the United States on Portugal's failure to implement fully the patent-related provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), administered by the WTO.

In 1995, Portugal amended its patent law to implement the TRIPS Agreement obligation to provide a patent term that lasts at least until twenty years from the date the patent application is filed. Portugal applied this term to patents granted in the future, but refused to recognize that the TRIPS Agreement also obligates it to apply this term to patents still in effect on January 1, 1996. Several U.S. companies complained that they stood to lose significant revenues if the longer TRIPS patent term was not applied to their existing patents. The United States initiated WTO dispute settlement procedures against Portugal on April 30 with respect to this matter. As a result of initiation of these procedures, Portugal now accepts that it is obligated by the TRIPS Agreement to extend at least the 20-year term to all Portuguese patents still in effect on January 1, 1996, and has issued a decree to implement this obligation.

"U.S. success in settling this case demonstrates that the WTO dispute settlement process can be an effective forum to enforce U.S. rights," Ambassador Barshefsky said. "We welcome Portugal's recognition of its WTO obligations, and its implementation of those obligations. We are pleased that we are now in a position to withdraw this issue from further consideration under the auspices of the WTO."

-30-

Webmaster @ USTR - 3 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Thursday, October 3, 1996

96-81
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Free Trade Area Extended to West Bank and Gaza Strip

President Clinton signed legislation today that gives him the authority to provide duty free treatment to products of the West Bank and Gaza Strip. The intent of the legislation is to spur export-related economic development in the region.

This new trade initiative is one element of tangible U.S. support for the Middle-East peace process, facilitating enhanced economic cooperation among Israel, Jordan, Egypt and the Palestinian Authority. Products of the West Bank and Gaza Strip and of industrial zones established on the borders of Israel and Jordan and Israel and Egypt will enjoy duty-free entry into the United States, treatment identical to that currently provided products of Israel under the Israel-U.S. Free Trade Agreement. Such a special trade status will provide new employment opportunities for Palestinians outside Israel proper and lure increased foreign investment to the West Bank and Gaza, improving the security situation in Israel.

"We know trade can be a positive force in expanding cooperation across borders," said Ambassador Barshefsky. "Obviously, it is our hope that extension of duty-free treatment to products of the West Bank and Gaza Strip and special industrial zones will open doors for more commerce and jobs in the region."

Overall economic activity in the West Bank and Gaza Strip today is quite small and U.S. trade with the West Bank and Gaza Strip is minimal.

The Palestinian Authority has agreed to provide duty free access for U.S. products into the West Bank and Gaza Strip and national treatment for those products within that region. The Palestinian Authority will also assist the United States in verifying compliance with U.S. trade laws and preventing unlawful transshipment of products to the United States. In addition, the Palestinians will support all efforts to end the Arab League Boycott of Israel in all its respects.

Ambassador Barshefsky expressed her appreciation for the efforts of Chairman William Roth (R- DE) of the Senate Finance Committee, Ranking Member Patrick Moynihan (D-NY), Senator Dianne Feinstein (D-CA), Chairman of the Ways and Means Committee William Archer (R-TX), Ranking Member Sam Gibbons (D-FL), Phillips Crane (R-IL), Chairman of the Trade Subcommittee, Representative Charles Rangel (D-NY), Ranking Member of the Trade Subcommittee, and Representative Clay Shaw (R-FL), for their efforts to enact the legislation with overwhelming bipartisan support.

-30-

Webmaster @ USTR - 3 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Friday, October 4, 1996

96-82
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U.S. WINS WTO APPELLATE CASE AGAINST JAPAN

Acting U.S. Trade Representative Charlene Barshefsky announced today that the WTO Appellate Body has decided in favor of the complaint brought by the United States and others against Japan, concerning Japan's discriminatory taxation of distilled spirits. The decision attacks a major barrier to U.S. exports of Bourbon whisky, vodka and other distilled spirits to Japan.

Japan is the second largest export market for U.S. distilled spirits. Exports have reached \$100 million per year even in spite of the heavy taxes on whisky and other Western-type distilled spirits, which are many times the taxes on *shochu* (a traditional Japanese spirit). The WTO dispute findings confirm and strengthen a 1987 GATT ruling that Japan's liquor taxes discriminate against imports.

The United States, the European Community and Canada initiated WTO dispute settlement procedures against Japan in July 1995 concerning Japan's taxes on distilled spirits. Japan appealed the panel decision on August 9, 1996. The Appellate Body ruling, circulated on October 4, 1996, finds that Japan's tax system discriminates against imports, and recommends that Japan be requested to change its tax system to eliminate the discrimination.

"Once again, we have used the WTO procedures to open markets," Ambassador Barshefsky said. "Given the long-standing nature of this dispute, we will work to ensure prompt implementation by Japan."

-30-

Webmaster @ USTR - 4 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Friday, October 4, 1996

96-83
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PRESIDENT DIRECTS U.S.D.A. AND U.S.T.R. TO MONITOR CANADIAN POTATO SHIPMENTS INTO KEY U.S. MARKETS

At the direction of President Clinton, Agriculture Secretary Dan Glickman and Acting U.S. Trade Representative Charlene Barshefsky announced today that the United States will begin issuing a new daily report on Canadian potatoes entering the United States. This report will draw upon enhanced daily terminal market reporting of prices and shipments into key U.S. markets, as well as new daily survey of Canadian potato imports as they cross the border. The report will become available beginning Monday, October 7, 1996.

Ambassador Charlene Barshefsky said, "This special report is in response to concerns raised by Maine potato growers, Senator Olympia Snowe (R-ME) and Congressman John Baldacci (D-ME) who have alerted us to their serious concerns about the impact of Canadian imports on the marketing of Maine potatoes."

The USDA's Agricultural Marketing Service will issue this daily report that will provide information on the volume and price of Maine and Canadian potatoes in 19 major U.S. cities, Canadian potato imports at the border, and Maine potatoes at the point of shipment. Collectively, these data will provide a much clearer picture of Canadian-United States potato market.

In further response to the concerns raised by Senator Snowe and Congressman Baldacci, Secretary Glickman and Acting U.S. Trade Representative Charlene Barshefsky also announced today that "U.S.D.A. and U.S.T.R. are dispatching a joint team to meet with potato farmers in Presque Isle, Maine this weekend." The team will meet with the potato growers on Saturday to hear the concerns of the growers, explain the new monitoring system and work with industry members on the range of international trade issues affecting Maine growers.

The report on Maine and Canadian potatoes will be available by subscription through U.S.D.A.'s Fruit and Vegetable Market News, (202) 720-0547.

-30-

Webmaster @ USTR - 4 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Tuesday, October 8, 1996

96-84
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U.S. Signs MFN Trade Agreement with Cambodia

Acting U.S. Trade Representative Charlene Barshefsky signed a bilateral trade agreement with Cambodia that will extend the most-favored-nation treatment from the United States. The agreement was signed with Cambodian Minister of Commerce Cham Prasidh. The completion of the trade agreement follows President Clinton's signature last week of legislation that allows for MFN treatment after the entry into force of a bilateral trade agreement.

"This agreement begins a new era in trade relations between the United States and Cambodia," Barshefsky said. "Not only will it create new opportunities for businesses in both countries, but it is an important step in Cambodia's integration into the world economy, and will advance the important task of rebuilding the Cambodian economy. The agreement also contains important benefits for U.S. businesses in Cambodia, particularly in the area of intellectual property protection."

-30-

Webmaster @ USTR - 8 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
20508

FOR IMMEDIATE RELEASE
Wednesday, October 9, 1996

96-85
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President Clinton Sends Report on the Operation of the Caribbean Basin Economic Recovery Act to the Congress

On October 1, President Clinton submitted the Second Report on the Operation of the Caribbean Basin Economic Recovery Act (CBERA) to the Congress. The report indicates that the CBERA has benefitted both the beneficiary countries and the United States. U.S. exports to the region have more than doubled since the program began. A 1984 U.S. trade deficit with the region turned into a trade surplus of almost \$2.3 billion by 1995. At the same time, exports from the region to the United States reached \$12.6 billion, representing a ten-year growth of almost 100 percent.

The Caribbean Basin Economic Recovery Act (CBERA) was passed in 1983 and amended in 1990. It was intended to facilitate the economic development and export diversification of the Caribbean Basin economies. The CBERA provides beneficiary countries duty-free access to the U.S. market for all products not excluded by the law. It also imposes conditions countries must meet to be designated beneficiaries and to maintain that status.

Countries in the Caribbean Basin have been steadily moving toward more outward looking economic policies. They are active participants in the ongoing work toward a Free Trade Area of the Americas. Jamaica heads the FTAA Working Group on Smaller Economies, Honduras the Working Group on Intellectual Property Rights, Costa Rica the Working Group on Investment and El Salvador the Working Group on Market Access.

While intellectual property rights and worker rights remain concerns, several countries have agreed to, or are negotiating, intellectual property rights agreements. Many have enacted new laws protecting intellectual property rights; however, enforcement is often a problem. The possibility of losing CBERA benefits serves as an incentive to encourage countries to work toward enforcing adequate intellectual property rights and worker rights.

The Second Report documents the continuing trend toward export diversification, an important aspect of economic development. Many types of textile manufactures and wearing apparel, electrical equipment, medical supplies, pharmaceuticals, as well as non-traditional agricultural products have grown in importance as sources of export revenue.

Finally, at a time of growing concern over the transport of illicit drugs in the Caribbean, the strengthening of Caribbean Basin economies through access to U.S. markets for goods granted preferential treatment and the parallel growth of non-traditional exports provides an important alternative to drug trafficking in the region.

Webmaster @ USTR - 9 October 1996

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
Washington, D.C.
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FOR IMMEDIATE RELEASE
Tuesday, October 15, 1996

96-86
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WTO To Launch Panel on Film Case

At its October 16 meeting, the Dispute Settlement Body of the WTO in Geneva will establish a dispute settlement panel to hear the U.S. complaint against anti-competitive barriers in the Japanese market for photographic film and paper.

Acting United States Trade Representative Charlene Barshefsky expressed confidence in the strength of the case. She said, "The measures put in place by the Government of Japan are a textbook case of a WTO member circumventing its market access obligations. We look forward to having the panel review the full array of Japanese Government measures that are restricting market access in this sector."

When the U.S. requested the consultations that led to this panel, it simultaneously requested consultations under a GATT decision on restrictive business practices. Barshefsky criticized the Government of Japan's response, which conditioned its acceptance of the U.S. request on the U.S. acceptance of Japan's request for consultations on the U.S. market.

"I am concerned about preserving the integrity of WTO procedures," Barshefsky said. "A decades-old principle established in the GATT and WTO is that parties should accept a request for consultations in good faith and should not link claims and counterclaims. For months, Japan has been saying that it would welcome discussion of the film issue in the WTO, and suggested it was ready to deal with this matter forthrightly in the WTO. It is time to do so."

BACKGROUND

This case reveals the deliberate and extensive efforts by the Government of Japan to counter its WTO obligations by guiding the establishment of an exclusionary market structure to keep foreign consumer photographic film and paper out of the Japanese market. Using a series of interlocking "liberalization countermeasures," the Japanese Government directed the construction of an elaborate structure to thwart foreign access to its market, a structure that remains in place today. Despite the 140-percent strengthening in the value of the yen since 1980 and aggressive marketing efforts by foreign companies, foreign share of the Japanese film market has remained nearly stagnant (see chart).

The Government of Japan first began implementing liberalization countermeasures in the 1960s and 1970s, and it has continued to strengthen and apply them up to the present. Indeed, the key countermeasures remain in effect and continue to restrict foreign market access.

In launching the countermeasures program, the Japanese Cabinet decided:

The government should examine and carry out countermeasures...to prevent confusion which may accrue from foreign enterprises coming into Japan...and to reorganize the

industrial structure so that our enterprises and industries can fully compete against their foreign rivals.

A member of a Japanese government counterliberalization commission described the government's basic approach, which was to identify measures that were non-discriminatory on their face and that already existed in Japanese law, but that could be applied to restrict market access:

The important point to note from the above countermeasures that have been suggested until now are that they can be carried out without revising any existing laws. Other [points] are that, first, the countermeasures must use legislation and laws that regulate both foreign and domestic companies equally. Precisely because the Government of Japan is not allowed to treat foreign companies discriminatorily vis-a-vis domestic companies...the countermeasures [must be] a revision or use of laws that can be applied in that sense of equality

The Government of Japan proceeded to put in place three sets of measures that create an exclusionary market. These included measures to (1) close the distribution system, (2) limit the growth of large retail stores, and (3) restrict the use of marketing incentives.

Closing the Distribution System. At the core of the Government of Japan's efforts to limit foreign access to the Japanese film and photographic paper market was the consolidation of the distribution system into the hands of domestic manufacturers. Under cover of investment restrictions --some of which remained in place until 1985 --the Japanese Government undertook the necessary steps to restrict access to the existing distribution system. In its Basic Plan for Distribution Systemization, for example, MITI said:

In connection with capital liberalization countermeasures in the distribution sector, rational transaction conditions should be clarified in order to prevent disruption of transactions by foreign capitalized firms, which have an extremely strong capital position ...The Ministry of International Trade and Industry established a Committee for the Revision of Transaction Conditions in 1969 and has subsequently established and announced guidelines for the revision of transaction conditions with respect to photographic film, and [nine other sectors].

The Japanese film and photographic paper industry understood the need to respond as instructed and implemented the measures put forth by the Government of Japan to the whole distribution system, from wholesalers through retailers. Photo industry press reported:

The Ministry of International Trade and Industry's guidelines for normalizing transaction conditions is what may be called an "immunization." This has been done to spur modernization of distribution. Also because of the fear of confusion of transaction order due to the development of liberalization, it embodies the idea of "immunizing" the distribution system as a whole ...

The Government of Japan's efforts were successful in consolidating the distribution system in the hands of Japanese manufacturers and excluding foreign firms from this primary channel of access to the distribution system. This system remains in place today and continues to bar foreign firms from primary distribution channels, which handle about 95 percent of the film sold in Japan.

Limitations on Large Retail Stores. Although the Government of Japan had blocked the access of foreign film manufacturers to the distribution system, it also took steps to assure that foreign firms could not turn to direct sales to retail to penetrate the Japanese market. To achieve this goal, the Diet passed the Large Scale Retail Store Law. Diet deliberations on this law show its protectionist intent:

One of the biggest issues that all concerned traders would point out as a reason for their support of this bill is the undesirable effect brought about by the entry of foreign capital into the Japanese market, that is liberalization of foreign capital. We have to take aggressive steps to undermine this effect now. I think this is the most crucial external reason for

proposing this [the Large Scale Retail Store] bill.

This law requires prospective store owners to complete a lengthy and cumbersome negotiation process with local authorities, merchants, and consumers as well as MITI before opening a store. In order to obtain the approval of these parties, the storeowner has to agree to various restrictions imposed by his local competitors, including limitations on store size, hours, advertising, prices, and merchandise carried. The local councils use their authority as they see fit, including to exact bribes --sometimes of 1 million yen or more --from prospective store owners.

Because large stores tend to carry more imported products than small stores, the Japanese Government's limitations on the number of large stores severely constrict an important channel to the Japanese market for foreign manufacturers.

Restrictions on the Use of Marketing Incentives. The Government of Japan also implemented the Premiums Law to ensure that even if a manufacturer could get its products into Japan, its ability to compete against the established supplier would be curtailed. A Ministry of Finance council report stated:

When foreign capital is brought into Japan, it is possible for a parent company to use vast amounts of capital to engage in dumping, offer premiums, and conduct large-scale advertising and public relations. ... For the provision of large-scale premiums, it is believed that establishing fair competition codes pursuant to the Premiums Law with assistance from the industry that might be affected, would be an effective countermeasure.

Beyond limiting the types of premiums and promotional offers a firm may use and the content of advertising, the law deputizes local groups of competitors to set and enforce standards of competition. This nontransparent law literally invites abuse as can be seen by a recent article summarizing a photo retailers association meeting in the Japanese photo industry press:

The logic behind making these discounters join [the photo retailers association], as well as what can be achieved by having them join, is as follows. Those belonging to the same union "go out on trips and attend New Year's parties and informal social gatherings hosted by the union. The best aspect of this is that such atmospheres are conducive to easy conversation. Even in terms of price, it is possible to have conversations about not setting price in an aggressive manner."

The result is a system that stifles competition and further restricts market access. The available Government of Japan data showing extraordinarily stable prices for film in Japan during the several years --despite substantial exchange rate movements and other market changes --may be one manifestation of such activities.

-30-

Webmaster @ USTR - 15 October 1996