EXECUTIVE OFFICE OF THE PRESIDENT

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

97-101

FOR IMMEDIATE RELEASE
Thursday, December 4, 1997

Contact: Jay Ziegler
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U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY EXPRESSES CONCERN OVER PACE OF PROGRESS UNDER U.S.-JAPAN AUTOMOTIVE AGREEMENT

Washington, DC -- The Clinton Administration, in a report released today, expressed increased concerns over the pace of progress achieved this year under the 1995 U.S.-Japan Automotive Agreement and stated that additional substantial efforts are required to achieve the Agreement's objectives. In this semi-annual report, the Administration strongly urged Japan to redouble its commitment to fully implement terms of the Agreement.

"We are concerned that the progress achieved under the first year of the Agreement clearly has not been sustained. We view the slowdown in new dealership signings and in deregulation of the auto parts replacement market as particularly troubling," said U.S. Trade Representative Charlene Barshefsky. "Japan needs to make more vigorous efforts to ensure that the market opening goals of the Agreement are achieved."

"The Japanese Government has repeatedly stated its commitment to deregulation and market opening," said Ambassador Barshefsky. "It is time that Japan took real action to achieve these goals."

The report, which assesses progress based on 17 objective criteria included in the Agreement, expressed specific disappointment in the following key areas:

- After increasing 34 percent in 1996, sales in Japan of vehicles produced by U.S.-based auto manufacturers declined 20 percent during the first nine months of 1997. This drop occurred despite the efforts of manufacturers to maintain their price competitiveness in the face of a weak yen. The decrease in overall foreign vehicle sales well exceeded the 2 percent contraction in the Japanese auto market.

- U.S. automakers continue to seek high-quality, high-volume dealerships, but consistently report that many Japanese dealers openly express reservations about carrying competing foreign vehicles out of fear that doing so could compromise their relationships with Japanese auto suppliers. U.S. automakers have added only 142 new dealer outlets since the signing of the Agreement, with the pace diminishing markedly this year. The Japanese Government has recently announced that it will ensure that Japanese auto dealers understand that they are free to carry competing products. Increased efforts in this area are critical to the ability of foreign automakers to gain direct, fair, and equitable access to the Japanese automotive market.

- The Ministry of Transportation (MOT) has failed to remove any additional parts from the disassembly repair regulations in over a year, despite its commitment under the Agreement to review the need for maintaining these regulations. The disassembly repair regulations require that repairs which involve the disassembly of any of the seven major component systems of an automobile -- e.g., brake system -- be done at dealerships or other MOT-certified garages. These garages tend to almost exclusively use Japanese-made parts because they are owned by or closely affiliated with Japanese auto manufacturers. The U.S. Government and industry believe that such repairs can be done safely at independent garages if performed by qualified mechanics.

The report notes progress in other areas under the Agreement:

- U.S. auto parts exports to Japan were up 14 percent in the first half of 1997 and sales of U.S.-made auto parts to Japanese transplants increased 8 percent during Japanese FY 1996.

- In February, the MOT introduced two new categories of service garages into the Japanese certified garage system. This action will encourage competition and create new opportunities for foreign parts producers by permitting smaller independent garages, which are more inclined to use foreign parts, to undertake repairs previously limited to dealerships or other MOT-certified garages. To facilitate the establishment of these new garages, the U.S. Government and industry have requested that the Japanese Government revise regulations regarding certification of mechanics employed by these garages. So far, however, the Japanese Government only has agreed to hold hearings on this issue early next year.

The semi-annual report was the fourth to be issued by the Commerce-USTR co-led interagency task force formed to monitor progress made under the Agreement.

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97-102

FOR IMMEDIATE RELEASE
Friday, December 5, 1997

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In response to press reports from Geneva regarding the dispute between the United States and Japan in the World Trade Organization concerning Japanese Government barriers to imports of consumer photographic film and paper, United States Trade Representative Charlene Barshefsky issued the following statement regarding the panel's failure to find Japan in violation of its WTO obligations in this case:

Statement by Ambassador Charlene Barshefsky
Regarding the WTO Dispute on Photographic Film and Paper

The United States is extremely disappointed by this report. Its ruling sidesteps the real issues in this case and instead focuses on narrow, technical issues. However, the Panel's analysis in no way exonerates the Japanese Government for the actions it took to protect its photographic film and paper market from foreign suppliers over the past 30 years.

The Panel's findings simply do not address market realities. Even within Japan, it is common knowledge that Japan's market is overregulated, its distribution system is closed, and exclusionary business practices are prevalent.

While the Panel did not address the broader problems in Japan, those problems are clear and globally recognized: Japan must deregulate its economy, open its distribution system, and eliminate exclusionary business practices that not only are limiting imports, but also are stifling competition and economic growth in Japan. Prime Minister Hashimoto and other Japanese officials have themselves repeatedly asserted the need for action. The restraints on foreign competition in Japan are clearly unacceptable.

The fact remains that less than three percent of all film sold through wholesale distribution channels in Japan is imported. The United States will continue to press vigorously for meaningful access to this market. We will evaluate the broad range of options available to us -- on a bilateral, regional, or multilateral basis, as well as action under our trade laws, including Section 301 of the Trade Act.

Although the Panel results are disappointing, pursuing the WTO case and maintaining pressure on Japan nevertheless has led the Japanese Government to take some positive steps that will benefit Kodak and other photographic film and paper suppliers.

> In the past year, Japan liberalized its Large-Scale Retail Stores Law, which was one of the measures that we challenged in the WTO, and the Japanese Government has indicated its intention to abolish that law next year.
>
> Also, following our WTO complaint, Japan substantially relaxed many laws impeding the ability of foreign manufacturers to promote their products in Japan. In particular, Japan has recently eliminated regulations limiting promotional offers between businesses, and it loosened restrictions on the value of promotional offers that may be made to consumers.
>
> In addition, Japan removed film from the list of sectors covered by the Business Reform Law, a measure that allows the Japanese Government to provide financial support or other assistance necessary to restructure firms facing increased competition, and it eliminated its practice of scrutinizing contracts involving foreign businesses.

Each of these measures was highlighted by the United States in the course of this dispute.

This is the first WTO case brought by the United States in which it has not prevailed. The United States has won all of the other seven cases it has taken to WTO panels so far, and has succeeded in enforcing U.S. rights by securing settlements favorable to the United States in seven additional cases. The United States was successful in the two previous cases it filed against Japan in the WTO.

Background

In June 1996, the USTR determined, under section 301 of the Trade Act of 1974, as amended, that certain acts, policies, and practices of the Government of Japan with respect to the sale and distribution of consumer photographic materials in Japan are unreasonable and burden or restrict U.S. commerce. Specifically, the USTR found that the Government of Japan established and tolerated a market structure that impedes U.S. exports of these products to Japan, thereby denying fair and equitable market opportunities.

Under section 301(b), the USTR may take all appropriate and feasible action within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country. Accordingly, the USTR determined that the appropriate action to take at that time was to address the government's liberalization countermeasures through recourse to WTO dispute settlement and to address the restrictive business practices in Japan through other means. The determination concluded that, at the appropriate time, based on the WTO consultations and proceedings, the USTR would consider what further action needs to be taken to ensure that barriers in the Japanese consumer photographic materials sector are eliminated.

On June 13, 1996, the United States requested consultations with Japan under WTO dispute settlement procedures, and the consultations took place on July 11. On September 20, the United States requested a panel, and the WTO Dispute Settlement Body established the panel on October 16. The United States made its submissions to the three-member panel on February 20 and May 12 and the panel met with the parties on April 17-18 and June 2-3.
The European Union and Mexico appeared as third parties in the dispute and made submissions and statements in support of the United States' claims.

The U.S. submissions to the Panel described in detail the extensive array of measures put in place by the Government of Japan over the past 30 years to offset the effects of tariff, import, and foreign investment liberalization and to limit the sale of imported consumer photographic film and paper in the Japanese market.

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FACT SHEET
Friday, December 5, 1997

SUCCESSFUL USE OF WTO DISPUTE SETTLEMENT BY THE UNITED STATES

Success rate

The United States has invoked formal procedures under the new World Trade Organization dispute settlement mechanism in 34 cases to date -- more than any other country in the world. Of those 34, the United States has won all 7 cases that have completed the WTO dispute settlement panel process so far, and highly favorable settlements were reached in 7 others. These cases cover a number of WTO agreements -- involving rules on trade in goods, trade in services, and intellectual property protection -- and affect a wide range of sectors of the U.S. economy.

U.S. successes in WTO disputes with Japan

The United States has used WTO procedures quite effectively with Japan, in two of the earliest cases that it took to the WTO:

-- **Sound recordings.** In only a matter of months after holding consultations requested by the United States under WTO dispute settlement procedures, the Government of Japan amended its law to provide U.S. sound recordings with retroactive protection, as required by the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS). We did not even have to proceed to a panel in that case -- the mere potential of a panel provided a strong incentive for Japan to come into compliance. Non-U.S. sales of recorded music account for over $15 billion annually in sales of products made in the United States. The recording industry employs tens of thousands of Americans. The industry estimated that U.S. right holders lost $500 million annually before Japan amended its law.

-- **Liquor taxes.** In response to complaints by the United States, the EU and Canada, a panel and the WTO Appellate Body found that Japan's excise taxes on distilled spirits discriminate *de facto* against imported spirits. When Japan proposed taking several years to change its tax laws, we also used WTO arbitration procedures quite effectively to ensure that Japan must comply within 15 months of the rulings, or else be vulnerable to retaliation. Japan is our second-largest export market for spirits, and U.S. exports have been gaining market share. As a result of the case, Japan is already cutting taxes on brown spirits dramatically -- from $8.50 to $3.50 for a one-liter bottle of 40-degree whisky.

Other panel victories

-- **EU, Ireland, and UK - Reclassification of LAN equipment and multimedia personal computers.** In the Uruguay Round the United States negotiated a tariff concession on computer equipment, including personal computers and local area network (LAN) equipment. Later, the EU, the UK and Ireland started treating LAN equipment as if it were telecommunications equipment and applying higher duty rates. We brought a WTO case and the panel has agreed with us that the EU has violated its tariff obligations. This is an important case for our exports of high-tech products. In 1996 the U.S. exported $7 billion in computer and computer networking equipment to the EU. U.S. LAN equipment has a commanding share in the EU marketplace, where U.S. firms are the technology leaders. The four leading U.S. exporters of LAN equipment made close to $800 million in revenues from the EU market in 1996. The routers, hubs, LAN adapter cards and other hardware are made in the U.S.A. with American technology.

-- **Argentina - measures affecting imports of footwear, textiles and apparel.** In 1996, the Argentine government hiked its duties on footwear, textile and apparel items, and it also applied an across-the-board 3 percent statistical tax. The WTO panel that considered our complaint agreed with us and found these measures violate Argentina's GATT obligations. This case too shows that we can effectively defend the market access we bargained for in the Uruguay Round. We export apparel and textiles such as carpets to Argentina.

-- **India - patent protection.** In the Uruguay Round, India got ten years to phase in patent protection for drug and agricultural chemical inventions, but India agreed to establish a "mailbox" mechanism to preserve rights of foreign inventors in the interim. But India never carried out even this promise. A WTO dispute settlement panel agreed with us that this failure to act violates India's obligations. This case signals that, for developing countries, the phase-in period for their intellectual property rights implementation will not be a free ride. It will also safeguard our companies' rights in a major and growing market. This case is now on appeal.

-- **EU - meat imports.** In January 1996 the United States invoked WTO dispute settlement procedures to challenge the EU's restrictions on imports of meat from animals treated with growth hormones, which deprived us of $100 million a year in exports. In August 1997 a WTO dispute settlement panel found the EU's ban was unsupported by science, inconsistent with other EU measures, and therefore violated EU WTO obligations. This case is also on appeal.

-- **EU - banana imports.** The United States, Ecuador, Guatemala, Honduras and Mexico challenged the EU's regime controlling importation, sale and distribution of bananas. In May 1997 a WTO panel found the EU regime violates WTO rules on sixteen counts. In September 1997 the WTO Appellate Body upheld these conclusions and increased the plaintiffs' win. The panel and Appellate Body interpreted the General Agreement on Trade in Services (GATS) to protect U.S. companies involved in banana distribution.

-- **Canada - magazine imports.** Canada targeted "split-run" magazines aimed at the Canadian market (including the Canadian edition of *Sports Illustrated*) with an import ban, a prohibitive excise tax, and discriminatory postal rates. In March 1997, a WTO panel agreed with us that the import ban and the tax violate Canada's GATT obligations. The Appellate Body then rejected Canada's appeal and agreed with us on the postal rates, giving the United States a complete victory. Canada and the United States have agreed that Canada will bring its measures into compliance by October 1998.

Successful settlements

-- **Korea - shelf-life requirements.** The United States and Korea consulted under WTO dispute procedures in June 1995 and reached a settlement concerning Korea's arbitrary, government-mandated shelf-life restrictions that blocked imports of many food products, including beef, pork, and other foods. Korea is the 4th largest market for U.S. agricultural exports and the 3rd largest for beef exports.

-- **EU - grain imports.** In July 1995 the United States invoked WTO dispute procedures to enforce the EU's Uruguay Round market access commitments on grains. In November 1995 we reached a settlement, which ensures implementation of these commitments, reduces import charges on rice and provides for consultations on the EU's "reference price system." The United States used further dispute proceedings to keep the pressure on the EU until it published regulations implementing the agreement.

-- **Hungary - agricultural export subsidies.** In March 1996 the United States, Argentina, Australia, Canada, New Zealand and Thailand invoked WTO dispute procedures to pursue Hungary's failure to comply with its Uruguay Round commitments on agricultural export subsidies. After a dispute settlement panel was established in February 1997, the concerned parties reached a settlement with Hungary in July 1997. Hungary has admitted its violation and is now subject to legally-binding staged compliance program.

-- **Portugal - patent protection.** In April 1996 the United States asked for WTO consultations concerning Portugal's failure to provide the minimum 20 years of patent protection required by the WTO TRIPS agreement. Portugal recognized the problem and responded through legislation in 1996 that fully implements its TRIPS obligations.

Portugal estimated that a total of 7,000 patents would be affected by the change. This settlement was important to several U.S. pharmaceutical companies with existing patents in Portugal.

-- **Turkey - box office tax.** The United States requested consultations in June 1996 under WTO procedures concerning Turkey's tax on box office receipts from foreign films. In the settlement reached between Turkey and the United States, Turkey acknowledges that the tax discrimination against foreign films violates WTO rules, and it pledges to equalize tax rates as soon as reasonably possible. The U.S. motion picture and television industry is a top U.S. exporter, with foreign markets accounting for more than $10 billion a year in revenues.

-- **Pakistan - patent protection.** The United States also used the WTO dispute settlement mechanism to enforce Pakistan's obligation under the WTO TRIPS Agreement to establish a "mailbox" mechanism for patent applications. After the United States asked for a dispute panel to be established, Pakistan issued an ordinance bringing its law into compliance. This case is another demonstration of the effectiveness of WTO dispute settlement in the intellectual property rights area.

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97-103

FOR IMMEDIATE RELEASE
Tuesday, December 9, 1997

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UNITED STATES AND EUROPEAN UNION REACH AGREEMENT ON GLOBAL ELECTRONIC COMMERCE

U.S. and European officials reached agreement at the U.S.-EU Summit on guidelines for future work on trade in global electronic commerce (GEC) that includes a commitment to "duty free cyberspace." This initiative is consistent with the priorities outlined in the President's Global Electronic Commerce initiative, released by the White House this past July.

"This initiative is an important step forward in one of the fastest and most dynamic areas of global trade," said Ambassador Barshefsky. "We look forward to continuing our work on a wide range of electronic commerce issues with the EU, individually with key European Member States, as well as in APEC and individually with key Asian and Pacific-rim countries."

The Joint US-EU Statement on Electronic Commerce is attached.

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5 December 1997

JOINT EU-U.S. STATEMENT ON ELECTRONIC COMMERCE

1. Global electronic commerce, driven by the development of the Internet, will be an important engine for growth in the world economy in the 21st century. Electronic commerce offers considerable new opportunities for business and citizens in all regions of the world. In particular, small companies will be able to obtain unprecedented access to world-wide markets at low costs and consumers will be able to choose from an even wider range of products and services. Electronic commerce will enhance productivity across all sectors of our economies, further encourage both trade in goods and services and investment, create new sectors of activities, new forms of marketing and selling, new revenue streams and, most importantly, new jobs. Services liberalization, particularly of the basic telecom services, plays a key role in underpinning the growth of electronic commerce.

2. We encourage an open dialogue between governments and the private sector world-wide in order to construct a predictable legal and commercial environment for the conduct of business on the Internet. We recognize that electronic commerce requires a coherent, coordinated approach internationally. Where government agreements are appropriate, we also commit ourselves, to work together constructively along with our trade partners within the appropriate multilateral institutions and other fora to reach coherent and effective solutions preferably at a global level. In this regard, we agree on the importance of fully involving all countries, including developing countries.

3. We agree to work towards the development of a global marketplace where competition and consumer choice drive economic activity, on the basis of the following guidelines:

(i) That the expansion of global electronic commerce will be essentially market-led and driven by private initiative. It should take into account the interests of all stakeholders, in particular of consumers, libraries, schools and other public institutions, as well as the need to ensure the widest use possible of new technologies.

(ii) That the role of government is to provide a clear, consistent and predictable legal framework, to promote a pro-competitive environment in which electronic commerce can flourish and to ensure adequate protection of public interest objectives such as privacy intellectual property rights, prevention of fraud, consumer protection, and public safety.

(iii) That industry self-regulation is important. Within the legal framework set by government, public interest objectives can, as appropriate, be served by international or mutually compatible codes of conduct, model contracts, guidelines, etc. agreed upon between industry and other private sector bodies.

(iv) That unnecessary existing legal and regulatory barriers should be eliminated and the emergence of new ones should be prevented. Where legislative action is deemed necessary, it should not be to the advantage or disadvantage of electronic commerce compared with other forms of commerce.

(v) That taxes on electronic commerce should be clear, consistent, neutral and non discriminatory.

(vi) That it is important to enhance the awareness and confidence of citizens and SMEs in electronic commerce and to support the development of relevant skills and network literacy.

(vii) That interoperability, innovation and competition are important for the development of a global marketplace, and that, in this context, voluntary, consensus-based standards, preferably at an international level, can play an important role.

4. Specifically, we agree to work towards:

(i) A global understanding, as soon as possible, that:

- when goods are ordered electronically and delivered physically, there will be no additional import duties applied in relation to the use of electronic means.
- in all other cases relating to electronic commerce, the absence of duties on imports should remain.

(ii) The effective implementation by 1 January 1998 of the commitments on basic telecommunication services included in the schedules of commitments attached to the WTO General Agreement on Trade and Services (GATS) and the completion of the second phase of the Agreement on Information Technology Products by summer 1998.

(iii) The ratification and implementation, as soon as possible, of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

(iv) Ensuring the effective protection of privacy with regard to the processing of personal data on global information networks.

(v) The creation of a global market based system of registration, allocation and governance of Internet domain names which fully reflects the geographically and functionally diverse nature of the Internet.

5. Furthermore, we agree on:

(i) Active support for the development, preferably on a global basis, of self-regulatory codes of conduct and technologies to gain consumer confidence in electronic commerce, and in doing so, to involve all market players, including those representing consumer interests.

(ii) Close co-operation and mutual assistance to ensure effective tax administration and to combat and prevent illegal activities on the Internet..

(iii) The important positive role that electronic commerce can play in developing a coherent approach to international work on trade facilitation.

(iv) Close co-operation in jointly defined areas of R&D and electronic commerce technologies, in the framework of the EU-US Science and Technology Agreement, as well as in appropriate business pilot projects.

(v) Continuing substantive bilateral discussions at experts level, including, as appropriate, both government and private sector participants, on the issues mentioned above as well as other issues, such as government procurement; contract law and regulated professions; liability; commercial communication; electronic payments; encryption; electronic authentication/digital signatures; and filtering and rating technologies.

(vi) Close co-operation with a view to encouraging the exchange of statistical data on electronic commerce.

6. Where necessary to achieve these goals, we will continue our discussions with a view to reaching consensus in the appropriate multilateral fora, which may include, for example, the WTO, the OECD, WIPO, and UNCITRAL. We strongly encourage continued work within the EU-U.S. Information Society Dialogue, the Trans-Atlantic Business Dialogue and the EU-U.S. Joint Study.

7. We will examine progress towards achieving these goals at our forthcoming Summits.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
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FOR IMMEDIATE RELEASE
Wednesday, December 10, 1997

97-104
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FOREIGN SHARE OF THE JAPANESE SEMICONDUCTOR MARKET REACHES 35.8% IN SECOND QUARTER

Foreign share of the Japanese semiconductor market rose to 35.8% in the second quarter of 1997. This was an increase of 3.2 percentage points from the record 32.6% reached in the first quarter of 1997. The increase is attributable to increased sales by U.S. and Korean suppliers and a flat Japanese market.

"I am pleased to see that the performance of foreign suppliers in the Japanese semiconductor market remained strong in the second quarter of 1997," said Ambassador Charlene Barshefsky. "During the four quarters that the United States Government has been calculating the foreign market share under the August 2, 1996 semiconductor accords, foreign share has risen to an average 31.2% compared with an average 27.3% during the last four quarters of the 1991 U.S.-Japan semiconductor arrangement.

"U.S. and other foreign semiconductor producers provide high quality, highly competitive products and I am pleased that the new semiconductor agreement is working as we anticipated to provide new market opportunities in Japan for these suppliers," Ambassador Barshefsky added. "I also welcome reports of two successful industry cooperative activities in November, which were very well attended. These cooperative activities between foreign suppliers and Japanese customers are a key to ensuring that foreign companies maintain a strong share of the Japanese semiconductor market. We look forward to hearing about industry plans for cooperative activities in 1998." (see background information)

"I congratulate the U.S. semiconductor industry for its success in increasing foreign market share in the Japanese market," said Commerce Secretary William M. Daley. "Open markets are critical to the global economy, and to the growth of U.S. exports that generate high-skill jobs for Americans."

Background

On August 2, 1996, the United States and Japan reached a new agreement on semiconductors which is designed to ensure continued progress on market access and industry cooperation and to solidify the market-opening gains of recent years. The heart of the new accord is an industry-to-industry agreement coupled with government oversight.

The 1996 accord provides a forum to expand international semiconductor industry cooperation into such areas as standards, intellectual property rights, market opening initiatives, environmental and safety issues and market development. The agreement also provides for industries to collect a broad range of market data, including foreign market share, for presentation to governments. Governments then review these activities and reports and monitor the situation in Japan and other major markets.

The 1996 accord also called for the Government of the United States and the Government of Japan to create of a Global Governmental Forum (GGF) to discuss semiconductor policy issues that affect the future outlook of the global semiconductor industry such as trade and investment liberalization; legal regimes that affect the semiconductor industry; environment, worker health and safety, and standardization; protection of intellectual property rights; present and future approaches to basic scientific research; and promotion of the information society, including market development. The accord provides that other governments of major semiconductor-producing countries and other economies may be invited to participate in this annual forum. The United States will host the second annual forum in January.

During the five-year period of the 1991 Arrangement, foreign market share increased from 14.3 percent in the third quarter of 1991 to an average 27.3 percent over the last full year of the agreement (third quarter 1995 through second quarter 1996). Market share for the calendar year 1996 was 27.5 percent, an increase of over two percentage points from the 25.4 percent average recorded in 1995.

	Foreign Market Share
Q3 1991	14.3%
Q4 1991	14.4%
Q1 1992	14.6%
Q2 1992	16.0%
Q3 1992	15.9%
Q4 1992	20.2%
Q1 1993	19.6%
Q2 1993	19.2%
Q3 1993	18.1%
Q4 1993	20.7%
Q1 1994	20.7%
Q2 1994	21.9%
Q3 1994	23.2%
Q4 1994	23.7%
Q1 1995	22.8%
Q2 1995	22.9%
Q3 1995	26.2%
Q4 1995	29.6%
Q1 1996	26.9%
Q2 1996	26.4%
Q3 1996[1]	27.1%
Q4 1996[1]	29.4%
Q1 1997[1]	32.6%
Q2 1997[1]	35.8%

[1]Calculated by U.S. Government only. Earlier figures calculated by U.S. Government and Government of Japan in accordance with the 1991 U.S.-Japan Semiconductor Arrangement.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release **December 13, 1997**

STATEMENT BY SECRETARY RUBIN AND AMBASSADOR BARSHEFSKY REGARDING THE SUCCESSFUL CONCLUSION OF WTO FINANCIAL SERVICES NEGOTIATIONS

We are pleased to announce that the United States has led a successful effort to conclude multilateral negotiations that will open financial services markets to US suppliers of banking, securities, insurance and financial data services.

The agreement that we secured last night is dramatically improved from the one concluded in 1995; at that time there only were 45 offers on the table. This deal covers 95% of the global financial services market as measured in revenue. With this deal, 102 WTO members now have market-opening commitments in the financial services sectors, including 70 improved offers in this round of negotiations. The commitments before us now encompass $17.8 trillion in global securities assets; $38 trillion in global (domestic) bank lending; and $2.2 trillion in worldwide insurance premiums. In insurance alone, U.S. companies now have more than $200 billion in foreign premiums.

This agreement will open financial services markets to an unprecedented degree and provide lasting benefits to U.S. industry, the U.S. economy, and the global economy. Across all insurance sectors -- encompassing life, non-life, reinsurance, brokerage and auxiliary services -- 52 countries have guaranteed broad market access terms. Another fourteen countries have committed to open critical subsectors of their insurance markets of particular interest to U.S. industry. Fifty-nine countries will permit 100% ownership of subsidiaries or branches in banking; 44 countries will permit 100% ownership of subsidiaries or branches in securities.

A well-functioning financial services industry is key to economic growth in any country, as we have seen in the United States. With the most open financial services market in the world, competition in the financial services industry has delivered lower prices and greater choices and contributed enormously to prosperity here. This agreement levels the playing-field in global financial markets, providing new opportunities for U.S. financial services firms.

At the same time, this agreement will foster the development of financial markets, especially in developing countries, helping lay the foundation for sustained growth. Many countries had already begun the process of financial sector liberalization, but in the past had hesitated to lock in those measures. This agreement locks in that progress and in addition, substantially advances the process of market opening abroad.

Financial services, together with the Information Technology Agreement (ITA) and the agreement in the WTO to lock in market opening commitments on telecommunications services, now completes the triple play of solid global market opening agreements we have reached in the past year. All three agreements cover sectors where the United States is the most competitive producer and service provider in the world. All three unlock new opportunities for our companies and workers at the moment they are the most competitive. All three come in areas where the United States has minimal or non-existent trade barriers, but the rest of the world -- particularly the fastest growing markets of the world -- present substantial market entry barriers for our companies.

Let us conclude by thanking Ambassador Jeffrey Lang, the Deputy United States Trade Representative, and Tim Geithner, Assistant Secretary for International Affairs of the Treasury Department, who have worked tirelessly not just in the home-stretch of the past few weeks, but over the past two years visiting Asian capitals, being omni-present in Geneva working with our trading partners, and doing everything to make sure there was an end-game. Similarly, Meg Lundsager, Matthew Hennesey, Michael Kaplan at Treasury and Wendy Cutler and Laura Lane at USTR, and the rest of our team have our deepest appreciation for their hard work.

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WORLD TRADE ORGANIZATION (WTO)
FINANCIAL SERVICES NEGOTIATIONS

Total number of commitments: 102
(This charts lists the 70 countries with improved commitments as of December 12)

FOREIGN INVESTMENT IN INSURANCE
(includes life, non-life, reinsurance, brokerage and auxiliary services)

61 COUNTRIES PERMIT MAJORITY CONTROL **(over 93% of world insurance premiums)**:

Allow 100% subsidiaries and entry through branches (45 countries)

Australia (no branches in life), *Austria*, Bahrain, *Belgium*, Bolivia, Bulgaria, Canada (NAFTA), Colombia, Cyprus, Czech Republic, *Denmark*, Ecuador, *Finland, France, Germany, Greece*, Hong Kong, Hungary, Iceland (branching based on EEA reciprocity), *Ireland*, Israel, *Italy*, Japan, Korea (some restrictions on purchasing existing firms) *Luxembourg*, Macau, Malta, Mauritius, Mexico, *Netherlands*, New Zealand, Nigeria, Norway (restrictions on foreign holding of Norwegian company), Peru, Poland (branches after 1999), *Portugal*, Senegal, Slovak Republic, *Spain, Sweden*, Switzerland (certain juridical forms required), Turkey, Uruguay (branches in reinsurance only), *U.K.*, U.S.

(Branching for *EU countries* based on Third Directive)

Allow 100% subsidiaries, no entry through branches (7 countries)

Brazil, Chile, Indonesia, Jamaica, Nicaragua, South Africa (government approval required if acquiring more than 25%), Venezuela

Allow majority control (9 countries)

Egypt (51% for life in 2000, non-life in 2003; 100% in free trade zones)
Ghana (60%)
Kenya (100% subsidiaries and no branches for: non-life, reinsurance and auxiliary services except agency services; 70% foreign ownership for life)
Pakistan (51% for new life, 25% for existing life)
Philippines (51% subsidiaries, no branches)
Romania (99% subsidiaries, no branches)
Singapore (49% in life, non-life subsidiaries but management control allowed, branches)
Slovenia (99% subsidiaries, except reinsurance where limited up to controlling share of capital)
Thailand (permit branches, 49% subs in auxiliary services and 25% life/non-life)

No majority ownership (5 countries):
Dominican Republic, Honduras, Malaysia (51% for existing but only 30% for new), Sri Lanka, Tunisia

No insurance commitments (4 countries): Costa Rica, El Salvador, India (limited commitments), Kuwait

WORLD TRADE ORGANIZATION (WTO)
FINANCIAL SERVICES NEGOTIATIONS

Total number of commitments: 102
(This charts lists the 70 countries with improved commitments as of December 12)

MARKET ACCESS AND SCOPE OF INSURANCE COMMITMENTS
(includes the subsectors of life, non-life, reinsurance, brokerage and auxiliary services)

Guaranteed market access for all insurance subsectors (52 countries)
(representing over 90% of world insurance premium)

Australia, Austria, Bahrain (offshore only), Belgium, Bolivia, Brazil, Bulgaria, Canada, Colombia, Denmark, Dominican Republic, Ecuador, Finland, France, Germany, Greece, Honduras, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Luxembourg, Macau, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nigeria, Norway, Philippines (awaiting confirmation of brokerage commitments), Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey, U.K., U.S.

Excluding pensions: Chile, Czech Republic, Egypt, Peru, Poland, Thailand

Open for selected insurance subsectors (14 countries)

(representing over 4% of world insurance premium(including the US))

Argentina* (all but brokerage and auxiliary services)
Cyprus (all but brokerage and auxiliary services)
Ghana (all but brokerage and auxiliary services)
Indonesia (all but auxiliary services)
Korea (all but pensions and brokerage, also limits on auxiliary services)
Malaysia (all but limitations on access in all sectors)
Pakistan (all reinsurance and life but non life only for existing companies)
Senegal (all but reinsurance)
Singapore (all but limited commitments on brokerage)
Slovak Republic (all but pensions and auxiliary services)
South Africa (all but auxiliary services)
Sri Lanka (all but brokerage and auxiliary services)
Uruguay (auto, MAT, freight, pension consultancy and actuarial services only)
Venezuela (all but pensions, MAT, auxiliary services)

No insurance offer (4 countries): Costa Rica, El Salvador, Kuwait, India

WORLD TRADE ORGANIZATION (WTO)
FINANCIAL SERVICES NEGOTIATIONS

Total number of commitments: 102
(This charts lists the 70 countries with improved commitments as of December 12)

CROSS-BORDER INSURANCE ACTIVITIES

[Unique area of international insurance activities that is limited to specialty categories such as "marine, aviation" and transport (MAT), reinsurance (which involves insuring risks that cannot be insured "in country) and brokerage services]

Allow cross-border MAT insurance, reinsurance and brokerage (27 countries)

Australia, Austria, Bahrain, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland (as long as Icelandic firm or EEA authorized firm), Ireland, Israel, Italy, Luxembourg, Mexico, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland (aircraft liability requires commercial presence), Turkey, U.K., U.S.

Selected Cross-border commitments (35 countries)

Brokerage:
Bolivia, Chile, Egypt, Ghana, Hong Kong, Macau, Slovak Republic, Tunisia

Reinsurance:
Bolivia, Bulgaria, Chile, Colombia, Cyprus, Egypt, Ghana, Hong Kong, Indonesia, Jamaica, Japan, Kenya, Korea, Macau, Malaysia (with limits), Malta, Mauritius, New Zealand, Norway, Pakistan, Philippines, Poland, Romania, Singapore, Slovak Republic, Sri Lanka, Tunisia, Uruguay, Venezuela

MAT:
Brazil (freight), Colombia, Ghana, Jamaica, Japan (except cabotage), Kenya, Korea, Malaysia, Malta, New Zealand, Norway, Philippines, Poland, Slovak Republic (transport only), Slovenia, Thailand

No cross-border commitments (8 countries)

Costa Rica, Dominican Republic, Ecuador, Honduras, India, Kuwait, Peru, South Africa

WORLD TRADE ORGANIZATION (WTO)
FINANCIAL SERVICES NEGOTIATIONS

BANKING/SECURITIES COMMITMENTS

Total number of commitments: 102
(This charts lists the 70 countries with improved commitments as of December 12)

<u>Right of Establishment for Banks (60 countries)</u>

Australia, Argentina, Bahrain, Bolivia, Bulgaria, Brazil, Canada, Colombia, Costa Rica, Cyprus, Dominican Republic, Ecuador, Egypt, European Union (includes the 15 Member States), Ghana, Hungary, Iceland, India, Israel, Jamaica, Japan, Kenya, Macau, Malta, Mauritius, Mexico, New Zealand, Nigeria, Nicaragua, Norway, Pakistan, Peru, Philippines, Poland, Romania, Senegal, Slovak Republic, South Africa, Sri Lanka, Switzerland, Tunisia, Turkey, Uruguay, U.S., Venezuela

<u>Right of Establishment of Securities Companies (45 countries)</u>

Argentina, Australia, Brazil, Bahrain, Bulgaria, Canada, Colombia, Czech Republic, Ecuador, European Union (includes the 15 Member States), Egypt, Hong Kong, Hungary, Iceland, India, Indonesia, Israel, Japan, Kenya, Korea, Macau, Mauritius, Mexico, New Zealand, Nigeria, Norway, Peru, Philippines, Poland, Romania, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey, U.S., Venezuela

<u>100 percent ownership of banks (35 countries)</u>

Argentina, Australia, Bahrain, Brazil, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Ecuador, European Union (includes the 15 Member States), Ghana, Jamaica, Japan, Korea, Malta, Mauritius, Netherlands Antilles, New Zealand, Nigeria, Norway, Peru, Poland, Romania, Slovak Republic, Slovenia, Uruguay,

<u>100 percent ownership of securities firms (37 countries)</u>

Australia, Argentina, Brazil, Bulgaria, Canada, Colombia, Czech Republic, Ecuador, Egypt, European Union (includes the 15 Member States), Hong Kong, Hungary, Iceland, Indonesia, Israel, Japan, Kenya, Kuwait, Macau, Mauritius, New Zealand, Nigeria, Norway, Peru, Poland, Romania, Slovak Republic, Slovenia, South Africa, Switzerland, U.S., Venezuela

<u>Provision and transfer of financial data and information (50 countries)</u>

Argentina, Australia, Bahrain, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Czech Republic, Ecuador, European Union (includes the 15 Member States), Honduras, Hungary, Iceland, Israel, Jamaica, Japan, Malta, Mexico, Macau, New Zealand, Nigeria, Norway, Pakistan, Peru, Poland, Romania, Singapore, Slovenia, Slovak Republic, Sri Lanka, Switzerland, Tunisia, Turkey, United States

Grandfathering acquired rights of foreign banks (64 countries)

Australia, Brazil, Bahrain, Benin, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, European Union (includes the 15 Member States), Ghana, Honduras, Hong Kong, Hungary, Iceland, India, Indonesia, Israel, Jamaica, Japan, Kenya, Korea, Kuwait, Macau, Malta, Mauritius, Malaysia, Mexico, New Zealand, Nigeria, Nicaragua, Norway, Pakistan, Peru, Philippines, Poland, Romania, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey, Uruguay, U.S. Venezuela

Grandfathering acquired rights of foreign securities firms (59 countries)

Argentina, Australia, Brazil, Bahrain, Bulgaria, Canada, Colombia, Czech Republic, Ecuador, Egypt, European Union (includes the 15 Member States), Hong Kong, Hungary, Iceland, India, Indonesia, Israel, Japan, Kenya, Korea, Kuwait, Macau, Mauritius, Malaysia, Mexico, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Tunisia, Turkey, Thailand, U.S., Venezuela

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FOR IMMEDIATE RELEASE
December 16, 1997

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President Clinton Nominates Richard Fisher
to Serve as Deputy U.S. Trade Representative

President Clinton announced today the recess appointment of Richard W. Fisher to be Deputy U.S. Trade Representative with the rank of Ambassador. Currently, his nomination is pending before the U.S. Senate. As Deputy U.S. Trade Representative, Mr. Fisher will address a wide range of trade policy issues concerning the Asia-Pacific region and the Western Hemisphere.

Mr. Fisher issued the following statement concerning his appointment, "I am honored to be appointed to the position of Deputy U.S. Trade Representative by President Clinton. I can't think of a more important time to accept this position, and I look forward to the challenges ahead."

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FOR IMMEDIATE RELEASE
December 17, 1997

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USTR Settles Successful WTO Case Opening Japanese Market for Distilled Spirits and Eliminating Discriminatory Taxes and Tariffs

U.S. Trade Representative Charlene Barshefsky announced today that the United States and Japan have successfully settled their WTO dispute on Japan's taxation of distilled spirits. The settlement will eliminate tariffs on white spirits, will accelerate Japan's elimination of tariffs on brown spirits, and will ensure that U.S. exports of distilled spirits will no longer face discriminatory tax treatment in Japan.

"I welcome this settlement which resolves a long-standing dispute between the United States and Japan. Through the termination of Japan's discriminatory tax regime and elimination of tariffs on a wide range of distilled spirits, U.S. distilled spirits suppliers will have a genuine opportunity to compete in the Japanese market, the second largest market for U.S. suppliers in this sector," stated Ambassador Barshefsky. "This settlement demonstrates that WTO dispute settlement procedures work for U.S. companies and workers," she added, "and by using the leverage that WTO rules provide, we were able to get a substantially better deal for our companies than we could get in the Uruguay Round. I also want to express my appreciation to Ambassador Saito for his efforts in resolving this matter."

Under today's settlement, Japan will adjust its excise tax rates on several categories of distilled spirits in order to come into compliance with WTO rulings for whisky and shochu "A" by May 1, 1998, and for shochu "B" by October 1, 2000. Moreover, Japan has agreed to eliminate tariffs on all brown spirits (including whisky and brandy) and vodka, rum, liqueurs, and gin by April 1, 2002. These tariff cuts go well beyond those in the Uruguay Round, when Japan deferred to 2004 its elimination of tariffs on brown spirits, and blocked tariff elimination on white spirits.

Japan also agreed to provide the United States with information on any measures or subsidies for its domestic distilled spirits industry which Japan might adopt. This information will allow the United States to verify that such measures do not in any way nullify or impair the benefits provided to the United States as a result of this settlement. Japan also agreed to disclose any existing measures that may nullify or impair the benefits of the settlement.

The U.S. distilled spirits industry estimates that as a result of this settlement with Japan, excise taxes on U.S. spirits exports to Japan will be reduced nearly 60 percent, for an annual tax savings of $94 million. Additional tariff and tax cuts will save another $45 million. The industry's conservative estimate is that annual exports to Japan of U.S.-origin distilled spirits will increase $20 million, an increase of over 20 percent.

This settlement represents the 33rd market-opening trade agreement reached with Japan during the Clinton Administration.

BACKGROUND

<u>WTO Dispute Settlement Proceedings</u>

In July 1995, the United States requested consultations with Japan concerning its liquor tax system, and the EC and Canada made similar requests for consultations. After consultations with Japan failed to produce a mutually acceptable solution, the DSB established a single dispute settlement panel for the three parties on September 27, 1995.

The U.S. complaint was that Japan's liquor tax regime unfairly favored domestic distilled spirits, i.e., *shochu* A and *shochu* B, over imported products such as bourbon whisky and vodka. For instance, the excise tax rate on whisky was four times greater than on *shochu* A, and six times greater than on *shochu* B. Similarly, the tax rate on vodka was over 1.5 times and 2.5 times greater than on shochu A and shochu B, respectively. *Shochu* A and *shochu* B are traditional clear spirits produced from grain, potatoes, sweet potatoes or molasses.

The panel ruled in favor of the complaining parties in its report, finding that Japan's liquor tax regime was inconsistent with Japan's WTO obligations. Japan then appealed the panel's findings. The Appellate Body affirmed the panel's conclusions, and on November 1, 1996, the DSB adopted both the Appellate Body report and the original panel report.

The panel and Appellate Body reports found that:

-- vodka and *shochu* (types A and B) are "like products" and so must be taxed identically; the divergence in Japan's tax rates was inconsistent with Japan's WTO obligations; and

-- all *shochu* and other white and brown spirits are "directly competitive or substitutable products" and must be taxed similarly - with no more than a *de minimis* difference in tax rates; the excessive gap in tax rates between *shochu* and other spirits was inconsistent with Japan's WTO obligations.

The reports recommended that Japan bring its tax regime into conformity with its WTO obligations. The rules in the WTO Dispute Settlement Understanding (DSU) provide that a losing party is to have a "reasonable period of time" for compliance with such a recommendation when immediate compliance is impracticable. As Japan and the United States could not mutually agree on what that compliance period should be, on December 24, 1996 the United States requested that the compliance period be determined through binding arbitration. The arbitrator's award, issued on February 14, 1997, set the compliance period as 15 months from the date the panel reports were adopted, i.e., with a deadline of February 1, 1998.

In January 1997, the EU and Japan reached a settlement in this case. The United States continued to push for speedy compliance by Japan and for compensation for any delay. These negotiations paid off in the settlement signed on December 15.

The United States exports $90 million in distilled spirits to Japan in an average year. Our fastest-growing product categories are high-value, signature American products such as Bourbon and Tennessee whisky, as well as vodka and rum. In the last 12 months, U.S. exports of Bourbon to Japan rose from 2.5 to 3.2 million gallons. The U.S. distilled spirits industry estimates that as a result of the WTO litigation and this settlement with Japan, excise taxes on U.S. spirits exports to Japan will be reduced nearly 60 percent, for an annual tax savings of $94 million. The industry's conservative estimate is that annual exports to Japan of U.S.-origin distilled spirits will increase $20 million -- an increase of over 20 percent. Japan's discriminatory tax and tariff structure had effectively limited foreign market share to less than eight percent.

Key Elements of Distilled Spirits Settlement

Under the terms of the settlement, Japan will make the following changes to its Liquor Tax Law:

(1) effective May 1, 1998, the tax rate for whisky/brandy will be lowered to a rate of ¥10,225/kl, while the tax rates on *shochu* type A, liqueurs and "spirits" will be raised to the level of the current tax rate on vodka (¥9924/kl);

(2) effective October 1, 1998, the tax rate on *shochu* B will be raised to ¥7976/kl; and

(3) effective October 1, 2000, the tax rate on *shochu* B will be aligned with tax rates for all other types of white spirits at ¥9924/kl.

These changes are in addition to those already made by Japan on October 1, 1997. On that date Japan lowered the per-kiloliter excise tax rate on whisky/brandy by 43%, from ¥24,558/kl to

¥13,550, and increased the tax rate on the "liqueurs" category (including canned mixes) by 20% to ¥9924. Japan also increased the per-kiloliter excise tax rate on *shochu* type A by 30% to ¥8076, and raised the tax rate on *shochu* B by 48% to ¥6028.

Japan will also reduce tariffs on Bourbon and Tennessee whisky, rum, gin, vodka and liqueurs starting April 1, 1998. Tariffs on these items will go to zero on April 1, 2002.

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FOR IMMEDIATE RELEASE
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WTO TO MEET IN JANUARY TO CONSIDER ENTRY INTO FORCE DATE OF GLOBAL TELECOMMUNICATIONS AGREEMENT

Countries that have formally accepted the WTO Basic Telecom Agreement met in Geneva today to discuss the status of acceptances and entry-into-force of the agreement. Fifty-five WTO Members -- representing almost 90% of world revenues of basic telecom services -- have accepted the WTO Basic Telecom Agreement and fifteen additional Members are planning to do so in the near future--setting a milestone in a dramatic opening of global markets in this $675 billion industry.

Following the meeting, Ambassador Barshefsky announced that the United States had joined other WTO members in agreeing to meet in January to consider the date of entry into force.

"It appears that the relatively short time provided for each government formally to accept the agreement has prevented a limited number of WTO members from meeting the ambitious deadline originally set for entry-into-force," Ambassador Barshefsky said. "Each of these governments has indicated their intention to fully honor their commitments, but need some additional time to make legal and procedural changes to meet the terms of their offers. In fact, three parties to the Agreement have improved their commitments since February (Morocco, Pakistan and Switzerland), and an additional WTO Member has expressed for the first time an intention to make commitments under the Agreement (Suriname). I am confident that by next month many if not all of the remaining countries will have completed procedures necessary to formally put this landmark agreement into action."

The negotiators originally intended for the acceptance period to be May 1996 through November 30, 1997 and for the agreement to enter into force by January 1, 1998. However, the extension of the negotiating period from the original April 30, 1996 deadline to February 15, 1997 reduced the implementation period considerably. Given the relatively short time since the completion of the treaty text of the agreement (almost eight months) and the dramatic market-opening requirements set forth by many foreign countries, several parties have had difficulty completing their acceptances by the November 30 deadline.

Background

The entry into force of the WTO Basic Telecom Agreement was scheduled to be January 1, 1998, provided that each of the seventy WTO members which are parties to the agreement had formally accepted the agreement by November 30, 1997. The seventy parties to the agreement include sixty-nine distinct territorial entities, of which fifteen are E.U. Member States, and the E.U. Presidency (Luxembourg), on behalf of the European Communities.

In the absence of seventy formal acceptances, the agreement provides that those WTO members which have given acceptances may decide on the Protocol's entry-into-force. So far fifty WTO members have formally accepted the agreement, and another five Members have indicated their acceptances are ready. Any limited change in the entry-into-force date is not expected to affect significantly the legislative or regulatory implementation processes of the fifty-five WTO Members which have accepted or are ready to accept the Protocol. The United States will not have any obligations until the Agreement comes into force and will use the period provided to urge acceptance of the Protocol by the fifteen WTO Members still outstanding.

The WTO members which have accepted the Protocol met in Geneva on December 18, 1997, and agreed to meet in January, in order to encourage the fifteen remaining parties to give their acceptances.

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U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY ANNOUNCES RESOLUTION OF WTO DISPUTE WITH TURKEY ON FILM TAXES

United States Trade Representative Charlene Barshefsky announced today that the United States and Turkey have resolved a dispute over Turkey's box office tax on the showing of foreign films. The United States initiated a Section 301 investigation and WTO dispute settlement procedures against Turkey on June 12, 1996, challenging Turkey's imposition of a tax on the showing of U.S. and other foreign films that was not similarly imposed on the showing of domestic films. The tax forced the U.S. film industry to pay millions of dollars in taxes on income generated by the showing of their films, while the Turkish film industry paid no such taxes.

Following consultations under WTO dispute settlement procedures, Turkey agreed to equalize any box office tax imposed in Turkey on the showing of foreign and domestic films. On Tuesday, December 16, the Turkish Council of Ministers published a regulation which lowered the tax on foreign films from 25% to 10%, while raising the tax on domestic films from 0% to 10%.

"The WTO has again set an important standard for compliance with regard to protection of intellectual property rights," said Ambassador Barshefsky. "I am pleased that, as a result of dispute settlement consultations, Turkey has taken action to ensure equal treatment for U.S. films. America's motion picture studios are an integral part of one of the United States' fastest growing and most dynamic industries. Last year, U.S. copyright industries exported more than $50 billion in software, video, CD, printed matter and film products."

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FOR IMMEDIATE RELEASE
December 22, 1997

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U.S. AND NICARAGUA REACH BILATERAL INTELLECTUAL PROPERTY RIGHTS AGREEMENT

U.S. Trade Representative Charlene Barshefsky announced today that the United States has concluded a Bilateral Intellectual Property Rights Agreement with Nicaragua. The wide-ranging Agreement reached December 16 extends protection to copyrights, patents, trademarks, trade secrets, semiconductor layout designs, encrypted satellite signals, and geographical indications. The agreement also contains enforcement provisions relating to civil remedies and criminal penalties for infringement.

"This Agreement ensures U.S. investors and right holders that their intellectual property rights will be respected in Nicaragua," said Barshefsky. "In reaching this agreement, Nicaragua has signaled its commitment to adopt a modern legal and enforcement regime that will promote effective protection of intellectual property rights. This Agreement should provide a model for other Central American countries, and stimulate increased protection and enforcement of intellectual property rights in the region."

The Agreement, when fully implemented, obligates Nicaragua to provide an even a higher level of protection for intellectual property than is required under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In addition, the Agreement requires Nicaragua to implement these protections within eighteen months -- ahead of the time that Nicaragua would otherwise be required to implement the TRIPS Agreement.

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FOR IMMEDIATE RELEASE
Tuesday, December 23, 1997

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United States Reaches Understanding with the European Union on Humane Trapping Standards

U.S. Trade Representative Charlene Barshefsky announced that the United States and the European Union on December 18 signed an Agreed Minute on humane standards for the trapping of furbearing animals. The Agreed Minute develops technical specifications for trap performance, suggests guidelines for further research into trap design, and envisions the phasing out of certain trapping devices currently in use. "I am pleased that we have achieved this result," Barshefsky said. "The Agreed Minute on humane trapping standards is a major step forward for all those concerned with issues related to trapping and animal welfare and should avoid a U.S.-EU trade dispute."

Signing of the Agreed Minute caps more than two years of work on the part of the United States, the EU, Canada, and the Russian Federation to develop a set of humane trapping standards. In July 1997, EU member states approved an agreement with Canada and Russia incorporating the same technical standards that form the core of the U.S.-EU understanding. These standards are thus the first specifications designed to improve the humaneness of traps that have ever received international recognition. The U.S.-EU understanding should ensure that trade in fur can continue between the United States and the EU while the standards are being put in place. The EU had threatened to block U.S. exports unless the United States banned the leghold trap or adopted internationally agreed humane trapping standards.

The U.S.-EU understanding is embodied in an Agreed Minute, which represents an important political statement of intent by the signatories while reflecting the fact that, in the United States, individual State and tribal authorities have primary authority over the regulation of trapping and thus will be responsible for implementing the standards. The authorities in the United States intend to implement the standards through a multi year process of developing Best Management Practices for trapping. The BMP program is a cooperative venture involving both State and federal agencies. As part of the federal commitment to this process, Congress has appropriated $350,000 for trap evaluation in FY 1998.

The U.S.-EU understanding describes the characteristics of trap performance that need to be met in order for any trap to conform to the humane trapping standards. Restraining-type and killing-type traps are covered. The understanding envisions the phasing out, except in certain circumstances, of various types of traps. As part of the process, traps which do not meet the standards should be phased out within eight years after entry into force of the EU's agreement with Canada and Russia. The understanding also reflects the intention of the competent authorities in the United States to phase out certain leghold restraining traps for certain species within four or six years (depending on the species) of the entry into force of the EU/Canada/Russia agreement. The U.S.-EU Agreed Minute lists nineteen species of furbearing animals to which the standards are applicable; twelve of these species are trapped in the United States. In addition, the competent authorities in the United States have indicated their intention to apply the standards to the other ten species commercially trapped in the United States - a scope of application unmatched by any other country.

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U.S. Trade Representative Charlene Barshefsky Highlights WTO Anti-Corruption Action

U.S. Trade Representative Charlene Barshefsky noted that with U.S. leadership WTO Members have taken an important step forward in improving transparency and eradicating corruption in the international trading system through a series of recommended actions concerning customs procedures.

"This WTO action goes hand-in-hand with U.S. leadership in the OECD to eliminate bribery and corruption from international trade," said U.S. Trade Representative Charlene Barshefsky. "Violations of the Preshipment Inspection Agreement have resulted in unwarranted market access barriers for U.S. exporters through delays and an absence of transparent procedures. As a result of U.S. efforts, our exporters are likely to see immediate improvements in preshipment inspection in many countries."

More than 30 countries require, as a condition of importation, that a preshipment inspection be performed in the country of exportation by a private entity. While legal under WTO rules, use of such private PSI entities can result in barriers to market access and corrupt customs practices. In many markets that are important to U.S. exporters, irregularities can be found from the initial inspection of goods by PSI entities to the final application by customs officials of duty rates, providing opportunities for corrupt practices. The action taken in Geneva confirms that governments will implement fully the PSI Agreement, a priority for U.S. industry.

Work will now turn to such matters as the fee structures in contracts for PSI entities, the development of a code of conduct for PSI entities, and standardization of inspection formats. The WTO will also address technical assistance activities in areas such as customs reforms, simplification of customs systems and procedures, and the development of an adequate legal administrative and physical infrastructure.

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U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY ANNOUNCES AGREEMENT WITH ISRAEL ON LOWER TARIFFS FOR U.S. ALMOND EXPORTS

United States Trade Representative Charlene Barshefsky announced today that the United States and Israel have reached an agreement which substantially lowers fees charged by Israel on imports of U.S. almonds. The U.S. and Israel are parties to a Free Trade Agreement signed in 1985, which was supplemented by a special agreement on agriculture in 1996.

"I am delighted that the U.S. and Israel have been able to reach an agreement which will significantly improve access to the Israeli market for U.S. almond exports, while not affecting the volume of our raisin and prune exports," said Ambassador Barshefsky. "We will continue to work with Israel under our Free Trade Agreement to increase access to the Israeli market for U.S. agricultural products."

Israel had been charging an import fee based on a reference price of $9.00/kg, which, depending on the price of almonds, could result in a tariff as high as $4.00/kg. The agreement reduces the tariff on shelled almonds to $1.80/kg for a tariff rate quota of 2000 metric tons. For quantities above 2000 metric tons, the tariff will be $8.00/kg minus the invoice price. It also reduces the tariff on in-shell almonds to $1.35/kg for a new tariff rate quota of 180 metric tons. For quantities above 180 metric tons, the duty will be $6.50/kg minus the invoice price. In addition, the agreement restores a February 1 through June 30 seasonal quota for Israeli imports of raisins and prunes and introduces a May 1 through December 31 season for the Israeli quota on sunflower seeds. Seasonal quotas should not affect the volume of U.S. exports of these products because the products have a long shelf life. The Government of Israel also made commitments to ensure that seasonality will not impair the ability of the United States to export the full quota volume of these products and that the United States is to receive priority status on any additional import quotas.

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FOR IMMEDIATE RELEASE
Tuesday, December 23, 1997

Contact: Jay Ziegler
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U.S. TRADE REPRESENTATIVE ANNOUNCES FAVORABLE DECISION FOR UNITED STATES IN WTO DISPUTE WITH INDIA

United States Trade Representative Charlene Barshefsky today announced that the Appellate Body of the WTO had ruled in favor of the United States in its case against India regarding India's failure to provide intellectual property rights protection as required by the WTO Agreement. This case is the first intellectual property rights dispute decided by the Appellate Body.

"The Appellate Body's decision sets an important precedent for the enforcement of U.S. intellectual property rights, and represents a significant victory for U.S. pharmaceutical and agricultural chemical companies," said Ambassador Barshefsky. "The decision serves notice that all WTO members, including developing countries, must carry out their obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). There is no free-ride under TRIPS."

In the TRIPS Agreement, developing countries that did not provide patent protection for pharmaceutical and agricultural chemicals were given a ten year transition period to establish such protection. In the interim, however, these countries are required to establish a "mailbox" system to receive and date patent applications. When patent protection is ultimately provided for pharmaceuticals and agricultural chemicals in these countries, all mailbox patent applications must be examined based on their filing and priority dates. For an invention to receive patent protection, it must generally be new, involve an inventive step, and be capable of industrial application. The mailbox system is designed to preserve the novelty of inventions and priority of applications during the transition period. The TRIPS Agreement also requires that countries grant exclusive marketing rights to certain products that are subject to mailbox applications.

The WTO panel that considered this case ruled in favor of the United States on September 5, 1997, and India subsequently appealed the case to the Appellate Body. In its decision, the Appellate Body upheld the Panel's findings that India failed to comply with its obligations under the TRIPS Agreement to establish a "mailbox system" and a procedure for granting exclusive marketing rights for pharmaceutical and agricultural chemical products.

According to the Appellate Body, the mailbox system required by the TRIPS Agreement must have a "sound legal basis." The Appellate Body rejected India's argument that unpublished, administrative instructions were sufficient to establish a legally valid mailbox. In addition, the Appellate Body found that as of January 1, 1995, India was required to have a legal mechanism "ready" to grant exclusive marketing rights to qualifying products, and that India had not established such a system. The Appellate Body's report confirms that all developing countries must fully and immediately implement the mailbox and exclusive marketing rights obligations of the TRIPS Agreement.

The Appellate Body's report will be adopted at a special meeting of the WTO Dispute Settlement Body in Geneva on January 16, 1998.

Background

On July 2, 1996, the United States requested WTO dispute consultations with India regarding India's lack of compliance with Articles 70.8 and 70.9 of the TRIPS Agreement. Article 70.8 requires India to establish the mailbox system for patent applications. Article 70.9 requires India to grant exclusive marketing rights to certain products subject to mailbox applications. After the consultations, the United States requested the establishment of a panel to hear the dispute. The Panel issued its report on September 5, 1997, and found India in violation of Articles 70.8, 70.9 and 63 of the TRIPS Agreement.

India appealed the Panel's decision on October 15, 1997, and a hearing was held before the Appellate Body in Geneva on November 4, 1997. The Appellate Body's report upholds the Panel's findings with respect to Articles 70.8 and 70.9 of the TRIPS Agreement, and holds that the Panel did not have jurisdiction to consider the Article 63 claim.

The European Community (EC) has filed its own case against India on the same issues presented by the United States. The EC's case will proceed through the panel process in the coming months, and the United States will participate as a third party in those proceedings.

The successful resolution of this case follows the successful resolution of a similar case brought by the United States against Pakistan last year. In that case, the United States also alleged that Pakistan had not implemented the mailbox and exclusive marketing rights provisions of the TRIPS Agreement. The Pakistan case was successfully settled in February 1997, after the President of Pakistan issued an ordinance bringing the country into compliance with Articles 70.8 and 70.9 of the TRIPS Agreement.