

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

**OFFICE OF PUBLIC & MEDIA AFFAIRS**

600 17th Street, N.W.

Washington, D.C. 20508

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**FOR IMMEDIATE RELEASE  
Thursday, September 10, 1998**

**98 - 81  
Contact: Jay Ziegler  
Helaine Klasky  
(202) 395-3230**

**USTR BARSHEFSKY MEETS WITH STEEL REPRESENTATIVES**

United States Trade Representative Charlene Barshefsky met today with representatives of several large U.S. steel companies and the Steelworkers Union to discuss the growing concern of rising U.S. steel imports caused by the collapse of demand and devaluations in Asia and Russia. The U.S. steel industry is critical to the U.S. economy. Steel producers and workers having undertaken massive restructuring and modernization over the last two decades, cannot be asked to carry the burden of the economic crises abroad.

Ambassador Barshefsky welcomed industry and union joint recommendations and pledged a prompt review. She reaffirmed the Administration's "commitment to strong U.S. trade laws designed to prevent injury to U.S. industry and workers from unfair trade practices and from import surges, and to the expeditious and effective enforcement of these laws." Ambassador Barshefsky also reaffirmed the Administration's "commitment to the revitalization and restructuring of the economies in crisis through international assistance, and by calling on their governments to quickly implement necessary economic reforms."

"During my visit to Japan next week, I will have the opportunity to urge Japanese Cabinet members to take decisive steps to reform and revitalize Japan's economy and to open its market. Japan cannot expect to export its way to health. "Ambassador Barshefsky noted that steel is a case in point where Japan's exports to us have grown 114% so far this year (and 153% in the month of June alone). "Japan's government and industry must take responsible and immediate action to deal with the country's domestic issues and thus to help promote regional recovery."

A follow-up meeting was agreed to before the end of September.

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For Immediate Release  
Friday, September 11, 1998

Contact: 98-82  
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Helaine Klasky  
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**CUSTOMS ACTIONS REGARDING TEXTILE IMPORTS FROM MACAU**

United States Trade Representative Charlene Barshefsky announced today, "As part of an Administrative initiative to strengthen controls to prevent illegal textile transshipment, the United States will take preventive action pertaining to imports of certain textile products from Macau. These actions are being taken to ensure that imports of certain textile products from Macau conform to country of origin requirements for importation into the U.S. The United States government has reason to be particularly concerned about illegal textile transshipment activity, and these actions are part of a broader initiative undertaken to ensure the integrity of our textile quota arrangements."

The measures announced today are:

- a new "watch list" which will advise importers that Customs is monitoring imports of the following textile products with Macau claimed as the country of origin: special purpose fabric in category 229, babies garments in category 239, robes and dressing gowns in category 350, other cotton apparel in category 359, man-made fiber knit shirts and blouses in category 638/639, man-made fiber blouses in category 641, silk blend and non-cotton vegetable fiber shirts and blouses in category 840 and underwear in category 352/652;
- Customs will post to the public bulletin board a list of the names of all factories in Macau that are known to be currently closed and unable to produce. This notice will advise importers that any shipments from these companies will be detained until production records are presented to substantiate production and a confirmation is made as to the status of the factory; and
- Customs will issue a message to ports of entry to require that no shipments or imports of certain goods in category 352/652 (underwear) be released into the commerce of the U.S. without sufficient documentary proof showing that origin-conferring production took place in Macau.

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FOR IMMEDIATE RELEASE  
Wednesday, September 16, 1998

Contact: 98 - 83  
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USTR ANNOUNCES ALLOCATION OF THE RAW CANE SUGAR, REFINED SUGAR  
AND SUGAR CONTAINING PRODUCTS TARIFF-RATE QUOTAS FOR 1998-99

United States Trade Representative Charlene Barshefsky today announced the country-by-country allocations of 1,164,937 metric tons (1,284,123 short tons) of the raw cane sugar tariff rate quota for Fiscal Year 1999. These allocations are based on the countries' historical trade to the United States.

The 1,164,937 metric tons for raw cane sugar are being allocated to the following countries in metric tons, raw value:

<u>Country</u>	<u>FY1999 Allocation</u>
Argentina	46,581
Australia	89,912
Barbados	7,583
Belize	11,916
Bolivia	8,666
Brazil	157,076
Colombia	25,999
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	16,249
Dominican Republic	190,657
Ecuador	11,916
El Salvador	28,165
Fiji	9,750
Gabon	7,258
Guatemala	51,997
Guyana	12,999
Haiti	7,258
Honduras	10,833
India	8,666
Jamaica	11,916

Madagascar	7,258
Malawi	10,833
Mauritius	12,999
Mexico	25,000
Mozambique	14,083
Nicaragua	22,749
Panama	31,415
Papua New Guinea	7,258
Paraguay	7,258
Peru	44,415
Philippines	146,243
South Africa	24,915
St. Kitts & Nevis	7,258
Swaziland	17,332
Taiwan	12,999
Thailand	15,166
Trinidad-Tobago	7,583
Uruguay	7,258
Zimbabwe	<u>12,999</u>

Total 1,164,937

This allocation includes the following minimum-quota countries: Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, Paraguay, St. Kitts & Nevis, and Uruguay.

United States Trade Representative Charlene Barshefsky also announced that 25,000 metric tons (27,558 short tons) of the 50,000 metric tons (55,116 short tons) for refined sugar will be allocated to Mexico in order to fulfill obligations pursuant to the North American Free Trade Agreement (NAFTA). As a result of an agreement reached with Canada, 10,300 metric tons (11,354 short tons) of refined sugar and 59,250 metric tons (65,312 short tons) of the tariff-rate quota for certain sugar-containing products maintained under "Additional U.S. Note 8 to chapter 17 to the Harmonized Tariff Schedule of the United States" will be allocated to Canada. Separately, an additional 2,954 metric tons (3,256 short tons) of refined sugar will be allocated to Mexico. The remainder of the refined sugar tariff-rate quota will be available on a first-come, first-served basis, including the 4,656 metric tons (5,132 short tons) reserved for specialty sugars. The remainder of the sugar-containing products tariff-rate quota will be available for other countries.

The 25,000 metric tons, raw value, of refined sugar allocated to Mexico pursuant to the NAFTA 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 of the raw and refined sugar tariff-rate quotas 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

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FOR IMMEDIATE RELEASE  
THURSDAY, SEPTEMBER 17, 1998

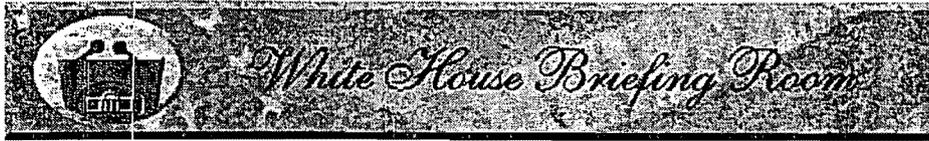
98 - 84  
CONTACT: JAY ZIEGLER  
HELAIN KLASKY  
(202) 395-3230

UNITED STATES AND HONG KONG AGREE TO ENHANCED  
COOPERATION TO COMBAT ILLEGAL TEXTILE TRANSSHIPMENT

United States Trade Representative Charlene Barshefsky today announced that on September 15, 1998, the Governments of the United States and Hong Kong Special Administrative Region agreed to additional steps to combat illegal circumvention of textile and apparel quota arrangements. Ambassador Barshefsky hailed the agreement, commenting: "Circumvention violates Hong Kong and U.S. law, undermines the integrity of international textile agreements, and harms the U.S. textile and apparel industry and legitimate import trade. The United States government is firmly committed to enforcing our trade agreements. This agreement is part of a broader initiative to strengthen controls to prevent illegal textile transshipment."

Secretary of Commerce William Daley noted: "This agreement will go a long way in strengthening the government to government cooperation that is crucial in detecting and deterring illegal transshipments. It will increase the flow of information from Hong Kong that we need to enforce our agreements, and it provides for an ongoing review process so that we can ensure that the level of cooperation remains to our satisfaction."

The agreed additional measures include greater cooperation in joint factory observation visits in Hong Kong, increased information sharing, and enhanced enforcement measures to be taken by the United States and Hong Kong. In addition, on the basis of this greater cooperation, the United States will no longer require original signatures by manufacturers and sub-contractors on U.S. textile declarations and certification by importers on the accuracy of textile declarations. The Governments agreed to review these enhanced efforts on an on-going basis to ensure that they are effectively addressing illegal textile and apparel circumvention.



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**September 24, 1998**

**PRESIDENT CLINTON NAMES C. DONALD JOHNSON, JR. FOR RANK OF  
AMBASSADOR AS CHIEF TEXTILE NEGOTIATOR**

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 24, 1998

PRESIDENT CLINTON NAMES C. DONALD JOHNSON, JR. FOR  
RANK OF AMBASSADOR AS CHIEF TEXTILE NEGOTIATOR

The President today announced his intent to nominate C. Donald Johnson, Jr. for the Rank of Ambassador during his tenure of service as Chief Textile Negotiator.

Mr. C. Donald Johnson, Jr., of Royston, Georgia, previously served in the United States Congress, representing the 10th District of Georgia. During his service in the U.S. House of Representatives, he served on the Armed Services and Science, Space and Technology Committees. He was also selected as a member of the speaker's Working Group on Policy and as a delegate to the North Atlantic Assembly. He was actively involved in international trade issues, including participation as a member of the Textile Caucus and in the whip organizations promoting GATT and NAFTA. Early in his career, he served as legislative counsel to the Ways and Means Committee of the United States House of Representatives, where he assisted in drafting foreign trade legislation, principally the Trade Act of 1974. While in private practice, Mr. Johnson concentrated on corporate and international law. He also served as President of an international trade and consulting firm. He taught part time at the University of Georgia, and was an advisor to the Dean Rusk Center for International and Comparative Law and the European Center in Atlanta.

Mr. Johnson received his B.A. and J.D. degrees from the University of Georgia and a Master of Laws degree in international economic law and European law from The London School of Economics. He also attended The Hague Academy of International Law on a Loidan's Foundation scholarship. Mr. Johnson served for four years on active duty as a Captain in the U.S. Air Force.

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FOR IMMEDIATE RELEASE  
FRIDAY, SEPTEMBER 25, 1998

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HELAIN KLASKY  
(202) 395-3230

## MEDIA ADVISORY

### U.S. Trade Representative Charlene Barshefsky to Visit Chicago Alma Mater on Sept 28

As part of the Administration's "Back to School Initiative," United States Trade Representative Charlene Barshefsky will be addressing the student body of Chicago's Von Steuben High School on September 28, 1998 at 9:30 AM. This event will be open to the press.

Ambassador Barshefsky graduated Von Steuben High School in 1968 and this will be her first official visit to the school since then. She will be talking to the students about public service and the Administration's trade priorities. Her remarks will be from 9:30 - 10:30, including a question and answer period for students. Following her address, she will entertain some questions from the press.

Von Steuben High School is located on 5039 North Kimball Avenue. For further information, contact the school at (773) 534-5100 or Bill Daley, Jr. at (202) 374-4558.

Later that day, Ambassador Barshefsky will address the Chicago Council on Foreign Relations. This event is closed press.

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FOR IMMEDIATE RELEASE  
FRIDAY, SEPTEMBER 25, 1998

98 - 85  
CONTACT: JAY ZIEGLER  
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**USTR RESPONDS TO CANADA'S ACTIONS ON BORDER DISPUTE**

In response to an announcement by Canadian officials yesterday that they have filed formal action against the United States at the World Trade Organization (WTO) and under Chapter 20 of the NAFTA concerning a Canada-U.S. border dispute, U.S. Trade Representative Charlene Barshefsky today issued the following statement:

"Last night, I made it very clear to Canada's Trade Minister Sergio Marchi that these actions do not bring us any closer to solving issues at the U.S.-Canada border. While Canada certainly has the right to take these steps, we need to directly address the issues in front of us in an open and constructive manner."

"The Administration is focused on the underlying severe economic conditions that persist in substantial areas of the U.S. agricultural industry. We also are highly concerned about Canada's agricultural trade policies. It is time for Canada to take decisive action to level the playing-field."

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FOR IMMEDIATE RELEASE  
FRIDAY, SEPTEMBER 25, 1998

CONTACT: 98 - 86  
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**USTR CALLS FOR RENEWED EFFORTS IN CONGRESS  
ON TRADE LEGISLATION THIS YEAR**

United States Trade Representative Charlene Barshefsky today issued the following statement in response to the vote in the House of Representatives on fast track legislation:

"As I have consistently said to our trading partners, to the Congress, and to our industries and workers, the Administration is moving ahead on our global trade agenda. In the past year, we have launched new trade initiatives with the European Union, Africa, in APEC, at the World Trade Organization (WTO), and toward establishing the Free Trade Area of the Americas (FTAA). Our trade agenda is built on the foundation of securing fair trade terms for U.S. industry and workers around the world."

"The history of U.S. trade policy is one which has and must continue to move forward on the strength of bipartisan congressional action. Today, I call on the Congress to send a signal of U.S. leadership and bipartisan consensus on trade policy by moving forward on practical and immediate trade issues this year. It is imperative that the Congress approve funding for the International Monetary Fund to ensure that it has the resources necessary to confront the global financial crisis that threatens our economy. The Administration also will continue to work with the Congress to enact legislation on the Caribbean Basin Initiative (CBI), the African Growth and Opportunity Act, the global shipbuilding treaty, GSP authorization, and the Training Adjustment Assistance (TAA) program. If we can advance legislation on these immediate issues, this action would serve as an important foundation from which to build bipartisan support for enactment of fast track legislation early next year."

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FOR IMMEDIATE RELEASE  
THURSDAY, OCTOBER 1, 1998  
KLASKY

CONTACT: 98 - 87  
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HELAINÉ  
  
(202) 395-3230

**CANADA ENDS DISCRIMINATORY TELECOM PRACTICE IDENTIFIED BY  
USTR ANNUAL REVIEW OF TELECOMMUNICATIONS TRADE AGREEMENTS**

United States Trade Representative Charlene Barshefsky applauded the termination of Canada's discriminatory telecommunications trade practice. This practice was identified earlier this year during USTR's annual review of the operation of U.S. telecommunications trade agreements under section 1377 of the Omnibus Trade and Competitiveness Act of 1988.

Canada came under close scrutiny in this year's review, which was completed on March 31, 1998, for a restriction that prohibits the routing of international telecommunications services to or from Canada through the United States. "The decision by the Canadian Radio Television and Telecommunications Commission (CRTC) today was essential to assure that Canada honored its obligations in telecommunications services under the landmark WTO basic telecom agreement. U.S. telecommunications companies, which have extensive interests in Canada, now will be able to compete effectively for traffic between Canada and third countries, and they no longer will be legally inhibited from sending such traffic through their U.S.-based networks," said Ambassador Barshefsky.

The Canadian restriction prevented U.S.-based carriers from enjoying opportunities available to carriers in other countries for transmitting approximately \$700 million in international telecommunications traffic to and from Canada. The United States called for an end to the restriction in comments submitted in a Canadian regulatory proceeding earlier this year, while maintaining the option to initiate WTO dispute settlement proceedings if the CRTC decided not to eliminate the restriction. The CRTC's decision in the proceeding, announced today, resulted in the termination of this restriction and the implementation of other commitments by Canada under the WTO basic telecom agreement.

"Canada's decision is another step in the right direction away from past policies that inhibited trade in telecommunications services and information products across our border. I welcome the recognition by Canada that such restrictions can only slow the further development of Canada's information industries, and inhibit investment in a cutting-edge information infrastructure," said Ambassador Barshefsky.

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FOR IMMEDIATE RELEASE  
THURSDAY, OCTOBER 1, 1998

CONTACT: 98 - 88  
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### USTR LAUNCHES NEW INITIATIVE TO FIGHT SOFTWARE PIRACY

Vice President Al Gore called on USTR Charlene Barshefsky to utilize a new U.S. anti-piracy software directive as a means to curb software piracy in international markets. The Vice President announced issuance of a new Presidential Executive Order directing U.S. Government agencies to maintain appropriate, effective procedures to ensure legitimate use of software and that such software is used as authorized.

Ambassador Barshefsky noted that an important purpose of the Executive Order is its value as an example to many other countries. She stated: "Piracy of computer software remains a serious problem in many countries. As part of our ongoing efforts, we are pressing these governments to take more aggressive steps to enact and enforce modern intellectual property laws. An important aspect is that other government's agencies and ministries must take steps to ensure that they are using only legitimate software and that such software is used only as authorized. This carefully developed U.S. Executive Order should be a useful tool for other governments to draw upon."

The President has directed that USTR undertake an initiative over the next 12 months to work with other governments, particularly those in need of modernizing their software management systems or where concerns have been expressed about inappropriate government use. USTR intends to work closely with US software companies in pursuing this initiative, drawing upon their expertise in this area. USTR will encourage and if necessary press other governments to ensure that procurement practices call for, and budgets provide for, acquisition and use of legal software. USTR is already working with countries on this problem and will now intensify its efforts. These efforts should lead to more sales by US software companies and more high-tech jobs.

USTR Charlene Barshefsky further stated: "Governments must clean up their own houses if they are to successfully clean up copyright piracy in their private sectors."

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FOR IMMEDIATE RELEASE  
THURSDAY, OCTOBER 1, 1998

CONTACT: 98 - 88  
JAY ZIEGLER  
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FOR IMMEDIATE RELEASE  
OCTOBER 2, 1998

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**UNITED STATES TRADE REPRESENTATIVE CHARLENE BARSHEFSKY AND  
AGRICULTURE SECRETARY DAN GLICKMAN ANNOUNCE EFFORT UNDERWAY  
TO RESOLVE U.S.-CANADA BORDER DISPUTE**

United States Trade Representative Charlene Barshefsky and Agriculture Secretary Dan Glickman announced today that the United States and Canada have agreed to engage in intensive discussions covering a wide range of issues affecting farmers and ranchers in both countries. The discussions will begin next week with a view toward finding expeditious solutions to these issues.

Secretary Glickman and Ambassador Barshefsky issued the following joint statement:

"The Administration is very concerned about the underlying severe economic conditions that persist in substantial areas of the U.S. agricultural industry. The Administration is also highly concerned about Canada's agricultural trade policies and practices. We have said again and again that Canada must address these issues in an open and constructive manner.

"We believe that Canada's decision to open an intensive dialogue with us on agricultural trade issues and to suspend its WTO and NAFTA trade actions is a constructive step toward resolving our concerns.

"We have had an on-going dialogue with members of Congress, and Governors from States where agricultural producers have been particularly hard hit, and we are also encouraged by their actions to suspend a series of additional inspection procedures as we undertake this dialogue with Canadian officials."

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FOR IMMEDIATE RELEASE  
OCTOBER 7, 1998

98 - 90  
CONTACT: JAY ZIEGLER  
HELAINÉ KLASKY  
(202) 395-3230

**U.S. SUBMITS WIDE-RANGING DEREGULATION PROPOSALS TO JAPAN**

United States Trade Representative Charlene Barshefsky today announced the release of a new U.S. Government submission containing more than 270 proposals for deregulation in Japan. The 52-page document contains numerous detailed deregulation proposals in the telecommunications, housing, financial services, medical devices and pharmaceuticals, energy, and automotive sectors. The U.S. submission also emphasizes structural issues such as distribution, competition policy, and transparency.

Many of the U.S. proposals build upon those announced by the United States and Japan in May under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy. Others introduce significant new elements to the deregulation agenda. The United States believes that its submission should form the basis for agreement between the two Governments by the time of the G-8 Summit next June in Cologne, Germany.

"The United States and Japan made a good start on our deregulation agenda during the first year under the Enhanced Initiative," said Ambassador Barshefsky, "but given the critical need to restore economic growth in Japan, it is essential that we make significant new progress over the coming year. By fully implementing measures already agreed upon, and taking further substantial deregulatory actions in other areas, Japan would begin to address the growing calls from within and beyond its borders for fundamental structural reforms in its economy."

Ambassador Barshefsky stressed that the entire world economy stood to benefit from Japanese action in this area. "Meaningful and timely regulatory reform," she said, "would reduce non-tariff barriers to trade, opening Japan's markets to its trading partners. Clearly, the prospects for economic recovery in Asia depend upon creating domestic demand-led growth in Japan. Deregulation is critical in meeting this goal. The Japanese economy is encumbered by a dense thicket of regulatory restrictions. Removal of these restrictions, coupled with effective macroeconomic policies, will help to restore domestic demand-led growth. The competition-enhancing effects of comprehensive deregulation will increase business and employment opportunities throughout Japan, and thereby improve the standard of living and long-term economic and financial security of the Japanese people."

Expert groups will meet later this month to discuss the new U.S. submission in detail. A Vice Ministerial meeting will be held in early November to review and advance the work of the experts so that the two Governments can reach agreement by the time of the June 1999 summit on further measures to deregulate the Japanese economy.

The fact sheet highlights the key deregulation proposals submitted to Japan today and, along with the report, is available on our web site: [www.ustr.gov](http://www.ustr.gov).

Highlights from the Submission by the Government of the United States to  
the Government of Japan Regarding Deregulation, Competition Policy,  
and Transparency and Other Government Practices in Japan.

October 7, 1998

The submission by the United States on Deregulation, Competition Policy, and Transparency and Other Government Practices provided to Japan today sets out an ambitious agenda for deregulation and market opening in several critical sectoral and structural areas of the Japanese economy. The U.S. submission contains important new proposals, as well as proposals which build on the measures contained in the Joint Status Report issued by both governments in May 1998. A number of the key proposals contained in the U.S. submission are set out below.

## I. TELECOMMUNICATIONS

Despite progress, competition in Japan's \$128 billion telecommunications and broadcasting market remains stymied both by overregulation of new entrants and a lack of effective regulatory discipline over entrenched firms with dominant market power. As a result, choice of service providers remains limited and Japan's telephone rates remain among the highest among OECD countries. In today's submission, the United States urges Japan to adopt numerous market liberalizing measures.

### Interconnection

For competitive carriers, paying NTT to complete calls on NTT's network (interconnection) typically accounts for 50 percent or more of their costs--a major impediment to stimulating competition. With interconnection rates in Japan three to five times those of other competitive markets, Japan has tremendous margins for reductions. In line with the Joint Status Report, the United States is urging Japan to introduce as early as possible in the year 2000 a methodology (Long-Run Incremental Cost) to ensure these rates are market based, and before such a methodology is in place, make steady interim reductions towards this goal.

### Dominant Carrier Regulation

Dominant carriers, such as NTT, are able to exercise competition distorting influences over the functioning of the market. As such, the U.S. believes Japan should establish a system to discipline dominant carriers while liberalizing rules and requirements for non-dominant carriers. This regulatory distinction should be applied to the system for approval of end-user rates, approval of terms and conditions for new services, rights-of-way, and other areas where market power may impede competition.

### Rights-of-Way

Most facility-based telecommunications providers in Japan are associated with companies with exclusive access to valuable rights-of-ways. Given the premium on space in Japan, such companies have a tremendous advantage. While such carriers (including NTT) have no interest in sharing these rights-of-ways with new competitors, that is precisely what is necessary if Japan is to achieve the kinds of new facilities investment now occurring in other competitive markets. Building on the Joint Status Report, the U.S. is proposing that Japan establish regulations requiring transparent, non-discriminatory, timely, and cost-based access to all poles, ducts, conduits and rights-of-way owned or controlled by NTT and other utility companies. This will ensure that new entrants (including cable TV companies) have fair access to the scarce resources essential to building a competing network.

### Direct-to-Home Communications Satellite Services

Japan's communications satellite services market continues to be plagued by outdated regulations developed in the era of analog broadcast transmission. This regulatory regime has added unproductive business costs and has hurt the development of innovative service offerings made possible through new digital technologies. The key aspect of this regime which should be deregulated is the so-called consignor-consignee relationship between satellite owners and program providers. The United States proposes that this system be abolished for digital direct-to-home satellite providers, to give these providers freedom to provide innovative services, based on the vast new channel offerings made possible by digital technology.

## II. HOUSING

The U.S. and Japan share the goal of improving the quality and lowering the cost of housing in Japan. In this context, the United States has emphasized the elimination of tariffs on wooden building materials, which was endorsed by APEC Heads of State at their November 1997 meeting in Vancouver. The U.S. urges the GOJ to undertake the following measures:

### Transparency

The U.S. believes it is essential that Japan ensure transparency in the implementation of the reforms to the Building Standards Law (BSL). As such, the U.S. is proposing that Japan adopt notice and comment procedures for administrative orders to be issued over the next two years to implement revisions to the BSL, including providing the U.S. with copies of draft implementing measures to facilitate an exchange of views and ensure consistency with international practice.

### Performance-Based Standards/Systems

Building on the Joint Status Report, the U.S. is calling on Japan to adopt several reforms to its standards system. The U.S. proposed measures, including: 1) that by March 31, 1999, Japan

implement a performance-based building standard for three-story, wood-frame construction, including multi-family and mixed-use (residential-commercial) buildings, in quasi-fire protection zones; 2) implement a centralized, uniform system for acceptance and evaluation of test data for building methods and materials (including foreign test data); and 3) by November 1, 1999, implement performance-based standards for all building materials and building systems to ensure fair and equitable treatment for all products and systems.

#### Product Approval/Certification

To facilitate the introduction of foreign building materials, the U.S. is calling on Japan, by March 31, 1999, to allow Foreign Testing Organizations to function as Registered Grading Organizations, as recommended by the Interim Report of the Basic Issues Subcommittee of the Research Committee for Agricultural and Forestry Standards. The U.S. is also proposing that Japan expedite the approval of foreign test laboratories and evaluation bodies for building materials and construction methods, and expand the acceptance of foreign testing methods and grademarks deemed "equivalent" to their Japanese counterparts. Finally, the U.S. is calling on Japan, by November 1, 1999, to eliminate discriminatory treatment of foreign wooden windows by ensuring that all windows sold in Japan are tested to the same performance and fire standards.

### **III. MEDICAL DEVICES AND PHARMACEUTICALS**

The Government of Japan faces the critical challenge of ensuring high quality health care for a rapidly aging population while striving to contain overall health care costs. The following proposals are based on the belief that market-led innovation through deregulation and structural reform is the best means to improve health care quality while containing overall health care costs in Japan.

#### Recognition of Innovation

In line with the Joint Status Report, the U.S. urges Japan to adopt a market-based pricing system to promote the introduction of innovative pharmaceuticals, and to work constructively with industry and interested parties to develop as soon as possible streamlined and transparent procedures for the prompt creation of new functional reimbursement categories for medical devices.

#### Speed the Approval of New Products

Expanding upon the measures in the Joint Status Report, the U.S. has put forward several specific proposals to speed the approval and reimbursement of innovative medical devices and pharmaceuticals. For example, the U.S. calls on Japan to ensure that decisions made by reviewing personnel are binding on the reviewing institution and on others involved in the process, and to eliminate inconsistencies between reviewing bodies interpretations of the acceptability of foreign clinical data.

The U.S. strongly urges Japan to make steady and continuous progress in shortening the approval processing period for new drug applications as Japan implements the measures in the Joint Status Report to approve new drug applications within 12 months by April 2000. U.S. proposals include: 1) allowing the submission and simultaneous review of more than one pending new drug applications for the same drug; and 2) specifying clearly the criteria, the selection review process, and the time frame for approval of applications for priority product treatment.

#### IV. FINANCIAL SERVICES

The United States welcomes Japan's successful implementation of the measures in the 1995 U.S.-Japan Measures Regarding Financial Services, as well as the GOJ's actions taken to date under its Big Bang financial deregulation initiative. Further regulatory reform of Japan's financial markets will increase competition, helping to improve Japan's long-term growth prospects and contribute to a wider variety of investment opportunities for individuals and Japanese companies.

In this context, the United States would welcome deregulatory measures at the earliest possible date to: 1) favorably consider a move to a *tokkin* framework for the management of publicly-administered savings, including *Nempuku*, *Kampo* and *Yucho* funds; 2) eliminate the requirement that fund sponsors liquidate all investments when shifting business from one asset manager to another; 3) expand the scope of business opportunities for securities companies to offer new products and services; 4) eliminate restrictions on nonbanks' use of proceeds from bond and commercial paper issuance; 5) enhance disclosure by financial institutions (including fund managers) to market participants; and 6) introduce tax-advantaged defined contribution pension plans.

The U.S. also urges Japan to improve transparency in the financial services sector by: 1) establishing an open and transparent process for the approval of new products and services; 2) instituting notice and comment procedures for all new regulations, with sufficient time between finalization of regulatory changes and implementation that industry can make necessary organizational, operational and systems changes. The U.S. also calls on Japan to ensure that the establishment and operations of a Securities Investor Protection Fund are equitable, transparent and impose prudential discipline. Finally, the U.S. calls on Japan to use notice and comment procedures for regulations of private sector organizations, including the Japanese Securities Dealers Association, the Life and Non-life Policyholder Protection Organizations; and the Non-life Rating Organizations.

#### V. ENERGY

The U.S. believes market-led innovation through deregulation and structural reform are the best means to achieve Japan's objective of reducing energy costs to international levels while maintaining a stable energy supply. The U.S. proposes that Japan adopt numerous specific measures to achieve this goal.

### High Pressure Gas Law and Electricity Utilities Industry Law

Both the High Pressure Gas Law and Electricity Utilities Industry Law include unnecessarily burdensome requirements that impede foreign access to Japan's energy sector. The U.S. calls on Japan to revise and streamline the testing, inspection, and information requirements under these two laws.

### Power Generation Facilities

Due to continuing advances in power generating technology, equipment producers and electric utilities throughout the world have been able to introduce technological upgrades to existing machines and facilities to increase power output. However, Japan maintains onerous national, prefectural, and local restrictions making upgrading of existing power generation facilities uneconomical. The U.S. urges Japan to review and streamline these regulations.

### Standards and Transparency

The U.S. proposes that Japan accelerate privatization and reliance on voluntary, market-driven standards related to the energy sector, and move toward performance-based regulations through greater utilization of voluntary, private sector standards. The U.S. strongly urges Japan to ensure an open, competitive, transparent, and non-discriminatory procurement process, including allowing foreign energy goods and services suppliers to participate in relevant advisory councils, trade associations and other relevant bodies on an equal basis with Japanese manufacturers. All interested parties should also be given full and timely opportunity to review and comment on draft standards, technical requirements, and other regulations relating to the energy sector and to require private and quasi-government organizations that develop and issue standards, technical requirements and other regulations relating to the energy sector to use notice and comment procedures.

### Competition Policy

The U.S. Government appreciates the JFTC's surveys in the energy sector and urges it to monitor closely market developments, vigorously enforce the Antimonopoly Law, and dedicate additional resources to competition policy advocacy in this sector.

## **VI. LEGAL SERVICES**

Unreasonable and unnecessary restrictions on the provision of legal services continue to prevent both foreign and Japanese lawyers from offering clients fully integrated transnational legal services for domestic and cross-border transactions. For example, the U.S. proposes that Japan: 1) remove the prohibition against partnerships between Japanese lawyers (*bengoshi*) and foreign legal consultants (*gaikokuho-jimu-bengoshi*) and the prohibition against the employment of *bengoshi* by foreign legal consultants; 2) allow a foreign lawyer to count all of the time spent

practicing the law of the lawyer's home jurisdiction in Japan toward meeting the experience required to register as a *gaikokuho-jimu-bengoshi*, and not just the one year allowed under current practice; and 3) remove the partnership, employment and cost-sharing restrictions on relationships between quasi-legal professionals and *bengoshi* and *gaikokuho-jimu-bengoshi*.

## VII. DISTRIBUTION

### Customs/Import Processing

While Japan has recently undertaken efforts to modernize and expedite its slow and cumbersome customs clearance procedures, the U.S. believes further measures are warranted if Japan is to achieve processing times comparable to other industrialized countries. Specifically, the U.S. proposes that Japan: 1) simplify and streamline its cargo processing systems for importers who have established records of compliance with national customs laws and regulations; 2) permit the expansion of private bonded warehouse facilities around Narita; 3) extend normal customs processing hours at Narita Airport; 4) release cargo from customs 24 hours per day; and 5) adopt measures to modernize and expedite customs processing.

### Retailing Services

While the U.S. welcomes the repeal of the Large Scale Retail Stores Law -- a key market access barrier for foreign retailers and consumer goods manufacturers -- we strongly urge Japan to ensure that new measures that replace it and other measures that affect the retail sector are not used by local interests to unfairly restrict the establishment and/or expansion of large retail stores. Specifically, we call on Japan to: 1) draft guidelines for implementing the new Large Scale Retail Store Location Law which precisely define the environmental criteria local governments will be allowed to consider; and 2) carefully and continuously monitor local governments' application of the law to ensure that it is being used to address legitimate environmental concerns only and is not being used to thwart competition. The U.S. also proposes that Japan ensure that the study group that MITI is establishing to draft these guidelines will solicit and consider the views of large retailers, and use notice and comment procedures with respect to its interim report. The U.S. urges MITI to establish a formal process for hearing and acting on retailers' complaints if local governments unreasonably restrict large retail stores.

## VIII. COMPETITION POLICY & ANTIMONOPOLY LAW

The U.S. strongly believes that the Japan Fair Trade Commission (JFTC) should substantially boost its efforts as an advocate of competition policy and regulatory reform by championing removal of competition-blunting regulations -- especially regulations that block new firm entry. As such, the USG proposes that the JFTC set up a Competition Policy Bureau to act as an assertive competition advocate by promoting competition and regulatory reform in sectors of the Japanese economy that are or may be subject to government regulation. The USG also proposes that the JFTC set up a JFTC Retail Sector Competition Promotion Initiative whereby the JFTC

will closely monitor the activities of local and prefectural governments, which are considering requests to establish a large-scale retail store, and make submissions to these governments regarding the procompetitive effects of large-scale retail stores.

The USG proposal also urges the GOJ to amend the Antimonopoly Law (AML) to lift legal restrictions on private injunctive relief and private damage actions for alleged AML violations. In Japan there is a paucity of private AML cases in part because of legal restrictions that in essence extinguish the right of private parties to sue on their own. The USG strongly believes that the real availability of injunctive relief and damages through private litigation is an integral part of a comprehensive antimonopoly legal regime.

The USG submission also contains concrete proposals on strengthening criminal Antimonopoly Law enforcement. For example, the USG makes several proposals regarding how the Ministry of Justice and JFTC can improve cooperation and coordination on potential criminal matters. Moreover, the USG proposes that the JFTC conduct hearings or set up an advisory council to develop reform measures that will strengthen the JFTC's investigatory powers.

## **IX. TRANSPARENCY AND OTHER GOVERNMENT PRACTICES**

The U.S. urges Japan to provide greater transparency and increased opportunities for public participation in Japan's regulatory system which are essential complements to effective sectoral deregulation in Japan, and will lead to a more effective and accountable regulatory system. An improved regulatory environment would play an important role in reducing market access barriers faced by foreign firms.

### **Notice and Comment Procedures**

The U.S. urges Japan to adopt by the end of JFY 1998 government-wide notice and comment procedures that would enable all interested parties to participate effectively in the formulation and modification of regulations proposed by ministries, agencies and other government entities. In the interim government entities should on their own initiative use notice and comment procedures before issuing significant regulations.

### **Approval Process**

The United States made several proposals for Japan to adopt measures to rectify the burdensome and unpredictable nature of Japan's approval process, in particularly the processes used by the Ministry of Finance, the Financial Supervisory Agency, Ministry of Construction, and the Japan Harbor Transport Association.

### **Private Sector Regulations**

As the Japanese Government removes and relaxes regulations, it is essential that industry associations and other public interest corporations and other private sector organizations are not allowed to substitute private sector regulations (so-called "min-min kisei") in place of government regulations. Accordingly, the United States urges Japan to prohibit government entities from delegating governmental or public policy functions, such as product certifications or approvals, to organizations unless such delegation is expressly provided by a statute; increase the transparency of private regulations; and establish an entity to monitor the use of private regulations.

### Advisory Councils

Given the important role that advisory councils play in the regulatory process in Japan, the United States urges the Japanese Government to require all advisory councils to use notice and comment procedures when they issue interim reports and preliminary recommendations; increase the transparency of their proceedings; and allow foreign non-governmental persons and foreign companies to participate either as members or as observers at advisory council meetings.

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**FOR IMMEDIATE RELEASE  
Friday October 9, 1998**

**98 - 91  
Contact: Jay Ziegler  
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**USTR CRITICIZES PROPOSED CANADIAN ACTION TO CONTINUE  
RESTRICTIONS ON  
MARKET ACCESS FOR MAGAZINES**

United States Trade Representative Charlene Barshefsky today issued the following statement in response to legislation introduced in the Canadian Parliament yesterday which bans American and other foreign-owned publishers from carrying advertisements in their magazines if the advertisements are aimed at Canadian consumers.

"This legislation perpetuates Canada's longstanding anti-competitive policies that channel magazine advertising revenues to Canadian-owned publishing companies," said Ambassador Barshefsky. "The bill is protectionist and discriminatory.

"Perhaps the most troubling feature of the bill is the signal it sends about Canada's seriousness in abiding by its international obligations. By introducing a bill that would simply replace Canada's current WTO-illegal magazine regime with another discriminatory regime, Canada risks undermining the very dispute settlement system that it worked so hard to create.

"We strongly urge the Canadian Government to reconsider the course it has chosen and to withdraw the legislation. We are reviewing all options and intend to defend our trade interests vigorously in this matter."

**Background**

In 1997, the United States successfully challenged Canada's protectionist magazine regime in the World Trade Organization. A WTO panel found three components of Canada's magazine policies to be illegal under the *General Agreement on Tariffs and Trade* (GATT), a key trade agreement administered by the WTO. The panel condemned Canada's: (1) ban, in place since 1965, on imports of magazines with advertising directed at Canadians; (2) a 1995 special excise tax on so-called "split-

run" magazines; and (3) discriminatory postal rates for imported magazines. After Canada appealed the panel's report, the WTO's Appellate Body found a fourth violation -- Canada's discriminatory postal subsidy program for Canadian-produced magazines.

Canada has committed to eliminate its longstanding ban on split-run imports, lift the 1995 special excise tax on split-runs, and modify its discriminatory postal rates and postal subsidies for magazines. The bill introduced yesterday simply accomplishes the same result as the import ban and excise tax --keeping U.S.-and other foreign-produced split run magazines from competing in the Canadian market.

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**FOR IMMEDIATE RELEASE  
Monday October 12, 1998**

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**WTO Appellate Body Finds U.S. Sea Turtle Law Meets WTO Criteria  
But Faults U.S. Implementation**

The Appellate Body of the World Trade Organization (WTO) today issued a report in a case brought by Malaysia, Thailand, India and Pakistan against a U.S. law restricting imports of shrimp caught in a way that harms endangered species of sea turtles. The Appellate Body reversed the findings of an April 1998 dispute settlement panel report, saying that the earlier panel's interpretation was "a result abhorrent to the principles of interpretation we are bound to apply." It agreed with the United States that the U.S. law is covered by an exception to WTO rules for measures relating to the conservation of exhaustible natural resources, but it faulted the way in which the law was administered.

"The Appellate Body has rightly recognized that our Shrimp-Turtle law is an important and legitimate conservation measure, and not protectionist," said U.S. Trade Representative Charlene Barshefsky. "But we disagree with the Appellate Body's assessment that we have not implemented the law in an even-handed manner."

Ambassador Barshefsky said that the Administration will be consulting with Congress and interested members of the public, and reviewing its options for responding to the report. She also stated, "This Administration is committed to the highest levels of environmental protection and the protection of endangered species, including sea turtles. The Appellate Body report does not suggest that we weaken our environmental laws in any respect, and we do not intend to do so. We will evaluate our options in light of what best achieves our firm objective of protecting endangered sea turtles."

The Appellate Body agreed with the United States that the General Agreement on Tariffs and Trade (GATT) and all the other WTO agreements must be read in light of the preamble to the WTO Agreement, which endorses sustainable development and environmental protection. The report confirms that WTO member countries can condition access to their markets on compliance

with policies such as environmental conservation, so long as these market access restrictions are administered in an even-handed manner and do not amount to disguised protectionism.

In an important procedural ruling, the Appellate Body reversed the panel's findings on *amicus curiae* briefs, and affirmed that WTO rules permit panels to consider such briefs from non-governmental environmental organizations and other interested parties. "I am particularly pleased by the Appellate Body finding that the WTO's dispute settlement mechanism is open to input from the public, as we have insisted," Ambassador Barshefsky noted.

She also emphasized that the WTO report will have no effect on the Administration's resolve to continue its leadership in promoting sea turtle conservation worldwide. The United States worked closely with other countries to negotiate a comprehensive agreement to protect sea turtles in the Western Hemisphere. Under this agreement, countries of the region will commit themselves to comprehensive sea turtle protection programs, including the continued use of turtle excluder devices (or "TEDs") in areas where there is a likelihood of incidental capture of sea turtles in shrimp trawl fisheries. Ambassador Barshefsky also noted that the United States is pressing for negotiations with countries in the Indian Ocean region toward a comprehensive agreement to conserve sea turtles. In addition, during the past two years alone, the United States has spent almost half a million dollars funding training seminars around the world to educate foreign government officials and shrimp fishermen on the use of TEDs, which prevent sea turtles from drowning in shrimp nets.

### Background

Sea turtles are ancient and far-ranging species, with migratory patterns extending throughout the oceans of the world. Due to the harvesting of sea turtles and their eggs, and to accidental mortality associated with shrimp trawling and other fishing operations, all but one species of sea turtles have become threatened or endangered with extinction throughout all or part of their range.

Researchers have developed special equipment, known as the Turtle Excluder Device, or TED, that virtually eliminates accidental deaths of sea turtles in shrimp trawl nets. For almost a decade, the United States has required that U.S. shrimp fishermen employ TEDs. Experience has shown that the use of TEDs, combined with other elements of an integral sea turtle conservation program, can stop the decline in sea turtle populations and will, over time, lead to their recovery.

The U.S. law at issue -- Section 609 of Public Law 101-162 -- restricts imports of shrimp harvested with fishing equipment, such as shrimp trawl nets not equipped with TEDs, that results in incidental sea turtle mortality. The law ensures that the U.S. market demand for imported shrimp does not lead to the further endangerment of sea turtles. Contrary to some reports, this case does not involve the Endangered Species Act.

In October 1996, India, Malaysia, Thailand and Pakistan requested consultations with the United States under WTO dispute settlement procedures regarding the U.S. import restrictions under Section 609, claiming that it was inappropriate for the United States to prescribe their national conservation policies. The parties held consultations on November 19, 1996. In April 1997, the WTO established a three-person dispute settlement panel to consider the claims of the four

complaining countries.

The panel issued its findings on April 6, 1998. The panel found that the U.S. measure was inconsistent with the Article XI of the General Agreement on Tariffs and Trade (GATT), which provides that WTO Members shall not maintain import restrictions. The United States had maintained that its measure falls within the exceptions under GATT Article XX(g) (measures relating to the conservation of an exhaustible natural resource) and XX(b) (measures necessary for the protection of animal life or health), but the panel found that the U.S. measure amounted to an unjustifiable discrimination between countries, and therefore did not comply with the conditions in the introductory sentence of Article XX.

The United States filed its notice of appeal with the WTO Appellate Body on July 13, 1998. The Appellate Body heard oral argument by the parties on August 19 and 20, 1998, and considered legal arguments set out in three *amicus curiae* briefs submitted by non-governmental environmental organizations. The Appellate Body issued its findings on October 12, 1998, meeting the 90-day deadline for appeals provided under WTO procedures.

The Appellate Body found fault with the way in which the United States has administered the statute, not with the statute itself. The Appellate Body agreed with the United States that the Shrimp-Turtle law enacted by Congress is covered by the exception in GATT Article XX(g) for measures relating to exhaustible natural resources, but it found that the manner in which the United States has administered the law resulted in arbitrary and unjustifiable discrimination against the four complaining countries.

The Appellate Body criticized the fact that even if shrimp were caught with TEDs, the law, as implemented at the time it was examined by the panel, would prohibit imports of that shrimp unless the exporting country had a national regulatory program comparable to that of the United States. It also found that the United States unjustifiably discriminated against the four complaining countries by providing a shorter phase-in period for them than for others. (The complaining countries were given four months to meet U.S. standards while others were given three years.) The Appellate Body also found that insufficient account was taken of different conditions in the countries where the shrimp exports originated and that -- while the U.S. law properly recognizes the importance of securing international agreements for the protection and conservation of sea turtles -- the United States made inadequate efforts to engage in such negotiations with the complaining countries prior to applying the law to them. In addition, the Appellate Body found U.S. authorities' application of the law resulted in arbitrary discrimination because they had not provided those countries with an adequate opportunity to be heard and to respond to arguments made against them in deciding whether to restrict imports of their shrimp.

The Appellate Body report recommends that the United States bring the manner in which the Shrimp-Turtle law is implemented into conformity with its WTO obligations, but it is up to the United States to determine how to respond.

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**FOR IMMEDIATE RELEASE  
TUESDAY, OCTOBER 20, 1998**

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**U.S. GAINS MAJOR IMPROVEMENTS IN ACCESS  
TO KOREAN MOTOR VEHICLE MARKET**

United States Trade Representative Charlene Barshefsky today announced successful resolution of the Super 301 action which the United States brought against the Government of Korea to secure a meaningful opening of that market for the sale of U.S. and other foreign vehicles. The Agreement announced this evening in Washington averts the imposition of trade sanctions and provides substantial opportunities for U.S. automakers by dismantling a range of discriminatory Korean trade barriers in the near term and by establishing a solid basis for steady improvement in the future.

"This Agreement addresses, in substantial detail, the fundamental concerns which led us to bring 301 action last Fall," said Ambassador Barshefsky. "It will eliminate or streamline onerous standards and certification requirements, substantially reduce the tariff and tax burden on foreign motor vehicles, introduce a new, comprehensive secured financing mechanism to facilitate sales, and provide effective redress to any anti-import activity. We will be working closely with our auto industry and the Government of Korea to ensure compliance with the terms of this Agreement and the realization of the steady, continuing progress it calls for."

In October 1997, the U.S. identified Korea's barriers to imported motor vehicles as a priority foreign country practice, expressing disappointment with the progress achieved under a 1995 Memorandum of Understanding (MOU). The Agreement just reached substantially improves upon the earlier agreement by:

- Broadening the coverage of the Agreement to include minivans and sport-utility vehicles in addition to passenger cars (these are vehicles where U.S. manufacturers have significant comparative advantage);
- Addressing burdensome Korean standards and certification procedures which impede

exports of U.S.-manufactured vehicles by providing for: immediate action to streamline existing standards and certification requirements; and adoption of a U.S.-style system of self-certification by 2002. Korea will become the third country to establish a self-certification system, joining the United States and Canada;

- Substantially reducing the tax burden on autos, the result of which will be an average cost savings of over \$2,000 (2,750,000 won) per vehicle at the time of purchase, and about \$4,000 (5,500,000 won) over the life of a vehicle;
- Binding Korean tariffs on vehicles at 8 percent, which is below the level of European and Canadian tariffs;
- Introducing a system of secured financing that will enable Korean consumers to more easily finance purchases of U.S. vehicles; and
- Committing the Korean Government to a vigorous program to improve public perception of foreign autos.

In addition, the Korean Government assured the United States Government that the wide-ranging economic reform measures that it is now undertaking will result in substantial changes in the business environment in which Korean auto manufacturers operate, enhance management transparency and adherence to international business standards, and rationalize investment activities with market forces. In particular, the Korean Government will not direct any financial institution to extend loans to Korean manufacturers and will refrain from providing market-distorting subsidies to such companies.

“The comprehensive financial and economic reforms which the Korean Government is committed to achieve will certainly contribute to the creation of a market-driven and transparent Korean auto sector,” said Ambassador Barshefsky, “and thus will complement the specific market-opening commitments contained in the MOU. We will closely track the results of this Agreement on a qualitative and quantitative basis to ensure that our objectives of a more transparent, fair, and open marketplace are achieved. The proof of performance, of course, will be in the dedication of President Kim’s Administration to the implementation of this program.”

## **Background**

A 1995 Memorandum of Understanding (MOU) between the United States and Korea sought to address trade-distorting practices impeding foreign market access to the Korean motor vehicle market. This successor MOU is designed to close loopholes and expand the scope of the 1995 MOU to achieve greater market access for U.S. motor vehicles.

It became apparent in 1997 that some of the provisions of the 1995 MOU had not been fully implemented and that more meaningful actions on a range of tariffs, taxes, and automotive standards was necessary to open the Korean motor vehicle market. In intensive bilateral negotiations between August and the end of September 1997, the U.S. Government made some

progress toward addressing Korea's barriers to auto trade. However, Korea's commitments in these talks did not reflect a willingness to satisfactorily implement the 1995 MOU.

In addition, Korea was not willing to address other barriers that the U.S. Government identified as priorities in the auto sector. Consequently, on October 1, 1997, the U.S. Government identified Korea's barriers to auto imports as a "priority foreign country practice" under Super 301 procedures. On October 20, USTR initiated a section 301 investigation, and on October 24, (as required under the law) USTR published a *Federal Register* notice announcing the initiation of this investigation.

Korea is the fifth largest auto manufacturer in the world but imports fewer cars than any other major auto-producing country. Foreign share in the Korean market is less than 1 percent, compared to roughly 5 percent for Japan, 25 percent in the EU, and 30 percent in the United States.

## FACT SHEET

### U.S.-Korea Memorandum of Understanding Market Access for Foreign Motor Vehicles

#### OVERVIEW

The United States and the Republic of Korea (ROK) reached an agreement on October 20, 1998 that will substantially improve market access to Korea's historically closed automobile market.

Korea's automotive market access barriers were cited as a priority foreign country practice last year under Super 301 procedures. This designation resulted in the initiation of a Section 301 investigation, with a determination deadline of October 20, 1998. In an effort to address these market access barriers in Korea's auto sector, U.S. and Korean negotiators met four times over the past year and successfully concluded an agreement to further open the Korean market. Highlights of the new agreement are explained below.

#### Motor Vehicle-Related Tax and Tariff Reductions

- The ROK has committed to cut taxes, resulting in an average cost savings of over \$2,000 (2,750,000 won) per vehicle towards the purchase of a typical US vehicle and about \$4,000 (5,500,000 won) over the life of a vehicle. These include:
  - A 30% cut in the Special Consumption tax, until at least July 2005.
  - A 40% reduction in the rate applied to U.S.- type vehicles under the Annual Vehicle Registration tax and a narrowing of the tax differentials between categories.
  - A longer term commitment to simplify Korea's motor vehicle tax structure and reduce the tax burden on Korea motor vehicle purchases in ways that will advance MOU objectives.
  - An ROK commitment to eliminate entirely two taxes, the Education tax and the Rural Development tax.
- An ROK pledge to lower its WTO tariff bindings on motor vehicles from 80% to the current applied rate of 8%, and to actively participate in future multilateral negotiations aimed at reducing or eliminating tariffs in this sector.

#### Standards and Certification

- The ROK has committed to streamline Korean measures regarding standards and certification procedures to reduce costs and time delays incurred through redundant

testing and excessive documentation requirements. For example:

- The ROK will institute a self-certification system by 2002, which will allow U.S. manufacturers to certify their own products. This commitment will make Korea the third country in the world, in addition to the United States and Canada, to institute a self-certification system.
- The ROK will accept U.S. headlamp standards.
- The ROK committed to significantly streamline the current safety standard certification system.

### **Enhanced Motor Vehicle Secured Financing System**

- The ROK agreed to introduce a secured financing system for the purchase of motor vehicles that will enable Korean consumers to more easily finance purchases of U.S. vehicles.

### **Improving Public Perceptions**

- The ROK will continue steps, such as outreach, education, public discussion, and town meetings, to improve public perceptions of imports, and of trade and competition more generally.
- The ROK also committed to work to eliminate instances of anti-import behavior, such as discriminatory targeting of purchasers of foreign motor vehicles for tax audits.

### **Scope**

- The scope of the Agreement has been expanded beyond passenger vehicles to include sport utility vehicles and minivans.

### **Consultations/Goals and Objectives**

- The ROK agreed to ongoing consultations, to begin next Spring.
- The Agreement also set out general objectives, to substantially increase market access for foreign motor vehicles in Korea, and to establish conditions so that the Korean motor vehicle sector operates according to market principles.

### **Korean Motor Vehicle Industry and Market**

Foreign penetration of the Korean motor vehicle market consistently has been less than one percent, compared to roughly five percent in Japan, 25 percent in the EU, and 30 percent in the United States. While keeping its market almost totally closed, Korea pursued an aggressive

automotive expansion strategy. In 1996 Korea was the fifth largest motor vehicle manufacturer in the world, producing over 2.8 million units in 1996, 40 percent of which were exported.

The Korean market for motor vehicles has been hit hard by the financial crisis and the resultant economic downturn. In the first half of 1998, the low demand for motor vehicles resulting from the current economic crisis has precipitated a drop in domestic sales in Korea of over 50 percent and in total domestic motor vehicle production in Korea of 35 percent. Exports from the U.S. and other foreign suppliers have suffered even more severely from this downturn. Nonetheless, Korea is the second largest automotive market in Asia and potentially could become an important market for foreign vehicles once economic growth is restored. The trade liberalization measures contained in this MOU will serve to stimulate significantly foreign sales in the Korean market.

### **Overall Korean Economic Reform**

Korean industry, including the motor vehicle industry, is currently facing the consequences of years of non-economic business decisions. In response, the Korean government has moved swiftly to implement a wide range of economic reform measures, including structural reforms of the financial and corporate sectors. The Korean government has made clear its commitment to these reforms and its belief that they will effect a dramatic change in the Korean business environment and lead to a more market-oriented and transparent Korean economy and motor vehicle industry. This Agreement will supplement Korean government reforms and corporate sector restructuring to promote competition and encourage the operation of market principles. It will help promote a healthier Korean economy and significantly improve market access for foreign motor vehicle manufacturers.

Oct. 20, 1998

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

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For Immediate Release  
Thursday, October 22, 1998

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## FREE TRADE AREA OF THE AMERICAS OFF TO STRONG START FROM MIAMI TALKS

U.S. Trade Representative Charlene Barshefsky today announced the conclusion of the first round of negotiations of the Free Trade Area of the Americas (FTAA) in Miami, which included a formal invitation for wider public views in all 34 countries in order to expand input to the Trade Ministers.

Ambassador Barshefsky noted the importance of the FTAA negotiations, particularly in light of the current Asia financial crisis. "It is extremely important that the countries of the Western Hemisphere demonstrate a commitment to maintaining our region's momentum toward more open markets and prosperity for our people. The FTAA builds upon the recent opening of markets through the Uruguay Round; sub-regional arrangements such as NAFTA and MERCOSUR (the Common Market of the South), the Central American Common Market, CARICOM and the Andean Community; and unilateral tariff reductions such as those recently announced by Chile," said Ambassador Barshefsky. "In addition," she said, "the trade negotiations that we are conducting in Miami provide the economic foundation for the broader Summit of the Americas partnership which is intended to solidify democracy, the rule of law, and expanded opportunity for all our citizens."

At their Ministerial meeting in San Jose, Costa Rica last March, the 34 Trade Ministers established a Government Committee on Civil Society (GCCS) to seek the views of all segments of society, including the views of business, labor, consumers, environmental interests, academics, and others. At its October 19-20 meeting in Miami, this committee reached agreement on an immediate call for public comment from all sectors of society, so that the Trade Ministers can consider those views at their next meeting in October 1999. Attached is the open invitation, as agreed by the 34 countries, for these public comments. Ambassador Barshefsky said "I applaud this invitation as an indication that the FTAA is proceeding in a way consistent with President Clinton's call, before the IMF, that international trade negotiations must 'give all sectors of society a voice in building trade policies that will work for all people in the new century'."

In addition to the nine negotiating groups ranging from market access to services to intellectual property, and the GCCS, the FTAA established a Joint Private Sector-Public Sector Experts Committee on Electronic Commerce to recommend ways to expand the benefits of the electronic marketplace throughout the hemisphere.

### Background

These negotiations, which aim to create the largest free trade area in the world were conceived, at the Miami Summit of the Americas in December 1994 by President Clinton and the 33 other democratically elected Leaders, and formally initiated at the Summit of the Americas on April 18-19, 1998 in Santiago, Chile. The FTAA negotiations are scheduled to conclude no later than the year 2005. The FTAA, when concluded, will create a free trade zone stretching from Prudhoe Bay, Alaska to Patagonia, Argentina.

U.S. exports to the FTAA countries account for 45% of total U.S. exports to the world. These exports are projected to be \$306 billion in 1998 (based on the first 8 months of 1998 data). For the first eight months of this year, U.S. exports to Latin America and the Caribbean (including Mexico) increased by over 10%, compared to a decline of more than 3% to the rest of the world due substantially to the Asian financial crisis. During the Clinton Administration, U.S. exports to Latin America and the Caribbean (including Mexico) have almost doubled, increasing from \$75.8 billion to \$143.0 billion. These figures underline the importance to U.S. economic performance of continued market-opening policies by our trade partners in Latin America and the Caribbean, and the need to provide for the fair treatment of U.S. goods, services, and agriculture.

## OPEN INVITATION TO CIVIL SOCIETY IN FTAA PARTICIPATING COUNTRIES

1. Recognizing the interests and concerns expressed relating to the Free Trade Area of the Americas (FTAA) by different sectors of society, and consistent with the principle of transparency in the FTAA negotiating process, Ministers Responsible for Trade of the Hemisphere, as agreed in the Ministerial Declaration of San Jose, noted the contribution of "business and other sectors of production, labor, environmental and academic groups", and encouraged "these and other sectors of civil societies to present their views on trade matters in a constructive manner". For this purpose, they established a Committee of Government Representatives on the Participation of Civil Society with the objective of receiving, analyzing and presenting the range of views of civil society for their consideration.
2. The committee extends an invitation to civil society to submit, as of November 1, 1998, their views in writing, by mail, fax, electronic mail or courier service.
3. Each submission will:
  - identify the person and/or organization, with their address, that is presenting the point of view;
  - refer to trade matters related to the FTAA process, using the San José Ministerial Declaration as the frame of reference (attached);
  - be in concise written form, in one of the official FTAA languages (Spanish, English, French Portuguese);
  - contain an executive summary of not more than two pages, including reference to the trade matters it refers to and the way the views contribute to the FTAA process, as stipulated in the San José Ministerial Declaration.
  - be sent directly to the Chairman of the Committee of Government Representatives on Civil Society Participation, at the following address:

c/o Tripartite Committee (Ref. Civil Society)  
United Nations Economic Commission for Latin America and the Caribbean (ECLAC)  
1825 K St. NW, Suite 1120  
Washington, DC 20006  
Fax: (202) 296-0826  
E-mail: [eclac@tmn.com](mailto:eclac@tmn.com)
4. The deadline for the receipt of submissions is **March 31, 1999**, in preparation for the Ministerial Meeting in October 1999 in Canada.

PRESS ROUND-TABLE  
USTR Ambassador Charlene Barshefsky  
London  
October 22, 1998

AMBASSADOR BARSHEFSKY: Thank you all for coming. Let me just start out for a moment about the U.S.-U.K. trade relationship. Looking at 1997, and the terms are essentially the same in 1998, \$69.1 dollars in two-way trade. Almost evenly split between the two countries - U.S. exports to the U.K., this is in goods, was about \$36 or \$37 billion, U.S. imports from the U.K. in goods was about \$32 or \$33 billion and, of course, the services relationship between the two countries is immense as well. Investment is split exactly down the middle, which is really quite astonishing. Total of about \$142 billion in investment. Forty percent of all U.S. investment in the EU is in the U.K. and the U.S. is the single largest host to the U.K. for investment. There are about a million jobs in each country that depend on employment in each other's factories and 24,000 U.S. companies export to the U.K. That is second only to Canada. For U.S. companies, the U.K. is essentially the key staging point for not only services and sales in the U.K. but also the staging point for further exportation to the Middle East, to the rest of Europe and to Eastern Europe. So this is an extraordinarily productive and remarkably balanced relationship. We rarely see figures that look like these in terms of balance. And in terms of bilateral trade disputes, I actually, at the moment, can't think of any, which is really quite remarkable. I've come to Europe at this point to talk about four principal topics and these are also the four topics that I'll touch upon in my meetings here with both the government as well as with the private sector.

First, the transatlantic economic partnership (TEP). We have made quite a bit of progress in Brussels in working out, jointly, an action plan for the TEP, which has two components: one is bilateral, (that is U.S.-EU), the other is multi-lateral. On the multi-lateral side, we've identified a broad range of issues on which we would like to cooperate with Europe, particularly as we look to the 1999 WTO ministerial meeting. Our basic view is that the U.S. and Europe, which have led in the creation of institutions like the WTO, should try to do more to cooperate with each other rather than to attempt to disempower each other and that is our hope as we look to the 1999 ministerial meeting.

With respect to the bilateral side of the TEP, we've identified essentially seven principal areas where we would like to cooperate and/or negotiate arrangements. They are: intellectual property rights; government procurement; electronic commerce; services; standards including mutual recognition agreements; agricultural regulatory policy including biotechnology and civil society related issues such as labor input; environmental NGO input; and so on.

The second broad area I've come to talk about is the WTO 1999 ministerial. The U.S. has proceeded and intends to proceed in the following way. First, we must identify the broad range of issues that may be ripe for negotiation or, if not negotiation, at a minimum, for further work. We know already from the close of the Uruguay Round that agriculture is slated to begin in 1999 and services in 2000. But there are many, many other issues that need to be considered: whether they are intellectual property rights, or procurement, or bribery and corruption or regulatory policy.

There are also a range of institutional issues that need to be considered, and I'll give you one quite pertinent example. That is the question of what should the relationship be between the

WTO, on one hand, and the IMF and the World Bank on the other, particularly at this time of global financial crisis. Substantively, there is obviously an intersection in the work of those three institutions, but institutionally there is no intersection whatsoever, so there is clearly something wrong with this system as it now stands.

So, step one for the U.S. is to identify the broad range of issues in front of us. Much of that work right now is being done in Geneva by the WTO General Council. We were quite insistent last May at the 50th anniversary celebration of the GATT system, that the General Council has an unlimited mandate. That is to say, that any and every country should be welcome to put ideas for negotiation before the General Council and let the General Council and Secretariat do a first vetting so that we can have a very broad and full range of issues for consideration.

The second step, then, is having determined what should be negotiated, how do we negotiate? What is the method by which we proceed to as a rapid a conclusion as possible in the most efficient manner possible. Typically, the term "round" like Tokyo Round, Uruguay Round, has come to mean that nothing is agreed until all is agreed and the negotiations have no particular end date. The Tokyo Round took ten years. The Uruguay Round took seven and a half. I don't believe there is any country or group of countries including Europe that has any stomach for this kind of indefinite negotiation and in addition, particularly now given changes in technology, given the global financial crisis, we cannot possibly embark on a system, during which all trade liberalization stops until the very conclusion of talks. That, I think, would be a very dangerous outcome for the world. Our second step, therefore, is to determine how do we proceed. Maybe we proceed with a "nothing-is-agreed-until-all-is-agreed" strategy but have an absolute definitive drop-dead time deadline for conclusion, which would be a much shorter duration than seven and a half years or ten years. Maybe we should embark upon an approach Canadians and some others have mentioned, what they call round-up, meaning that agreements should be spun off as they are reached during the pendency of negotiations and then heading all the way down toward conclusion. There are probably a hundred variations, we have asked the commission to sit down with us to review all the various ways in which we might proceed and, for the first time, I am pleased to say the commission has agreed. So, we will be doing that and, of course, that is the second step.

The third step is: what do you call what is announced at the WTO ministerial in 1999 and, obviously, we can call it anything we wish. But, the key from our point of view is that we know what we are negotiating and we know how we are going to negotiate it. The name of it is the last thing that should be decided.

The third area that I've discussed and I will discuss here is the area of U.S.-EU bilateral disputes and here there are three areas of particular note. One is biotechnology, in which we have encountered significant and persistent problems in the EU with respect to the approval for GMO seed and commodities, that is, genetically modified seed and commodities. The process in Europe is torturous for product approval. It is opaque for product approval. It is highly politicized and, therefore, arbitrary and this is a matter of grave concern as more and more U.S. acreage is planted with GMO and as more and more European acreage is planted with GMOs. So, some resolution needs to be taken here. I do think the TEP process offers us an opportunity to look at the regulatory system. We are not suggesting that there shouldn't be one. We are simply suggesting that it must be made transparent and time-bound and, also, to look jointly at the issue of food safety, which is obviously a concern to all of our consumers. The other two bilateral disputes involve EU non-compliance with the WTO panel decisions, most particularly

beef and bananas. In the case of bananas, we have been urging the EU to sit down at a table with us to see if the case can be settled. The EU has persistently rebuffed our request. I am pleased to say that, in Brussels, the EU, for the first time, has shown more interest in the possibility of sitting down to consult on the issue. I have discussed this issue with the Germans and the French and I will discuss it also with the British. I don't know if a resolution can be achieved before the expiration of the time of compliance, which is January 1, 1999, but certainly we would like to try and we would hope that Europe would like to try. Having these kinds of disputes linger is terribly corrosive to the relationship. It also undermines confidence in the WTO system. The dispute settlement mechanism was designed to yield affirmative and final results, not an endless loop of litigation.

The last issue, the fourth that I will touch on, is the entire issue of transparency and civil society. This has to do with the WTO as an institution. In the U.K., in the United States, any citizen can walk into any court room, sit in the back of the room if there is a seat available and watch the proceedings. You can't in the WTO. In the U.K. and in the U.S., when the court renders its decision, it becomes immediately public. Not in the WTO. These deficiencies in the WTO must be corrected or we have nothing other than a forum for mistrust and suspicion. Likewise, we want to ensure that the TEP process is also conducted in a transparent manner. In addition, I think in both the TEP and in the WTO, we must look more seriously at labor and environmental issues and their relationship to trade. Not as a matter of negotiation. We are not looking for negotiating groups in these areas but as a matter of thoughtful policy analysis. In the OECD, there has long been the ability of the NGO community to observe certain proceedings. Again, not in the WTO. There has long been the ability of labor organizations to observe certain proceedings and to have periodic meetings with the OECD. Not in the WTO. So, these basic kinds of steps, coupled with some thoughtful analysis of these subjects, is necessary if the global system is to retain credibility with our domestic publics. You see what has happened on the MAI debate, that when these institutions are not transparent, public distrust becomes very, very high and that, in turn, will be the greatest threat to the multilateral trading system, not individual disputes but a complete and utter lack of public confidence in the decision-making of these institutions. So, that's what I'm here to do and that's what I've been doing in Brussels, Bonn and Paris and I am happy to take questions.

QUESTION: Is the U.S. prepared to take unilateral sanctions against the EU January 1st if they don't comply with the WTO and would you do it without getting the WTO approval or whatever the legal word is. And just a second question: if you said that they are ready to talk for the first time, does that imply that maybe you'll accept that they can keep this iniquitous regime as long as they compensate in another area and it balances out?

AMBASSADOR BARSHEFSKY: We have made it very clear that the WTO dispute settlement mechanism was explicitly designed to ensure that rights acquired through litigation could be firmly enforced. This case is not the first time the EU banana regime has been struck down multilaterally. It is not the second time. It is the third time this regime has been struck down. This is a six-year-long battle. We won the panel proceedings. We won the appellate body proceedings. The EU then changed, shall we say modified slightly, its regime. We provided the EU comments on that modification before they finalized it in a very detailed manner demonstrating that the regime was at least as discriminatory and as non-compliant as the first regime and, indeed, maybe more discriminatory than the regime that has already been struck down. The EU, nonetheless, approved the regime. We then took the extraordinary step in July and asked the EU to agree with us, voluntarily, to ask the original panel to reconvene to test the

WTO consistency of this new regime. The EU refused. Therein followed three months of procedural roadblocks put up by the EU preventing any such panel review. We are done litigating this case. We have won this case. We have made it very, very clear that we will enforce the rights we have acquired in this litigation as expected by the dispute settlement process. However, we have also said, as we have been saying for well over a year, we do think it would be appropriate to try to settle this matter. That is, to ensure that the kind of sharp discrimination against U.S. interests and Latin American interests be removed and we are willing to put all of our efforts and, frankly, all of our focus right now is on the question: can this matter be settled. That's why we have again raised it with the Commission despite being persistently rebuffed. That is why we have raised it with the Germans and French and I will raise it this afternoon with the British in the hope that we might sit down together. I don't know if a settlement is possible, and I don't know what Europe's intentions are but I do feel very strongly, and have always felt very strongly, that we must do everything we can to attempt to talk out problems to see if a mutually agreeable solution can be found before any other action is taken.

QUESTION: But my question was, will you then on January 1st impose unilateral sanctions and ignore the legal niceties of the WTO?

AMBASSADOR BARSHEFSKY: I think that I've already answered the question. I've said exactly what our view is as to the legality of WTO action and we intend to proceed on that basis as the dispute settlement system allows.

QUESTION: Are they right that they could string it out longer and longer from January 1st and there are more things that have to go through?

AMBASSADOR BARSHEFSKY: The EU position has been something along the following lines: The case is litigated. The U.S. wins. That takes a year plus. There is a 15 month period of compliance. The EU takes 15 months, slightly changing its regime to make it rather worse. At the end of the period of compliance, the EU position is that the U.S. then re-litigates on the basis of this new regime. So we take another year to re-litigate, another 15 months, of course, which Europe will request for compliance. We have an endless loop of litigation. This is absolutely not the way this system is designed to work and it is absolutely not something that we will put up with.

QUESTION: We understand that you might be pushing for the EU to implement the rulings on beef and on bananas, as we know, the implementation procedure is actually not that legally clear, to the extent that it's actually more of a political process than a legal process. I want to know that, in a similar case which the U.S. has just lost, how quickly are you going to implement the shrimp/turtle ruling.

AMBASSADOR BARSHEFSKY: We have lost two cases which are and have been quite politically sensitive. The first was a case brought by some of our Latin American trading partners on reformulated gasoline. This is a very politically sensitive area in the United States, because, among other things, reformulated gasoline in general implicates a very substantial range of U.S. environmental policies. The panel in that case found that our regulations on reformulated gasoline discriminated against foreign interests. We asked for a 15 months period of compliance. Our environment protection agency embarked on an entirely new rule-making proceeding. From that rule-making proceeding we altered our practice and were deemed to be fully in compliance by the parties affected. It took us no more than 15 months, it may have taken slightly less, but in

the 15 month range. Now the second case is the shrimp/turtle case. In that case, the appellate body, thankfully, reversed every legal finding made by the panel below and found that the law itself was entirely WTO consistent, and this was a very critical and important win for us. But it found the implementation of the law was discriminatory and the appellate body went through four or five ways in which it believed that implementation was discriminatory. We have not yet gone to the WTO to discuss the period of compliance. I can't tell you right now what that will be. It certainly is not going to be longer than 15 months, which is the standard period. We are looking at all of the options. We will fully respect all of our WTO obligations, there is absolutely no question. We'll look at the question of implementation, and whether some alteration in implementation would solve the problem. We'll look at any other range of remedies that the trading partners affected might wish us to consider, either as a means of settling or as a means of some alteration. We will look at the range of other issues, for example, compensation and so on. But we will absolutely fully respect our obligations. There's no question about that.

QUESTION: I'd like to ask a more general question about the global financial crisis and burden sharing. I mean we've seen this sharp downward revision from the European Commission yesterday in their forecast for Euro zone growth. I wonder what your reaction to that is.

AMBASSADOR BARSHEFSKY: Europe and the United States are the only games in town, and both Europe and the U.S. must take the lead together to promote global growth and stability. Of course the party missing in this has been Japan, which is the world's second largest economy. Japan, has a special obligation to take the steps necessary to restore domestic growth in Japan; particularly through sustained fiscal stimulus, to clean up and recapitalize the banking system and open its markets and further deregulate. And both we and Europe have worked together to push very, very hard on Japan because, without a recovery in Japan, Asia will not recover.

Both the U.S. and EU depend on each other for their own growth. We have, in two-way trade, U.S.-EU, \$400 billion in goods and services last year. In investment, roughly \$760 plus billion dollars in investment and, just as with the UK, virtually split down the middle. If we don't grow, Europe will suffer as well as us. If Europe doesn't grow, we will suffer as well as Europe. So we have an interest in working together. One of the reasons processes like the TEP are important, although these are always step-by-step, these aren't grand schemes but step-by-step, is to do everything we can to increase trade flows between the U.S. and EU and increase investment flows between the U.S. and EU because we are quite mutually dependent. So, obviously, downward revisions in the growth of the EU is of concern in the U.S. Downward revisions of growth in GDP in the U.S. are of concern to the EU. And that's where we are.

QUESTION: Is Europe doing enough?

AMBASSADOR BARSHEFSKY: We have, I think, felt that we and Europe have cooperated exceptionally well during this financial crisis, in every forum. In the WTO - put the disputes aside, we can't define a relationship of this magnitude and importance by disputes - in the WTO, in the IMF, with respect to World Bank disbursements, we have worked very, very closely. The relationships among the finance ministers are very close. The relationships among the trade ministers have always been very close as well as with the Commission. It's very critical that we continue to cooperate as we have and it is critical that we support each other to the maximum extent possible to maximize the opportunities for mutual growth, and thereby enhance the prospects for a return to more global prosperity. But, right now, we and Europe are the only

shows in town. So, in that regard, with respect to burdensharing, what we have said is simply this: Europe does have restrictive auto quotas. They're due to be phased out in a year and we have said, can Europe accelerate the phase-out? With respect to Russia, Europe does have a very restrictive arrangement on Russian imports of steel. We don't question Europe's potential need for some arrangement with Russia in this area but we have simply asked: Can Europe liberalize the arrangement? Right now, the U.S. takes twice the volume of steel from Russia as does Europe and we take literally ten times more steel from Japan than does Europe, which seems to us rather anomalous. We are simply saying that we would hope Europe would look at the trade restrictions in place, particularly on these large industrial goods and seriously consider liberalizing the restrictions at this point in time.

QUESTION: What about monetary policy?

AMBASSADOR BARSHEFSKY: I don't really want to comment on monetary policy.

QUESTION: I mean European monetary policy, which is slightly criticized as being too tight.

AMBASSADOR BARSHEFSKY: We have a rule in the U.S. on monetary policy and exchange rates, and they are, of course tied, together, and that is there are only two people in the U.S. government who speak to those issues. The first, of course, is the President, but even he often refers to [Treasury Secretary] Rubin. So I'll stay away from those issues.

QUESTION: Would you explain why the U.S. is the standard bearer of the banana issue, when the U.S. doesn't grow bananas?

AMBASSADOR BARSHEFSKY: But we distribute bananas.

QUESTION: U.S. companies own the plantations where they're grown, is that what you mean?

AMBASSADOR BARSHEFSKY: Our companies have substantial interests in Latin America, as you know. European companies have substantial interests in the Caribbean.

QUESTION: Which companies?

AMBASSADOR BARSHEFSKY: Dole, Chiquita, and the Hawaiian Banana Grower's Association. One of the important aspects of the WTO case is that it is the first case on services. And the fact is that the Services Agreement, the General Agreement on Trade and Services, GATS Agreement, is an agreement that does mandate openness in distribution services. This is the first case of this sort on distribution. In that sense, it is precedent setting. Most of the cases in the WTO system are on goods and/or the laws underlying intellectual property rights. But they are not on services. So this was a rather ground-breaking set of legal decisions at the panel level and then at the appellate body level. I should also say that this regime has been subject to three such cases, each one of which has upheld the complaining party and struck down the EU regime. There is no question but that the EU regime was GATT-illegal and it is WTO-illegal and there is no question about that.

QUESTION: What other products might be influenced by a decision on distribution services?

AMBASSADOR BARSHEFSKY: I'd have to think about that. For example, retail distribution, whether it's consumer products, whether it's wholesale or after-sales service, much of which is covered by the GATS agreement, that might be one in the services area. Tourism

services is another area which could be impacted. This includes travel agents and the rights of travel agents as well as airline reservation systems. It will depend on the country and the obligations that country undertook. We took broad obligations in the services sector as did the U.K. Some countries took lesser obligations and you can obviously only enforce rights that you acquired under an agreement with that particular country. But you have financial services, insurance services, distribution services, tourism services, professional services, there are an array of commitments very broad in nature which both the U.S. and EU, and then selectively many other countries undertook. It just so happens this is the first case that is a services-oriented case. The effect on goods is clear, of course, if you can't distribute the goods there is, therefore, a de facto barrier on the goods themselves. But the underlying case is services of a distribution nature.

QUESTION: What I'm getting at is, your office fought for about seven or eight years to get Toys R Us into Japan.

AMBASSADOR BARSHEFSKY: Yes

QUESTION: ... and if you go into a Toys "R" Us in Japan, not 1% of their products which are made in America by American workers. And here you're waging this two year battle for bananas, what American jobs are at stake?

AMBASSADOR BARSHEFSKY: Well Toys "R" Us or companies like Dole, Chiquita, or the Hawaiian companies, you have, as in any service sector, a variety of personnel that are employed. I think, in the toy sector, you have an inordinate number, whether its importers, distributors in the United States, or administrative personnel. In services, it is sometimes a little bit more difficult to quantify. But, under your theory, one would argue that we should not fight for the rights of our insurance or financial services companies in foreign countries because the bank tellers in foreign countries are foreign and not American and I don't think that's a sustainable argument.

QUESTION: How much money is actually involved and how much are American companies being deprived of, what size of the market share would fall to them if the regime was more favorable?

AMBASSADOR BARSHEFSKY: I can't give you a precise answer in the following sense. We have been working with the interagency on what we call a damage assessment. It is certainly in the hundreds of millions of dollars. I can't give you, though, a precise number. But we will have that number, I would think, within the next, probably, two or three weeks. What we have done, in the case of bananas we will - I don't actually know if it came out this week. The first step we take in any matter of this sort is to publish in the Federal Register a request for comments on what we call action ability. That is to say, we ask for public comments, which can come from any source, foreign or domestic, for public comments on the question of the compatibility of the EU regime with WTO rules. Because we must establish through that process and legal analysis strict actionability. That notice should come out next week and there is a thirty-day period within which people comment and we'll look at all those comments, obviously, and make our conclusions. But, in the interim, there is also the interagency, a "damage assessment" that's conducted and we derive the specific figure or set of figures or range of figures. That process is still ongoing and am sure that the number is quite sizeable.

QUESTION: When you said earlier that you wouldn't accept this continuing, what measures are available to you as of January 1st that will change it? What reprisals or counter measures can you undertake?

AMBASSADOR BARSHEFSKY: Well, we can take counter measures in the amount of the damage caused by the offending practice but I would like to emphasize that my sights aren't set on that issue right now. My sights are set on engaging the EU in a negotiation on this issue.

QUESTION: But how would that...I mean who would that apply to? Caribbean banana importers in the United States?

AMBASSADOR BARSHEFSKY: No, this doesn't affect the Caribbean banana importers. We have never challenged preferential treatment for Caribbean bananas in the EU under the Lome Convention. That's never been subject to challenge, never.

QUESTION: What's the Lome Convention?

AMBASSADOR BARSHEFSKY: It's a convention under which the EU provides essentially one-way tariff preferences to Caribbean nations, including former colonies. It's a little bit like our GSP program (Generalized System of Preferences) where we give one-way preferences to developing countries if they qualify. In our case, the tariff preferences are always zero. We give them zero tariffs. That is also what is at the core of our Africa initiative. It would be zero tariffs on products exported from African nations to the U.S.

QUESTION: Many people are worried about protectionist pressure in the U.S. The steel industry has started the anti-dumping ball rolling. There's no longer a majority for fast track and morale at the USTR is said to be very low. How worried are you about protectionism and where do you see it, and from which industries do you see it flaring up next?

AMBASSADOR BARSHEFSKY: I would take issue with one thing which is, I could take issue with many things, but the one thing I would say, I don't think we can say there's not a majority for fast-track. I think we can say that the recent fast-track vote, which was largely politically inspired, was never intended to produce a positive result for many, many reasons, not the least of which is that major trade votes typically don't occur eight weeks before an election cycle. So, I don't read too much into that vote and I don't think from that vote one can conclude that there is not ultimately a majority for fast-track.

QUESTION: The last vote did not have a majority either. That wasn't just before an election.

AMBASSADOR BARSHEFSKY: But it was very, very close. And there are certainly a number of people who argued that had it been brought to a vote it would have passed. We didn't agree with that and did not want to risk a loss on such a major piece of legislation but there has always been, in the U.S., a dispute about that. Our intention has been to bring it up in early 1999 and we will be working to do that.

On the question of protectionist pressures, I think we see this in the UK, in Europe, as well as in the United States. There is no question that our exports have fallen off and there is no question that that, more than a surge in imports, has accounted for quite an increase in the trade deficit. But we do know that, even though an overall surge of imports hasn't happened, certainly there have been spikes in certain sectors. I think Europe is beginning to see this also, also in steel. And our entire trade policy has been focused, geared toward open and foreign markets because over one third of the growth in our GDP the last five years has come from our exports and because 80% of global consumption occurs outside the United States and a market-opening trade

strategy is absolutely critical to our own domestic prosperity. And that has been our focus and that remains our focus. To the extent companies wish to avail themselves of our laws, to the extent they wish to avail themselves of European laws, whether it's dumping or other such laws, that is their legal right and they will pursue whatever actions they wish to pursue.

From the point of view of trade policy, we need, I think, to respond in as sensible a manner as possible, including with an eye toward the longer term. Having said that, in the case of steel there is plainly a significant problem and in Brussels, Bonn, Paris, there is quite a similar view. The global price war has completely collapsed, and I don't think any of us have ever seen a drop in prices of this magnitude and this rapidity, ever. Not ever in recent history. So we have to, I think, look very carefully at the situation but overall I think both Europe and the U.S. have to respond in as sensible a manner as possible. We have to also absolutely continue an open markets strategy. It's why TEP is important, it's why the WTO '99 Ministerial is important. It's not just a matter of asking the world to retain the status quo in terms of then-existing market opening. We've got to keep pushing forward.

QUESTION: But surely, though, it will be difficult to open those foreign markets if other countries, as they increasingly are, start copying the U.S. and the EU anti-dumping laws. Argentina, Brazil, those countries...

AMBASSADOR BARSHEFSKY: Most countries have already copied these laws. This is the other side of having these laws. But bear in mind, the anti-dumping code in the GATT was created in the 1960s and these laws have been around an awfully long time. It is the right of any country to use them, we can see positive aspects of their use in the U.S. and Europe and we can certainly see negative aspects when we are both on the receiving end of those laws. I think, certainly what we demand, particularly when these laws are imposed by other countries is complete transparency and due process, which is often lacking, and that is not the case in the U.S. and that is not the case in the EU.

QUESTION: May I ask you, you said that the U.S. and the EU were the only show in town and you've been here a week now but it seems to me that, since you've been here, we've got this problem, this data protection directive which is going to come into force on Monday in the EU and I don't know if it's you, someone's been making noises about European mobile phones and it just happens to be an industry where two European companies are overtaking Motorola, that doesn't look too good. You know, the EU doesn't agree with your statistics on Russian steel imports and next Monday and Tuesday you and the French are going to talk about the MAI--the multilateral investment agreement. All these negative things have happened just before, and as you're going back home. I mean, you know, and then you're going to have an election coming up in a few weeks which may be return a kind of more protectionist minded guys so what's going to happen in 1999 when you want fast-track and you don't get a deal even on beef or bananas. I mean hasn't it been a kind of slightly negative week for you, objectively speaking?

AMBASSADOR BARSHEFSKY: If you have a trade relationship that is \$400 billion, two-way, you're going to have problems. The axiom is, the smaller the trade relationship, the fewer the problems. The bigger the trade relationship, the greater the number of problems. I think that's absolutely to be expected. It certainly does not lead me to run around like Chicken Little saying the sky is falling. There are problems. Third generation mobile handset standards is a significant issue, there is no question. Bananas, beef hormones, are significant issues. The privacy directive is a significant issue although my sense is, and of course Commerce Secretary Daley has

negotiated that, but, my sense is that it actually has been moving in a more positive direction. All of these, biotechnology, all of these are large issues and they are critical issues but we can't possibly conduct a bilateral relationship focused only on the negative when you have a \$400 billion trade relationship. You have to remain pro-active, the disputes have to be resolved and, if they can't be resolved, we and Europe each retain our rights to take action. But the focus should always be on dispute resolution and the broader focus should be on increasing an already extraordinary and huge relationship. We handle pressures as pressures arise and in as thoughtful a way as possible.

QUESTION: Would it help, just a personal question, one of your predecessors famously said, you know and it had some effect, that she would use a sledgehammer to open up markets. Would you follow her in that kind of tactic, which seemed to work.

AMBASSADOR BARSHEFSKY: We have negotiated, in five and a half years, 260 trade agreements, five of which are huge: the Uruguay Round; NAFTA; the global ITA; Information Technology Agreement; the global telecom deal; and the global financial services deal. And then we have another 255 trade agreements, including 35 market access agreements with Japan, 16 with Europe, 17 with Canada, a bunch with China, so on and so forth. We have seen our exports increase 50% in five years. We have seen exports in the sectors in which we have negotiated agreements, which is almost everything from soup to nuts, increase at a rate far greater than the overall growth in our exports. In many cases export increases in sectors of 80% and 90% over those five and a half years. So, if I may say so modestly, I think we've applied exactly the right measures that needed to be applied to achieve that kind of success.

QUESTION: I just wanted to ask you how you found the new German government. Did you find them pro-trade, pro-competition and secondly how you find the differences between governments and thirdly in December you've got an Austrian, going to see the President of the United States to discuss EU-U.S. policy?

AMBASSADOR BARSHEFSKY: I don't have too much comment to make on the new German government. I arrived and Stolmen resigned and I arrived in Paris and the agriculture minister resigned, I just wonder who it will be in the UK. In any event, I think we had very good discussions in Bonn and in Paris with a variety of government officials. Generally speaking, my sense is that the policy in Germany will remain an open markets policy. I think Germany will be very active in the WTO '99 Ministerial. They have been active and helpful in the TEP process and I don't think we anticipate on the trade side any particular change. What I hope, with respect to both Germany and the UK, is to see, perhaps, more sympathy with and greater cooperation on the issues of civil society, transparency in the WTO and the issues of labor and environment and their roles. So, that's on the German side. The U.S.-EU summits, which occur about every six months, generally are very, very productive. One, because it keeps the president of the U.S. quite firmly engaged, very current, very connected to European leadership. And, second, because these are quite substantive meetings. These are not photo sessions, they're very substantive, and the full range of issues, of course, going well beyond trade, security, political, and so on, are discussed in quite a bit of detail. So we would expect nothing different from the meetings. I think they are going to be December 15th. So this I think has been a very productive way to proceed with Europe.

QUESTION: It's not frustrating trying to deal with so many different people?

AMBASSADOR BARSHEFSKY: Well, it would be nice to deal with one person who agreed with you all the time. Failing that, actually the numbers of people don't much matter.

QUESTION: Has the U.S. ever taken sanctions against Europe since the WTO has been around?

AMBASSADOR BARSHEFSKY: Government procurement in '94. There may be one or two other instances. I would suggest that what you might do is call our office and they can give you the numbers if you want. But we did, actually on government procurement, we mutually took sanctions. Whether the WTO was legally in effect I can't tell you but it was toward the close of the round as I recall. I think there may be another instance or two, you'd have to ask them.

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FOR IMMEDIATE RELEASE  
Tuesday, October 27, 1998

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**Panel Finds Japanese Testing Requirements  
Violate WTO Rules**

A dispute settlement panel of the World Trade Organization has found that Japanese testing requirements for agricultural products violate Japan's WTO obligations. The panel's report, which was issued today, should result in new opportunities for U.S. exporters of apples, nectarines, cherries, walnuts. This is the third successful outcome for the United States in disputes against Japan at the WTO. The earlier cases related to differential taxation policies (distilled spirits) and intellectual property (sound recordings).

In response to the WTO panel's decision, U.S. Trade Representative Charlene Barshefsky said, "This case shows the WTO distinguishes between legitimate science-based testing versus thinly-veiled protectionist measures. The panel ruling establishes that there is no scientific basis for the Japanese varietal testing regime. We fully expect that Japan will honor its WTO obligations and open its market to U.S. apples and other produce."

The dispute settlement panel report accepts the U.S. position on Japan's varietal testing requirement. Japan requires repeated testing of established quarantine treatments each time an additional variety of an already approved commodity is presented for export. The panel has recognized that Japan's varietal testing requirement is not supported by scientific evidence, is more trade restrictive than required and is non-transparent. It is therefore inconsistent with Articles 2.2, 5.6 and Annex B of the Agreement on Sanitary and Phytosanitary Measures.

**Background**

Japan requires repeated testing of established quarantine treatments each time that a new variety of an already approved commodity is presented for export. For example, Japan has approved red and golden delicious apples for export, but is requiring that the quarantine treatment be retested for efficacy on several other varieties. While Japan is within its rights to require treatment of agricultural commodities that are hosts for quarantine pests, this redundant testing requirement has no scientific

basis and serves as a significant barrier to market access. Completion of the testing for each variety takes a minimum of two years and is very costly to the United States Government and U.S. producers.

The fruits of immediate export concern are apples, cherries, walnuts and nectarines. Japan asserts that these commodities may be hosts to codling moth, a pest not known to occur in Japan.

Japan "liberalized" its trade for apples in 1971. However, since that time, GOJ officials have continually denied permission for the importation of U.S. apples, allegedly due to phytosanitary concerns. It was only in 1994 that the first apples were actually approved for import.

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FOR IMMEDIATE RELEASE  
FRIDAY, OCTOBER 30, 1998

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**United States to Take Trade Action  
If Canada Enacts Magazine Legislation**

United States Trade Representative Charlene Barshefsky announced today that if the Government of Canada enacts legislation re-creating the exclusionary and anticompetitive policies governing trade in magazines that have been condemned by the World Trade Organization (WTO), the United States will respond by denying trade benefits to Canada.

"Substituting one form of protectionism for another ignores both the letter and the spirit of WTO rules," Ambassador Barshefsky said. "We expect the Canadian Government to refrain from enacting this protectionist legislation."

Today the Government of Canada met the deadline under WTO rules for removing four measures governing trade in magazines that the WTO found last year to be inconsistent with Canada's international trade obligations. However, earlier this month it introduced legislation that would accomplish the same result as the measures it removed. Furthermore, the Government of Canada proposes to continue, in a slightly modified form, its postal subsidy for Canadian-produced magazines. In response, Ambassador Barshefsky said "It is simply untenable for Canada to re-create another protectionist magazines regime that perpetuates Canada's longstanding anti-competitive policies, channeling magazine advertising revenues to Canadian-owned publishing companies."

"If Bill C-55 is enacted, we are fully prepared to respond to the denial of U.S. trade benefits by withdrawing benefits of equivalent commercial effect," Ambassador Barshefsky said. "We hope, of course, that this will not come to pass. Throughout this lengthy dispute we have sought a mutually satisfactory resolution of our differences with Canada," she added.

**Background**

In 1997, the United States successfully challenged Canada's protectionist magazine regime in the World Trade Organization. A WTO panel found three components of Canada's magazine policies to be illegal under the *General Agreement on Tariffs and Trade* (GATT), a key trade agreement

administered by the WTO. The panel condemned (1) a ban, in place since 1965, on imports of magazines with advertising directed at Canadians; (2) a 1995 special excise tax on so-called "split-run" magazines; and (3) discriminatory postal rates for imported magazines. After Canada appealed the panel's report, the WTO's Appellate Body found a fourth violation -- Canada's discriminatory postal subsidy program for Canadian-produced magazines.

Effective October 30 Canada repealed its longstanding ban on split-run imports, discontinued the 1995 special excise tax on split-runs, eliminated the discrimination in its postal rates, and modified its postal subsidy program for magazines. However, earlier this month Canada introduced Bill C-55, which simply accomplishes the same result as the import ban and excise tax -- keeping U.S.-and other foreign-produced split run magazines from competing in the Canadian market.

Bill C-55 would prohibit U.S. and other non-Canadian publishing companies, on pain of criminal fines, from using the magazines they produce to advertise directly to Canadian readers. Among the four measures the WTO condemned was a confiscatory 80% tax imposed by the Canadian Government on imported magazines carrying this type of advertising. The tax put U.S. and other imported magazines at a significant commercial disadvantage by comparison to Canadian-produced magazines. Having finally agreed to eliminate the tax on these advertisements, the Canadian Government is now proposing to ban these advertisements altogether.

Canada also proposes to continue, in a slightly modified form, its postal subsidy for Canadian-produced magazines. The United States will monitor closely the effects of that modification.

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FOR IMMEDIATE RELEASE  
FRIDAY, OCTOBER 30, 1998

98 - 97  
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**The United States and Andean Community Create  
New Trade and Investment Partnership**

The United States and the five member States of the Andean Community today signed an agreement establishing a U.S.-Andean Community Trade and Investment Council. United States Trade Representative Charlene Barshefsky signed the agreement on behalf of the United States at the conclusion of the visit of Colombian President Andres Pastrana to Washington, D.C. Colombia currently serves as president Pro Temporary of the Andean Commission. Signing on behalf of the Andean Community were: Colombian Minister of Trade Marta Lucia Ramirez de Rincon, (other names to be provided when known).

U.S. Trade Representative Charlene Barshefsky stated that the United States welcomes the creation of this new partnership with the Andean Community members which is designed to address trade and investment concerns in a broad and coordinated way. Ambassador Barshefsky said, "We expect this new forum will be critical in achieving progress on trade and investment issues among all the Andean countries. The new initiative reflects the increasing importance of the Andean Community has attained as a regional decision-making forum and reflects our interest in expanding our trade relationships in the region." Ambassador Barshefsky noted that the Trade and Investment Council will address key issues, such as the Free Trade Area of the Americas (FTAA) negotiation, protection of intellectual property rights, trade issues under the Andean Trade Preference Act, and matters of mutual interest in the WTO.

The members of the Trade and Investment Council are the Governments of Bolivia, Colombia, Ecuador, Peru, Venezuela and the United States. The Council will be multilateral and will complement the existing bilateral Trade and Investment Councils. It will be composed of ministerial-level representatives from the member governments.