

AMBASSADOR CHARLENE BARSHEFSKY
SPEECHES AND TESTIMONY
1995

- 1/26/95 SPEECH - National Committee on United States China Relations
- 2/2/95 TESTIMONY - House Subcommittees on Asia and the Pacific and on International Economic Policy and Trade of the House Committee on International Relations
- 2/10/95 H.R. 553 THE CARIBBEAN BASIN TRADE SECURITY ACT - House Ways and Means Trade Subcommittee
- 3/1/95 SPEECH - National Association of Business Economists
- 3/2/95 THE U.S. CHINA INTELLECTUAL PROPERTY RIGHTS AGREEMENT: IMPLICATIONS FOR U.S. - SINO COMMERCIAL RELATIONS - Subcommittee on International Economic Policy and Trade and Asia and the Pacific of the House Committee on International Relations
- 3/8/95 TESTIMONY - Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs
- 3/22/95 MAINTAINING THE MOMENTUM FOR THE FTAA - Council of the Americas
- 3/29/95 SPEECH - Semiconductor Industry Association's Awards Dinner
- 3/29/95 SPEECH - Dallas Chamber of Commerce
- 4/4/95 SPEECH - Sacramento Chamber of Commerce
- 4/6/95 SPEECH - The Washington Campus
- 4/21/95 SPEECH - Financial Women's Association of New York/ International Alliance Conference
- 4/26/95 THE FUTURE OF U.S. - CHINA TRADE - Council on Foreign Relations
- 5/3/95 SPEECH - Steel Manufacturers Association Annual Members Conference
- 5/8/95 U.S. - TAIWAN TRADE RELATIONS - Board of the USA-ROC Economic Council
- 5/15/95 S. 529 THE CARIBBEAN BASIN TRADE SECURITY ACT - Senate Finance Committee Trade Subcommittee

5/23/95 TESTIMONY - House Ways and Means committee Subcommittee on Trade

5/23/95 TESTIMONY - House Ways and Means Committee

6/6/95 SPEECH - Des Moines Chamber of Commerce

6/15/95 GOVERNMENT POLICIES THAT INFLUENCE THE COMPETITIVENESS OF FIRMS - Carnegie Bosh Institute

6/21/95 TESTIMONY - House Ways and Means Trade Subcommittee

7/12/95 FREE TRADE IN THE AMERICAN'S - Americas Society

7/13/95 H.R. 989, COPYRIGHT TERM EXTENSION ACT OF 1995 - House Judiciary Committee Subcommittee on Courts and Intellectual Property

7/17/95 SPEECH - The National Policy Program of Seoul National University - International Workshop, Georgetown University Graduate Public Policy Program

7/18/95 APEC - House Committee on International Relations Subcommittees on Asia and the Pacific and International Economic Policy and Trade

7/24/95 SPEECH - The Eighth U.S.-KOREA/KOREA-U.S. Business Conference

8/1/95 TESTIMONY - Senate Finance Committee International Trade Subcommittee

9/18/95 SPEECH - National committee on U.S. - China Relations

10/5/95 SPEECH - U.S. - Vietnam Forum

11/13/95 TRADE IN A NEW ERA: OPPORTUNITIES AND OBSTACLES - Hong Kong

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REMARKS OF THE
HONORABLE CHARLENE BARSHEFSKY
DEPUTY U.S. TRADE REPRESENTATIVE
BEFORE THE
NATIONAL COMMITTEE ON UNITED STATES CHINA RELATIONS

January 26, 1995

I am very pleased to have this opportunity to address this meeting of the Committee on U.S.-China Relations on current U.S.-China economic and trade relations. The topic is timely, given the growing size of our trade and of our trade deficit with China.

In light of the growing agenda of important issues and the decision points that we are facing with China during 1995, it is useful to first review the context for that trade, and policy that guides both our bilateral and our multilateral trade agenda's with China.

TRADE WITH CHINA IN THE BROADER CONTEXT

The United States has both an economic and political stake in developing productive, healthy, and stable trade relationships with all countries in Asia, including China. At the APEC meeting in Jakarta last November, President Clinton reiterated the United States' commitment to the development of a new Pacific community, one in which we share responsibility for solid, steady growth, the development of and improvement in economic and legal institutions and regional stability.

The U.S. market has long been an engine of growth for East Asian economies, much as it is for the Chinese economy today. Today, with the expansion of the American market through the NAFTA, the further reduction of trade barriers through the WTO and the process of trade liberalization and business facilitation through the APEC, trade ties with China should expand substantially.

The United States has kept its markets open even when some trading partners have followed much more restrictive practices. This is because we believe it is in our economic interest and also in the greater economic interest of the region to do so.

We recognize the economic achievements that China's reform policies have brought. China is now the fastest growing major economy in the world, with growth in 1994 reaching roughly 12 percent. Up and down China's east coast economic development is proceeding at a breathtaking pace. In my three visits to China over the past year and a half, I have been overwhelmed by the magnitude of the change that has taken place in Beijing alone, much less in Guangdong and the booming provinces in central and south China.

As a trading regime, China has also undergone a remarkable transformation. China is now the 11th largest trader in the world, with two-way trade last year approaching \$200 billion. China's trade with the United States has experienced a similarly rapid growth. Beginning from a minuscule base in the late 1970s, U.S.-China trade grew to \$40 billion in 1993 and could reach \$50 billion by the end of the year. It is clear that China's export growth has benefitted from the market access opportunities provided through the years in GATT negotiations.

Our market has remained opened. It is for this reason we expect that China will open its own market to U.S. goods, services, and investment. We also expect China to acknowledge the benefits it has received from the multilateral trading system all these years in undertaking its own liberalization commitments in the WTO accession process. This is what we have worked for, both bilaterally and multilaterally, and it is what we have sought in our commercial dialogue with China in recent years.

A single policy, consistent with our broader objectives in the Asia Pacific region underlies our bilateral and multilateral trade relations with China--grow the trade through mutual reduction of barriers, and increase its stability and productivity through mutually agreed rules and agreements.

U.S. INTERESTS

In late May last year, the President made a fundamental decision to put the annual debate over MFN behind us. In making that decision, the Administration took a major step to create a more solid foundation for our overall bilateral relationship, but especially for our trade and commercial relationship. At the same time, the President stressed that the United States would vigorously pursue its interests in each of the various aspects of the bilateral relationship -- including trade. If the President's decision is to have a positive, long-term effect on our trade relationship, however, China must take steps in trade to open its markets further and protect U.S. intellectual property. China's membership in the WTO would, of course, hasten this reform.

Right now, both our bilateral and multilateral trade relationships are at a cross-roads. China must work with the United States to improve the bilateral trade relationship. At the same time, China should acknowledge its debt to the international trading system, and make the changes necessary to join the WTO. It should not expect that the WTO will change to "join China."

China still has not made the fundamental decision to join the mainstream of world trading nations. China appears to want to set the rules of trade with its trading partners, as opposed

to following international norms. Recent developments have only strengthened our view in that regard. China only selectively upholds its trade agreements with the United States, and it is reluctant to accept fundamental obligations in other areas, including accepting international arbitration judgments, or accepting responsibility to honor contract. China continues to resist creation of a fair and equitable investment climate, discriminates against foreign companies in its pricing of goods and services, and maintains a myriad of overlapping barriers to the entrance of exports.

Our trade relationship is badly out of balance. China exports vast quantities of goods to the United States, but still buys relatively little from us. We have a projected trade deficit of roughly \$28 billion in 1994. No other major trading partner has a deficit of goods of that size with China -- and no other major trading partner's markets are as open to Chinese goods and services as is the United States.

As for services, the United States is the largest exporter of services in the world. U.S. companies in banking, insurance, financial services, travel, advertising and other services are the best or equal to the best in the world. In the communications and information services sectors, U.S. Companies are leading a global information revolution and transforming the way that business is conducted around the globe. Nonetheless, China's market for services is still largely closed and must open. If China is to reform and modernize its economy, it cannot do so without the creation of a sophisticated services sector.

And, clearly, it cannot develop an articulated services industry without opening its services market. We are pursuing this objective both in bilateral negotiations, and as part of China's accession to the WTO.

BILATERAL INITIATIVES

In pursuing our bilateral trade initiatives to improve the U.S.-China trade relationship, the Clinton Administration places a heavy emphasis on adherence to international norms and disciplines. Our bilateral trade talks are founded on the principles of the GATT, now the WTO, and other international agreements. The Administration's wants to establish a solid foundation for its trade relationship with China -- and hopefully avert more serious problems later on.

The Administration has worked hard, through restoration and revitalization of the Joint Economic Commission and Joint Commission on Commerce and Trade, to engage China in a dialogue on the entire range of economic, trade, and commercial issues. A year ago last January, former Treasury Secretary Bentsen and Chinese leaders discussed our mutual interest in seeing China's

finance and investment regimes improve, and in the furtherance of China's economic reforms.

In August, Secretary Brown had wider ranging exchanges with China's Trade Minister Wu Yi and her colleagues on a number of business and commercial development issues, including U.S. participation in infrastructure projects in China. The Administration will move now to set specific agendas in transportation, information technologies and other commercial areas.

On trade policy issues, we are currently engaged in negotiations and consultations on market access for goods, based on the 1992 Market Access Agreement, market access for services, and intellectual property rights protection. Successful conclusions of these negotiations, or faithful implementation of the existing agreements, will help the United States and China bilaterally, but will also improve prospects for China's own economic reforms.

IPR

The inadequate protection afforded by China to intellectual property rights (IPR) is an area of major concern for the United States. It is a two-edged problem, since failure to protect IPR harms China's legitimate research and business interests, as it does those of other countries.

In principle, the Chinese government recognizes that protection of intellectual property is important. While the legal regime attests to this recognition, in practice there is virtually no effective enforcement of IPR in China. Piracy has escalated in recent years and reached crisis proportions over the past year. Theft of copyrighted products is omnipresent, with 90-100 percent piracy rates in computer software, motion pictures, videos, sound recordings, and books and periodicals. 29 CD factories, with at least 15 in Guangdong province alone, have a production capacity of 75 million CDs, laser disks and CD-ROMs, and are now exporting them throughout southeast Asia and North America. Markets in Hong Kong and Southeast Asia that have been clean for years are now awash with Chinese pirated products.

Piracy now constitutes a significant market barrier to computer software producers and others who would like to invest and trade with China but dare not do so now. And, piracy thwarts the development of China's own domestic industry. China will never be a major center for the development of software, for example, if it cannot protect the inventions of its most creative people.

The Clinton Administration has acted decisively to protect the intellectual property of U.S. companies. Ambassador Kantor

initiated a special 301 investigation into China's IPR enforcement practices on June 30. When months of negotiations did not persuade China to take effective steps to curb piracy, the USTR published a proposed 'retaliation list' of \$2.8 billion in Chinese imports into the United States against which it will impose 100 percent tariffs if an agreement cannot be reached by February 4.

This week, a team of U.S. Negotiators is in Beijing to hold further negotiations on IPR enforcement. If the special 301 investigation is to be resolved in a positive manner, China must take concrete steps to shut down major infringers and prosecute criminal violators of copyrights or trademarks. And, China must reach a good agreement that will permit long-term enforcement of IPR laws. We understand that effective enforcement is a long-term process, and we are prepared to be flexible. But we are not prepared to sacrifice the interests of our industries. And we will not.

MARKET ACCESS

In October 1992, the United States and China signed a Market Access Agreement that committed China to make sweeping changes in its import regime. To date, China's implementation of some parts of the 1992 Market Access Agreement has been commendable, although some important exceptions remain. In the Agreement itself, China committed over a five year period to a major reform of its import regime. That includes elimination of 90 percent of all non-tariff barriers -- such as import licensing requirements and quotas, increased transparency, elimination of the use of import substitution as a policy or practice, and an end to the use of sanitary and phytosanitary standards as barriers to agricultural imports.

China has taken important strides toward making its trade regime more transparent. China has published a large number of trade rules and regulations in the past year, so many that it has become difficult to keep track of them all. China nonetheless has a long way to go before its trade regime, and its trade institutions, are truly transparent. We are particularly concerned that China's provinces apply Beijing's trade laws and regulations uniformly and that the provinces' trade regimes are transparent.

China has not fully implemented the Agreement. It has yet to live up to its obligations to publish quotas, uniformly apply its laws and regulations, or fully eliminate import substitution as a practice. While China has eliminated many barriers, China has not yet eliminated quantitative restrictions for many products by December 31, 1994 -- as it committed to do in the agreement. That means that barriers to computers, textiles, heavy machinery and other key U.S. products remain, harming our

prospects in China's market while its exports into the United States continue to accelerate. We are now discussing these issues with the Chinese government. If we cannot resolve them, the Administration will not stand idly by while its industries are harmed.

In addition, China has not yet resolved our concerns about the use of sanitary and phytosanitary standards as barriers to imports of agricultural and live animal products. China continues to use unscientific standards to block exports of citrus fruit, stone fruit, wheat, apples, and leaf tobacco -- products that the United States exports to Japan and other nations throughout East Asia. We expect China to move expeditiously to resolve these issues, in accord with the Agreement.

Market access for services is another, integral, part of the U.S. bilateral trade agenda with China, as well as a major component of the GATT/WTO accession agenda. China's services markets today are still largely closed. While limited experiments are underway, and a variety of extra-legal services ventures have started, legitimate access for U.S. companies in most instances is not available.

We have asked that China commit to substantial liberalization of its insurance, distribution, advertising, travel, communications, audiovisual and other services. As I noted earlier, these liberalizations are in China's own interest, and could form a useful basis for its GATT/WTO entry-fee in this area.

We are seeking Chinese agreement to license more foreign insurance companies to operate in China on a national treatment basis, to open its enhanced telecommunications sector and its distribution system to U.S. companies, and to liberalize access to its audiovisual markets. As many of you in Hong Kong already know, foreign companies have much to contribute to China's economic development and prosperity. It is very clear that China cannot make the leap from a labor intensive economy to one with a higher technology base without considerable participation by foreign firms in its services sectors.

A vital component of our services agenda with China is improvement of its domestic business climate. Consistent with the obligations that China will assume under the GATT/WTO, we ask that China create a non-discriminatory environment within which both foreign and Chinese firms compete on an equal footing. Adherence to basic investment principles, such as the right of establishment and national treatment along with rights to conduct associated activities in a similar manner, would go a long way toward that end.

Similarly, China discriminates against foreign traders in its pricing practices, often charging foreigners prices that are several times those charged Chinese businessmen. China has indicated that it may take steps to eliminate this discrimination, and we await concrete actions to make these intentions reality.

CHINA'S WTO ACCESSION

There has been a great deal of comment on the current status of China's bid to join the GATT, now the WTO. Some have stated that China's accession negotiations faltered in December because the United States and other GATT contracting parties "lacked the political will" to complete the process. That is nonsense. I want to clarify any confusion that may exist as to the U.S. position in this matter--The United States believes that China should be a member of the WTO. I want to repeat: The United States supports China's membership in the WTO.

This policy, first articulated in 1986, has not changed. The commitment was renewed in the 1992 Market Access Agreement with China, when the United States committed to staunchly support China's accession to the GATT, now the WTO, on the basis of acceptable terms. China's accession to the WTO on acceptable terms remains important and beneficial to all trading nations. It will guide the structure of China's economic reforms and the overall direction of China's reforms, and it will help to cement them in place. A good protocol package for China will lead to substantial, additional market opening and a much improved trade and investment regime.

Despite all our efforts, the negotiations faltered principally as a result of China's unwillingness to address the concerns and requests for market access commitments tabled by its major trading partners. For nearly three weeks in December, U.S. and other CPs attempted to negotiate with China. Much of the U.S. position is based on our previous productive bilateral initiatives with China. Much of what we seek in Chinese commitments in the WTO context China has already agreed to bilaterally.

China was not, however, able to commit unreservedly to align its trade regime to GATT/WTO norms, nor to establish in the GATT/WTO framework a constructive trade liberalizing response to specific requests from its trading partners for expanded market access opportunities for goods or services. China is a major beneficiary of the security, stability, and market access opportunities provided by the GATT/WTO trading system. As a result, this lack of flexibility undermined the ability of GATT CPs to complete the accession negotiations.

Precisely because its foreign trade regime is so strong --

averaging 25 percent growth a year over the past five years -- China and the United States, as well as other WTO members, have a responsibility to ensure that China's membership in the organization that regulates international trade is based on solid economic commitments.

Membership in the WTO is not just a political gesture, it is first and foremost an economic agreement. Basic GATT principles to which all Contracting Parties adhere -- the foundation of the multilateral system -- must be met at the outset. This is no more than is expected of any GATT/WTO applicant. China can't expect to be different. It is in the interest of no country to set special rules for one at the expense of all of the others.

Over the past eight months, the United States -- as well as other GATT members -- have clearly outlined the areas where China must take commitments to basic GATT and WTO obligations and to secure transparent market access opportunities.

These basic areas include:

- o full transparency of laws and regulations;
- o uniform application of these laws and regulations in the provinces;
- o national treatment for imported goods and the firms and traders that have developed China's export prowess;
- o elimination of nontariff measures as required by the GATT and the WTO;
- o granting foreign firms trading rights and expanding the right to trade generally; and
- o assuring that its foreign exchange regime is not used as a trade barrier.

In addition, China should also acknowledge a willingness to undertake WTO obligations in areas where it is capable of doing so from the date of accession and where it has already made extensive bilateral commitments, e.g., in the protection of intellectual property.

China should not hide behind self-election as a developing economy to avoid appropriate contributions to the trading system that has served its interests so well. By the same token, China's negotiating partners in the accession process have clearly signaled a willingness to address specific areas of concern to China without regard to labels.

China must make commitments to open its market to services,

submit a reasonable schedule on agriculture supports and subsidies, and provide secure and amplified opportunities for market access in goods.

On agriculture, many trading partners -- particularly among the Cairns group -- have raised serious concerns about China's practices such as using sanitary and phytosanitary standards, secret guidance and pricing practices to hinder competition with China in world agricultural markets and in China's own market. These are among the issues that have to be addressed in the accession negotiation.

In December, the Chairman of China's GATT accession Working Party tabled draft frameworks for protocol commitments, and members of the Working Party, including China, agreed to use this framework as the basis for negotiation. The U.S. and other current GATT members have tabled market access requests and seek an opportunity, denied by China during the December talks, to engage in actual negotiations to reach accord in this part of the process.

At this point, we don't know China's intentions for further work on its accession application. We understand that the issue is under review. Our commitment to China to work constructively with the other WTO members to bring China into the organization has not diminished, and we remain ready to resume negotiations.

I would leave you with three points for reflection, as we wait for their decision.

First, the United States retains a strong interest in seeing China accede to the WTO and therefore is neither blocking the accession nor raising unreasonable barriers. Second, the United States and other WTO members are prepared to work with China where to address its concerns and unique transitional trade situation in the protocol package, but only in the context of an active negotiation where our critical concerns and interests are also addressed. And third, it is very important for the credibility and the viability of the trading system, as well as to China's future, that we get China's protocol package right.

CONCLUSION

We have entered a difficult period in our bilateral trade relations with China, when past promises must be redeemed and hard choices must be made to keep China on its transitional path to a more market-oriented economy.

Despite all of the challenges that we face, I am hopeful about the future of our trade relationship with China. I believe that, with hard work and good will, the United States and China can achieve our global and bilateral objectives. The Chinese

government appears to realize that, in so doing, China's own prosperity will increase. We would hope that, by resolving our concerns on key trade issues and increasing access for U.S. industries that we can create a better and more sound trade relationship. If we cannot, we will not hesitate to take steps that protect U.S. industries.

Progress will require real commitment on China's part to changes that challenge accustomed ways of operation. The decisions cannot be avoided, however, if our trade relations are to develop in a more balanced fashion.

The United States is committed to a policy of active engagement with China in trade to secure our interests, to strengthen multilateral institutions that ensure the rule of law in trade, and to encourage China's own goals of sound economic growth and fuller integration in the international trading system.

testimony

TESTIMONY OF THE
HONORABLE CHARLENE BARSHEFSKY
DEPUTY U.S. TRADE REPRESENTATIVE
BEFORE THE
HOUSE SUBCOMMITTEES ON
ASIA AND THE PACIFIC
AND ON
INTERNATIONAL ECONOMIC POLICY AND TRADE
OF THE HOUSE COMMITTEE ON
INTERNATIONAL RELATIONS
FEBRUARY 2, 1995

I am pleased to be here today to testify before these Subcommittees on the Administration's trade policy in the Asia/Pacific region.

ADMINISTRATION'S OBJECTIVES

I want to start by touching on the Clinton Administration's overall economic policy objectives because they help explain the importance we are placing on Asia and the Pacific. This President has a deep understanding and interest in the effect on the U.S. economy of the global economy. The two are inseparable and our economic futures are ultimately one and the same. The process of global economic transformation is not a distant topic of discussion. It holds both promise and peril. Our objective is to seize the promise and pursue global, hence, U.S. economic growth.

Expanding exports and the jobs linked to exports is an integral component of our overall economic strategy. Promoting free trade and open markets around the world is central to our trade policy and essential to our economic well-being. At present, approximately 25 percent of our gross domestic product is reliant on trade, and this percentage is expected to increase.

The Administration believes that global economic interdependence and trade expansion offer tangible routes to a new prosperity. Export related manufacturing jobs pay better than other manufacturing jobs by as much as 17 percent. The opportunities for the U.S. are enormous in a broad range of capital goods, telecommunications, computer related and digital electronics, creative intellectual property reliant industries, not to mention manufacturing and service sectors. Untapped markets exist for

those prepared to pursue them and we intend to do all we can to help U.S. firms capture them.

ADMINISTRATION ACCOMPLISHMENTS

In just two years, the Clinton Administration has achieved unparalleled success by reaching 72 agreements to open markets or otherwise address serious trade issues governing U.S. products and services. The Administration has negotiated: the largest free trade zone in the world; the largest multilateral trade agreement in history; 38 bilateral textile agreements; 14 agreements with Japan; an agreement covering 80% of global shipbuilding; the largest procurement agreement in history with the European Union; a multilateral aluminum agreement; agreements on wheat and softwood lumber with Canada; 12 bilateral investment treaties; three intellectual property rights agreements; an agreement with the nations of the Asia-Pacific region to eliminate barriers to trade in that area, the fastest growing economic region on earth; and an agreement among our own hemisphere to open markets within the next decade.

ASIA AND THE PACIFIC

The Administration's trade objectives -- and its accomplishments -- are particularly relevant to the Asia Pacific region, which by any measure, is booming and growing in importance:

- the Asia-Pacific region is the fastest growing economic region in the world;
- over the past three decades, Asia's share of the world's GDP has grown from 8% to more than 25%;
- the dynamic Asian economies continue to grow at three times the rate of the established industrial countries;
- projections show that by the year 2000 the East Asian economies will form the largest market in the world, surpassing Western Europe and North America;
- The broader Asia/Pacific region includes the four largest populations in the world: China, India, the United States, and Indonesia.

It is also of growing importance to the United States:

- our trade across the Pacific is more than 50% greater than across the Atlantic; U.S. merchandise exports to Asia have grown nearly 60% over the last five years;
- our exports to Asia account for 2.5 million jobs in the United States; increasing our market share in Asia by 1

percentage point would add 300,000 export related jobs to the American economy;

- in 1993, APEC members took almost 60% of U.S. merchandise exports and accounted for two-thirds of our imports;
- our projection shows that Asia, excluding Japan, will be our largest export market by the year 2010, to the tune of \$248 billion, if we maintain our current market share;
- but this is not just a question of economics; our historic and cultural ties across the Pacific are broad and deep; there are over 7 million American citizens of Asian descent;

It's vital to our economic future that we remain a partner in the future growth of this region and that we work to eliminate remaining barriers to trade and investment.

In summary fashion, let me review some of the key trade and investment issues and challenges that face the United States, with particular emphasis on China, Japan and other key markets in the Asia Pacific region.

TRADE WITH CHINA IN THE BROADER CONTEXT

The United States has both an economic and political stake in developing productive, healthy, and stable trade relationships with all countries in Asia, including China. At the APEC meeting in Jakarta last November, President Clinton reiterated the United States' commitment to the development of a new Pacific community, one in which we share responsibility for solid, steady growth; for the development of and improvement in economic and legal institutions; and for regional stability.

The U.S. market has long been an engine of growth for East Asian economies, much as it is today for the Chinese economy. Today, with the expansion of the American market through the NAFTA, the further reduction of trade barriers through the WTO and the process of trade liberalization and business facilitation through the APEC process, trade ties with China should expand substantially.

We recognize the economic achievements that China's reform policies have brought. China is now the fastest growing major economy in the world, with growth in 1994 reaching roughly 12 percent. Up and down China's east coast, economic development is proceeding at a breathtaking pace. In my own visits to China over the past two years, I have been overwhelmed by the magnitude of the change that has taken place in Beijing alone, much less in

Guangdong and the booming provinces in central and south China.

As a trading regime, China has also undergone a remarkable transformation. China is now the 11th largest trader in the world, with two-way trade last year approaching \$200 billion. China's trade with the United States has experienced a similarly rapid growth. Beginning from a minuscule base in the late 1970s, U.S.-China trade grew to \$40 billion in 1993 and could reach \$50 billion by the end of 1994.

U.S. Interests

The United States wants to see a strong, prosperous, stable China. In trade and economic terms, that means continuation of steady growth, the development of institutions -- like a sound banking system -- that can help sustain that growth, and adherence to international norms and the rule of law. It also means greater integration of China into the fabric of the world trade regime, and maintenance of responsible and transparent trade practices.

On a bilateral basis, the Clinton Administration would like to see the development of a more healthy, more reciprocal trade relationship. In late May last year, the President made a fundamental decision to put the annual debate over MFN behind us. In making that decision, the Administration took a major step to create a more solid foundation for our overall bilateral relationship, but especially for our trade and commercial relationship. At the same time, the President stressed that the United States would vigorously pursue its interests in each of the various aspects of the bilateral relationship -- including trade. If the President's decision is to have a positive, long-term effect on our trade relationship, China must take steps in trade to open its markets further and protect U.S. intellectual property.

Our trade relationship is badly out of balance. China exports vast quantities of goods to the United States, but still buys relatively little from us. We have a projected trade deficit of roughly \$28 billion in 1994. No other major trading partner has a deficit in goods of that size with China -- and no other major trading partner's markets are as open to Chinese goods and services as is the United States.

Our bilateral trade relationship is at a cross-roads. China has the option of either joining the world community and working with the United States to improve the bilateral trade relationship, or remain outside of the world mainstream -- and maintaining a trade regime that fails to reflect the great improvements in its domestic economy.

In that context, I find it disturbing that China still has not

made the fundamental decision to join the mainstream of world trading nations. China appears to want to set the rules of trade with its trading partners, as opposed to following international norms. Recent developments have only strengthened our view in that regard. China only selectively upholds its trade agreements with the United States, and it is reluctant to accept its obligations in other areas, including accepting international arbitration judgments, or accepting responsibility to honor contracts. China continues to resist creation of a fair and equitable investment climate, discriminates against foreign companies in its pricing of goods and services, and maintains a myriad system of overlapping barriers to the entrance of imports.

As for services, the United States is the largest exporter of services in the world. U.S. companies in banking, insurance, financial services, travel, advertising and other services are the best or equal to the best in the world. In the communications and information services sectors, U.S. companies are leading a global information revolution and transforming the way that business is conducted around the globe. Nonetheless, China's market for services is still largely closed and must open. If China is to reform and modernize its economy, it cannot do so without the creation of a sophisticated services sector. And, clearly, it cannot develop an articulated services industry without opening its services market.

For its part, it is in China's interest to take these steps. As much as the United States and other trading partners will gain, the benefits for China in further trade liberalization and market opening are much, much greater. Therefore, we expect that China will take those necessary and serious steps.

Trade Initiatives

The United States has global and bilateral objectives that it wishes to pursue with China and we believe that we can do so in a mutually advantageous manner. We have a global interest in seeing China better integrated into the world trading system, continue to reform its system, and grow its economy. We have a bilateral interest in creating a more reciprocal trade relationship that brings substantially greater benefits to the United States. These interests are intertwined. We are working with China to establish a trade framework that is based on the rule of law. We are therefore pursuing a number of trade initiatives in multilateral and bilateral contexts.

Bilateral Initiatives

While the primary focus of our bilateral trade initiatives is to improve the U.S.-China trade relationship, here too the Clinton Administration places a heavy emphasis on adherence to international norms and disciplines. Thus, all of our bilateral

trade talks are founded on the principles of the GATT/WTO and other international agreements. The Administration's aim is to establish a solid foundation for its trade relationship with China -- and hopefully avert more serious problems later on.

The Administration has worked hard, through restoration and revitalization of the Joint Economic Commission and Joint Commission on Commerce and Trade, to engage China in a dialogue on the entire range of economic, trade, and commercial issues. A year ago last January, former Treasury Secretary Bentsen and Chinese leaders discussed our mutual interest in seeing China's finance and investment regimes improve, and in the furtherance of China's economic reforms.

In August, Secretary Brown led a highly successful Presidential trade mission to China which netted some \$6 billion in contracts for U.S. firms. During his visit, he had wide ranging exchanges with China's Trade Minister Wu Yi and her colleagues on a number of business and commercial development issues, including U.S. participation in infrastructure projects in China, worth perhaps \$250 billion or more in inputs for energy, transportation, and telecommunications. The Administration will move now to set specific agendas in transportation, information technologies and other commercial areas.

On trade policy issues, we are currently engaged in negotiations and consultations on intellectual property rights protection, market access for goods (based on the 1992 market access agreement), and market access for services. Successful conclusion of these negotiations, and the faithful implementation of existing Agreements is vital, not only to enhance the bilateral relationship, but also in improving prospects for China's own economic reforms.

IPR

Protection of intellectual property rights (IPR) is an area of major concern for the United States. Failure to protect IPR harms China's legitimate research and business interests, as it does those of foreign countries.

In principle, the Chinese government recognizes that protection of intellectual property is important. While the legal regime attests to this recognition, in practice, there is virtually no effective enforcement of IPR in China. Piracy has escalated in recent years and reached crisis proportions over the past year. Theft of copyrighted products is omnipresent, with 90-100 percent piracy rates in computer software, motion pictures, videos, sound recordings, books and periodicals. Twenty-nine CD factories, with at least 15 in Guangdong province alone, have a production capacity of 75 million CDs, laser disks and CD-ROMs, and are now exporting them throughout Southeast Asia and North America.

Markets in Hong Kong and Southeast Asia that have been clean for years are now awash with Chinese pirated products.

Piracy now constitutes a significant market barrier to computer software producers and others who would like to invest and trade with China but dare not do so now. And, piracy thwarts the development of China's own domestic industries. China will never be a major center for the development of software, for example, if it cannot protect the inventions of its most creative people.

The Clinton Administration has acted decisively to protect the intellectual property of U.S. companies. USTR initiated a Special 301 investigation into China's IPR enforcement practices on June 30. When months of negotiations did not persuade China to take effective steps to curb piracy, the USTR published a proposed import 'retaliation list' against which 100 percent tariffs can be imposed if an agreement is not reached by February 4.

Last week, a team of U.S. negotiators were in Beijing for another in a series of negotiations on IPR enforcement. If the Special 301 investigation is to be resolved in a positive manner, China must take concrete steps to shut down major infringers and prosecute criminal violators of copyrights and trademarks. And, China must reach an agreement that will permit long-term enforcement of its IPR laws and market access for our companies. Whether an agreement can be reached is largely up to China

Market Access

In October 1992, the United States and China signed a market access agreement that committed China to make sweeping changes in its import regime. To date, China's implementation of the 1992 market access agreement has been positive, although some important exceptions remain. In the Agreement itself, China committed over a five year period to a major reform of its import regime. That includes elimination of 90 percent of all non-tariff barriers -- such as import licensing requirements and quotas, increased transparency, elimination of the use of import substitution as a policy or practice, and an end to the use of scientifically unjustified sanitary and phytosanitary standards as barriers to agricultural imports.

China has taken important strides toward making its trade regime more transparent. China has published a large number of trade rules and regulations in the past year. Nonetheless, China has a long way to go before its trade regime, and its trade institutions, are truly transparent. We are particularly concerned that China's provinces apply Beijing's trade laws and regulations uniformly and that the provinces' trade regimes are transparent.

China has made a major commitment to eliminate non-tariff barriers, and since the end of 1993, has reduced to 400 from the several thousand that existed the number of GATT-inconsistent barriers. That is a major achievement and China should get credit for it. By reducing these barriers, China will open markets for computers, medical equipment, heavy machinery, textiles, steel products, chemicals, pharmaceuticals, and other products. However, we still do not have schedules for elimination of the 400 remaining non-tariff barriers, and this must be accomplished.

Despite China's positive progress on market access, it has not fully implemented the agreement. It has yet to live up to its obligations to publish quotas; uniformly apply its laws and regulations, or fully eliminate import substitution as a practice. While China has eliminated many barriers, China has not yet eliminated quantitative restrictions for many products by December 31, 1994 -- as it committed to do in the Agreement. That means that barriers to computers, textiles, heavy machinery and other key U.S. products remain, harming our prospects in China's market while its exports into the United States continue to accelerate. We are now discussing these issues with the Chinese government, but they must be resolved.

In addition, China has not yet addressed our concerns about the use of sanitary and phytosanitary standards as barriers to imports of agricultural and live animal products. China continues to use unscientific standards to block U.S. exports of citrus fruit, stone fruit, wheat (from the Pacific Northwest), apples, and leaf tobacco -- products that the United States exports to Japan and other nations throughout East Asia. We expect China to move expeditiously to resolve these issues, in accord with the Agreement.

Market access for services is another, integral, part of the U.S. bilateral trade agenda with China. China's services markets today are still largely closed. While limited experiments are underway, and a variety of extra-legal services ventures have started, legitimate access for U.S. companies in most instances is not available.

We have asked that China commit to substantial liberalization of its insurance, distribution, advertising, travel, communications, audiovisual and other services. These liberalizations are in China's own interest. We expect, for example, that China will license more foreign insurance companies to operate in China on a national treatment basis, will open its enhanced telecommunications sector and its distribution system to U.S. companies, and will liberalize access to its audiovisual markets. China cannot make the leap to a higher technology base without considerable participation by foreign firms in its services sectors.

A vital component of our services agenda with China is improvement in its domestic business climate. Consistent with the WTO, we ask that China create a non-discriminatory environment within which both foreign and Chinese firms compete on an equal footing. Adherence to basic investment principles, such as the right of establishment and national treatment, along with rights to conduct associated activities, would go a long way toward that end.

Similarly, China discriminates against foreign traders in its pricing practices, often charging foreigners prices that are several times those charged Chinese businessmen. China has indicated that it may take steps to eliminate this discrimination, and we await concrete actions to make these intentions reality.

China's WTO Accession

It is in the interests of the United States that China become a member of the WTO, but only on a commercially acceptable basis. This policy, first articulated in 1986, was most recently restated in the 1992 Market Access Agreement with China, when the United States committed to staunchly support China's accession to the GATT, now the WTO, on the basis of commercially acceptable terms. China's accession to the WTO on acceptable terms remains important and beneficial to all trading nations. It will guide the structure of China's economic reforms and the overall direction of China's reforms, and it will help to cement them in place. A good protocol of accession for China will lead to substantial, additional market opening and a much improved trade and investment regime.

China's most recent bid to accede to the WTO failed last year principally as a result of China's unwillingness to address the concerns and requests for market access commitments tabled by its major trading partners. After months of intensive negotiations, the United States and the contracting parties spent nearly three weeks in December in non-stop talks. Much of the U.S. position was based on our previous productive bilateral initiatives with China. Much of what we sought in Chinese commitments in the WTO context China has already agreed to bilaterally.

China was not, however, able to commit to align its trade regime to GATT and WTO norms, nor to establish in the GATT and WTO framework a constructive trade liberalizing response to specific requests from its trading partners for expanded market access for goods and services. China is a major beneficiary of the security, stability, and market access opportunities provided by the global trading system. As a result, this lack of flexibility undermined the ability of GATT contracting parties to complete the accession negotiations.

Precisely because its foreign trade regime is so strong -- averaging 25 percent growth a year over the past five years -- China and the United States, as well as other WTO members, have a responsibility to ensure that China's membership in the organization that regulates international trade is based on solid economic commitments.

Membership in the WTO is not a political gesture, it is first and foremost an economic agreement. Basic principles to which all GATT Contracting Parties and WTO members adhere -- the foundation of the multilateral system -- must be met at the outset. This is no more than is expected of any applicant to the GATT or the WTO. China cannot expect to be different. It is in the interest of no country to set special rules for one at the expense of all of the others, especially with other large accession applicants, such as Russia, carefully observing the outcome.

Over these past many months, the United States -- as well as other GATT members -- have clearly outlined the areas where China must take commitments to basic GATT and WTO obligations and to secure transparent market access opportunities. These basic areas include: uniform application of national laws and regulations in the provinces; national treatment for imported goods, firms and traders; elimination of nontariff measures as required by the GATT and the WTO; granting foreign firms trading rights and expanding the right to trade generally; and assuring that its foreign exchange regime is not used as a trade barrier. China must make commitments to open its market to services, submit a reasonable schedule on agriculture supports and subsidies, and provide secure and amplified opportunities for market access in goods commensurate with its status as a world-class exporting country.

On agriculture, many trading partners -- particularly among the Cairns group -- have raised serious concerns about China's practices such as using sanitary and phytosanitary standards, secret guidance and pricing practices to hinder competition with China in world agricultural markets and in China's own market. These are among the issues that have to be addressed in the accession negotiation.

Some actions that China is contemplating in the near future -- such as the industrial policy strategies China has recently announced -- are cause for concern. These policies appear to include many measures that are not compatible with either GATT or WTO rules and disciplines. As in other cases, China must be prepared to adjust its policies to make them consistent with the WTO.

In addition, China should also acknowledge a willingness to undertake WTO obligations in areas where it is capable of doing so from the date of accession and where it has already made

extensive bilateral commitments, e.g., in the protection of intellectual property.

If China accedes to the WTO on anything less than solid commercial terms, or without firm commitments to take further reform measures, not only the United States but all major trading partners will be hurt over time. Nor will our goal of seeing China better integrated into the world trading system be achieved.

In December, the Chairman of China's GATT accession Working Party tabled a draft framework for commitments, and members of the Working Party, including China, agreed to use this framework as the basis for negotiation. The U.S. and other current GATT members have tabled market access requests and seek an opportunity, denied by China during the December talks, to engage in actual negotiations to reach accord in this part of the process.

At this point, we do not know China's intentions for further work on its accession application. We understand that the issue is under review. Our commitment to work constructively with China and with the other WTO members to bring China into the organization has not diminished, and we remain ready to resume negotiations.

I would leave you with three points for reflection. First, the United States retains a strong interest in seeing China accede to the WTO but only on commercially acceptable terms. Second, the United States and other WTO members are prepared to work with China to address its transitional trade situation, but only in the context of an active negotiation where our critical concerns and interests are also addressed. And third, it is very important for the credibility and the viability of the trading system, as well as to China's future, that we get China's accession right.

Despite all of the challenges that we face, I believe that the United States can achieve its global and bilateral objectives with China. The Chinese government appears to realize that China's own prosperity will increase as it adopts market principles and trade liberalization. By resolving our concerns on key trade issues and increasing access for U.S. industries that we believe can create a better and more sound trade relationship. If we cannot, we will not hesitate to take steps that protect U.S. interests.

JAPAN

The Administration has made significant progress in advancing its trade agenda with Japan. Over the past 20 months, we have

reached eight market-opening agreements under the US-Japan Framework Agreement. These agreements embody the results-oriented trade policy this Administration has consistently pursued toward Japan. They are distinguished from agreements reached under previous administrations in two important ways.

- First, each agreement commits Japan to the Framework goal of substantial increases in market access and sales of foreign competitive products and services into Japan.
- Second, the agreements include quantitative and qualitative criteria, which will allow us to evaluate clearly whether or not they are achieving their intended results.

Let me review some of the specifics of these agreements.

In government procurement, we concluded two telecommunications agreements -- one in public procurement by Japanese government agencies and one covering Nippon Telephone and Telegraph Corporation (NTT), the largest telephone company in Japan -- and a medical technology agreement. The government procurement agreements, concluded on October 1, 1994, call for the Framework goal of a "substantial" increase in market access and sales of foreign competitive products and services. In accordance with the Framework agreement, these agreements include a set of five quantitative and five qualitative criteria to assess implementation. These agreements also include specific measures the Japanese government must take to improve and open its procurement process to foreign suppliers.

In insurance, we reached a landmark agreement to open Japan's \$320 billion insurance market -- the world's second largest -- which has been closed by a secretive and arbitrary regulatory system and exclusionary purchasing practices among interconnected firms. Under the insurance agreement, the Government of Japan committed, among other things, to enhance the transparency of its regulatory system, provide important procedural protection, introduce specific liberalization measures, and strengthen its antitrust policy. The agreement enables non-Japanese insurance companies already active in Japan to build on the progress made to date, as well as allow current players and newcomers to take advantage of new business opportunities created by the agreement. In order to measure results, the agreement sets out specific quantitative and qualitative criteria, including the changes in market share of foreign firms.

In flat glass, the Government of Japan agreed to increase market access and sales for competitive foreign glass, regardless of capital affiliation. In an unprecedented development, the agreement calls Japan's flat glass distributors to issue a

statement announcing their intention to diversify their supply sources and avoid discrimination based on capital affiliation, an important first step in breaking up keiretsu relationships in this sector. In addition, the agreement calls for Japan's three flat glass manufacturers to issue a statement reaffirming that distributors are free to purchase from any supplier, including foreign glass manufacturers. The agreement also includes provisions for the expanded use of safety and insulating glass windows, areas where American firms have a clear competitive advantage; significant import promotion measures by the Japanese Government; and a Japanese Government commitment to end discrimination in public sector procurement of flat glass. The agreement provides for consultations to assess implementation of the Measures, based on concrete qualitative and quantitative criteria.

Two bilateral agreements were concluded under the Framework working group on intellectual property rights. These agreements ensure American investors faster processing of their patent applications and provides for overall improved protection for owners of U.S. intellectual property rights. The first agreement, signed on January 20, 1994, provides for specific measures that the Japanese Patent Office will undertake to facilitate the filing of patent applications by foreign nationals. The second agreement, signed August 16, 1994, provides specific measures to revise the Japanese patent "opposition" system.

Conclusion of a financial services agreement was announced on January 10, 1995. This agreement opens the \$1 trillion Japanese pension market to effective participation by foreign fund managers. It creates greater opportunities for foreign financial firms to participate in the \$500 billion Japanese corporate securities market by permitting greater scope for the introduction of new financial instruments. It also will promote the further integration of Japan's capital market with global capital markets, creating significant opportunities for competitive foreign financial institutions. The agreement makes clear Japan's commitment to improving access to its financial services markets through changes in Japan's regulation of asset management, corporate securities, cross border financial services, and transparency and procedural protection. It also includes a comprehensive set of qualitative and quantitative criteria by which to assess progress under the agreement.

Other Agreements

In addition to these agreements reached under the Framework, the U.S. and Japan have reached agreement in several other areas in the past year. These include agreements opening Japan's huge public works construction sector to foreign firms, improving access to Japan's cellular telephone market, and streamlining and

improving Japan's intellectual property procedures. In addition, as you know, we achieved a number of market access commitments from Japan in the Uruguay Round and Japanese consumers are now enjoying the fruits of our agreement eliminating Japanese barriers to apple imports.

Next Steps

Despite these noteworthy achievements, our trade agenda with Japan is full. A number of important sectoral and structural issues remain under discussion.

Autos and Auto Parts

Key among these is the automotive sector, where our negotiations are led by the Department of Commerce. This is an extremely serious issue, on which only very limited progress has been made. We will continue to push for a resolution focusing on three key areas:

- Better access for our vehicle manufacturers into the Japanese market.
- Indications that Japanese firms are going to continue expanded purchases of non-Japanese auto parts in both Japan and by its transplant companies in the U.S.
- Reducing Japanese Government regulations limiting foreign access to Japan's market for replacement auto parts.

Auto experts will go to Tokyo in mid-February to continue the effort to resolve this issue. In the meantime, we remain committed to vigorously pursuing the Section 301 investigation of discriminatory practices in Japan's market for auto replacement parts begun last October.

Deregulation

As part of our multi-faceted Japan trade policy--which encompasses sectoral, structural, and macroeconomic issues--we are focusing on deregulation. Last November, in response to the invitation of the Japanese Government, the U.S. presented specific recommendations regarding deregulation and administrative reform, which we hope will be included in Japan's five-year deregulation plan to be published on April 1. We met with the Japanese last week to discuss these proposals and to get an update on their progress in preparing the plan.

While the meeting gave us the opportunity to press the Japanese on these issues, overall, we were disappointed with the results of the talks.

- In particular, we are concerned with the continuing lack of transparency of the process, which will make it difficult for us to keep apprised on the details and to comment on Japan's five-year deregulation plan that is to be published on April 1. The lack of transparency significantly limits the ability of interested parties inside and outside Japan to ensure that the plan includes detailed proposals on sectors of most interest to them.
- For example, the interim plan, which the Japanese presented to us at the talks last week, includes only 116 of the reportedly more than 500 deregulation measures that are to be included in the final plan and even these are extremely vague.
- We also remain concerned that the opposition of many Japanese politicians and bureaucrats and some businessmen--who are strongly resisting deregulation measures that could hurt their interests--will make this deregulation plan as weak as those that have preceded it.

We will be working aggressively over the next two months in an effort to persuade the Japanese Government to deliver a substantive, detailed five-year deregulation plan.

- We plan to forcefully deliver our message to the Japanese during two working level meetings in Tokyo that will be held before the end of March.
- We will also continue to work through the U.S. Embassy in Tokyo to present our case and lend support to the deregulation effort.
- In addition, we will continue to work with the European Union to coordinate our views and substantive requests on deregulation with theirs.

Implementation of Agreements

Another area we will be focusing on during the coming year will be ensuring the prompt and full implementation of all of the agreements we have reached under the Framework as well as those reached by previous Administrations. We intend to closely monitor progress to ensure that all these agreements are successful and achieve tangible results in the marketplace.

Of particular concern to us is whether these agreements are achieving the intended results--substantial increases in access and sales for foreign competitive products and services. In monitoring these agreements, we will use the quantitative and

qualitative criteria included in them as a basis for assessing progress. We will continue working closely with the Commerce Department and other agencies, our Embassy in Tokyo, and U.S. industry to help us in the effort.

In closely monitoring progress in implementation of all agreements, two sectors that will receive particular attention over the next couple of months are wood and paper. As you know, on October 1, 1994, both of these sectors were watch-listed under Super 301 because of discrimination against foreign products or limit market access.

THE DYNAMIC OTHER ASIA

Despite the importance of Japan and China in our bilateral trade and to global trade, we cannot lose sight of the importance of the other countries in the region. Trade policy toward the Asia-Pacific region cannot be a "Japan" policy or a "China" policy. The region is far too economically diverse and culturally rich to permit such a simplistic approach. The other countries of Asia are equally significant and present varying challenges.

From a trade policy perspective, the Clinton Administration has turned the corner on resolving many of the larger trade issues with a number of the other countries in Asia. The highly contentious intellectual property rights (IPR) issues that in years past characterized our trade relations with Korea, Taiwan, Thailand, and the Philippines are in varying stages of being resolved. Even on the controversial worker rights issues, progress has been achieved in Thailand and in Indonesia. These accomplishments have permitted this Administration to establish other -- more constructive -- approaches to addressing remaining trade concerns. In Korea, we set up the Dialogue for Economic Cooperation which has examined trade issues in terms of President Kim's Five-Year Program of investment and regulatory reform. In Taiwan, we have entered into a Trade and Investment Framework Agreement. Under this agreement, we will look at trade issues in a broader context rather than solely through a trade action looking-glass.

The major reason why trade conflicts do not dominate our trade agenda with most other Asia Pacific trading partners is that, for the most part, these countries are unilaterally opening their markets. As a result, we have seen many of the previously growing trade deficits being reduced and stabilized. And in those countries where the deficit is growing, both exports and imports are growing at double digit rates with significant flows of investment complementing the trade flows.

ASEAN

The six countries of ASEAN are particularly good examples of the

trend toward unilateral trade liberalization and the benefits that accrue from such policies. By 2003, ASEAN will have fully implemented a preferential trade area, where the highest tariff will be 5 percent. Once this arrangement is fully implemented, U.S. companies will be able to market products on a wider scale than has thus far been the case. This economic region will be the fourth largest region in terms of population, creating enormous potential for U.S. companies, export and job creation. Recognizing this development, this Administration has established the Alliance for Mutual Growth (AMG) with the ASEAN countries, an approach dedicated to integrating our trade promotion and policy objectives in this dynamic region. The AMG has developed a number of specific programs including:

- o "Matchmaker" missions that bring large and small countries to the region in key sectors where U.S. industry is highly competitive. The first mission was in the auto parts sector and additional missions will include telecommunications, medical equipment, infrastructure, and trading companies. Each of these missions is followed by policy dialogues that aim at implementing policies that are conducive to expanded commercial ties in these key sectors.
- o The "Destination ASEAN" program was launched by the Department of Commerce in June of last year to better acquaint companies to the market potential of the ASEAN region.
- o In the area of standards, we are working with U.S. standards bodies, such as Underwriters Laboratories and the FCC, to better educate the region on U.S. standards and standards setting procedures.

With or without U.S. business, ASEAN is committed to further trade liberalization. For example, the Philippines, Thailand, and Indonesia are implementing unilateral market opening measures. In the case of the Philippines, by the year 2003, the highest tariff will be five percent, applied on an MFN basis. The key challenge for the United States is working with these countries to encourage liberalization in areas where U.S. companies are highly efficient and competitive so that both the United States and ASEAN economies will continue to expand.

KOREA

While formal barriers to imports have fallen, Korea has raised new, more subtle barriers that effectively prevent the liberalization envisioned under the major trade policy initiatives of the late 1980s. Korea's non-tariff trade barriers are often compared to those of Japan's ten years ago. Consequently, bilateral problems are on the rise, particularly with respect to standards, licensing, certification, rule-making

and customs clearance. Trade relations are further strained by Korea's generally poor track record of living-up to existing bilateral agreements.

The section 301 investigation on meat products, for example, result from the application of restrictive shelf life conditions by Korea's Ministry of Health and Welfare for certain meat products. Most of the countries in the world, including the European Union and APEC countries, use manufacturer's "use-by" dates to control food quality. Korea, by contrast, uses specific dates ranging from seven to 90 days, depending on the type of meat product. The domestic industry estimates the current trade damage at over \$200 million per year and growing.

The proliferation of sanitary and phytosanitary restrictions are also of serious concern. Medical devices, medical products, chocolate products and even pet food have all been the subject of disputes with Korea's Ministry of Health and Welfare. The inappropriate application of sanitary and phytosanitary restrictions, especially those not based on sound scientific evidence, has restricted trade in a number of products, that if not resolved soon, could escalate into a broader and more serious trade dispute.

INDIA

The recent market opening measures in India present some significant opportunities for U.S. business and U.S. exports. India has reduced tariffs, relaxed investment restrictions and, for the first time, agreed to open its textile market. These steps are not only welcome but essential for the Indian economy if it is to compete with the dynamic economies of the Asia Pacific region.

In an effort to support further liberalization measures of the Rao government, this Administration will reengage an earlier dialogue with India -- the Economic Subcommission -- that will cover a wide range of economic issues including bilateral trade issues. Our goal is to establish bilateral trade patterns more akin to certain other Asian nations where opening markets have stimulated both exports and imports.

The economic transformation for India will not be easy. Even after the recent liberalization measures, India still maintains some of the highest trade barriers in the world and it is only now beginning to open markets that have been closed to the private sector, such as insurance and telecommunications.

With respect to liberalization of the insurance sector, we have begun consultations with India as part of the ongoing WTO negotiations under the GATS. These negotiations must be completed by June 1995 and our goal is that India's current

review of its government owned insurance industry will lead to liberalization in ways that will open the market to international service providers, where U.S. companies are highly competitive. India also is opening its enhanced telecommunications services as part of its Uruguay Round commitments. In addition, we are actively negotiating with India as part of the on-going WTO negotiations on basic telecommunications services. Those negotiations are expected to conclude in 1996.

Even on the controversial intellectual property rights issues, India has made some progress. In 1994, following the conclusion of the Uruguay Round TRIPS agreement, the Administration dropped India to the priority watch list because of reforms in copyright and trademark protection. Since then, we have held consultations with India on a number of difficult issues including patent protection. During this time, India has implemented the "mailbox" provisions of the TRIPS Agreement which provides some protection for new patents.

Despite these liberalization steps, India has not kept pace with the liberalization programs of many of its smaller competitors in Asia. Without further liberalization, India will continue to lose competitive position to its more dynamic neighbors. This year, the WTO will review India's use of balance of payments trade restrictions. Already, the trade reforms that the Rao government has implemented has resulted in dramatic increases in India's foreign exchange reserves to more than \$17 billion. This turnaround testifies to the effect of market opening measures and to the need for India to continue opening its market to worldwide competition.

APEC

Our efforts toward the elimination of barriers to trade and investment have also continued at the regional level, with the Asia Pacific Economic Cooperation forum -- or APEC -- as the centerpiece. The pace of development of APEC's trade and investment agenda has surpassed that of even the most optimistic observers. A year ago, APEC was cautiously beginning its consideration of a trade and investment policy agenda, which had just been agreed in Seattle. From that modest start, less than twelve months later, APEC Leaders at their summit in Bogor, Indonesia, issued a Declaration setting the goal of free and open trade and investment for all APEC members by the year 2020.

In addition to the goal of free and open trade by 2020 -- with the industrialized APEC members to reach that goal by 2010 -- APEC leaders in the Bogor Declaration agreed to:

- * fully implement, accelerate and broaden Uruguay Round disciplines:

- * continue unilateral liberalization programs;
- * expand and accelerate APEC trade and investment facilitation and development cooperation projects;
- * undertake a best efforts standstill; and,
- * examine the possibility of creating an APEC voluntary consultative dispute mediation service.

The Bogor Declaration is a major milestone in the region's development. It is a tribute to the process set in motion by President Clinton in his hosting of the first summit on Blake Island. It is also a result of the outstanding leadership of Indonesian President Soeharto in building a consensus for carrying the Blake Island vision one step further. We support the full range of goals contained in the Declaration -- which include trade facilitation efforts to cut red tape and simplify procedures; trade liberalization; and economic cooperation.

Though the Bogor Declaration sets clear goals, the devil, as we all know, is in the details. Much work remains to be done to establish a consensus in APEC on the scope, pace, and other aspects of efforts to achieve the goals of the Declaration. APEC Leaders asked Ministers for a plan -- to be developed over the next 10 months and reviewed by Leaders in Osaka in November 1995 -- for reaching the Bogor goals. That process will begin at meetings in Japan this month. We believe the plan should address all barriers to the free flow of goods, services and capital. We will work closely with the business community and the Congress as the discussions proceed. In addition, we want to insure that APEC's efforts are structured so that members receive benefits which are commensurate with the commitments they make.

As I have noted, in addition to the longer-term effort to create free and open trade, we are working in APEC on shorter-term efforts to increase transparency, cut red tape, harmonize procedures, and lower transaction costs. Examples of efforts already underway include an APEC program of workshops to promote a smooth, harmonized implementation of the UR agreements, at the highest level of discipline possible; simplification and harmonization of Customs procedures; and mutual recognition agreements to eliminate redundant testing requirements for products sold in the region.

The commitment by APEC's top leaders to free and open trade and investment is an important part of our efforts to promote jobs and create economic growth in this country by increasing access for U.S. companies in regional markets. It complements, but does not replace, efforts to these same ends at the bilateral and multilateral levels. In addition, we see the Declaration, and our participation in APEC across the board, as consistent with

our efforts to insure continued, active U.S. participation in economic and broader aspects of this key region. We will work closely with our APEC partners to achieve all these goals.

CONCLUSION

The Administration's trade accomplishments in the Asia Pacific region are substantial. The challenges are equally substantial, particularly if the United States is to continue to play a leadership role in the Asia Pacific region. Whether through bilateral, regional, or multilateral mechanisms, a continued and growing U.S. trade and investment presence in the region is important not only to the economic stability of the region but, most particularly, to our economic prosperity at home.

ADMINISTRATION STATEMENT
BY AMBASSADOR CHARLENE BARSHEFSKY ON H.R. 553
THE CARIBBEAN BASIN TRADE SECURITY ACT
BEFORE THE TRADE SUBCOMMITTEE
FEBRUARY 10, 1995

INTRODUCTION

Mr. Chairman, thank you for the opportunity to submit the Administration's comments on H.R. 553, the "Caribbean Basin Trade Security Act of 1995."

The bipartisan support Congress has given to the Caribbean Basin Initiative (CBI) since its inception has greatly assisted U.S. efforts to promote economic development and democracy in the region. The Administration appreciates that the sponsors of H.R. 553 are continuing this bipartisan tradition.

With almost all countries in the Caribbean Basin embracing open markets and free elections, the United States has a unique chance to help these countries achieve long-term prosperity. H.R. 553 can be a very constructive catalyst to this process. This bill recognizes that access to the U.S. market is a powerful stimulant to broadly based economic development.

Before I outline the Administration's position on H.R. 553, let me review briefly the status of the CBI. While you, Chairman Crane, Congressman Gibbons, Congressman Rangel and some of the other Members on this Subcommittee are well acquainted with the CBI, my summary might be particularly useful for new members. Also, we hope this presentation will put into perspective the Administration's subsequent comments on H.R. 553.

STATUS OF CBI LEGISLATION

CBI I and CBI II

The 1984 CBI provided the President the authority to proclaim duty-free treatment for all products except textiles/apparel subject to agreements, footwear, petroleum, categories of flat goods and gloves, leather apparel, canned tuna and a minor category of watches. Countries must meet the conditions, which are sufficiently flexible to provide the President considerable leverage to encourage reforms without forcing specific action. Only one country has ever been suspended from the CBI program, for failure to cooperate on narcotics matters. CBI benefits are now granted to 24 nations.

The Executive Branch in 1986 created the "Guaranteed Access Level" (GALs) quota program for CBI apparel exports. Under the GALs program, a Caribbean Basin country may ship "guaranteed"

levels -- virtually unlimited quantities -- of apparel and other textile products to the United States made from U.S. cut and formed fabric.

The previous Administration, working very closely with this Subcommittee, in 1989 sought legislation providing duty-free treatment for the excluded products. After nearly two years of effort, all of the products that were excluded from duty-free treatment in CBI I continued to be excluded in "CBI II." The 1990 CBI II was made a permanent program, which greatly improved the inducement to invest in the region.

The CBI has benefitted the Caribbean Basin and the United States. U.S. exports to the region jumped from \$5.8 billion in 1983 to \$12.2 billion in 1993. This increase of 112 percent represents a rate that is three times the growth of U.S. global exports during this period. A U.S. trade deficit with the region of \$2.6 billion in 1984 turned into a surplus of about \$2 billion last year.

Countries in the Caribbean Basin are very good customers of U.S. products. About half of their imports come from the United States, and some countries purchase over 70 percent of their goods from the United States

The CBI has, of course, also benefitted the Caribbean Basin. U.S. imports of products entering under the CBI's provisions have jumped by more than 100 percent during the past five years, which is twice the rate of growth of total imports from the region.

Textiles and apparel trade between the United States and the CBI region has shown tremendous growth rates. In 1994, we exported \$2.5 billion of fabric and apparel to the CBI countries (annualized data). U.S. imports of apparel from the region have grown by an average of 20 percent per year since 1986.

These summary data illustrate why -- just in trade terms -- it is in the U.S. interest to enhance our relationship with countries in the Caribbean Basin. The United States also wants to promote economic prosperity and stable democracies in the region. And, this Administration has tried to do just that.

Interim Trade Program

Following the conclusion of the NAFTA, CBI countries became increasingly concerned that their trade benefits would be substantially eroded and that investment would be diverted out of their nations. Also, U.S. firms that had invested in the Caribbean Basin expressed their concern about their financial ability to remain in the region.

After analyzing closely the potential effects of NAFTA on the CBI, the Administration developed some proposals to address the region's legitimate concerns. Due to circumstances at the time, these proposals could not be presented as part of NAFTA implementing legislation.

These proposals, refined further to become the Interim Trade Program (ITP) in 1994, were prepared for submission in the Administration's Uruguay Round bill in Congress. In the end, however, on the basis of discussions with this Subcommittee and other Members of Congress, the ITP was not included in the Uruguay Round bill.

Key ITP provisions were inspired by Congressman Gibbons' 1993 proposals in H.R. 1403. The ITP would have included reciprocal commitments from beneficiaries within a specified period of time.

The ITP would have provided CBI countries the same tariff and quota treatment Mexico enjoys under the NAFTA for textiles and apparel products meeting the NAFTA's rules of origin. We focussed on textiles and apparel because our analysis showed this to be the sector most vulnerable to competition from the NAFTA and by far the largest, accounting for about \$4 billion of U.S. imports from the region. Furthermore, U.S. manufacturers, which operate partnership production arrangements, have substantial investment in the region.

In addition, we wanted to fashion a bill that would pass quickly without controversy and that enjoyed industry support. We believe the ITP was such a bill.

The next largest imported product after textiles/apparel is petroleum, accounting for about \$1 billion of U.S. imports from the region. With an average ad valorem duty of about 0.5 percent -- essentially duty-free -- and a long NAFTA phase-out period, we did not want possible opposition to CBI preferences for this product to impede passage of the ITP.

The other excluded products have a history of political sensitivity in Congress. Footwear, in particular, has generated considerable debate, including attempts to repeal an existing provision of the CBI. None of the excluded products, other than textiles/apparel and petroleum, has been a significant Caribbean Basin export to the U.S. market. If textiles/apparel and petroleum were excluded from the calculation, about 99 percent of the value of the remaining CBI products have entered duty-free.

The ITP would have given the President authority to proclaim new trade preferences. The President would have used this grant of authority to push for additional economic reforms in Caribbean

Basin countries. Before granting ITP benefits, the President would have required CBI countries to provide enhanced market access for U.S. textiles and apparel.

The ITP also would have required each country interested in receiving new benefits to agree in a letter to the U.S. Trade Representative to make future reforms. Any country not interested in making reforms would have retained CBI benefits.

The reforms the ITP would have encouraged were intended to improve the investment climate in the CBI countries. Within one year, we would have expected to resolve problems involving existing CBI criteria. We also would have sought improvements in the countries' investment and intellectual property rights (IPR) regimes -- including specific standards within one year and investment and IPR agreements within about three and a half years -- using as leverage the prospect of withdrawing benefits from countries which failed to make substantial progress on these reforms. The ITP also would have encouraged countries to join the GATT/WTO and would have explicitly extended worker rights criteria to the new program.

We selected the ITP's conditions to serve a dual function. They were supposed to help the CBI nations help themselves attract investment -- exactly what these countries wanted. They were also designed to enhance protection for U.S. investors and U.S. manufacturers of IPR-related products.

We believe the ITP would have been an excellent approach for both the United States and the Caribbean Basin. In exchange for accepting two chapters of the 22 chapter NAFTA within a little over three years and for providing some market access for U.S. goods, CBI beneficiaries would have received NAFTA benefits or better for almost all products.

We labeled this approach to be an "interim" program because we viewed the ITP as a step toward an eventual free trade agreement (FTA). We knew that many countries in the region wanted in the future to advance their commercial relationship with us beyond the ITP. But, we also recognized that neither the United States nor most other countries were ready for FTA negotiations. The ITP would have been a "building block" in that process.

Mr. Chairman, as you are aware, the ITP was discharged favorably by the Ways and Means Committee last year. Unfortunately, it had to be withdrawn from the final Uruguay Round implementing bill. Despite these setbacks, the President, Vice President and Ambassador Kantor continued to endorse rapid Congressional action on ITP-type legislation in the new Congress.

COMMENTS ON H.R. 553

Objectives

Thanks to this Subcommittee, we now have the opportunity to try to pass legislation addressing the legitimate concerns of the Caribbean Basin.

I am very pleased to say that the Administration supports the ultimate goal of H.R. 553, which is to bring CBI nations into NAFTA-type trade agreements. This is the goal that hemisphere's leaders at the Summit of the Americas in December adopted for completing the negotiations of the "Free Trade Area of the Americas" by the year 2005. We welcome Congress' support for this outcome of the Summit, which several of you on this Subcommittee attended along with other Congressional colleagues.

The Administration also recognizes that achieving this objective will take time and will not be easy. We realize that during this process, investment in some sectors in the Caribbean Basin could be affected by the NAFTA. Addressing the potential impact of the NAFTA on the Caribbean Basin remains our focus in any new legislation providing trade preferences.

Product Coverage

Textiles/apparel

As I previously stated, the ITP would have covered all textiles/apparel products that meet the NAFTA rules of origin. Of the products still excluded from the CBI, the textile/apparel sector is the one most likely to be affected by the NAFTA.

With some technical changes to ensure that the bill correctly covers originating products and that tariffs are not inadvertently increased, we can support the provisions of Section 101 of H.R. 553 that provide NAFTA-equivalent treatment for such products.

The ITP would **not** have addressed textiles/apparel products that failed to conform to the NAFTA rules of origin. Mexico negotiated tariff preference levels (TPLs), which allow duty-free and quota-free access for goods that do **not** otherwise meet the rules of origin (i.e., typically goods made with foreign fabric).

There is little economic rationale for TPLs for the CBI countries. Mexico negotiated TPLs to grandfather certain of their established trade in non-originating products. To date, Mexico has exported almost **nothing** under its TPLs. The ITP did **not** include TPLs because there was no demonstrated need for them.

However, we can accept the provisions in H.R. 553, "(B) NAFTA transition period treatment of non-originating textile and apparel articles," giving the Administration authority to negotiate TPLs. Under such authority, we would conclude TPLs where a need exists and in conformity with the consultation requirements of that bill. We would like to offer some technical changes.

We believe the textiles and apparel provisions in this bill would initially cover around three-quarters of the \$4 billion of CBI exports to us. And, as our experience under the NAFTA shows, there is considerable incentive for these countries to shift production from non-originating goods to products that qualify under the NAFTA rules of origin. Enacting such treatment would provide very generous benefits to the Caribbean Basin and address their legitimate concern about the potential impact of the NAFTA.

Other Excluded Products

The ITP also would not have included NAFTA-treatment for the other products currently excluded from the CBI. Our assessment when we developed the ITP was that the NAFTA would not adversely impact the Caribbean Basin's competitive ability to export these products to the United States.

Also, as I indicated previously, we saw very little in the way of potential economic benefits to be gained by attempting to provide NAFTA benefits for these products. In addition to the relatively small value of U.S. imports from the Caribbean Basin, the duty phase-out under the NAFTA is relatively long -- 15 years for most rubber footwear, 15 years on leather products, 15 years on canned tuna, 10 years on non-rubber footwear, 10 years on petroleum, and 10 years on leather products.

For these reasons, we would not want debate over including these sensitive products to delay or, worse, to sidetrack NAFTA-equivalent treatment for textiles and apparel. Obtaining NAFTA benefits in this sector alone would be viewed by the region as a major achievement.

While we can understand the rationale for covering all products, we believe that deleting subsection "(3), NAFTA transition period treatment of certain other articles originating in beneficiary nations," from H.R. 553 would expedite enactment of this bill.

Means of Achieving Objectives

Mr. Chairman, let me now turn to the means of providing these enhanced trade preferences for the Caribbean Basin, comparing the ITP to H.R. 553.

The ITP would give the President the authority to proclaim benefits. The President would then provide benefits to countries that are prepared to meet NAFTA-type conditions in a few areas. In principle, as long as a country is making progress toward meeting the conditions within a specified period of time, the country would retain its benefits during the transition period.

H.R. 553 would automatically provide benefits, not by proclamation but by law. While the President would have the authority to suspend benefits on the basis of current CBI criteria, no new conditions would be imposed. Benefits would expire in six years or when a country has concluded an FTA with the United States, whichever comes first.

Preference for ITP

Mr. Chairman, let me explain the reasons the Administration strongly prefers the ITP approach.

First, proclamation authority would allow the President to resolve outstanding trade difficulties by holding out a carrot -- new trade benefits -- instead of jabbing with a stick -- withdrawing new trade benefits. While the effect may be the same, the perception is quite different.

And, there are problems that need to be addressed. Indeed, some of these issues have generated Congressional interest. While most of these difficulties are not so substantial that we would want to withdraw CBI benefits, we believe they should be resolved before we provide new benefits.

Second, we believe the ITP would provide security for investors. While the ITP would require CBI nations to undertake NAFTA-type obligations in a few areas and in stages, no country would be compelled to enter a full FTA. Negotiations would occur on an FTA when the United States and the other nation were ready.

This security would particularly help the smaller CBI nations attract investment. For example, what investor would gamble that a small Caribbean nation would be prepared for FTA negotiations compared to a larger Central American country? We might witness investment flowing exclusively to a few CBI nations that appear to be closest to being ready for FTA negotiations, possibly distorting investment flows. The ITP's obligations would be achievable by even the smaller nations, thus offering similar opportunities.

Third, the Administration believes strongly that we should negotiate FTAs only with "ready" countries -- those willing and able to undertake the serious obligations of an FTA. Enhancing

the credibility of U.S. trade policy and maintaining the confidence of the American people in the value of open trade depend on well-conceived and properly executed trade agreements. International trade is in the U.S. economic interest; the American people deserve to see a proven track record of success from our trade agreements.

The Administration is developing criteria to assess when other nations might be "ready" to negotiate and to implement such a complex and comprehensive undertaking as a NAFTA-type agreement. The provisions in section 202 of H.R. 553, "factors in assessing ability to implement NAFTA," are very useful guidelines for the Administration's process.

These provisions also clearly indicate that Congress wants the Administration to negotiate FTAs only with countries that could effectively implement the terms of the Agreement. While a number of countries have been making great strides at opening their markets and reforming their economies, it is not clear that any CBI nation is now "ready" for a comprehensive FTA.

Mr. Chairman, the NAFTA implementing law provides additional guidance concerning Congressional goals for FTAs. Recognizing the considerable U.S. resources needed to negotiate and implement an FTA, Congress indicated that it wanted the President to consider those markets which would provide, "the greatest potential to increase United States exports." Congress with good reason is directing us to take into account U.S. commercial interests in setting our FTA priorities.

Fourth, with a six year grace period in H.R. 553, there may be a temptation to delay reforms in some CBI nations. For example, a current government may see this as something for their successor government to implement -- thus allowing them to take the glory of gaining the NAFTA benefits but postponing the NAFTA obligations for his/her successor to handle.

This prospect could lead us to a situation in which benefits are perpetuated with no little or no reforms in the CBI nations, which is not the direction we want to take U.S. trade policy. U.S. firms that invest in the region as a result of duty-free entry into the United States will argue strongly that such preferences must be continued. And, of course, the countries themselves will want to maintain these new trade preferences.

This six-year grace period would also establish an unfortunate precedent for any future FTA negotiations. Other countries would come to expect to receive full NAFTA benefits before beginning to assume NAFTA obligations.

CBI nations can adjust to ITP-type requirements. With just the prospect of the ITP last year, the Administration was making progress in negotiating bilateral investment treaties and IPR agreements in the Caribbean Basin. Jamaica and Trinidad and Tobago, for example, already concluded both of these agreements. Our investment negotiations were well underway in several other CBI countries.

But, when the ITP was deleted from the Uruguay Round bill, our negotiations stalled. And one country informed us that it was dropping provisions implementing the IPR reforms called for in the ITP from its own Uruguay Round legislation as a result.

Finally, we do not know what the U.S. Congress' attitude will be toward implementing new FTAs in the future. For example, H.R. 553 does not include new "fast-track" negotiating authority.

Given this uncertainty, we believe the ITP would be a preferable route.

ADMINISTRATION POSITION

The ITP Approach

Mr. Chairman, the Administration wants to work with you and the other members of this Subcommittee in as constructive a manner as possible. We share the same goals. Let's see how we can achieve them.

If you would like to work on the basis of the ITP -- i.e., providing the President proclamation authority -- we are prepared to submit quickly revisions to H.R. 553. We do not want to delay a bill going forward.

The basic approach of a revised bill would be that in order to receive benefits, CBI nations would demonstrate their interest in the ITP by committing to future actions. CBI nations would be required to implement and to enforce their commitments within specific periods after receiving benefits.

Additional Comments

I would also like to provide this Subcommittee the Administration's views on other sections of H.R. 553. That is, in addition to the change in the implementation process -- from the automatic approach in H.R. 553 to the proclamation procedure in the ITP -- we would like to see the following changes.

Section 2: Findings and Policy

We suggest amending some of the "Findings and Policy" to

make them consistent with the approach we are suggesting. For example, in subparagraph (3), the trade benefits being offered would be in the textile/apparel sector. A similar change should be made in subsection (b) on "Policy."

Also, As I have indicated, the Administration supports the goal of creating the "Free Trade of the Americas" by the year 2005. While our preference is for this goal to be achieved by accession to the NAFTA, we would like to leave negotiating flexibility on the approach we ultimately use. For this reason, we suggest inserting the phrase included in Title II of H.R. 553, "or to enter into mutually advantageous free trade agreements," whenever the phrase "accession to the NAFTA," is used.

Title I

Regarding "Title I," I have already addressed the Administration's views on product coverage and providing benefits through proclamation authority. We would like to see these changes reflected in this bill.

The one other section in Title I we propose changing is subsection (4) (D), dealing with the transition period. We agree that the "transitional" trade benefits would end whenever the United States and another country enters a free trade agreement.

What needs to be worked out is the date the benefits would end even if a FTA is not achieved. H.R. 553 proposes that this be "the date that is the 6th anniversary of such date of enactment." The Administration's view is benefits should last at least until the year 2000 -- a date by which the Summit leaders agreed that significant progress would be achieved toward the objective of concluding the "Free Trade Area of the Americas."

We are concerned about the possible implications of the sugar provisions in section 102, which directs the President to take action if the NAFTA is adversely affecting Caribbean Basin countries. Within the constraints of the existing domestic sugar program and our obligations under the NAFTA and the World Trade Organization (WTO), the President has very little discretion to increase sugar access levels or reallocate market shares. Our WTO obligations prevent the United States from discriminating among countries in allocating overall reductions in access to the U.S. market. We ask that this provision be reviewed in light of U.S. commitments.

Likewise, we ask that section 103, "duty-free treatment for certain beverages made with Caribbean rum," be reviewed to ensure that it does not create a precedent for the treatment of other products in the future.

We have no comments on the rest of Title I, with the exception of some technical corrections.

Title II

Our comments concerning Title II are intended to bring H.R. 553 into conformity with the Administration's overall trade policy. We are also asking Congress to recognize the resource limitations existing in the Executive Branch.

We view section 201 as being unnecessary. We already have meetings with countries in the region. For example, we have established Trade and Investment Councils with every nation in the hemisphere, except Cuba and Haiti. Under these fora, the U.S. Trade Representative and other agencies have held 40 meetings with signatory nations since mid-1990. We, of course, have periodic meetings with ministers outside these fora.

Furthermore, as a result of the Summit of the Americas, we have plans to hold meetings with countries in the hemisphere between now and June. And, in June, we will hold a ministerial session to assess progress toward the goal of constructing the "Free Trade Area of the Americas." This process will resume after the June meeting, leading up to a March 1996 ministerial.

We oppose Section 202 as it is currently proposed for three reasons. First, we question the need for more reports on the Caribbean Basin region. In accordance with the Caribbean Basin Economic Recovery Expansion Act, the Executive Branch is already required to submit four periodic reports on this region. In addition, the Trade Representative includes Caribbean Basin countries in our annual National Trade Estimates Report and in our Annual Report on the U.S. Trade Policy Agenda. The State Department is required by law to prepare annual economic trends reports on each of the Caribbean Basin countries.

These reports consume considerable interagency effort to produce, yet seem to generate little Congressional interest. The Administration is prepared to give any of you these reports, which we believe tells you almost, "Everything you ever wanted to know....," and I know none of you is afraid to ask.

Second, while we understand Congressional interest in obtaining an assessment of "readiness," the outcome might be counterproductive. We know this is not your intention, Mr. Chairman, so please allow me to explain.

Our recent experience highlights the difficulties of making public the Administration's views on countries' "readiness" for FTAs. Under the NAFTA law, the Administration was required to

submit two reports, one in May 1994 and the other in July 1994. These requirements for reports were similar to the section 202 of H.R. 553, except not quite as specific and on a global basis.

Mr. Chairman, I cannot adequately describe the intense anxiety these reports generated in Latin America and the Caribbean and, as a result, throughout the Administration. Ambassador Kantor received numerous letters from, and held a number of meetings with, other trade ministers, whose sole objective was to be listed favorably in these reports. We were told that political relations and investment flows depended on how these reports were worded.

We do not want to go through this experience again for a report which would be very difficult to adequately do.

This brings me to our third objection. H.R. 553 asks the Administration to include in the report a "discussion of possible timetables and procedures to which beneficiary countries can complete the economic reforms necessary..." to become ready for an FTA. For the reasons I have already presented in my statement -- mainly the considerable uncertainty existing in the process of initiating FTA negotiations -- this section cannot be done with any precision.

In addition to those reasons, the economic conditions in countries can change, often quite dramatically. For example, two respected economists, Gary Hufbauer and Jeffrey Schott, recently published a book listing countries' readiness for FTAs based on a range of economic criteria. At least one country highly rated in the book would have been stricken from the list had the book been published only a few months later.

However, we recognize Congress' interest in ensuring progress is made toward meeting the objectives of H.R. 553. With this in mind, we offer an alternative proposal.

We propose providing the Congress a report in five years on U.S. progress in bringing CBI beneficiary countries into the "Free Trade Area of the Americas," including Caribbean Basin countries' willingness to undertake "readiness" criteria. This report would serve as "mid-term review" of the Summit of the Americas trade agenda with respect to the Caribbean Basin. Since the President is already required to report on the CBI in 1999, he would combine the two mandates into one report.

CONCLUSIONS

In conclusion, Mr. Chairman, I would like to compliment you and the other members of this Trade Subcommittee on moving so quickly in this new Congress to propose legislation for the

Caribbean Basin. By doing so, you clearly demonstrate the priority this Subcommittee assigns to strengthening further the U.S. relationship with the nations of the Caribbean Basin.

This Administration shares that commitment. We will work closely with you in crafting a bill that achieves our mutually held objectives. We want to construct a bill that helps the Caribbean Basin and is in the best interest of the United States. I hope the ideas presented today will assist in that effort.

Thank you, Mr. Chairman.

main
bilateral
export promo
speech

→ broad Lat Am / APEC - admin
→ bilateral not replaced - focus
- CH - AS
- Japan - longer term
direction strategic
to policy
context
in which
initiatives
can be
undertaken

REMARKS OF THE
HONORABLE CHARLENE BARSHEFSKY
DEPUTY U.S. TRADE REPRESENTATIVE
BEFORE THE
NATIONAL ASSOCIATION OF BUSINESS ECONOMISTS

MARCH 1, 1995

Over the last decade, our economy has become increasingly dependent on trade as the engine of growth. Most important, increased growth will continue to depend on trade. Expanded trade stimulates exports of American's most productive industries. It ensures higher rates of investment and stronger growth. For average Americans this means more higher-paying jobs, increased family purchasing power, and increased living standards. Policies to reduce trade barriers are among the principal tools available to Government to achieve those broad domestic economic objectives.



In just two years, this administration has achieved unparalleled success in trade agreements, negotiating 73 agreements to open up world markets to U.S. goods, services, and agriculture. These successes include:

- the largest free trade zone in the world,

- the largest multilateral trade agreement in history,
- 38 bilateral textile agreements,
- 14 agreements with Japan,
- an agreement covering 80 percent of global shipbuilding,
- the largest procurement agreement in history with the European Union,
- a multilateral aluminum agreement,
- agreements on wheat and softwood lumber with Canada,
- 12 bilateral investment treaties,
- three ^{major} intellectual property rights agreements, ^{many smaller agreements}
- an agreement with the nations of the Asia/Pacific region to eliminate barriers to trade in that area by the year 2020,
- an agreement among the Nations of our own hemisphere to create a free trade area of the Americans by the year 2005,

- And finally, last weekend, an historic agreement on intellectual property rights with China.

The administration's trade objectives and the aggressiveness with which it has pursued those objectives are particularly relevant to the Asia/Pacific and Latin American region.

- Projections shows that by the year 2000 the East Asian economies will form the largest market in the world, surpassing Western European and North America.

- Projections show that our exports to Latin America will surpass the combined export to the European Union and Japan by the year 2010

*within
the next 10-15
years*

- These two regions are the most dynamic regions of the world with the highest projected growth rates for the world.

With these projections in mind, let me review with you our trade policy first toward Asia, with particular reference to China, Japan, and APEC and second toward Latin America.

CHINA

With respect to China, I would like to address three areas: intellectual property rights, market access, and China's bid to join the GATT WTO. First, intellectual property rights.

Last weekend, we reached an historic agreement with China on enforcement of intellectual property rights and market access for our sound recording, film and computer software industries.

Intellectual property rights is an area of deep concern to the United States because U.S. industries which rely on intellectual property are among the fastest growing and most competitive industries in the United States -- ones in which we frequently have a trade surplus.

Rampant violations of intellectual property rights has accelerated in China, not because China does not have laws to protect intellectual property rights -- but because they did not enforce those laws.

The agreement reached last Sunday is the single most detailed and comprehensive arrangement that the United States has ever negotiated on IPR enforcement. It comprehensively addresses those tough

enforcement issues that are so critical to protecting intellectual property rights. Let me highlight what I consider to be some of the most significant elements of that agreement.

- o As short term measures, China will take immediate steps to eliminate piracy by setting up a 6-month intensified enforcement effort and devote increased resources to clean up large scale infringement, by taking immediate action against factories that are currently producing pirated CDs, LDs and CD-ROMs , and by prohibiting exports of pirated and counterfeit products.

- o A comprehensive enforcement structure will be created including working groups at the central and sub-central level through out the country. These task forces will have the collective authority to investigate infringing activity, search for and preserve evidence, order infringers to stop their actions a case is pending, and when infringement is found--impose fines, seize and destroy infringing goods, and machinery and implements directly and predominantly used to produce those goods.

- o The Chinese government will ensure that public an private enterprises use only

authorized, legitimate computer software and will provide the resources to acquire legitimate software, will create an effective Customs copyright and trademark recordation system (modeled on the U.S. system) and will set up a copyright verification system to help prevent piracy.

- o In addition, China will ensure that right holders have access to effective administrative and judicial relief and will enhance training of judges, lawyers, students, government officials and businesspersons about the importance of IPR protection.
- o China will also provide U.S. rightholders with enhanced access to the Chinese market by prohibiting quotas on imports, import licensing requirement and other restrictions on imports of audio visual products (sound recordings, film products), allow U.S. record companies to market their entire catalog of works in China, enter into revenue sharing agreements, and allow U.S. companies to enter into joint ventures to produce and reproduce their products and enter into contracts with Chinese companies to distribute and sell their products in China.

Second, on market access, in October of

1992 the United States and China signed a market access agreement that committed China to make sweeping changes in its import regime. China has made much positive progress on market access, including removal of many nontariff measures and sharp tariff reductions on a variety of products of interest to the United States. It has also embarked on the publication of various laws and regulations that previously had been secret.

But China has not fully implemented its market access commitments. It is yet to live up to its obligations to publish quotas, to uniformly apply its trade laws and regulations, or to fully eliminate import substitution as a policy, nor has it yet eliminated quantitative restrictions on many products.

In addition, China has not yet addressed our concerns about the use of sanitary and phytosanitary standards as barriers to imports of agricultural and live animal products. China continues to use unscientific standards to block U.S. exports of citrus fruits, stone fruit, wheat from the Pacific Northwest, apples, and leaf tobacco. We are now re-engaging these issues with the Chinese.

Market access for services is another integral part of the U.S.-China agenda, as

is improvement in the overall business climate in China. Negotiations are going on in these areas, and we are making some progress.

Finally, let me turn to China's bid to join the GATT WTO. We believe it is in the interests of the United States that China become a member of the GATT WTO, but only on a commercially acceptable basis. China's accession would guide the structure of China's reforms, and it will cement reforms that are currently in place. A good protocol of accession for China will lead also to substantial additional market opening and a much improved trade and investment regime.

But China's most recent bid to accede to the GATT failed last year principally as a result of China's unwillingness to commit to align its trade regime with international norms or satisfactorily to increase market access in goods, services and agriculture. Over these past months, the United States as well as other GATT members have clearly outlined the areas where China must make commitments to undertake basic GATT and WTO obligations and to secure transparent and meaningful market access opportunities. We have outlined these areas in detail to the Chinese in the goods area, in the services area, and on agriculture.

If China accedes to the WTO on anything less than solid commercial terms or without commitments to take further reform measures, not only the United States but all major trading partners will be hurt over time. Nor will we achieve our goal of seeing China -- and indeed other nonmarket economies whose accessions are also pending -- better integrated into the world trading system. We look forward to a resumption of talks with China on these important issues in 1995.

JAPAN

Let me turn now to Japan. We have made significant progress with Japan on the trade front during the past year and a half. On October 1, 1994, we reached market-opening agreements with the Japanese Government under the Framework in insurance, government procurement of medical technology, and procurement of telecommunications goods and services, including by Nippon Telegraph and Telephone Corporation (NTT) -- Japan's major phone company, which is two-thirds government owned. In addition, we concluded Framework agreements on opening Japan's glass market, financial services, and intellectual property rights. Outside the formal Framework process, we have also reached market-access agreements on construction, cellular phones and equipment and apples.

However no agreement has yet been reached in the critical autos and auto parts sector, which constitutes approximately fifty-five percent of the U.S. bilateral deficit with Japan.

Autos and Auto Parts

We have been negotiating with the Japanese on automotive issues for 18 months without visible progress. In an effort to bring the talks to some conclusion, we initiated a Section 301 trade action against Japan on October 1, 1994 on one aspect of the automotive issue -- the virtually closed market for replacement auto parts in Japan.

Auto talks with the Japanese resumed on January 26, 1995. Discussions have focused on three major areas:

- o Access to Japan's motor vehicle market;
- o U.S. auto parts exports to Japan and purchases of U.S. made auto parts in the United States by Japanese motor vehicle transpland producers;
- o Deregulation of the Japanese auto parts aftermarket, the replacement market for auto parts.

We have been disappointed by the Japanese Government's response to date. No progress

was made in recent negotiations with the Japanese which were held in Tokyo February 15-17. We will continue to press aggressively the Japanese for resolution of these issues.

Deregulation

The U.S. is seeking bold Japanese Government action to free up over-regulated sectors of the Japanese economy, which constrain the country's economic growth, hurt Japanese consumers and impede foreign access to the Japanese market.

Japan is currently in the process of putting together its Five-Year Action plan on deregulation, which is expected to be announced on April 1, 1995.

Deregulation and competition policy are part of the framework. At the invitation of the Japanese government, both the U.S. and EU submitted detailed proposals regarding deregulation and administrative reform. The U.S. proposal was provided to the Japanese government on November 15, 1994 and a number of consultative sessions have been held since that time.

We were disappointed with the interim deregulation report announced by the Japanese Government in January 1995. In particular, we are concerned by the

continuing lack of transparency of the process and a continuing lack of resolve to address in meaningful fashion the specifics of deregulatory action on a sectoral basis, including the mode of follow through.

As numerous Japanese Government studies have shown, the more detailed, substantive and comprehensive the deregulation plan, the more the Japanese economy -- and U.S. and other foreign firms -- will benefit. We await such meaningful action.

Implementation of Agreements

The consultation and review process for the Framework agreements on government procurement, insurance and glass will begin later this spring.

Of particular concern to us will be whether these agreements are achieving the intended results -- substantial increases in market access and sales for U.S. and other foreign products and services in Japan.

We will be using the quantitative and qualitative criteria in these agreements as a basis for assessing progress.

In addition, we will continue to monitor closely Japanese implementation of existing bilateral agreements in such sectors as computers, wood, and paper. Foreign firms

continue to be denied full access to the Japanese paper and wood products markets, for example, despite prior agreements in both of these sectors. This is why these sectors were watchlisted under Super 301 on October 3, 1994.

OTHER ASIA

Let me just touch for a minute or two on some of the other countries in Asia of substantial interests. First, the ASEAN region. The countries of the ASEAN represent collectively our fourth largest trading partner. They are also the fourth largest, fastest growing population region in the world, and this of course creates substantial opportunities for U.S. business. There is enormous potential for U.S. companies, for export and job creation, in our relationship with ASEAN. Recognizing this, this Administration embarked on something called the Alliance for Mutual Growth which for the first time combines our commercial policy and our trade policy sector by sector, structural issue by structural issue, to ensure that market access that is achieved on policy terms will be complemented by an aggressive commercial strategy.

KOREA

While formal barriers to imports have fallen, Korea has raised new, more subtle barriers that sharply hinder the liberalization envisioned under the major trade policy initiatives of the late 1980's. Korea's nontariff trade barriers are often compared to those of Japan 10 years ago. As a result, bilateral problems tend to be on the rise. We are pursuing negotiated solutions to a variety of areas, but we are also pursuing the use of our trade laws, particularly with respect to meat import practices. We are now looking at the possibility of a WTO case on the overall use by Korea of sanitary and phytosanitary barriers to block our imports of agricultural goods.

We believe the Korean trade relationship holds great promise for the United States, and of course the overall U.S.-Korean relationship is very strong. But market access barriers and discriminatory treatment of U.S. firms must be stopped.

INDIA

Recent market openings in India present significant opportunities for the United States. For the first time, India has agreed to open its textile markets, an

agreement which was just concluded several weeks ago. In addition, India has reduced some tariffs and relaxed investment restrictions. It must do this if it is to compete effectively with other dynamic economies of the Asia/Pacific region.

Economic transformation in India will not be easy even with these liberalization measures. India still maintains some of the highest trade barriers in the world, and it is only now beginning to open its markets in areas previously closed. We are in the process of negotiating a variety of issues in India, including the liberalization of its insurance market and telecommunications markets and intellectual property rights protection. We are making some progress, albeit slow.

APEC

Before I turn to Latin America, let me mention briefly APEC, the Asia-Pacific Economic Cooperation Forum, which is the regional centerpiece of our efforts to open markets, expand trade and ensure the future of our economic cooperation with the Asia Pacific region.

The APEC community of nations is comprised of 18 economies (including the U.S.) which border the Pacific. Six years ago, when APEC was established it was generally

viewed as a forum for consultation and cooperation on economic issues. Now, because of President Clinton's leadership in Seattle in November 1993, and President Soeharto's leadership in Bogor, Indonesia last November, we have focused APEC's central objectives on one common goal: the achievement of free and open trade and investment in the Asia Pacific region by no later than 2020, 2010 for Industrialized countries. This goal will involve promotion of business facilitation steps, economic cooperation and technical assistance as well as traditional liberalization which builds upon, broadens and deepens Uruguay Round outcomes within the region.

The first post-Summit meeting of APEC senior officials was held several weeks ago in Fukuoka, Japan, initiating the APEC process under this year's chairmanship by Japan. Although much work remains to be done, we believe the APEC process is off to a good start this year in developing a concrete, credible and comprehensive action plan to implement the Bogor mandate. This plan must be completed for approval by heads of state at their next meeting to be held in Osaka this coming November. In addition, officials are working on some shorter term results, such as simplification of customs and standards processes and improvements in

telecommunications and transportation infrastructure, which will add momentum to the APEC process and be of immediate benefit to businesses.

The jury is still out on how the APEC process will unfold this year. Regardless of the approaches employed, a plan must be developed which will lay out a specific path and steps toward free and open trade in the Asia Pacific region by 2020. A lot of hard work and serious decisions need to be taken within APEC economies and within APEC as a whole in order to live up to the very bold challenge our Leaders have presented to us. We think APEC is up to that challenge and intend to be an active participant in this endeavor.

LATIN AMERICA

Let me last turn to the second fastest growing region of the world -- Latin America.

Last December, President Clinton convened the historic Summit of the Americas where 34 nations met and agreed to construct the "Free Trade Area of the Americas" (FTAA) by the year 2005, with concrete progress by the turn of this century. A milestone in the process will be the first in a series of trade ministerials which will be held in Denver on June 30.

Chile's accession to the NAFTA will be a first step in expanding the NAFTA as part of the U.S. effort in creating the FTAA. This is a strategically important step demonstrating concrete progress on the U.S. trade agenda and toward the FTAA. A separate Trade Ministerial with the NAFTA partners and Chile will launch accession negotiation no later than May 31.

Moving beyond Chile to embrace other nations in the hemisphere in NAFTA-type agreements will benefit the United States. One study estimated that U.S. exports to Latin America and the Caribbean would be 50 percent higher under the FTAA.

The countries in Latin America and the Caribbean are not waiting for the United States. Nearly every country in the region is part of at least one major subregional trade agreement. There are five regional trading arrangements in Latin America and the Caribbean, including the NAFTA. All are different in nature and scope, but they share a goal of reducing trade barriers and opening markets.

The United States will want to encourage economic integration to occur on terms that are in the U.S. best interest and that expand trade. The United States must strive for a common set of trading rules in the hemisphere, based on high standards of

openness. The United States must work to avoid a maze of agreements that impede open commercial relationships.

We will use the existing Trade and Investment Framework Agreements (TIFA) as the most efficient consultative mechanism to help us prepare for the June 30 Denver Trade Ministerial and beyond. Our objective for June will be to adopt a short list of specific recommendations for action to begin now as we move toward the longer term FTAA goal.

THE U.S.-CHINA INTELLECTUAL PROPERTY
RIGHTS AGREEMENT: IMPLICATIONS FOR U.S.-
SINO COMMERCIAL RELATIONS

JOINT HEARING
BEFORE THE
SUBCOMMITTEES ON
INTERNATIONAL ECONOMIC POLICY AND TRADE
AND
ASIA AND THE PACIFIC
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

MARCH 2, 1995

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private witnesses, and to exploring
resolving other outstanding issues

TESTIMONY BEFORE THE
COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON ASIA AND THE PACIFIC
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE
AMBASSADOR CHARLENE BARSHEFSKY
DEPUTY U.S. TRADE REPRESENTATIVE
MARCH 2, 1995

Chairman Bereuter, Chairman Roth, it is a pleasure to appear before your subcommittees again today to bring you up to date on our recent agreement with China which will provide for strong enforcement of copyrights, trademarks, patents, trade secrets and other intellectual property rights in China. Our computer software, motion picture, sound recording, and publishing industries will also benefit from new, improved access to the Chinese market.

This agreement benefits U.S. industries that are consistent export earners from the flagrant piracy of their products, and provides increased markets for the products of U.S. workers in these industries. Through full implementation of this agreement, China will demonstrate that it can play by international rules on a matter of importance to its own development and economic interests as well as its trading partners. China will also have access to high quality products from the United States and assistance in the implementation of this agreement.

Let me just begin by expressing my appreciation for the support that the Administration has received from the members of this committee as we have negotiated with China. It was critical to our success in reaching this agreement that the Chinese government understand that there was strong support from both the Congress and the business community for remaining resolute in the face of the Chinese government's tolerance for piracy of U.S. intellectual property.

President Clinton has led this country on a historic effort to open markets and expand trade. He believes that increased trade is critical to our efforts to create jobs and raise standards of living in this country. The importance of trade to our economy and the rest of the world demands that the global trading system be based in a set of rights and responsibilities that all countries must accept. The Clinton Administration, with bipartisan support in Congress, has pursued this goal of an open and fair trading system through multilateral agreements like the Uruguay Round, regional initiatives like NAFTA, and bilateral negotiations like our current agreement with China. All of these initiatives share a common purpose of opening markets, expanding trade, creating jobs and strengthening the U.S. economy.

Messrs. Chairmen, last Sunday, February 26, we took the latest step in that effort, when the Administration announced that the United States and China had reached an agreement that will provide for both immediate and longer term improvements in

enforcement of intellectual property rights (IPR) owned by U.S. individuals and companies and market access for industries that rely on IPRs to protect their products. As President Clinton said, "This is a strong agreement for American companies and American workers...we have used every tool at our disposal to fight foreign barriers against competitive U.S. exports."

I. Major Industries Benefitting

- Computer software producers, including producers of CD-ROMs and video games, will benefit from increased action against manufacturers and retailers to eradicate piracy in China, including a ban on infringing exports and improved market access.
- Motion picture and video producers will benefit from enforcement of their copyrights, in particular against producers of pirated Laser Discs (LDs) and tapes, elimination of quotas, import licensing requirements and more transparent rules on censorship and faster implementation of censorship rules.
- Sound recording producers of compact discs (CDs) and tapes will immediately benefit by enforcement actions against CD pirate factories and enforcement against exports to third countries, the right to exploit a company's entire catalogue and other market access provisions.
- U.S. trademark owners in all categories of goods and services that must enforce rights in China and, especially companies that have well-known marks, like Del Monte, 3M, and Kellogg, will benefit from expedited and improved procedures to permit enforcement of trademarks. Protection against unfair competition, through copying of trade dress and other actions that could mislead or confuse consumers will also provide benefits for a wide range of U.S. industries that trade with China.

II. Immediate Benefits--Enforcement

- Export and import of pirated CDs, LDs, CD-ROMs and counterfeit trademark goods will be prohibited and infringements strictly punished, through:
 - intensified inspections and commitments to detain suspected goods for investigation, and authority to seize, forfeit and destroy infringing goods.
 - Establishment of a copyright and trademark recordation

property rights (IPR) owned by U.S. market access for industries that produce products. As President Clinton said, "Every tool at our disposal to protect the competitive U.S. exports."

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producers, including producers of CD-ROMs, will benefit from increased action against piracy to eradicate piracy in China, increasing exports and improved market access.

Producers will benefit from stronger IPR rights, in particular against piracy of compact discs (CDs) and tapes, software (LDs) and tapes, stronger licensing requirements and faster enforcement and faster dispute resolution rules.

Producers of compact discs (CDs) and tapes will benefit from enforcement actions against piracy and stronger enforcement against exports to third parties that exploit a company's entire catalogue of products and services.

All categories of goods and services with IPR rights in China and, especially, well-known marks, like Del Monte, 3M, will benefit from expedited and improved enforcement of trademarks. Protection of IPR rights, through copying of trade dress, will not mislead or confuse consumers and will be a benefit for a wide range of U.S. companies in China.

Enforcement

Prohibited CDs, LDs, CD-ROMs and tapes will be prohibited and destroyed, through:

Investigations and commitments to detain infringers, investigation, and authority to destroy infringing goods.

Copyright and trademark recordation

2

system modeled on the U.S. Customs system.

- o Creation of a comprehensive enforcement mechanism that is empowered to investigate, prosecute and punish infringing activities throughout China.

This will be accomplished through:

- A State Council working conference on intellectual property rights (IPRs) that will issue directions and coordinate IPR policies.
- Establishment of sub-central (provincial, regional and local) intellectual property working conferences in at least 22 provinces, regions and major cities and special enforcement task forces.
- Cross-jurisdictional enforcement efforts will be specifically authorized, coordinated and carried out by enforcement task forces.
- Enforcement task forces in which all relevant departments, including the police and customs, will participate so that the task force has authority to search premises, preserve evidence of infringement and take action to shut down production of infringing goods, impose fines and revoke operating permits and business licenses.
- An intensified enforcement effort over the next six months with possible extensions of this time period for specific areas depending on success in eradicating infringement.
- Establishment of a copyright verification system and use of unique identifiers on CDs, LDs and CD-ROMs that will help identify infringers and ensure that only firms with permission from the copyright holder will be authorized to reproduce, import or export these products. Associations of right owners will be permitted to establish representative offices in China to assist in this verification process and engage in other activities that representative offices are permitted to undertake in China.
- Technical assistance from the United States to ensure effective implementation of these programs and mechanisms.

Short term efforts by the Enforcement Task Forces will focus on:

3

CDs, LDs and CD-ROMs. This will be done through:

- investigation of all factories producing CDs, LDs and CD-ROMs to determine whether they are producing authorized will be completed by July 1, 1995.
- investigation of firms engaged in distribution, leasing or public performance of audio-visual products (CDs, LDs, video tapes, motion pictures, audio tapes, video games) during the special enforcement period.
- establishment of an inventory check system at the retail level to ensure that only authorized product is being sold.
- revocation of operating permits belonging to those who infringe more than one time and revocation of business licenses for serious repeat offenders with a commitment not to grant a business license in the same field of activity for a period of three years.

Computer Software

- investigation of all entities, including public (government), private and not-for-profit entities that engage in commercial reproduction, wholesale, retail or rental of computer software.
- establishment of an inventory check system for software under which any product that is not distributed by a licensed firm will be seized and destroyed. Business licenses for dealing with computer software will be required and those firms found to deal in infringing or unauthorized product repeatedly will lose their business license for three years. Normal administrative and judicial remedies will also be available.
- All entities (including public entities) must provide resources sufficient to purchase legitimate software.

Books and other Published Material

- intensified investigation of publishing houses and revocation of business licenses of those engaged in piracy.
- verification that printers have authorization from the right holder to print the book or other material. Printing houses operating without a license will be shut down.

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Trademark

-- Pursuit of "model" cases to provide a deterrent effect
on other counterfeiters.

-- Immediate access to all trademark agents operating in
China, and for the purposes of enforcement, joint-
ventures, wholly owned subsidiaries, and licensees in
China will be permitted to act on behalf of the U.S.
owner of a trademark.

To date, the Chinese have raided and closed seven factories,
including the most notorious of the pirating factories, the
Shenfei Laser Optical Systems Company outside of Hong Kong. Over
2 million CDs and LDs have been seized and destroyed in recent
weeks. As I outlined the Chinese government will take further
steps necessary to discover any other infringing factories and
move against them within the next three months, seize and destroy
infringing products and seize and destroy any machinery directly
and predominantly used to produce infringing products.

III. Other Enforcement and Administrative Actions

- Improved access to effective administrative and judicial relief, including expeditious handling of intellectual property cases involving foreigners, the right to investigate alleged infringement and present evidence, and to request preservation of evidence of infringement while the case is pending.
- Establishment and publication of standards to govern the registration and renewal of trademarks in China, including standards on the key issues of determining likelihood of confusion, descriptiveness, rules for cancellation and opposition procedures.
- Enhanced protection against unfair competition, including abuse of trade dress, trade names and other actions that mislead the public as to the relevant goods and services.
- Exchange of information and statistics on Chinese enforcement efforts and regular consultations to discuss the adequacy of enforcement efforts. The United States will also provide information on intellectual property enforcement actions in this country.
- Enhanced training for Chinese judges, lawyers, students, government officials, and businesspersons on the nature of intellectual property and the importance of its protection.

IV. Enhanced Access to the Chinese Market

- o Confirmation that China will not put in place quotas, import licensing requirements or other (non-censorship) requirements on the importation of U.S. audio visual products, including sound recordings, motion pictures and videos.
- o U.S. record companies will be permitted to market their entire catalog of works in China, subject to censorship rules.
- o U.S. film product companies are permitted to enter into revenue sharing agreements with Chinese companies.
- o U.S. companies in the audio-visual industries will be permitted to enter into joint venture arrangements for the production and reproduction of their products in China. These joint ventures will also be able to enter into contractual arrangements immediately with Chinese publishing enterprises for the nationwide distribution, sale, display and performance of their products in China. They will now be able to establish operations in Shanghai and Guangzhou and other major cities, with the number of cities to grow to thirteen by the year 2000.
- o U.S. computer software companies will also be permitted to establish joint ventures in that sector and produce and sell computer software and computer software products in China.

A Review of the Problem and a History of U.S. Efforts to Resolve It

From 1984 through 1994, U.S. yearly exports to China rose from \$3 billion to \$8.8 billion. In the same period, however, Chinese exports to the U.S. rose from \$3.1 billion to almost \$38 billion. Some of the fastest growing and most competitive industries in the United States -- and ones in which we frequently have a trade surplus -- have been adversely affected by China's failure to enforce intellectual property rights, including computer software, audiovisual products, books and periodicals and trademarked goods and services.

While China did make significant improvements in its IPR legal regime as a result of the 1992 U.S.-China Memorandum of Understanding on Intellectual Property Protection, piracy of copyrighted works and trademarks continued to be rampant because China did not live up to its obligation under the Agreement to enforce its laws and regulations. Until recently, enforcement of intellectual property rights has been virtually absent, with

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improvements in its IPR legal S.-China Memorandum of erty Protection, piracy of continued to be rampant because gation under the Agreement to Until recently, enforcement of been virtually absent, with

piracy rates soaring in all major urban centers along China's increasingly prosperous east coast.

Piracy of computer software -- one of the most competitive industries of the United States -- has been running as high as 94 percent, according to U.S. software industries. Chinese piracy of U.S. CDs, laser discs, cassette tapes, videos and movies has been close to 100% in many parts of China.

In the past two years, Chinese companies have begun to export pirated products in large volume -- despoiling markets in southeast Asia and even reaching Latin America, Canada, and the United States. This trend is exemplified by the fact that 29 CD and LD factories in China have had a production capacity of 75 million CDs for a domestic market that can absorb only 5 million CDs annually. In addition, some of these factories began to produce and export CD-ROMS, which can hold dozens of computer software programs and other copyrighted works on a single disk. The administrative apparatus in China for policing copyright piracy has been extremely weak. Piracy of trademarks has also been rampant, especially in south China. Enforcement, while effective in some locales, has been sporadic at best.

On February 4, 1995, the Administration announced that, although the United States stood ready to continue to engage in serious negotiations, it had ordered the automatic imposition of 100% tariffs on over \$1 billion of imports of Chinese products beginning February 26 if an acceptable agreement could not be reached by that date.

Ambassador Kantor's February 4 announcement was the result of an eight month investigation under the Special 301 provision of the Trade Act of 1974 into China's intellectual property rights enforcement practices. On December 31, USTR Kantor had issued a proposed determination that China's IPR enforcement practices were unreasonable and burdened or restricted U.S. commerce and denied fair and equitable market access to U.S. IPR owners. USTR published a proposed retaliation list of \$2.8 billion and held hearings on the proposed increase on tariffs on these products. At the same time, Ambassador Kantor extended the investigation until February 4 to allow negotiators time to pursue an acceptable settlement.

Conclusion

Messrs. Chairmen, this is a good agreement for the U.S. workers and firms. It will bolster our efforts to create more high-wage jobs in some of our most competitive industries. Our legitimate, high-quality products will not be required to compete against Chinese pirated and counterfeit goods in third countries and in China. Our exports to China and third countries should increase.

It means American businesses can gain the confidence they will be fairly treated as they enter the Chinese market, one which presents immense potential for U.S. businesses.

It is also a good agreement for the Chinese. It will provide evidence that China is willing to play by the international rules and enforce them. It will also improve the investment climate and encourage access to the high quality, technologically advanced U.S. goods and services. The agreement contains key features ensuring transparency in the Chinese system, which bolsters efforts to have a more open and democratic society.

Messrs. Chairmen, it is critical that we do not rest on this Agreement alone. Equally important, we must ensure that the agreement is fully implemented and enforced. We will be working aggressively to make sure that it is.

Again, let me say that I appreciate the support and cooperation we have received from the members of these subcommittees. I look forward to working with you in the weeks and months to come as we implement and enforce this historic agreement. Thank you.

STATEMENT OF AMBASSADOR CHARLENE BARSHEFSKY
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

MARCH 8, 1995

with Sen. Feinstein

IPA submit
Chairman Thomas, [^] it is a pleasure to appear
before you today ^{to bring you up to date} ~~to bring you up to date~~ on our
recent agreement with China, which ~~provides for~~
~~strong enforcement of U.S. intellectual property~~
~~rights in China.~~ Our computer software, motion
picture, sound recording, publishing and other
industries which will benefit from strict
enforcement of their rights in China will also
benefit from new and expanded market access in
China.

Let me begin Mr. Chairman by expressing my
appreciation for the support that the
Administration has received from members of this
committee and the Congress ~~with large~~ as we
negotiated with China. It was critical to our
success in reaching this agreement that the
Chinese government understood that there was
unwavering support from both the Congress and
the U.S. private sector for remaining resolute
in the face of the Chinese government's
tolerance of piracy.

I would like now to review briefly the key elements of the agreement.

1st - overall enfmnt
2nd - mkt access

Enforcement Agreement

China has agreed to establish a comprehensive enforcement structure that will permit effective action against piracy throughout the country.

This structure includes intellectual property working conferences at the central and sub-central levels and enforcement task forces. All agencies charged with enforcement responsibilities, including the police and customs, will participate in raids and other enforcement activities.

Although the enforcement task forces will be in place over the longer term, China will intensify efforts over the next six months to eradicate piracy and counterfeiting. This will be done in the context of a special enforcement period of the type used so successfully in Italy and Korea. This period will be marked by significant, sustained raids at the retail, distribution and producer level.

The export of infringing goods is banned, and both customs and the enforcement task forces have the authority to seize and destroy infringing products and ^{seize & destroy} the materials and implements used to manufacture these infringing products.

The enforcement task forces will also collectively have the authority to investigate infringement, preserve evidence for litigation, order infringers to stop their activity before litigation, and after infringement is found, to levy fines, put in place permanent injunctions, require payment of compensation, require ~~the~~ forfeiture and ^{ruin of} ~~destroy~~ the infringing goods, ^{the} ~~the~~ materials and implements used to manufacture them.

Customs will establish a copyright and trademark recordation system based on the U.S. customs system to monitor exports and imports of products from China.

to ensure that pirated goods are not put in the stream of commerce.

China will also implement special plans in the audio-visual sector (including sound recordings and motion pictures), computer software, and

input

book publishing sectors, as well as devote more resources to the enforcement of trademark rights.

In the audio visual sector, for example, China is now implementing a detailed system of permits and business licenses that will ensure that Chinese companies have the permission of right holders to engage in reproduction, distribution, or other activity in China. Under this system, permits and business licenses will be revoked unless permission has been received from the right holder. China will permit associations like the Motion Picture Association and the Software Publishers Association to establish representative offices, and these offices will work with Chinese officials to verify copyright.

By July 1, **all** factories producing CDs, LDs and CD-ROMs will be investigated to ensure that each factory has copyright authorization to reproduce sound recordings, motion pictures or computer software. Each firm will use a unique identification number so that customs and other enforcement authorities will know where particular CDs, LDs or CD-ROMs are produced.

The special plan for computer software requires retail outlets of computer software to maintain an inventory including information on the type, quantity, origin and product location of any software that it commercially reproduces, distributes or rents. This information will be verified and retailers acting without an appropriate business license or dealing with unauthorized products will have that product seized and destroyed. Repeat offenders will lose their business licenses and will not be issued another license in the same field for a period of three years.

In addition, customs will prevent import and export of pirated software and audio-visual products through the use of verification and recordation system based on the U.S. ^{la file} ~~system~~ model.

China has already taken some action to improve enforcement. ~~As noted,~~ ^S seven CD factories have been inspected, closed and over 2 million infringing CDs ^{destroyed} destroyed. This is a good beginning, but much more is required under the Agreement. The United States will consult closely with China on implementation of this

agreement and will provide technical assistance in its implementation.

Market Access

U.S. sound recording, motion picture and computer software industries will benefit from significantly improved market access^{in China}.

Legitimate product will now be able to be imported or manufactured to replace the pirated product.

China will not impose quotas, import licensing requirement or other non-censorship restrictions on the importation of audio-visual and published products, whether formal or informal.

In the audio-visual sector, China will permit U.S. firms to establish joint ventures with Chinese firms in China for production and reproduction of product. These joint ventures will be permitted to enter into contracts with Chinese publishing enterprises to, on a nationwide basis, distribute, sell, display and perform. China will immediately permit establishment of these joint ventures in

Shanghai, Guangzhou and other major cities, and will then expand the number of these cities to thirteen by the year 2000.

U.S. sound recording firms will also be permitted to enter into exclusive licensing arrangements with Chinese publishing houses to exploit their entire catalogues and to decide what to release from that catalogue. U.S. firms will also be able to enter into revenue sharing arrangements with Chinese firms, including licensing arrangements under which a U.S. entity receives a negotiated percentage of revenues generated by film products.

Joint ventures will also be permitted in the computer software sector. These joint ventures will be permitted to produce and sell their computer software products in China.

Censorship requirements will published and decisions on whether requirements are met will ~~be made quickly~~. Regulations will be open, transparent and published.

*normally
be
made
within
10
days*

Finally, China has invited U.S. companies to begin discussions on setting up operations in China as soon as possible.

~~Do not know my commitments~~
AFC

Conclusion

Mr. Chairman, this is a good Agreement for both U.S. workers and U.S. firms. It will bolster our efforts to create more high-wage jobs in some of our most competitive industries. Our legitimate, high-quality products will not be forced to compete against Chinese rip-offs in the Asia-Pacific region. Thus, our exports to China and ^{to} third countries should increase. It means American businesses can gain ~~the~~ ^{that} confidence they will be fairly treated as they enter the Chinese market, one which holds immense potential for ^{we} U.S. businesses.

It is also a good Agreement for the Chinese. Full implementation will provide evidence that China is willing to play by international rules and enforce the commitments it makes. The agreement contains key features ensuring transparency ^{of adherence to} the rule of law, including judicial improvements, which bolsters efforts to

It will help affect the creation of a Chinese domestic pro-business

have a more open and internationally compatible regime.

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Rep.

Mr. Chairman, ~~we cannot end our efforts now that we have achieved this Agreement.~~ It is absolutely essential that the agreement be fully implemented and ~~enforced~~ by the Chinese. ^{1 on 1 with U.S.} You can rest assured that we will be watching closely to make sure that it is implemented; and we will provide technical assistance to the Chinese to help them get the job done. U.S. vigilance and Chinese political will are key.

^{Mr. Chairman,} Again, let me say that I appreciate the support and cooperation we have received from the ^{you} ~~Congress~~ and the members of the Committee. ^{from the Cong.} I look forward to working with you in the weeks and months to come as we implement and ensure the enforcement of this historic Agreement. Thank you.

AMBASSADOR CHARLENE BARSHEFSKY

COUNCIL OF THE AMERICAS

WASHINGTON, D.C.

March 22, 1995

"MAINTAINING THE MOMENTUM FOR THE FTAA"

INTRODUCTION

- o Thanks David (Ivey)¹ for that kind introduction.
- o I would also like to acknowledge David Rockefeller, the Honorary Chairman of the Council of Americas, Chairman John Avery, Ambassador Briggs and Bob Mossbacher.
- o It is honor to be here speaking at the Council of the Americas. This organization and its distinguished members have played a leadership role in shaping U.S. trade policy.

¹ Member of Council of the Americas and President of the Assoc. of American Chambers of Commerce.

- o I am confident that Secretary Christopher and others who preceded me have made a strong political and economic case for forging a closer trading relationship with the nations of Latin America and the Caribbean.
- o Let me provide the USTR perspective on the need to maintain the momentum coming out of Miami to forge the "Free Trade Area of the Americas" (FTAA).

FTAA 2005

- o At the Summit of the Americas in Miami, the leaders adopted the goal of constructing the FTAA by the year 2005 and making concrete progress by the end of the Century.

- o This commitment reflected the convergence of the leaders' shared vision of the road to mutual growth and prosperity in the Hemisphere. But, the leaders recognized that the road would not be smooth.
- o We have recently experienced a few of the obstacles we will face on this journey. The peso crisis in Mexico has caused some pundits to question whether it is realistic now to expand the NAFTA and to continue with the FTAA.

WHAT ABOUT THE PESO CRISIS?

- o Not only is it realistic to press ahead, but it is essential that we do so.
- o The underlying logic of eliminating the remaining trade barriers in the Hemisphere is as valid now as before.

-- The economic efficiency of our economies and our prospects for growth still depend on exposing our economies to outside competition, attracting foreign capital and technology, and opening new markets for the goods and services.

o Also, unlike the "lost decade" that followed the 1982 crisis, there are reports -- less than six months after the December 1994 currency crisis -- that Mexico may be recovering, and there appears to be renewed confidence in Latin America.

-- For example, a Wall Street Journal article on May 12 described some of the ways this recovery is taking place.

- As another example, during the first quarter of 1995, U.S. direct investments in Latin America, totaled \$1.9 billion, up 46 percent from the previous year.
- o Furthermore, by moving ahead on the FTAA and NAFTA expansion, we are sending an important signal to the region that we are encouraged by how most Latin American governments have reacted to the events of 1994.
 - Latin America and the Caribbean have largely stuck to pro-liberalization policies that will lead to long-term and sustainable growth.
 - We should not, and cannot, retreat from such a demonstrably successful course.
- o By moving ahead on expanding trade with the region, the Administration and the private sector in the United States are sending a clear and important signal, a vote of confidence, in the future of the Americas.

ECONOMIC CASE FOR THE FTAA

- o The reasons for pressing ahead with the FTAA are, of course, much more than symbolic. We need the FTAA in order to grow and prosper.
- o I am sure you are familiar with the statistics. Latin America and the Caribbean is one of the fastest growing regions in the world. We cannot afford to miss the opportunities being created by

that growth and more open economies.

- o The dynamic growth of the region is expected to continue over the next decade, notwithstanding some of the usual swings that occur in economic development.
- o The United States can best position itself to benefit from the growth expected in Latin America and the Caribbean economies by negotiating mutually beneficial free trade agreements with Latin America.
- o Despite recent economic liberalization, barriers to U.S. exports in the region are still higher than those faced by in our market by Latin Americans.
- o An FTAA would erase that disparity and instill high levels of discipline in other areas, such as protection of intellectual property rights and investment, and access for services.
- o The huge U.S. market provides the incentive for our partners in the hemisphere to integrate with us. But, we are not the only nation interested in expanding trade ties with countries in this dynamic region.
- o There is a veritable explosion of integration activities within sub-regions: the Southern Cone Market (MERCOSUR); the Andean Pact (Bolivia, Colombia, Ecuador, Peru, Venezuela); the Central American Common Market (CACM); the Group of Three (Mexico, Colombia, Venezuela); the Caribbean Community and Common Market (CARICOM).
- o These existing sub-regional integration schemes

are in the process of affiliating with each other. Both we and they would benefit if the United States were participated in this process.

- o There also is great interest on the part of the European Union and Japan in Latin America and the Caribbean. It would be ironic and indefensible for the EU and Japan to have better access to Latin America than we do.
- o The case for forging ahead on FTAA, NAFTA and other trade initiatives for the Americas is clearly compelling.
- o The Summit of the Americas provided the initial push. We need to keep that process going.

DENVER MINISTERIAL

- o And, the Administration has been working hard to do just that.
- o On June 30 Ambassador Kantor will host the first Summit of the Americas-mandated trade ministerial in Denver; this will be a critical step the post-Summit trade process.
- o The goal of this Ministerial is to establish the analytical base for substantive work on each area specified in the Summit of the America's Plan of Action. These areas include market access, government procurement, sanitary and phytosanitary measures, services, intellectual property, investment, etc.
- o On May 10-11 I chaired a meeting of senior trade officials from all Western Hemisphere countries in

preparation for the Denver ministerial.

Based on that meeting and the preparatory work that is being carried out, I am confident that what will come out of Denver will be practical and of real interest to the hemisphere's business community. It will also maintain the momentum for free trade in the region.

- o The Denver Trade Ministerial will also allow Ministers to discuss some of the critical issues facing each of them.
- o For example, in the United States, Ambassador Kantor is working with the Congress on fast-track.

BIPARTISAN CONSENSUS ON FORGING FTAA

- o With the Congress, we aim to achieve the best results for the United States in international trade negotiations.
- o A bipartisan spirit of cooperation was clearly evident when Ambassador Kantor testified on fast-track last week before the House Ways and Means Committee.
- o Fast track is an issue that in the past united Congress and the Executive Branch. Fast track creates a partnership.
- o It also establishes a clear channel for the Congress to be consulted, make its voice heard, and have its specific concerns addressed in all phases of the negotiations and implementation of a trade agreement.
- o The Administration plans to continue working with the Congress on achieving a mutually acceptable

fast-track procedure.

CHILE AND NAFTA

- o And, of course, the first use of fast-track will be to continue to engage Chile in its accession to the NAFTA.
- o Chile's accession to the NAFTA will send a critical signal to the rest of the region that the United States is committed to expanding the NAFTA.
- o It is important for the United States to forge a partnership with Chile -- the leader of economic reform in Latin America and its most dynamic economy over the last 10 years.
- o Chile is not just a symbol of reform, but an activist in opening markets, having negotiated free-trade areas with Venezuela, Colombia, Ecuador and Mexico, pursuing an agreement with the Southern Common Market and having proposed a free-trade area with the EU.
- o Chile, the region, and our European and Asian partners, are measuring the U.S. commitment to lead. We must not falter.

CONCLUSION

- o I hope that the Council of the Americas will continue to work hard to educate the public, the business community and the Congress.
- o The United States must seize the opportunities the FTAA can offer.

Thank you.