

## TRADE POLICY AND THE RULE OF LAW

Ambassador Charlene Barshefsky

U.S. Trade Representative

2000 Commencement Address

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Good morning. I thank the Law School and Dean Sullivan for inviting me to speak at this Commencement ceremony. And to the graduates and your parents, my deep gratitude for your willingness to share this special day.

### AMERICA AND THE RULE OF LAW

Each of you -- beyond the talent, perseverance and wit you must have to complete Dean Sullivan's curriculum -- is fortunate and privileged to begin your careers in this millennial year.

*Fortunate* because, when we look out upon our country today, we see a nation more prosperous, successful and secure than at any time in recent history. This is clear in the lowest unemployment and crime rates in decades; in the recovery of our rivers and streams; in the astonishing advance of science, technology and medicine.

*Privileged* because as lawyers, you can do more than almost any other Americans to build on these achievements. Our strong economy -- our healthier environment -- our scientific innovation -- these are the result of policy choices expressed and made meaningful in law during the past decade. Over the next

decade, the challenges posed to law will be still more complex: the development of computers, telecommunications and the Internet poses questions about the conduct of international business and protection of personal privacy; understanding of the genetic code raise equally complex questions in medicine, insurance, agriculture and other fields; and society is changing rapidly with immigration, aging, and other demographic phenomena.

This may make law appear an even more specialized and fragmented field than it is today. But though your anti-trust course may have, on the surface, had little in common with environmental law, immigration, civil rights or intellectual property; and though all of them are complex in their own way; these subjects also have a deep unity and simplicity. Together, they represent the social contract of the rule of law, through which citizens and nations join to establish rights, limit arbitrary power, and enable policy to proceed without force; and on which we must rely as we consider the challenges of this new century.

## U.S. TRADE POLICY

Our trade policies are no exception. Like every field of law, trade law and agreements are ways to create and protect rights; ease daily life; and find ways to settle disputes amicably and peacefully. This is true, above all, in the central trade and foreign issue before us this year: China's accession to the World Trade Organization.

The Chinese experience in revolution, reform and now the WTO accession, is a study in the value of law: the arbitrary suffering, deprivation and conflict that can arise in its absence; the creation of rights, material well-being and cooperation through its development.

To understand this fully, and grasp the role trade has played in it, we can begin by looking at the initiative at the heart of trade policy for the past half century - the trading system created as the General Agreement on Trade and Tariffs, or GATT, in 1948, and now embodied by the WTO.

The creation of the trading system reflected the experience of President Truman and his Allied colleagues in Depression and war. In the 1930s, they had seen their predecessors, under the pressure of financial crisis, respond with a cycle of tariff hikes and colonial preference schemes that -- as each country attempted to rescue itself -- injured all, cutting trade by nearly 70%, worsening unemployment, and ultimately contributing to political upheaval. And the trading system is an element in a larger effort to prevent another such experience, through the development of a postwar world reflecting principles of shared responsibility, mutual benefit, and ultimately the rule of law:

- Collective security, reflected by the United Nations, NATO, the Rio Treaty and our alliances with the Pacific democracies.
- Open markets and economic stability, with the creation of the IMF and World Bank on the one hand, and the GATT on the other.
- Commitment to human rights, embodied by the Universal Declaration on Human Rights, and then a series of more recent Conventions.

Over half a century, the GATT and now the WTO have grown in membership, from the original 23 countries to today's 136 economies and 4.5 billion people. It has grown in scope: tariff reductions are now joined by agreements on dispute settlement, trade in industrial goods, services and farm products, intellectual property rights, technical barriers to trade, and most recently information technology, telecommunications, financial services, and duty-free cyberspace. And when we step back a moment, we see its enormous benefit.

It has promoted growth and rising living standards. Since 1950, as world markets have opened and nations accepted rules and impartial dispute settlement, trade has expanded fifteen-fold and world economic production six-fold. The result is unprecedented social progress: since the 1950s, world life expectancy has grown twenty years, infant mortality dropped by two-thirds, and famine receded from all but the most remote or misgoverned corners of the world.

And it has strengthened peace and stability. It helped reintegrate Germany and Japan in the 1950s, and then nations emerging from colonial rule in the 1960s and 1970s. It has now taken up a task of equal gravity, as after the Cold War nearly 30 nations breaking with communist planning seek WTO membership to reform their economies and integrate with the world.

The work remains imperfect and incomplete; the institutions can be reformed and improved. But altogether, the trading system -- resting on the values and aspirations you have learned here at the Law School -- has been a remarkable success: creating widely accepted rules and means of settling disputes, developing rights, easing economic interaction, promoting development and shared economic benefit, and strengthening security.

## **THE CHINESE REVOLUTION**

China's decision to join this system will be a defining moment -- both for the trading system itself, and in the history of modern China.

As befits one of the world's largest and oldest nations, China contributed substantially to the postwar vision. It was a founding member of the GATT, and the Confucian scholar Dr. Chang Peng-chun was among the principal drafters of the Universal Declaration of Human Rights. But a year later, with the Communist revolution, it set off on a very different road.

Every student of law knows the famous line from Shakespeare -- "first, let's kill all the lawyers." This quotation, though from Elizabethan England, has peculiar relevance to postwar China: Jack Cade, the character credited with the line, is a revolutionary and a megalomaniac who plans, after finishing off the lawyers, to follow up with everybody else who can read and write. And he does this in pursuit of a specific vision:

"All shall eat and drink on my score, and I will apparel them all in one livery, that they may agree like brothers, and worship me their lord."

Cade, in other words, hopes to create a world in which people depend on the state for economic existence, dress alike, say and think the same things, and serve an absolute ruler. Such a world has few closer parallels in real life than China under Chairman Mao, except perhaps that in the Chinese case, traders rather than lawyers came first.

Beginning in 1949, China shut the doors it once tentatively opened to the world. Among its new leaders' first steps after the revolution were to expel foreign businesses from China, and to bar direct economic contact between Chinese private citizens and the outside world. Inside China were analogous domestic policies - destruction of private internal trading networks linking Chinese cities and villages, abolition of private property and land ownership, and of course suppression of any right to object to these policies.

These economic measures had a clear parallel in legal affairs. Between 1949 and 1957, the number of lawyers in China shrank by 70%. In 1957, with the so-called "Anti-Rightist Campaign" and then the Great Leap Forward, most remaining law offices were closed, lawyers arrested or sent to the countryside, and the Ministry of Justice itself abolished.

China over the next twenty years was one might call an "a-legal" society -- a nation with neither lawyers, nor law enforcement, nor laws. Policy and administrative decisions rested instead upon interpretation of edicts and slogans - in some cases explicit and clear, in others as vague as "Criticize Confucius and Lin

Biao," or "Smash the Four Olds" - by officials aware at all times that they might be arrested either for insufficient dedication to these slogans, or for what might retroactively be seen as excessive dedication when policies changed. The result was an appalling sequence of catastrophes: the imprisonment or worse of hundreds of thousands of writers, scholars, scientists and professionals between 1957 and 1959; a famine which killed as many as 30 million rural Chinese men, women and children between 1960 and 1962; the closure of schools and universities; the period of anarchy and violence known as the Cultural Revolution.

In essence, our postwar commitment to collective security, open markets and human rights made up a coherent vision of a peaceful and open world under the rule of law. China's rejection of these concepts in the Maoist era made up an equally coherent and consistent policy. Its economic isolation in the 1950s and 1960s can be separated neither from its diminishing space for individual life and freedom at home, nor its revolutionary role in the Pacific.

## THE REFORM ERA

China remains today a repressive and authoritarian country. The State Department's Human Rights Report documents a lamentable record of restrictions on freedom of speech and religion, suppression of labor rights and punishment of those who attempt to assert their rights in these areas. That is why we have sanctioned China as a "country of particular concern" under the International Religious Freedom Act, and why we presented a resolution raising concerns about China's human rights record to the UN Human Rights Commission in April.

But the report, and our resolution as well, also note that China is not today the country Shakespeare described. It has abolished the most damaging measures of the Great Leap Forward and Cultural Revolution era, abolishing rural communes and reviving private businesses in cities and villages. And it has relaxed some earlier policies intended to seal off China from the world economy, notably bans on foreign investment and private export trade. These decisions have worked together to raise living standards; to slowly replace command with law; to change Chinese society in ways that inherently increase respect for some of the rights and liberties cited in the Universal Declaration:

- Property rights, with farmers able to farm their own land, entrepreneurs to start businesses, and families able to pass on their property to their children.
- Greater openness to information, with Chinese citizens able to listen to foreign radio and TV, and more recently to access foreign web-sites.
- Some aspects of freedom of association, as Chinese meet and exchange ideas with foreigners as well as people from Hong Kong and Taiwan, and as the repressive "work-unit" system that once bound Chinese workers to particular jobs and factories has eroded.

- And access to courts and the legal system, as research by Dr. Pei Minxin and the Lawyers Committee for Human Rights finds, with the number of lawyers rising from one or two thousand in 1980 to perhaps 150,000 today; litigation rising from essentially zero before 1980 to about 5 million cases by 1995; and of particular interest, citizen lawsuits against government agencies rising from a few hundred in 1986 to over 50,000 a year by 1995.

Economic contacts with the outside world play a part in this. For example, research on Chinese businesses shows positive changes in labor relations: workers in joint ventures not only earn more, but are more likely to have and use formal grievance procedures to assert their rights and solve disputes with management. Further, indigenous Chinese firms find themselves forced to adopt similar measures, to attract the most qualified workers now choosing foreign employers.

## **THE ROLE OF TRADE POLICY**

Our China trade policy has helped support and develop these trends from the beginning. From the lifting of the trade embargo in 1972 to the WTO accession, our work has rested on concrete and specific U.S. trade interests. But it has also served deeper goals. Internationally, it has supported our security interests, by integrating China into the Pacific and world economies. Inside China, it has accelerated economic reform and the rule of law -- in some cases, given the rudimentary state of Chinese law in 1980, building it from the ground up.

A case in point -- incidentally, with a specific grounding in Article 27 of the Universal Declaration of Human Rights -- is our work on intellectual property rights. This rests on our commitment to fight piracy of our creative industries. But it also means more than this: to develop intellectual property policy is to draft and publish laws; train lawyers and officials; improve and ensure access to judicial procedures -- ultimately, to create a culture of rights, due process and limits on arbitrary state power where it did not exist before.

## **CHINESE WTO COMMITMENTS**

Our bilateral agreement with China on WTO accession is the capstone on this work, and the most significant step for our China trade policy in decades.

It is a comprehensive agreement, covering industrial goods, services, farm products and unfair trade practices. It will develop legal norms and rules across the Chinese economy and within thousands of

individual industries. In each area, it establishes rules Chinese officials will follow in a vast array of areas, and means of redress should they violate those rules. It does so in the legal profession itself: some of you may take advantage of the agreement to practice in China in the coming years, assuming of course that Congress passes permanent Normal Trade Relations and enables us to win the benefit of the agreement.

Taken as a whole, this is more than policy change. As the Lawyers Committee for Human Rights has argued, they mean a more full adoption of internationally accepted standards for domestic law, regulation and administrative procedure. It means an acceptance by China of an entire body of agreements, rules and enforcement procedures developed over decades; and a commitment to this element of the system of mutual benefit and shared responsibility developed after the Second World War. In sum, our agreement brings China further away from the legal void of the Maoist era; and closer to the rule of law.

That is why some of the leading advocates of democracy and human rights in China and Hong Kong - Bao Tong, jailed for seven years after Tiananmen Square; Ren Wandong, a founder of China's modern human rights movement; Martin Lee, the leader of Hong Kong's Democratic Party - see this as China's most important step toward reform and liberalization in 20 years. And it is why China's WTO membership marks a signal advance of the ideals taught here at the School - as the world's largest nation adopts more fully than ever before the principles of rights, acceptance of common rules, and impartial settlement of dispute at the heart of law.

## CONCLUSION

China's experience is an illustration in real life -- between 1950 and 2000, the lifetime of a single generation -- of the loss of law and then of its development. At each step, we can see the arbitrary force, poverty and conflict that arise in the absence of law; and the slow, incomplete but steady development of individual rights, material well-being and civil peace that accompany its recovery.

This is ultimately what each of you has learned, in each field you studied at the School, and the process to which you will contribute as lawyers. This is what neighborhoods and industries use to create jobs while preventing pollution; it is what companies use to ensure fair competition; how radio and television stations and now Internet service providers enable one another to share airwaves and bandwidth. It is the means by which we find mutual benefit and reduce the risk of tension, coercion and force.

Whether it is in trade, criminal justice, civil rights, environmental law, or any other field, in no other walk of life does one have such an opportunity.

Nowhere else can you so directly affect the policy of governments, as they consider the new challenges of this new century.

No other field so directly joins moral and ethical questions with the practical response to specific and material disputes.

And nowhere do you have such an opportunity to strengthen the culture of rights, due process, and personal security which makes our country a decent place to live -- and, as we see in China, can do so throughout the world.

This is what makes you so fortunate and so privileged today. I offer you my sincere congratulations and best wishes on your graduation.

Thank you very much.

# CHINA'S WTO ACCESSION IN AMERICAN ECONOMIC STRATEGY

Ambassador Charlene Barshefsky

U.S. Trade Representative

Economic Strategy Institute Annual Conference

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Thank you, and let me thank Clyde very much for this chance to speak on one of the most important American trade and foreign policy decisions in many years: China's accession to the World Trade Organization and permanent Normal Trade Relations status.

## ONE-WAY CONCESSIONS

When Congress opens its formal debate on this topic next week, in the most basic sense it will be addressing a trade policy issue. And in these terms, the choice is clear.

Our agreement on China's WTO accession secures broad-ranging, comprehensive, one-way trade concessions on China's part. These concessions:

- Open China's markets to American exports of industrial goods, services and agriculture to a degree unprecedented in the modern era.
- Strengthen our guarantees of fair trade.
- Give us far greater ability to enforce China's trade commitments.

- And facilitate the WTO accession of Taiwan, which has made an equally valuable set of market access commitments.

By contrast, we change no market access policies -- not a single tariff line. We amend none of our trade laws. We change none of our laws controlling the export of sensitive technology. We agree only to maintain the market access policies we already apply to China, and have for over 20 years, by making China's current Normal Trade Relations status permanent.

This is the only policy issue before Congress. Regardless of our decision, China will enter the WTO. Regardless of our decision, it will continue to sell in the American market. The only question Congress will decide is whether we will accept the benefits of China's accession and the agreement we negotiated; or whether by turning away from permanent NTR, we enable our competitors across the world to get them while Americans are left behind.

### **PRINCIPLES OF TRADE POLICY**

From the strict perspective of American economic self-interest, there is little reason to say more. But China's accession also has implications for many of the broader goals at the foundation of modern trade policy; and it is on these topics that I will concentrate today.

For over five decades, Americans have led in development of an open world economy under the rule of law. We have done so for reasons reflecting, first of all, clear economic logic:

- Open markets abroad offer our businesses, farmers and workers larger markets: almost 80% of world economic consumption takes place outside the U.S., and to grow and remain competitive in the future, America must have fair access to these markets.

- At the same time, open markets at home give us access to imports, which dampen inflation; spark the competition that promotes innovation and efficiency; and raise living standards, most of all for the poorest among us.

These are ideas with broad application. We tend to believe they reflect Western liberal thought, but one can also cite the classical Chinese historian Ssu-ma Ch'ien, writing in 90 B.C.:

"There must be farmers to produce food, men to extract the wealth of mountains and marshes, artisans to process these things, and merchants to circulate them. There is no need to wait for government orders: each man will do his part as he gets what he desires. So cheap goods will go where they fetch more, while expensive goods will make men search for cheap ones. When all work willingly at their trades, just as water flows ceaselessly downhill day and night, things will appear unsought and people will produce them without being asked."

## ACCOMPLISHMENTS OF THE TRADING SYSTEM

Today's World Trade Organization is an attempt to create such an economy for ourselves and our trading partners. But it is also a response to challenges that lie beyond economic textbooks. Its roots lie in the General Agreement on Trade and Tariffs, which dates to 1948; and the GATT in turn reflected the experience of our postwar leaders in Depression and war.

In the 1930s, they had seen their predecessors yield to a cycle of protection and retaliation, with the Smoot-Hawley Act in the United States and colonial preference schemes in Europe, which deepened the Depression and contributed to the political upheavals of the era. Eighteen years later, they believed that by reopening world markets they could restore economic health and raise living standards. In larger terms, as part of the broader postwar internationalist vision -- the economic stability fostered by the IMF and the World Bank; international standards of human rights, embodied in the Universal Declaration on Human Rights and a series of later Conventions; and the collective security commitments of the United Nations, NATO, the Rio Treaty, and our Pacific alliances -- open markets would give nations greater stakes in stability and prosperity beyond their borders, strengthening a fragile peace.

Since then, we have completed eight negotiating Rounds, and 113 new members have joined the 23 GATT founders. The agenda has broadened from tariffs -- which have dropped by 90% on average -- to non-tariff barriers, dispute settlement, agriculture, services, intellectual property, telecom, information technology, financial services and electronic commerce. The work continues today, with the WTO's decision in February to open negotiations on agriculture and services, and our work to broaden these talks into a new Round. And when we step back a moment, we see its enormous benefit:

- Growth and Rising Living Standards: The opening of world markets has helped to spark what is in effect a fifty-year economic boom: since 1950, trade has expanded fifteen-fold; world economic production grown six-fold; and per capita income nearly tripled. And the result has been historically unprecedented social progress: since the 1950s, world life expectancy has grown by twenty years, infant mortality dropped by two-thirds, and famine receded from all but the most remote or misgoverned corners of the world.

- Economic Security: In the Asian financial crisis, with 40% of the world in recession, the respect WTO members had for their commitments kept open the markets necessary for affected nations to recover. Thus the system of mutual benefit and rule of law represented by the WTO helped prevent a cycle of protection and retaliation like that of the 1930s; and ultimately to avert the political strife that can erupt in economic crisis.

- Peace and Stability: Through the accession of new members, the trading system has helped us address political challenges fundamental to world peace and stability. It helped reintegrate Germany and Japan in the 1950s, and then the nations emerging from colonial rule in the 1960s and 1970s. It has now taken up a task of equal gravity, as after the Cold War, nearly 30 nations breaking with communist planning policies have sought WTO membership to reform their economies and integrate with the world.

## CHINESE REFORM AND U.S. TRADE POLICY

With this we come to China.

The world's largest nation, for many years, was one of the great rents in the trading system. When our modern relationship began in 1972, its economy was almost entirely divorced from the outside world. After the Communist revolution in 1949, it had expelled foreign businesses and banned direct economic contact between Chinese citizens and the outside world. At home it offered virtually no space for private farming or business; externally, it conducted what trade it felt necessary through a few Ministries. Such policies impoverished China and contributed to its revolutionary role in Asia: isolated from Pacific markets, Asia's largest nation had little stake in a peaceful and stable region, and every Pacific nation felt the consequences.

In the intervening years, American trade policy has worked to end this isolation. Our policies, viewed in detail, have sought to advance specific American trade interests; but they also have pushed forward a strategic vision. By opening China's markets, and helping to give China access to world markets, we have sought to ensure that this nation of 1.2 billion people plays its proper role as an export market and a source of economic growth for its Asian neighbors; promote reform and economic liberalization within China; and, ultimately, help China find a different and healthier role in the Pacific region.

This is a strategy consistent with China's own reforms. At home, since the 1970s, China has reversed the most damaging policies of the Great Leap Forward and Cultural Revolution era, abolishing rural communes and reviving private business in villages and cities. Reform has established an internal market; eroded the repressive "work-unit" system that bound workers to particular jobs and factories; reduced the state's role as an owner and manager of factories; and, over time, begun to replace bureaucratic control with law. Externally, reform has begun to open China to the world, substantially

relaxing although not abandoning entirely bans on foreign investment and private export trade.

American trade policy has worked with reform at every step -- from the lifting of the trade embargo in 1972, to our Bilateral Commercial Agreement and grant of Normal Trade Relations (then MFN status) in 1979, renewal of NTR every year since; and most recently, detailed agreements on intellectual property, textiles and agriculture. To look at a case in point, our work on intellectual property rights rests on commitment to fight theft through piracy of our most creative industries. But it meant more than this: to develop an intellectual property policy is to draft and publish laws; to train lawyers and officials; to improve and ensure access to judicial procedures; ultimately, to create due process of law where it did not exist before.

This is one example of a much broader process of economic reform, opening to the world, and adoption of internationally accepted trade principles which have served China, its neighbors and ourselves well. In China, they have helped over 200 million Chinese men and women escape from poverty. For us, they have sparked \$10 billion in export growth since our Commercial Agreement. And their advantages go beyond material gain.

While China remains an authoritarian and repressive country, reform has strengthened personal freedoms and begun to develop the rule of law. It has also made China a more integrated, responsible member of the Pacific community. To choose an example, when the Asian financial crisis began, South Korea and the ASEAN were (setting Hong Kong aside) the source of a seventh of China's foreign direct investment, and the market for a sixth of its exports. Thus, while in 1967 these nations were China's ideological rivals, in 1997 they were customers who support Chinese factories and farm incomes, and the investors who create Chinese jobs. This is the backdrop to China's decision to maintain currency stability and contribute to recovery packages for its Asian neighbors during the financial crisis.

### **REFORM INCOMPLETE**

But the work is not yet done. As the economist and reform advocate Cao Siyuan has put it, China has opened the door; but only to reach out and cautiously shake hands.

To look back again on the financial crisis, while China's policy was constructive, important and valuable, its neighbors did not have the opportunity to use China as a market which could spur recovery. ASEAN and Korean exports to China - already low - actually dropped between 1997 and 1998. Or to use another index, closer to home, our \$10 billion in export growth to China since 1980, while substantial, is far less than our export growth to almost any other major trading partner over the same period.

This reflects the fact that reform is incomplete. Some policy legacies of the revolutionary era remain in force today, and others are only partly reformed. Beyond the unusual features of the Chinese economy are more typical trade barriers: high tariffs are joined by an array of largely secret quotas, and industrial policies that require investors to transfer technology, purchase parts only from Chinese sources, and so forth. More generally, the country suffers from poorly developed market institutions and the lack of a reliable rule of law.

These are barriers to American products, but problems for China as well. Just as China's external and internal trade barriers block imports, they also - as China's senior leaders realize - lead to corruption and economic inefficiencies which block China's own prospects for sustainable growth, job creation and technological progress.

## THE WTO ACCESSION

Against this background, the WTO accession assumes its full economic significance. Our bilateral agreement address each barrier to American goods, services and farm products, and all the major unfair trade practices. As it does so, it will help China build an economy prosperous and open to the world, to its own benefit and that of its Asian neighbors. These commitments go well beyond removing border trade barriers, to alter policies dating to the earliest years of the communist era:

- For the first time since the 1940s, China will permit foreign and Chinese businesses to import and export freely from China.
- China will reduce, and in some cases remove entirely, state control over internal distribution of goods and the provision of services.
- China will enable, again for the first time since the 1940s, foreign businesses to participate in information industries such as telecommunications, including the Internet.
- And China will subject government decisions in all fields covered by the WTO to impartial dispute settlement when necessary.

Each commitment is specific, detailed, and fully enforceable -- through our own trade laws, WTO dispute settlement, periodic multilateral review of China's adherence, multilateral pressure from all 135 WTO members, and other mechanisms such as the special anti-dumping rules and anti-import surge remedies. We are already preparing, with the President's most recent budget request, for the largest enforcement effort ever devoted to a trade agreement.

Finally, China's entry will facilitate Taiwan's entry into the WTO. This will have substantial trade benefits, as Taiwan is already a larger export market for us than China. And the opening of both economies, while we have no guarantees, may ultimately play some part in easing the tensions in the Strait. It should thus be no surprise that Taiwan's new leadership supports both China's WTO membership and normalized trade relations between China and the United States.

## WTO ACCESSION AND BROADER INTERESTS

In economic terms, then, the choice is clear. To enter the WTO, China makes one-way concessions; if we do not grant permanent NTR, others will take advantage of them at our expense.

For our trade interest, then, to reject PNTR would be foolish. And just as the economic merits of the foundation of the GATT were simply one element in President Truman's broader vision, so today the economic consequence of rejecting PNTR would be the least of the damage.

We have concerns and responsibilities towards human rights and the rule of law in China. Here, many Chinese dissidents and Hong Kong democratic leaders - Bao Tong, jailed for seven years after Tiananmen Square; Ren Wanding, a founder of China's modern human rights movement; environmentalist Dai Qing; Martin Lee, leader of the Hong Kong Democratic Party - believe WTO accession and PNTR are the most significant steps toward reform and the rule of law in China in twenty years. To reject permanent NTR is to ignore their views and turn our backs on nearly thirty years of work to support reform, improve the legal system and offer hope for a better life to hundreds of millions of Chinese. And it is to give up the hope of contributing in the future to a China freer, more open to the world, and more responsive to the rule of law than it is today.

And we have a fundamental national security interest in a peaceful, stable, mutually beneficial relationship with China. And in this sense, to reject PNTR would be reckless.

No trade agreement will ever solve all our disagreements. These will require patience, statesmanship on both sides of the Pacific, and the foundation of a stable and mutually beneficial relationship.

But WTO accession, together with PNTR, will address many of them. And if we turn down a comprehensive set of one-way concessions, we not only lose their concrete and immediate benefit, but make a very dark statement about the future of our relationship with the world's largest country.

Such a statement would threaten our work on all the specific issues in our China policy agenda. It would complicate for the foreseeable future our Pacific alliances, as all our Asian friends and allies would view rejection of PNTR as unprovoked rejection of stable and constructive relations with their largest neighbor. Over the long term, and perhaps most important, China -- seeing no economic reason for our decision -- would become more likely to read hostile intent into our every move; and this in turn would raise the prospect that our present disagreements and tensions will only escalate.

## CONCLUSION

But if we have the wisdom and confidence to make the right choice, before us is a remarkable opportunity.

Over three decades, together with our Pacific alliances and military commitments; in tandem with our advocacy of human rights; and in the best tradition of postwar American leadership; our China trade policies have helped us build a relationship with the world's largest nation which strengthens guarantees of peace and security for us and for the world. WTO accession, together with permanent Normal Trade Relations, will be the most significant step in this process in many years.

Franklin Roosevelt, in his last message to Congress, called the opening of the negotiations which led to the GATT a chance "to lay the economic basis for the secure and peaceful world we all desire." We have such a chance again, more than half a century later, as Congress prepares to debate China's entry into the institution Americans have helped to build ever since.

That is the opportunity. These are the stakes as the Congressional debate begins. This is why it is so important that we succeed.

Thank you very much.

## **CHINA'S WTO ACCESSION AND PNTR: AMERICA'S CHOICE**

Ambassador Charlene Barshefsky

U.S. Trade Representative

Women in International Trade

Washington, D.C.

May 16, 2000

Thank you very much.

Let me express my deep gratitude to the Women in International Trade for this award. I am grateful not only for myself, but because in honoring me on the conclusion of our historic agreement with China, you also recognize the hard work and exceptional performance of our negotiators -- the China team led by Bob Cassidy and now Don Phillips, together with Christina Lund, Catherine Field, Caroyl Miller Laura Lane, Bill Corbett and Teresa Howes; together with Bob Novick, Peter Scher, Don Johnson and Richard Fisher -- all of whom worked together to do an extraordinary service for our country.

In the coming weeks, Congress will consider this agreement in the context of its debate on permanent Normal Trade Relations for China. As it does so, it will debate questions that touch on the economic prospects of Americans on the farm and on the job; on reform, human rights and the rule of law in China; and on the fundamental national security interest we have in a peaceful, stable and mutually beneficial relationship with the world's largest nation.

### **TRADE IMPLICATIONS**

This will be the most important trade and foreign policy decision America makes this year; perhaps the most important in many years. But at the basic level, the WTO accession and PNTR are trade issues of

the type all of us tonight have addressed throughout our careers.

And with respect to the trade policy merits, while the choice is important, it is also simple. Our agreement on WTO accession secures broad-ranging, comprehensive, one-way trade concessions on China's part. These concessions:

- Open China's markets to American exports of industrial goods, services and agriculture to a degree unprecedented in the modern era.
- Strengthen our guarantees of fair trade.
- Give us far greater ability to enforce China's trade commitments.
- And facilitate the WTO accession of Taiwan, which has made an equally valuable set of market access commitments.

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### **PRINCIPLES OF TRADE POLICY**

From the strict perspective of American economic self-interest, there is little reason to say more. But our debate on China's accession to the WTO will also affect the broader goals at the foundation not only of American trade policy, but America's role in the world.

We can trace the institution China will join in the coming months to the last message President Franklin Roosevelt sent to Congress, seventeen days before his death. In this letter, Roosevelt called the GATT initiative a chance to "lay the economic basis for the secure and peaceful world we all desire." He closed this message by saying:

"The point in history at which we stand is full of promise and danger. The world will either move toward unity and widely shared prosperity, or it will move apart... We have a chance, we citizens of the United States, to use our influence in favor of a more united and cooperating world. Whether we do so will determine, as far as it is in our power, the kind of lives our grandchildren will live."

The record ever since has been one of sustained and lasting commitment to that goal: from the foundation of the GATT in 1948, through our most recent initiatives on duty-free cyberspace and the Africa and Caribbean Basin legislation which passed Congress last week. Through this work, over more than a half a century, Americans have created -

- Growth and Rising Living Standards: The opening of world markets has helped to spark what is in effect a fifty-year boom: since 1950, trade has expanded fifteen-fold; world economic production grown six-fold; and per capita income nearly tripled. And the result has been historically unprecedented social progress: since the 1950s, world life expectancy has grown by twenty years, infant mortality dropped by two-thirds, and famine receded from all but the most remote or misgoverned corners of the world.

- Economic Security: In the Asian financial crisis of 1997-99, with 40% of the world in recession, the respect WTO members had for their commitments kept open the markets necessary for affected nations to recover. Thus the system of mutual benefit and rule of law represented by the WTO helped prevent a cycle of protection and retaliation like that of the 1930s; and ultimately to avert the political strife that can erupt in economic crisis.

- Peace and Stability: The trading system has helped us address political challenges fundamental to world peace and stability. It helped reintegrate Germany and Japan in the 1950s, and then nations emerging from colonial rule in the 1960s and 1970s. It has now taken up a task of equal gravity, as after the Cold War, nations breaking with communist planning seek WTO membership to reform their economies and integrate with the world.

## ONE-WAY CONCESSIONS

One of these nations is China -- the world's largest nation, and for decades one of the great enemies of the system of free markets and the rule of law which we have built over half a century. China has now agreed to join this trading system, through a comprehensive and historic set of trade commitments. As China enters the WTO, it will adopt the full range of WTO commitments and obligations.

American farmers and ranchers will see new markets open across the board. On U.S. priority products, China's agricultural tariffs will drop from an average of 31% to 14% in January 2004. Access for bulk agricultural products like wheat, rice, corn, cotton and soybean oil will grow through tariff-rate quotas and rights for private trade in these products. China will end import bans, cap and reduce trade-distorting domestic supports, eliminate export subsidies, and base border inspections on science.

For university towns and high-tech centers, China will eliminate tariffs and quotas on high-tech goods semiconductors, pharmaceuticals and computers. It will cut tariffs deeply on medical equipment, scientific instruments and other high-value products. It will give us new tools to protect the results of our research on software, semiconductors and other intellectual property-related goods, and eliminate forced technology transfer as a condition for investment.

Manufacturing firms and workers will see new export opportunities and stronger guarantees of fair trade, from steel to autos, agricultural equipment, wood products, and home appliances. Chinese tariffs on industrial goods will drop, from an average of 25% in 1997 to 9.4% by 2005. China will allow distribution and trading rights. We will eliminate unfair investment practices like local content requirements and forced technology transfer. Beyond this, we will guarantee our right to use special methods to fight dumping for 15 years, and create a "product-specific safeguard" we can use to fight market-disrupting import surges for 12 years.

Our services industries -- the most dynamic and technologically sophisticated in the world -- will see China open markets, adopt modern and fair regulatory policies, and create opportunities in the full range of sectors: distribution, telecommunications, financial services, insurance, the professions from international law to accounting and management consulting; business and computer services, motion pictures, environmental services, law, architecture, construction, travel and tourism, and other industries. China will participate in the WTO's newest agreements on Financial Services and Basic Telecommunications.

All these commitments are detailed, specific, bound by clear time-tables and thus fully enforceable: through our trade laws; WTO dispute settlement; multilateral pressure from all 135 WTO members; increased monitoring by the U.S.; and other mechanisms such as the special anti-dumping and anti-import surge remedies.

Finally, China's entry will facilitate the entry of Taiwan into the WTO, as Taiwan's new leadership has noted in its formal support for China's membership and normalized trade with the U.S.. Taiwan's accession will have substantial direct trade benefits for the US, as Taiwan is already a larger export market for us than is China. And the opening of both economies, while we have no guarantees, may ultimately play some part in easing tensions in the Taiwan Strait.

## **WTO ACCESSION AND CHINESE REFORM**

As China implements these historic set of commitments, it will, more fully than ever before, integrate itself into the Pacific and regional economies. It will come closer than ever before to fulfilling its proper role as a source of growth and opportunity for its Pacific neighbors, as well as for Americans. And it will alter and reform policies dating to the very earliest years after the Communist revolution.

- For the first time since the 1940s, it will permit foreign and Chinese businesses to import and export freely from China.
- It will reduce, and in some cases remove entirely, state control over internal distribution of goods and the provision of services.
- It will enable, again for the first time since the 1940s, foreign businesses to participate directly in information industries such as telecommunications, including the Internet.
- And it will subject government decisions in all fields covered by the WTO to impartial dispute settlement when necessary - the first time China has ever made such a commitment in any international accord.

Many Hong Kong and Chinese activists for democracy and human rights see such commitments as remarkable victories for reform. They include Bao Tong, jailed for seven years after Tiananmen Square, whose appeal to the UN Human Rights Commission drew worldwide sympathy last month; Martin Lee, the leader of Hong Kong's Democratic Party, who made a special trip to the United States to call on Congress for support for PNTR; Ren Wandong, a dissident and founder of China's modern human rights movement. All believe this is the most significant reform China has made in two decades.

## **U.S. INTERESTS IN THE PNTR DEBATE**

Tomorrow morning, Congress will open the debate on our sole obligation in this historic process: the extension of permanent Normal Trade Relations.

From the trade perspective, again, this is a simple issue. Economically, the United States has much to gain, and nothing to lose, through granting permanent NTR. We have much to lose, and nothing to gain, by rejecting it.

From the perspective of reform and opening in China, rejection of PNTR is a setback to reformers and a support and validation to those who seek to slow the movement toward economic opening and development of the rule of law.

But the full significance of Congress' decision is only clear when we consider the WTO accession as part of the larger U.S. relationship with China, with its fundamental importance to peace and security in Asia and worldwide. With this debate, we have reached a moment much like that Roosevelt spoke of in his message to Congress: one of great promise and danger; one which our grandchildren may well see as a turning point, for good or for ill, in the history of the 21<sup>st</sup> century.

### **U.S.-CHINA RELATIONSHIP IN THE 21<sup>ST</sup> CENTURY**

China is the world's largest country. Over the past decade, it was the world's fastest-growing major economy. The future course of our relationship will thus have great bearing on American security and strategy in the 21<sup>st</sup> century. And today, as we all know, our relationship with China today is free neither of deep-seated policy disagreements nor moments of tension.

We have substantial differences with China on issues relating to human rights and religious freedom; on a number of security questions; at times with respect to stability in the Taiwan Strait. In these we vigorously assert our interests and values, and we will continue to do so. But we also recognize how important a stable and peaceful relationship with China is -- for the Chinese, for the world, and for America -- and accept our responsibility, as long as the Chinese do likewise, to act upon areas in which we share interests and benefits.

We saw this responsibility clearly in the Asian financial crisis two years ago. We see it in the maintenance of peace on the Korean peninsula; the environmental problems of the Asia-Pacific; and we have acted upon it for more than a quarter century in trade. And WTO accession, together with permanent Normal Trade Relations, will be the most significant step in this process in many years.

Moreover, this is a step we will take through a series of one-way concessions made by China. That is why the debate which begins next week is of such fundamental importance: to reject a comprehensive set of one-way concessions, I believe, is to make a very dark statement about the future possibility of a stable, mutually beneficial relationship with the largest nation in the world.

Such a stand would threaten every single interest we have in China. It would complicate for the foreseeable future our Pacific alliances, as our Asian friends and allies would view rejection of PNTR as an unnecessary rejection of stable and constructive relations with their largest neighbor; and a turn away from the open, confident vision we have held for the Pacific over many years.

Over the long term, and perhaps most important, China -- seeing no economic reason for our decision -- would become more likely to read hostile intent into our every move. This in turn would raise the prospect that our present disagreements and tensions will escalate into something more dangerous for us, for the Chinese and for our Pacific neighbors.

### CONCLUSION

But if we make the right choice, the WTO accession and PNTR offer us a remarkable opportunity: to help spur growth and opportunity at home; to strengthen prospects for long-term reform within China; and ultimately to help build a relationship with China that strengthens guarantees of peace and security for the world.

That is the opportunity before us, if we have the wisdom and the confidence and the vision that Americans had in the era of Roosevelt and Truman. This is why Americans - on the job, on the farm, on our military bases - have more at stake in this vote than in any other decision our government will make in this millennial year. And this is why it is so important that we approve permanent Normal Trade Relations for China, on the basis of our historic agreement.

Once again, my sincere gratitude for honoring me this evening. I thank you very much.

## CHINA'S WTO ACCESSION IN AMERICAN POSTWAR STRATEGY

Ambassador Charlene Barshefsky

U.S. Trade Representative

Bretton Woods Committee

Washington, DC

May 16, 2000

Thank you very much. Let me thank Jim Orr and Bill Frenzel very sincerely for this chance to speak with you on one of the most important American trade and foreign policy decisions in many years: China's accession to the World Trade Organization and permanent Normal Trade Relations status.

It is especially appropriate to discuss this with the Bretton Woods Committee -- because China's WTO accession and PNTR, while in its most basic sense trade and economic issues, also bring us appreciably closer to completion of the vision inherent in the Bretton Woods Conference.

### ONE-WAY CONCESSIONS

As trade policy, the choice before Congress next week is actually quite simple. Our agreement on WTO accession secures broad-ranging, comprehensive, one-way trade concessions on China's part. These concessions:

- Open China's markets to American exports of industrial goods, services and agriculture to a degree unprecedented in the modern era.
- Strengthen our guarantees of fair trade.

- Give us far greater ability to enforce China's trade commitments.
- And facilitate the WTO accession of Taiwan, which has made an equally valuable set of market access commitments.

By contrast, we change no market access policies -- not a single tariff line. We amend none of our trade laws. We change none of our laws controlling the export of sensitive technology. We agree only to maintain the market access policies we already apply to China, and have for over 20 years, by making China's current Normal Trade Relations status permanent.

This is the only policy issue before Congress. Regardless of our decision, China will enter the WTO. Regardless of our decision, it will continue to sell in the American market. The only question Congress will decide is whether we accept the benefits of China's accession and the agreement we negotiated; or whether by turning away from permanent NTR, we enable our competitors to get them while Americans are left behind.

### **PRINCIPLES OF TRADE POLICY**

From the strict perspective of American economic self-interest, there is little reason to say more. But China's accession also has implications for many of the broader goals at the foundation of modern trade policy; which were also the goals of the Bretton Woods Conference itself.

Franklin Roosevelt, requesting Congressional passage of the Bretton Woods proposals in 1945, wrote that as the Second World War approached its end:

"The point in history at which we stand is full of promise and danger. The world will either move toward unity and widely shared prosperity, or it will move apart... We have a chance, we citizens of the United States, to use our influence in favor of a more united and cooperating world. Whether we do so will determine, as far as it is in our power, the kind of lives our grandchildren will live."

We are familiar with the response. With creation of the IMF and the World Bank in 1945 -- and over a few years afterward, ending with the ratification of the NATO Treaty in 1949 -- Americans established policies and institutions of postwar internationalism that have served us for decades:

- Collective security, reflected by the United Nations, NATO, the Rio Treaty and our alliances with the Pacific democracies.

- Commitment to human rights, embodied by the Universal Declaration on Human Rights and then a series of more recent Conventions.
- Open markets and economic stability, with the creation of the IMF and World Bank on the one hand, and the foundation of the General Agreement on Tariffs and Trade, or GATT, on the other.

## ACCOMPLISHMENTS OF THE TRADING SYSTEM

Our generation, as the grandchildren and great-grandchildren of whom Roosevelt spoke, has had the full benefit of this extraordinary accomplishment.

To look at the trade element of the postwar policy structure, since the foundation of the GATT in 1948, we have completed eight negotiating Rounds, and 113 new members have joined the 23 GATT founders. The agenda has broadened from tariffs -- which have dropped by 90% on average -- to non-tariff barriers, dispute settlement, agriculture, services, telecommunications, intellectual property, information technology, financial services and electronic commerce. It continues today, with the WTO's decision in February to open negotiations on agriculture and services, and our work to broaden these talks into a new Round.

When we step back for a moment, we see the enormous benefits the work has brought:

- Growth and Rising Living Standards: The opening of world markets has helped to spark what is in effect a fifty-year boom: since 1950, trade has expanded fifteen-fold; world economic production grown six-fold; and per capita income nearly tripled. And the result has been historically unprecedented social progress: since the 1950s, world life expectancy has grown by twenty years, infant mortality dropped by two-thirds, and famine receded from all but the most remote or misgoverned corners of the world.

- Economic Security: In the Asian financial crisis, with 40% of the world in recession, the respect WTO members had for their commitments kept open the markets necessary for affected nations to recover. Thus the system of mutual benefit and rule of law represented by the WTO helped prevent a cycle of protection and retaliation like that of the 1930s; and ultimately to avert the political strife that can erupt in economic crisis.

- Peace and Stability: And the trading system has helped us address political challenges fundamental to world peace and stability. It helped reintegrate Germany and Japan in the 1950s, and then the nations

emerging from colonial rule in the 1960s and 1970s. It has now taken up a task of equal gravity, as after the Cold War, nearly 30 nations breaking with communist planning - Albania, Croatia and Bulgaria; the Baltics, Ukraine, Russia, Georgia, and Armenia; the Kyrgyz Republic and Mongolia - seek WTO membership to reform their economies and integrate with the world.

## CHINESE REFORM AND U.S. TRADE POLICY

With this we come to China. The world's largest nation, for many years, was one of the great rents in the structure of shared responsibility and mutual benefit represented by the Bretton Woods institutions and the GATT.

When our modern relationship began, China's economy was almost entirely divorced from the outside world. After the Communist revolution in 1949, it had expelled foreign businesses and banned direct economic contact between Chinese citizens and the outside world. At home it offered virtually no space for private farming or business; externally, it conducted what trade it felt necessary through a few Ministries. Such policies impoverished China and contributed to the revolutionary role it adopted in Asia: isolated from Pacific markets, it had little stake in a peaceful and stable region, and every Pacific nation felt the consequences.

In the intervening years, American trade policy has worked to end this isolation. Our policies have advanced specific American trade interests; but they also have pushed forward a strategic vision. By opening China's markets, and helping to give China access to world markets, we have sought to promote reform and economic liberalization within China; ensure that this nation of 1.2 billion plays its proper role as a market and a source of economic growth for its Asian neighbors; ultimately, to help it find a different and healthier role in the Pacific.

This is a strategy consistent with China's own reforms. At home, since the 1970s, China has reversed the most damaging policies of the Great Leap Forward and Cultural Revolution era, abolishing rural communes and reviving private business in villages and cities. Externally, reform has begun to open China to the world, substantially relaxing although not abandoning entirely bans on foreign investment and private export trade.

American trade policy has worked with reform at every step. This has been consistent and bipartisan, from the lifting of the trade embargo in 1972, to our Bilateral Commercial Agreement and grant of Normal Trade Relations (then MFN status) in 1979; renewal of NTR every year since; most recently, detailed agreements on intellectual property, textiles and agriculture. Each rested on concrete American trade interests; each also helped advance reform in China, and integrate China into the Pacific and world economies.

To choose a case in point, our work on intellectual property rights since the early 1990s rests on our commitment to fight theft through piracy of our most creative industries; with more than 70 pirate manufacturing facilities closed, it has helped us to nearly eliminate China's manufacturing and export of pirate CDs and CD-ROMs. But it means more than this: to develop an intellectual property policy is to draft and publish laws; to train lawyers and officials; to improve and ensure access to judicial procedures; ultimately, to create due process of law where it did not exist before. The same is true, more recently, with our work with the Chinese Ministry of Agriculture to develop modern sanitary and phytosanitary procedures.

These are two examples of a much broader process of economic reform, opening to the world, and adoption of internationally accepted trade principles which have served China, its neighbors and ourselves well. In China, they have helped 200 million Chinese men and women escape from poverty. For us, they have sparked \$10 billion in export growth since our Commercial Agreement. And their advantages go beyond material gain.

While China remains an authoritarian and repressive country, reform has strengthened personal freedom and begun to develop the rule of law. It has also made China a more integrated, responsible member of the Pacific community. To note an example, when the Asian financial crisis began, South Korea and the ASEAN were (setting Hong Kong aside) the source of a seventh of China's foreign direct investment, and the market for a sixth of its exports. Thus, while in 1967 these nations were China's ideological rivals, in 1997 they were customers who support Chinese factories and farm incomes, and the investors who create Chinese jobs. This is the backdrop to China's policy in the crisis; and thus also to the fact that the crisis remained an economic and humanitarian disaster rather than a security crisis. It demonstrates, in modern times, the enduring insight of the Bretton Woods leaders on the support an open world economy can give to peace.

### **REFORM INCOMPLETE**

But the work is not yet done. As the economist and reform advocate Cao Siyuan has put it, China has opened the door; but only to reach out and cautiously shake hands.

To look back again on the financial crisis, while China's policy was constructive, important and valuable, its neighbors did not have the opportunity to use China as a market which could spur recovery. ASEAN and Korean exports to China - already low - actually dropped between 1997 and 1998. Or to use another index, closer to home, our \$10 billion in export growth to China since 1980, while substantial, is far less than our export growth to almost any other major trading partner over the same period.

This reflects the fact that reform is incomplete. Some policy legacies of the revolutionary era remain in force today, and others are only partly reformed. Beyond these are more typical trade barriers: high tariffs, largely secret quotas, and industrial policies that require investors to transfer technology, purchase parts only from Chinese sources, and so forth. More generally, the country suffers from poorly developed market institutions and the lack of a reliable rule of law.

These are barriers to American products, but problems for China as well. As China's senior leaders realize - lead to corruption and economic inefficiencies which block China's own prospects for sustainable growth, job creation and technological progress.

### **THE WTO ACCESSION**

Against this background, the WTO accession assumes its full economic significance. Our bilateral agreement address each barrier to American goods, services and farm products, and all the major unfair trade practices. As it does so, it will help China build an economy prosperous and open to the world, to its own benefit and that of its Asian neighbors.

Each commitment is specific, detailed, and fully enforceable -- through our own trade laws, WTO dispute settlement, periodic multilateral review of China's adherence, multilateral pressure from all 136 WTO members, and other mechanisms such as the special anti-dumping rules and anti-import surge remedies. We are already preparing, with the President's most recent budget request, for the largest enforcement effort ever devoted to a trade agreement.

Finally, China's entry will facilitate Taiwan's entry into the WTO. This will have substantial trade benefits, as Taiwan is already a larger export market for us than China. And the opening of both economies, while we have no guarantees, may ultimately play some part in easing the tensions in the Strait. It should thus be no surprise that Taiwan's new leadership supports both China's WTO membership and normalized trade between China and the United States.

### **WTO ACCESSION AND BROADER INTERESTS**

In economic terms, then, to reject PNTR would be foolish. To enter the WTO, China makes one-way concessions; if we do not grant permanent NTR, others will take advantage of them at our expense. And just as the economic merits of the foundation of the GATT system ago were simply one element in the

much larger vision Roosevelt and Truman built between the conclusion of the Bretton Woods Conference and the ratification of the NATO treaty, so today the economic consequence of rejecting PNTR would be the least of the damage.

We have concerns and responsibilities towards human rights and the rule of law in China. Here, many Chinese dissidents and Hong Kong democratic leaders - Bao Tong, jailed for seven years after Tiananmen Square; Ren Wanding, a founder of China's modern human rights movement; environmentalist Dai Qing; Martin Lee, leader of the Hong Kong Democratic Party - believe WTO accession and PNTR are the most significant steps toward reform and the rule of law in China in twenty years. To reject permanent NTR is to ignore their views and turn our backs on nearly thirty years of work to support reform, improve the legal system and offer hope for a better life to hundreds of millions of Chinese. And it is to give up the hope of contributing in the future to a China freer, more open to the world, and more responsive to the rule of law than it is today.

And we have a fundamental national security interest in a peaceful, stable, mutually beneficial relationship with China. And in this sense, to reject PNTR would be reckless.

No trade agreement will ever solve all our disagreements, but this will address many of them; and if we turn down a comprehensive set of one-way concessions, we make a very dark statement about the future possibility of a stable, mutually beneficial relationship with the world's largest country.

Such a statement would threaten our work on all the specific issues in our China policy agenda. It would complicate for the foreseeable future our Pacific alliances, as all our Asian friends and allies would view rejection of PNTR as unprovoked rejection of stable and constructive relations with their largest neighbor. Over the long term, and perhaps most important, China -- seeing no economic reason for our decision -- would become more likely to read hostile intent into our every move; and this in turn would raise the prospect that our present disagreements and tensions will escalate into a broader confrontation of great consequence.

## CONCLUSION

But if we have the wisdom and confidence to make the right choice, before us is a remarkable opportunity.

Over three decades, trade policy has strengthened China's stake in prosperity and stability throughout Asia. Together with our Pacific alliances and military commitments; in tandem with our advocacy of

human rights; and in the best tradition of postwar American leadership, it has helped us build a relationship with the world's largest nation which strengthens guarantees of peace and security for us and for the world.

WTO accession, together with permanent Normal Trade Relations, will be the most significant step in this process -- and thus in the broader process which began at the Bretton Woods Conference -- in many years.

That is the opportunity. These are the stakes as the Congressional debate begins. This is why the Administration is committed to permanent NTR on the basis of this historic agreement, and why it is so important that we succeed.

Thank you very much.

## Statement at Markup of China Permanent NTR Legislation

Ambassador Charlene Barshefsky

U.S. Trade Representative

House Committee on Ways and Means

Washington, DC

May 17, 2000

Mr. Chairman, Congressman Rangel, Members of the Committee:

As the Committee takes up the legislation to extend permanent Normal Trade Relations to China, you will open one of the most important trade and foreign policy debates Americans have held in many years. Let me make only two very brief comments as we begin.

### TRADE IMPLICATIONS

First, with respect to the trade merits, there is nothing to lose and much to gain. To enter the World Trade Organization, China has made comprehensive, one-way trade concessions addressing each of our major concerns. These concessions:

- Open China's markets to American exports of industrial goods, services and agriculture to a degree unprecedented in the modern era.
- Strengthen our guarantees of fair trade.
- Give us far greater ability to enforce China's trade commitments.
- And facilitate the WTO accession of Taiwan, which has made an equally valuable set of market access commitments.

By contrast, as is clear in the legislation before the Committee, we change no market access policies -- not a single tariff line. We amend none of our trade laws. We change none of our laws controlling the export of sensitive technology. To win the benefits of China's concessions, we agree only to maintain the market access policies we already apply to China, and have for over 20 years, by making China's current Normal Trade Relations status permanent.

## STRATEGIC STAKES

Second, the consequence of your action today will extend well beyond tariff lines and export statistics to America's most profound national interests.

The last message President Franklin Roosevelt sent to Congress, seventeen days before his death, called for the opening of the negotiations which led to the first GATT agreement in 1947. Roosevelt called the GATT initiative a chance to "lay the economic basis for the secure and peaceful world we all desire." He closed this message by saying:

"The point in history at which we stand is full of promise and danger. The world will either move toward unity and widely shared prosperity, or it will move apart... We have a chance, we citizens of the United States, to use our influence in favor of a more united and cooperating world. Whether we do so will determine, as far as it is in our power, the kind of lives our grandchildren will live."

Fifty-five years later, we have arrived at a similar historic moment.

China - the world's largest nation, once among the great enemies of the open, peaceful and free world Roosevelt envisioned - has made the commitment to join the trading system which dates to this Presidential message. It has done so, as I noted, through a comprehensive, historic, one-way set of trade concessions.

It is quite true that our relationship with China today remains marked by both deep-seated differences and moments of tension. Neither this WTO accession nor any trade agreement will solve them all; and in our disagreements, Americans must and will assert our values and interests with firmness and candor.

But the WTO accession, together with PNTR, will address a number of these concerns. It is first and foremost a way of redressing an imbalanced trade relationship, but many Hong Kong and Chinese activists for democracy and human rights - Bao Tong, jailed for seven years after Tiananmen Square, whose appeal to the UN Human Rights Commission drew worldwide sympathy last month; Martin Lee, the leader of Hong Kong's Democratic Party; Ren Wanding, a founder of China's modern human rights movement - also see this as China's most important step toward reform in twenty years.

In a deeper sense, it is a test of our strategic vision. If we reject a comprehensive set of one-way concessions, we make a dark statement about the future possibility of stable, mutually beneficial relations with the world's largest country. This would have severe consequences for all the issues on our China policy agenda; gravely shake the confidence of our Pacific allies; and make our present disagreements more likely to lead to crisis and long-term tension in the Pacific.

To opponents of PNTR, one might ask: what would you tell American farm families, for whom it is a ray of hope in economic crisis? What options for reform would you suggest to Mr. Bao, or Councillor Lee? What explanation would you give our Asian allies and our servicepeople in Korea?

## CONCLUSION

By contrast, the legislation before the Committee offers us a remarkable opportunity to advance each of the principal goals of our Pacific strategy.

Over three decades, trade policy has not only helped us to achieve concrete American interests; but promoted reform and opening within China, and strengthened China's stake in prosperity and stability throughout Asia. Together with our Pacific alliances and military commitments; in tandem with our advocacy of human rights; and in the best tradition of postwar American leadership; it has helped us build a relationship with the world's largest nation which strengthens guarantees of peace and security for us and for the world.

China's WTO accession, together with PNTR, will be the most important such step in decades. Let history show that we had the wisdom, the confidence and the vision this moment of danger and promise requires.

Mr. Chairman, Congressman Rangel, Members of the Committee, I thank you very much.

## **CHINA'S WTO ACCESSION AND AMERICAN AGRICULTURE**

Ambassador Charlene Barshefsky

U.S. Trade Representative

American Farm Bureau Federation

Washington, D.C.

May 17, 2000

Thank you very much. Let me also give special thanks to Audrae Erickson for bringing us together this morning.

### **THE STAKES**

This morning, Congress will begin a debate of fundamental importance to the economic prospects for American farm and ranch families, and equally for our country's strategic and national security interests.

The extension of permanent Normal Trade Relations to China, as China enters the World Trade Organization, is the most important trade and foreign policy decision America will make this year; perhaps the most important we have made in many years. The choice Congress makes will affect the prospects of your neighbors on the farm and on the job; reform and the rule of law in China; and America's most fundamental national interests.

But at the basic level, the WTO accession and PNTR are trade issues -- so let me give you a few of the facts and specifics as they relate to our trade interests generally, and to rural America in particular.

## TRADE IMPLICATIONS

As a trade issue, the PNTR decision presents us with a simple choice.

Our agreement on WTO accession secures broad-ranging, comprehensive, one-way trade concessions on China's part. These concessions:

- Open China's markets to American exports of industrial goods, services and agriculture to a degree unprecedented in the modern era.
- Strengthen our guarantees of fair trade.
- Give us far greater ability to enforce China's trade commitments.
- And facilitate the WTO accession of Taiwan, which has made an equally valuable set of market access commitments - and this is especially important for agriculture, as Taiwan is already one of our largest markets for pork, beef, seafood and other ag products.

By contrast, we change no market access policies -- not a single tariff line. We amend none of our trade laws and none of our laws controlling the export of sensitive technology. We agree only to maintain the market access policies we already apply to China, and have for over twenty years, by making China's current Normal Trade Relations status permanent.

This is the only policy issue before Congress. Regardless of our decision, China will enter the WTO. Regardless of our decision, it will continue to sell in the American market. The only question Congress will decide is whether we accept the benefits of China's accession and the agreement we negotiated; or whether by turning away from permanent NTR, we enable our competitors to get them while American entrepreneurs, farmers and factory workers are left behind.

## ONE-WAY CONCESSIONS

What are these benefits?

### 1. China's Concessions

Representatives of rural districts will see new markets open for our farms and ranches for virtually every major American commodity; stronger guarantees of fair trade; and new means of enforcing our rights. Five points to remember:

- Tariff cuts: On U.S. priority products, China's agricultural tariffs will drop from an average of 31% to 14% in January 2004. These include cuts from 40% to 12% for beef; 20% to 12% for pork; 50% to 12% for cheese; 40% to 10% for citrus; 40% to 13% for grapes; 30% to 15% for crayfish, and on down the line.

- Bulk commodities: Access for key bulk agricultural products like wheat, rice, corn, soybean oil and cotton will grow through tariff-rate quotas that offer dramatic new opportunities, and the first rights for private trade in these products. To choose two examples, China imported 2 million tons of wheat last year; under the TRQ, this can rise to nearly 7.3 million tons next year and nearly 10 million by 2004. In corn it is even more dramatic - 250,000 tons of imports this year, a TRQ of 4.5 million tons next year, and up to 7.2 million by 2004.

- Distribution rights: In virtually all commodities, we will have for the first time rights to advertise, warehouse, transport and sell directly to markets, restaurants, and other Chinese buyers without using government middlemen.

- Fair Play: China has agreed to end import bans, cap and reduce trade-distorting domestic supports, eliminate export subsidies, and base border inspections on science.

- Import Policy: We guarantee our rights to use special measures to fight dumping, and create a new means of dealing with import surges from China.

And of course these concessions go beyond agriculture - we will get elimination of tariffs and quotas on high-tech manufactured products and deep tariff cuts in traditional industries like autos and wood products; we will open services markets for telecommunication, finance, the professions and others; and address industrial practices like forced technology transfer and local content requirements on investment.

## **2. Enforcement**

All these commitments are fully enforceable: through our trade laws; WTO dispute settlement; multilateral pressure from all 135 WTO members; increased monitoring by the U.S.; and other mechanisms such as the special anti-dumping and anti-import surge remedies.

Our experience shows that enforcement requires constant attention and vigilance - but also that, when China's commitments are specific, detailed and bound by clear time-tables, enforcement works. This is clear, for example, with respect to the 1999 Agricultural Cooperation Agreement, under which for the first time we are now selling Pacific Northwest wheat, U.S. beef and pork, and citrus from Florida and California to China. And we are already preparing for the largest enforcement effort ever given to any trade agreement.

### 3. Taiwan's WTO Accession

Finally, and this is very important, China's entry will facilitate the entry of Taiwan into the WTO, as Taiwan's new leadership has noted in its formal support for China's membership and normalized trade with the U.S.. Taiwan's accession will have substantial direct trade benefits for the US, as Taiwan is already a larger export market for us than is China, and already is one of our largest markets for pork, seafood, grains and fruit.

### PNTR

By contrast to these historic commitments, our sole obligation is to grant China permanent NTR. If we fail to do so, we risk losing the full benefits of the agreement we negotiated, including broad market access, special import protections, and rights to enforce China's commitments through WTO dispute settlement.

This, in terms of our policy toward China, is no real change. NTR is simply the tariff status which every Administration and Congress in the past 20 years has reviewed and found, even at the periods of greatest strain in our relationship, to be in our fundamental national interest.

But the legislative grant of permanent NTR is critical. Without it, we will lose the vast majority of China's concessions, while our competitors take full advantage of them. Northern tier farmers would see the Canadian Wheat Board get the benefits of the agreement Americans negotiated. The potato industry estimates that rather than gaining \$75 million in new exports over three years, it will *lose* \$90 million

worth of current sales to China during that same 3-year period, instead. Southwestern ranchers would lose out to Argentina and Australia; citrus growers in Florida, Arizona and California to Brazil and Southeast Asia.

## **WTO ACCESSION AND CHINESE REFORM**

So from an economic standpoint, to grant permanent NTR risks nothing and would mean a ray of hope for the thousands of farm and ranch families who have been struggling to make it since the Asian financial crisis. To reject it would be a blow to these families and to America's national economic interests.

And the consequences would likely go much further. As even my very brief review of China's commitments indicates, as it joins the WTO China will do much more than reduce tariffs and other trade barriers at the border. The WTO accession will, in fact, alter and reform policies dating to the very earliest years after the Communist revolution. China will -

- For the first time since the 1940s, permit foreign and Chinese businesses to import and export freely from China.
- Reduce, and in some cases remove entirely, state control over internal distribution of goods and the provision of services.
- Enable, again for the first time since the 1940s, foreign businesses to participate directly in information industries such as telecommunications, including the Internet.
- And subject government decisions in all fields covered by the WTO to impartial dispute settlement when necessary.

Many Hong Kong and Chinese activists for democracy and human rights see such commitments as a remarkable victory for reform. They include Bao Tong, jailed for seven years after Tiananmen Square, whose appeal to the UN Human Rights Commission drew worldwide sympathy last month; Martin Lee, the leader of Hong Kong's Democratic Party, who made a special trip to the United States last week to call on Congress for support for PNTR; Ren Wanding, a dissident who has spent years of his life in prison. This is why rejection of PNTR would be a blow to reform in China; and why support for WTO accession rests on a broader long-term commitment to human rights and freedoms, as well as new opportunities and strengthened guarantees of fairness for Americans.

## **WTO ACCESSION AND U.S. NATIONAL SECURITY**

But the full significance of the decision Congress will make is only clear when we consider the WTO accession as part of a larger U.S. relationship with China -- a relationship that is of fundamental importance to peace and security in Asia and worldwide in the coming decades.

We have substantial differences with China on issues relating to human rights and religious freedom; on a number of security questions; and in other areas as well. In these we vigorously assert our interests and values. But we also act upon areas of shared interest and benefit whenever possible - in the Asian financial crisis, for example; and in our work to keep the peace on the Korean peninsula.

In the WTO accession and PNTR we have an opportunity of comparable importance: to create a more open and reformed Chinese economy, which more fully reflects the rule of law; to increase China's stake in prosperity and security beyond its borders; and to spur jobs, growth and rising living standards for America's farmers, businesses and workers. And we have created this opportunity through a series of one-way concessions made by China.

Were we to retreat and reject these one-way concessions, we would make a very dark statement about the future possibility of a stable, mutually beneficial relationship with the world's largest country.

Such a stand would threaten every single interest we have in China -- from our work on non-proliferation and arms control, to reducing tensions in Korea and South Asia, and across the Taiwan Strait. It would complicate for the foreseeable future our Pacific alliances, as our Asian friends and allies would view rejection of PNTR as an unnecessary rejection of stable and constructive relations with their largest neighbor; and a turn away from the open, confident vision we have held for the Pacific over many years.

Over the long term, and perhaps most important, China -- seeing no economic reason for our decision -- would become more likely to read hostile intent into our every move. This in turn would raise the prospect that our present disagreements and tensions will escalate into a broader confrontation of great consequence for every Pacific nation and for ourselves.

## CONCLUSION

That is the ultimate and most significant point at stake in the coming debate. To reject PNTR would do

more than severely damage American trade interests: it would set back the cause of reform in China; and risk, without cause, a fundamental deterioration in our relationship with the world's largest country.

But if we have the wisdom and confidence to make the right choice, the WTO accession and PNTR offer us a remarkable opportunity: to help farm families prosper and spark growth in rural communities across America; to strengthen prospects for long-term reform within China; and ultimately to help build a relationship with China that strengthens guarantees of peace and security for the world.

That is the opportunity before us. These are the stakes. Your friends and neighbors - on the job, on the farm, on military bases - have more at stake in this vote than in any other decision our government will make in this millennial year. And this is why it is so important that we approve permanent Normal Trade Relations for China, on the basis of our historic agreement.

Thank you very much, and now I will take your questions.

## Remarks to the Millennial Class

Ambassador Charlene Barshefsky

U.S. Trade Representative

2000 Commencement Address

Hood College

Frederick, MD

May 20, 2000

Good afternoon. Let me offer my thanks to President Shirley Peterson for inviting me to speak with you today; and to the graduates and your families, my deep gratitude for your willingness to share this special day.

It is a special honor to be invited by President Peterson, who is an old and dear friend; one of our country's trailblazers for women -- in education, in law and in government; and a person whose life exemplifies both personal success and commitment to the public good.

### **TOUCHED BY HISTORY**

Your class has the benefit of these enduring values. Those of you who spent some of your time in Latin American studies or in Spanish House may remember lines from Sor Juana Ines de la Cruz, in her essay on the education of women:

"I might be reading, and those in the adjoining room would wish to play their instruments and sing; I

might be studying, and two who had quarreled would ask me to settle their dispute; I might be writing and a friend come to visit me, at which time one must not only accept the inconvenience but be grateful."

Whether you studied Hispanic poetry, engineering or biology, I think all of you can recognize this experience. Your time here at Hood, for four years or a bit more, in the case of the Brodbeck Scholars, has given you the rare chance to live such a life and learn such values - rigorous work and enduring friendship, awareness of responsibility and time for family.

You share this with each class before you and each class to follow. But you also leave Hood with a special and unusual distinction: you are touched by history.

As the millennial graduating class, historians and memoirists will write about you as a symbol of change and renewal. And they will look back upon this year -- with pride in achievement or regret at opportunities lost -- as one that, perhaps more than any in our country's history, embodied the hope and opportunity symbolized by the first two pillars of Alumnae Hall.

It is a time of material wealth. You will leave Hood in the longest era of uninterrupted growth in our country's history; the longest period of income growth since the 1960s; and a moment in which women have more opportunities than ever before. To choose only one statistic, last month we reached the lowest unemployment rate for women since 1953 - a date closer to the ratification of the Women's Suffrage Amendment than to the Million Mom March.

It is an age of revolutionary progress in science and medicine: computers and the Internet link Hood students with friends, family and colleagues around the world; scientists a few miles away at research firms and the National Institutes of Health will soon publish the sequence of the human genetic code; machines built in the United States have cloned sheep, X-rayed the fossilized hearts of dinosaurs and walked across the face of Mars.

It is an era of not universal but widely shared international calm: our country is at peace with the great nations of the world; the principles of democracy and rule of law to which we aspire are more widely accepted than ever before.

## **THE TEMPTATIONS OF PROSPERITY**

It is a fortunate time to be alive; and a remarkable era in which to leave Hood, whether to begin your careers or to continue your studies. We should be thankful for this; but as we are appropriately thankful, we should also recognize that none of our blessings are absolute:

- In an era of unmatched prosperity, poverty and violence persist in many areas of the United States; and some of the policies which make up America's social safety net - health insurance, Head Start, Social Security - have gaps or face financial challenge.

- The advance of science and technology brings with it complex questions, from the implications of telecommunications and the Internet for the protection of privacy, to the changes that understanding of the genetic code will bring to agriculture and medicine.

- As we enjoy an era of peace, beyond our borders great questions remain: the scandals of enduring poverty and of child labor; the spread of HIV and AIDS; environmental challenges from climate change to the loss of species; conflicts in some regions and unresolved divisions among the great powers.

And in this moment, when our nation enjoys such security and prosperity, all of us face a great temptation. Individuals can turn inward, thinking simply of careers and personal advancement. Countries can do likewise, accepting the status quo or believing that when others prosper, it is at their expense. We know this is true because it has happened before -- and my own field of trade policy is one of the great examples.

## USTR AND U.S. TRADE POLICY

As the U.S. Trade Representative, I run an agency which addresses nearly \$2.5 trillion in American trade with the world; monitors and enforces a network of agreements that has grown by nearly 300 since 1992; and develops the agenda of the future.

Incidentally, this is a place where -- as much as anywhere in the government -- women set out and execute America's policy agenda. I am joined by the President's political appointees, including my Deputy Susan Esserman, who spoke at Hood last year; our Geneva Ambassador Rita Hayes; our Chief of Staff; our principal career negotiators for Japan, Europe, Africa and the World Trade Organization and our acting chief negotiator for manufacturing and high-tech industry; our lead officers on both enforcement and trade and the environment; our chief of Congressional relations; and many others.

What is especially interesting and instructive about the Office of the USTR, though, is that much of our work - over more than half a century of American trade policy - has revolved around the attempt to undo a single act of folly made at a very similar moment in American history.

This was the passage of the Smoot-Hawley Act seventy years ago, as your predecessors graduated from Hood in 1930. That era in many ways resembled our own: it was a time of rapid economic development, new technologies and enthusiasm for the stock market; a time when many felt the world was rushing in on us through trade, immigration and cultural change.

In these years, trade had raised concerns much like those we see today. Just as in the 1990s, trade with what Herbert Hoover called the "young expanding countries" in Asia and Latin America had grown rapidly. And -- just as we have seen in this month's debates over trade with Africa, the Caribbean and China -- many feared prosperity in these countries would come at our expense. They believed, as Hoover put it in a message to Congress, that we "cannot successfully compete against foreign producers because of lower foreign wages and a lower cost of production."

This argument appeals to powerful fears: to date they have not prevailed, but in 1929 and 1930 they did. The result is still taught in history and economics departments: the adoption of the Smoot-Hawley Act, and a cycle of tariff hikes and retaliation which, spreading around the world under the pressure of financial crisis, cut trade by 70% between 1930 and 1933. The result deepened and lengthened the Depression, intensified the political tensions of the era and -- at least in the view of our postwar leaders -- contributed to the outbreak of war. It was a mistake made under the pressure of fears which are natural, understandable and as alive today as they were seventy years ago.

## **DEVELOPMENT OF THE TRADING SYSTEM**

The initiative which has been at the heart of American trade policy since the postwar era, and which is our central focus in the Clinton Administration -- the trading system embodied first by the General Agreement on Trade and tariffs, and now by the World Trade Organization -- is a response to these events. The postwar leaders had learned by experience that, to quote Franklin Roosevelt:

"A basic essential to peace, permanent peace, is a decent standard of living for all individual men and women and children in all nations. Freedom from fear is eternally linked with freedom from want. [And] it has been shown time and time again that if the standard of living in any country goes up, so does its purchasing power -- and that such a rise encourages a better standard of living in neighboring countries with whom it trades."

This is a more generous, more confident and also a more realistic view than that presented by Hoover. For half a century we have acted on it, slowly building a world of open markets under the rule of law, in which the trading system now embodied by the World Trade Organization was accompanied by the policies and institutions of postwar internationalism:

- Collective security, reflected by the United Nations, NATO, the Rio Treaty and our alliances with the Pacific democracies.
- Commitment to human rights, embodied by the Universal Declaration on Human Rights and then a series of more recent Conventions.
- Open markets and economic stability, with the creation of the IMF and World Bank on the one hand, and the foundation of the WTO's predecessor organization, the General Agreement on Tariffs and Trade or GATT, on the other.

The trading system now embodied by the World Trade Organization is imperfect and can be reformed and improved; but when we step back for a moment we see its enormous benefit. In economic terms, since the foundation of the GATT trade has expanded fifteen-fold; the world economy grown six-fold; and per capita income nearly tripled. The results has been an unprecedented era of social progress: since the 1950s, world life expectancy has grown by twenty years; infant mortality dropped by two-thirds; and famine receded from all but the most remote, war-torn or misgoverned corners of the world. This has also made a substantial contribution to the economic strength of our own country.

And in political terms, the trading system has helped us address questions central to world peace and stability: reintegrating Germany and Japan in the 1950s; helping the nations emerging from colonial rule in the 1960s and 1970s find their place; and now, after the Cold War, promoting economic reform and integration with the world for nearly 30 nations breaking with communist planning systems.

## THE CHINA DEBATE

Next Tuesday, Congress will open one of the most important debates in the history of this system, as it considers China's decision to join the WTO.

In purely economic terms, for Americans China's WTO accession means stronger guarantees of fair trade, and new export and job opportunities across the spectrum of farm products, industrial goods and services.

For China - for decades one of the great enemies of the system of open markets under the rule of law the WTO represents - WTO accession is a way to deepen and accelerate economic reforms which have created partial but real personal freedoms, and lifted more than 200 million men and women out of poverty.

For advocates of democracy and human rights in China and Hong Kong - men and women like Bao Tong, jailed for seven years after Tiananmen Square; the writer and environmentalist Dai Qing; Martin Lee, leader of Hong Kong's Democratic Party - they are China's most important step toward reform and liberalization in 20 years.

And for our Pacific neighbors they mean a more full and secure integration of China into the regional economy, and therefore a greater stake for Asia's largest nation in regional peace and stability.

This first great debate of the new millennium therefore poses a test to our strategic vision. If we remain true to the confident internationalism we have asserted since the postwar era, and to the generous ideas of shared responsibility and mutual interest at the heart of these principles, we can address some of the disagreements and tensions in our relationship with China; and we can do our part to build the foundation for a relationship of fundamental importance to peace in the decades ahead.

If, to the contrary, we again turn inward under the pressure of fears and uncertainties, we will - in hoping to preserve the status quo - take a step, as the President says, towards a future of dangerous confrontation and constant insecurity.

## CONCLUSION

This choice, in a way, symbolizes the larger choice facing our country as the new century begins; and which in some ways reflects the individual choices each of us must make as we balance our careers and personal goals with our responsibilities to neighborhood and country.

Each of the blessings we enjoy today comes with its own challenges and responsibilities. We can choose to take these challenges up; or we can choose to let them be. As Edmund Burke wrote, "for the triumph of evil all that is necessary is for good men to do nothing." And for better or worse, countless generations of women have learned to expect men - good, bad or indifferent - to do exactly that - nothing

- whenever they get the chance.

So the future is up to you. As you create it, the Class of 2000 will find history watching you more closely, and recording your decisions more carefully, than it will do for any class before or since. This may be an accident of the calendar, but it is reality.

But for this challenge, you could have no better preparation. Those habits and values Hood has taught - discipline and determination; skeptical thought and inquiry; cooperation for the common good - will be with you forever.

They will serve you well; and they will serve the world well. Once again, my congratulations on this special day; and I thank you very much.

## Remarks at US-China Business Council Dinner

Ambassador Charlene Barshefsky

U.S. Trade Representative

U.S.-China Business Council

Washington, DC

June 1, 2000

Thank you very much, Michael, and let me express my deep gratitude to the Council for this recognition. I would like to recognize Ambassador Li and Ambassador Prueher; and let me also recognize and applaud the hard work that Bob Kapp, the Council staff and so many of you here tonight have devoted to the WTO negotiations with China and to the debate of the past weeks on permanent Normal Trade Relations.

In accepting this award, I am grateful not only for myself. In honoring me, you also recognize the hard work and exceptional performance of an outstanding group of public servants from the office of the USTR - our China negotiating team, our Congressional and public affairs offices. Their dedication and perseverance enabled us first to conclude our historic agreement on China's WTO accession, and then make the case for it over the past six months to Congress and the American public.

You have a busy program this evening, and I won't take much time. But let me make a few points about the significance of the work we have done thus far, and then offer some thoughts on what lies ahead.

### **SIGNIFICANCE OF THE TRADING SYSTEM**

As China enters the World Trade Organization, it is joining a system now more than half a century old. Its purpose, as Franklin Roosevelt said in calling for the negotiations which led to foundation of the

GATT system in 1948, was two-fold:

- To create shared opportunities for job creation and growth, based upon clear economic benefits of open markets at home and abroad; and still more important,
- To give nations a greater stake in one another's stability and prosperity, as Roosevelt put it, to "lay the economic basis for the secure and peaceful world we all desire."

This is the vision at the heart of today's WTO; and this is its record in practice. Through ten Administrations, Americans have built a world economy is more open, more free, and more respectful of the rule of law. Through eight negotiating Rounds, and as 113 economies joined the 23 GATT founders, we have seen trade expand fifteen-fold; the world economy grow six-fold; and per capita income nearly triple. The result has been an unprecedented era of social progress: since the 1950s, world life expectancy has grown by twenty years; infant mortality dropped by two-thirds; and famine receded from all but the most remote, war-torn or misgoverned corners of the world.

This work, though largely slow and incremental, has also been punctuated by a few events of singular importance: the original GATT Agreement, with its rejection of the closed Depression-era trade policies; the reintegration of Germany and Japan after the Second World War; the opportunity for nations emerging from colonial rule to find their place in the world in the 1960s and 1970s; the broadening and modernization of the trading system through the creation of the WTO in 1995.

### **CHINA'S WTO ACCESSION AND PNTR**

As we open this new century, we are about to see the return of China -- a founding member of the GATT, and then for decades a challenger to the vision it represented. This is an event as significant as any of the great landmarks in the history of the trading system.

- For China, it is a defining moment in the nation's modern history. Taken line by line, WTO accession, under the terms of our bilateral agreement, will spark the liberalization and reform of hundreds of different industries; the advance of the rule of law throughout the Chinese economy; new job opportunities and a higher standard of living for the Chinese. Taken as a whole, it marks the most important step toward reform in twenty years; and an opening to the world unprecedented in modern times.

- For China's Asian neighbors, it is of no lesser importance. In economic terms, the opening of China's markets will mean new opportunities for businesses and farmers throughout Southeast Asia, Korea, Japan, Russia and Central Asia, enabling China to play its natural role as a source of growth and prosperity for the region - a development of great importance at any time, but especially welcome in the aftermath of the financial crisis. Equally or more important, China's growing integration into the Pacific and world economies will be a contribution to the region's long-term political stability.

- For the United States, China's WTO entry -- together with Congressional approval of permanent Normal Trade Relations -- is of course an economic opportunity. But these are also events whose implications go well beyond tariffs and export statistics.

They, first of all, offer a hopeful signal on fundamental questions of world peace and security. All of us this evening understand that stable and mutually beneficial ties between the United States and China can be among the Pacific's principal guarantees of peace and prosperity; we are equally aware of the dangers that would arise from tension and suspicion. In our WTO negotiations, and in the House's action on PNTR last week, our relationship has shown maturity and statesmanship on both sides of the Pacific: we have been able to resolve issues on which we have often disagreed; and also to recognize and act upon important areas of mutual interest and shared benefit. None of us this evening can foresee the future, and many elements beyond economics will play a part in the development of this relationship in the coming years -- but the conclusion of our agreement and the House's approval of PNTR are very good signs.

And as we think about trade policy more generally, the WTO accession and PNTR are an equally clear and positive signal. The House's bipartisan vote for PNTR comes shortly after the Congress's overwhelming approval of the Africa and CBI legislation last month, and the similar result we expect when Congress takes up the five-year review of the World Trade Organization later in June. Together, these are a very strong endorsement of America's continuing support for and leadership in a policy of open markets and free trade. With this we open the new century on a note of optimism and confidence in America's leadership in building a more open, more free and more decent world economy for the generations to come.

## NEXT STEPS

We can, therefore, be very pleased with the point we have reached today. But this does not mean that we have time to rest.

First, the Senate has yet to open its debate. We have a good sign in the Finance Committee's 19-1 vote for PNTR two weeks ago, and indications of broad support in the Senate as a whole; but we are taking

nothing for granted. We will be meeting and speaking with the leadership and individual Senators over the coming days on PNTR and on the importance of the Levin-Bereuter Commission proposal. Our hope is that the Senate will act quickly, beginning the debate in earnest by the week of June 12<sup>th</sup>, and if possible bringing the bill to a vote by the end of that week. The more we delay, the more we place the achievements to date at risk.

## CONCLUSION

In conclusion, in your work on China's WTO accession and PNTR, you have been part of a project of great historic importance.

As China enters the WTO, we are taking up the task Roosevelt began in 1945: the patient creation of the architecture of prosperity; and the establishment of the economic foundation of a peaceful and secure world for this new century.

Our success to this point is a sign which should offer great hope to Americans, to Chinese, and to the world. You can be very proud of the time and effort you have given over the past months; and I trust that you will be with us at the successful of the work.

Once again, I thank you very much for this moment of recognition.

## **INFORMATION TECHNOLOGY AND TRADE POLICY:**

### **A LOOK BACK, A LOOK AHEAD**

**Ambassador Charlene Barshefsky**

**U.S. Trade Representative**

**Computer and Communications Industry Association**

**Washington, DC**

**June 5, 2000**

Thank you very much, and let me thank Ed Black for inviting me to speak with you this afternoon.

Today I would like to give you a brief look at the place trade policy has in the emerging network economy; the goals we have set at the WTO and in our trade policy generally; and the major initiatives we have underway.

### **INFORMATION TECHNOLOGY, COMMUNICATIONS AND TRADE**

To begin with, the world of information technology, telecommunications and electronic commerce presents trade policy with a unique challenge.

Our goals in these areas are fairly straightforward. We hope to develop a coherent set of trade agreements and principles, accepted worldwide, which ease commerce, to spark demand for new services, and promote technological progress; which help ensure low-cost access to telecommunications and the Internet, enabling developing countries and impoverished regions to gain the full advantages of the networked economy; and prevent the creation of unnecessary new barriers while ensuring strong consumer protection.

But in developing our high-tech trade policies, we are asked to respond to wholly new types of goods and services, new means of conducting trade, and the fact that technological change can at times move much faster than policy development. Trade is not alone in this challenge, of course -- it is equally true of other fields from education to finance, medicine, the military and the arts -- but it nonetheless confronts us with problems we have not faced before. So we begin with some basic principles:

- In a rapidly changing environment, we should carefully think through what actions we take in these early years of e-commerce and the Internet, to ensure that we do not face unwanted consequences later.
  
- Policy will develop most effectively through cooperative action and discussion by governments, industry and others affected by electronic commerce.
  
- We must carefully watch, respond to, and when possible help shape policy developed around the world, as the Internet knows no borders and policy changes overseas will have an effect on the worldwide development of the high-tech economy.

What we have done, therefore, is to proceed deliberately, but also conscious of challenges that will not wait: from the loss of potential opportunities if barriers begin to arise, to the dangers of an emerging international digital divide. We have used all our principal trade negotiating fora -- the WTO, including multilateral agreements and negotiations on the accession of China and other new WTO members; our regional initiatives including APEC, the Transatlantic Economic Partnership, the Free Trade Area of the Americas talks, all of which include have a special focus on electronic commerce, and the President's Africa policy initiative; and our bilateral negotiations with Japan and other major trading partners. And taken as a whole, this has been one of the most productive fields for trade policy over the past five years.

## **THE WORK TO DATE**

In the work to date, we see four major accomplishments, which together make up a strong foundation for the years to come.

### **1. Information Technology Agreement**

The first of these is the opening of trade in the hardware essential to a worldwide telecommunications network.

Here the keystone is the Information Technology Agreement. This agreement, building on the success of the Semiconductor Agreement with Japan, eliminates all tariffs on semiconductors, computers, computer equipment, integrated circuits, telecommunications equipment and many related manufactured goods - the equipment every business needs to access the Internet, find customers, and make its factories more productive. This covers 95% of the world production of these products, and \$600 billion in trade at the conclusion of the agreement three years ago.

We are now seeking consensus on an expansion of this agreement -- the "ITA II" -- to include even more products. And at the same time, in our negotiations on accession to the WTO, we are asking that new members join the ITA. China is the best-publicized example, where we have full commitments to eliminate tariffs on these products by 2004, but we can also cite other countries which have or will soon join the WTO -- Latvia, Estonia, Georgia, Jordan, Albania and many others.

## **2. Basic Telecommunications Agreement**

The second element is liberalization of trade in telecommunications services.

Here the central achievement is the WTO Agreement on Basic Telecommunications, which came into force in February, 1998. This opened up 95% of the world telecommunications market to competition, promoting pro-competitive regulatory principles in all participants and covering the vast majority of nearly \$1 trillion in telecommunications trade. The results of this agreement are now becoming clear, and they are remarkable.

- Over just two years, the ability of dominant carriers overseas to keep rates artificially high and depress demand for telecommunications services and electronic commerce has sharply eroded, helping cut rates to levels as low as 10 to 20 cents per minute for calls between the United States and some of our most common telephone destinations.
- With the broader market access and increased investor stability provided by WTO commitments, new investment in undersea fiber optic cables may spark a fifty-fold increase in capacity by the end of 2001, compared to mid-1999.
- The growth prospects for this sector are truly extraordinary: in the last five years, traffic flowing over telecom networks has increased ten-fold, and the rate of growth is rising, with Internet traffic now

doubling every ten days.

Again, however, much work remains ahead. For one thing, the Basic Telecom Agreement can be broadened through new membership. As in the case of the ITA, we are encouraging both current and new WTO members to participate in the Basic Telecom Agreement. China's commitments, including ending investment bans, implementing pro-competitive regulatory principles and opening up paging and value-added services like the Internet are a case in point.

Telecommunications liberalization is also a top priority in our negotiations with Japan. Up to now, Japan does not appear to have met its obligation to ensure cost-oriented interconnection rates and impartial domestic regulation. The phone and Internet access high rates Japanese businesses and citizens now pay -- 2-5 times as much for phone service as other OECD countries; 8-10 times as much as Americans for Internet access -- are the consequence. This is an impediment not only to imports of telecom services, but to Japanese growth and competitiveness over the long term.

We have succeeded in increasing use of information technology in large part through policies that continue to reduce costs. Last week, for example, the FCC ordered interconnection rate reductions in the U.S. of \$3.2 billion. If Japan is to avoid falling further behind in information technology, it should be implementing similar reforms. NTT's claim that it is in too weak a financial position to absorb competition has no merit -- as its recent earnings reports and global multi-billion dollar acquisition spree demonstrate. We will resume our negotiations next month on this issue, and will decide by the end of July whether additional action, including in the WTO, would be appropriate.

### 3. Trade in Services

Integrally connected to the development of the telecommunications network and telecom services is a more open trading world for services generally. This will both take advantage of and spark further development of the telecommunications network worldwide, as an open telecom network enables entrepreneurs to market services and develop new ones; and as that increased demand sparks greater investment in telecommunications networks worldwide.

With the completion of the Uruguay Round, we made substantial progress, as the WTO's General Agreement on Trade in Services (GATS) took the fundamentally important step of creating a set of rules and set some precedents for market access commitments as well. The agreements in 1997 on Financial Services brought us further, with commitments to market access and national treatment totalling nearly \$60 trillion in banking, insurance and securities transactions each year. And this is an accomplishment we can match across dozens of industries through the services negotiations which opened at the WTO in February: energy services, environmental, audiovisual, express delivery, the professions, private

education and training, private healthcare, travel and tourism, and other sectors. The electronic services that underpin e-commerce - advertising, computer and information services, distribution, financial services, telecommunications and other areas - will also be a major focus of the talks.

#### **4. Electronic Commerce**

Finally, electronic commerce and the Internet.

This is a unique challenge to policy, as in a field which has only the goal here is less to remove existing barriers than it is to prevent their emergence in the future. Here, therefore, our most immediate priority is to preserve the principle of "duty-free cyberspace" - that is, ensuring that electronic transmissions over the Internet remain free from tariffs. This was a commitment the WTO made on a temporary basis in 1998, and we will push for its further extension, with the goal of making it permanent at the earliest possible time.

We are also focusing on a longer-term work program, whose goals include ensuring that our trading partners avoid measures that unduly restrict development of electronic commerce; ensuring that WTO rules do not discriminate against new technologies and methods of trade; according proper application of WTO rules to trade in digital products; and ensuring full protection of intellectual property rights on the Net.

Our colleagues in other agencies are working in parallel with this on equally important questions - for example on privacy issues, where we made a significant advance last week with agreement on the European Union on measures that will both protect consumer privacy and prevent unnecessary barriers to transatlantic electronic commerce.

#### **NEXT STEPS: THE NETWORK ECONOMY**

To sum up, our work over the past five years has helped to lay the policy foundation for an international networked economy: it has helped to ease access to the hardware at the heart of the system; to encourage innovation and low-cost provision of telecom services; to stimulate use of the network by opening services markets; and to ensure that electronic commerce continues to grow free of unnecessary barriers.

What then are the next steps? The answers will take extensive consultation and negotiating, but let me

suggest a few conceptual goals.

First, unimpeded new investment in network capacity and services using the Internet. Here the WTO will play a key role in providing the trade framework, addressing not only market access and regulatory issues, but also evolving standards and business models - where previously distinct services, for example, are converging. As a starting point, ensuring that pro-competitive disciplines such as the WTO Basic Telecommunications Reference Paper are fully implemented and adopted to market development will promote investment in competing networks, thus helping to reduce prices and increase the supply of innovative communications services.

Second, government must partner with the private sector in developing regulatory regimes where needed, with a preference for forbearance in favor of market-based self-regulation. All governments have a right to pursue legitimate domestic objectives through their regulatory systems. The dynamism of electronic commerce, however, has demonstrated that effective pursuit of social goals in this area depends on working closely with the private sector.

Third, enforcement of intellectual property rights, updated to the digital environment. As is universally recognized, electronic networks provide a revolutionary means for distributing digital products. It also, however, requires us to think about new business models and perhaps new approaches to IPR policy: this is already clear in domestic disputes about transmission of music and will become a much greater international issue quite soon.

Fourth, continue to focus on elimination of tariffs on high-technology products. The evidence that high tariffs on information technology products is harmful to a nation's economic health is compelling. We need to keep pushing to ensure that short-term concerns over revenue losses do not prevent countries from embracing the long-term benefits increased trade in these products will bring, most immediately with the broadening of the existing Information Technology Agreement through the "ITA II."

Fifth, encourage governments to be early adopters of information technology. This will help spread information technology skills and usage throughout their economy. Examples can include facilitation of trade through greater use of electronic networks for customs clearance, licensing, and dissemination of regulations.

Sixth, avoid a global digital divide. This is a basic goal of our capacity-building programs, including the Leland Initiative in Africa and the Internet for Economic Development program, which help developing countries gain expertise in information technology skills, establish Internet service providers, and otherwise take advantage of the opportunities the networked world offers.

## CONCLUSION

Let me conclude with one final thought.

These industries, as remarkable as they are, are still in their infancy. Each of us, from our different perspectives, has the privilege of being present at the creation of something very new. And that in turn comes with the great responsibility to act with caution, good sense, and vision of what the future can bring.

A careful, coherent, and sustained trade policy in the information industries -- combining access to computers and related goods with low-cost access to telecom services, support for innovation -- is at the heart of the open, equitable and progressive networked economy we can create in the new century. This in turn will do more than almost any initiative to reach the goals at the heart of trade policy: broadening opportunity, sparking technological progress, raising living standards and reducing poverty.

That is the goal we have set; and we will take the time to get it right.

## Remarks at US-China Business Council Dinner

Ambassador Charlene Barshefsky

U.S. Trade Representative

U.S.-China Business Council

Washington, DC

June 1, 2000

Thank you very much, Michael, and let me express my deep gratitude to the Council for this recognition. I would like to recognize Ambassador Li and Ambassador Prueher; and let me also recognize and applaud the hard work that Bob Kapp, the Council staff and so many of you here tonight have devoted to the WTO negotiations with China and to the debate of the past weeks on permanent Normal Trade Relations.

In accepting this award, I am grateful not only for myself. In honoring me, you also recognize the hard work and exceptional performance of an outstanding group of public servants from the office of the USTR - our China negotiating team, our Congressional and public affairs offices. Their dedication and perseverance enabled us first to conclude our historic agreement on China's WTO accession, and then make the case for it over the past six months to Congress and the American public.

You have a busy program this evening, and I won't take much time. But let me make a few points about the significance of the work we have done thus far, and then offer some thoughts on what lies ahead.

### **SIGNIFICANCE OF THE TRADING SYSTEM**

As China enters the World Trade Organization, it is joining a system now more than half a century old. Its purpose, as Franklin Roosevelt said in calling for the negotiations which led to foundation of the

GATT system in 1948, was two-fold:

- To create shared opportunities for job creation and growth, based upon clear economic benefits of open markets at home and abroad; and still more important,
- To give nations a greater stake in one another's stability and prosperity, as Roosevelt put it, to "lay the economic basis for the secure and peaceful world we all desire."

This is the vision at the heart of today's WTO; and this is its record in practice. Through ten Administrations, Americans have built a world economy is more open, more free, and more respectful of the rule of law. Through eight negotiating Rounds, and as 113 economies joined the 23 GATT founders, we have seen trade expand fifteen-fold; the world economy grow six-fold; and per capita income nearly triple. The result has been an unprecedented era of social progress: since the 1950s, world life expectancy has grown by twenty years; infant mortality dropped by two-thirds; and famine receded from all but the most remote, war-torn or misgoverned corners of the world.

This work, though largely slow and incremental, has also been punctuated by a few events of singular importance: the original GATT Agreement, with its rejection of the closed Depression-era trade policies; the reintegration of Germany and Japan after the Second World War; the opportunity for nations emerging from colonial rule to find their place in the world in the 1960s and 1970s; the broadening and modernization of the trading system through the creation of the WTO in 1995.

### **CHINA'S WTO ACCESSION AND PNTR**

As we open this new century, we are about to see the return of China -- a founding member of the GATT, and then for decades a challenger to the vision it represented. This is an event as significant as any of the great landmarks in the history of the trading system.

- For China, it is a defining moment in the nation's modern history. Taken line by line, WTO accession, under the terms of our bilateral agreement, will spark the liberalization and reform of hundreds of different industries; the advance of the rule of law throughout the Chinese economy; new job opportunities and a higher standard of living for the Chinese. Taken as a whole, it marks the most important step toward reform in twenty years; and an opening to the world unprecedented in modern times.

- For China's Asian neighbors, it is of no lesser importance. In economic terms, the opening of China's markets will mean new opportunities for businesses and farmers throughout Southeast Asia, Korea, Japan, Russia and Central Asia, enabling China to play its natural role as a source of growth and prosperity for the region - a development of great importance at any time, but especially welcome in the aftermath of the financial crisis. Equally or more important, China's growing integration into the Pacific and world economies will be a contribution to the region's long-term political stability.

- For the United States, China's WTO entry -- together with Congressional approval of permanent Normal Trade Relations -- is of course an economic opportunity. But these are also events whose implications go well beyond tariffs and export statistics.

They, first of all, offer a hopeful signal on fundamental questions of world peace and security. All of us this evening understand that stable and mutually beneficial ties between the United States and China can be among the Pacific's principal guarantees of peace and prosperity; we are equally aware of the dangers that would arise from tension and suspicion. In our WTO negotiations, and in the House's action on PNTR last week, our relationship has shown maturity and statesmanship on both sides of the Pacific: we have been able to resolve issues on which we have often disagreed; and also to recognize and act upon important areas of mutual interest and shared benefit. None of us this evening can foresee the future, and many elements beyond economics will play a part in the development of this relationship in the coming years -- but the conclusion of our agreement and the House's approval of PNTR are very good signs.

And as we think about trade policy more generally, the WTO accession and PNTR are an equally clear and positive signal. The House's bipartisan vote for PNTR comes shortly after the Congress's overwhelming approval of the Africa and CBI legislation last month, and the similar result we expect when Congress takes up the five-year review of the World Trade Organization later in June. Together, these are a very strong endorsement of America's continuing support for and leadership in a policy of open markets and free trade. With this we open the new century on a note of optimism and confidence in America's leadership in building a more open, more free and more decent world economy for the generations to come.

### **NEXT STEPS**

We can, therefore, be very pleased with the point we have reached today. But this does not mean that we have time to rest.

First, the Senate has yet to open its debate. We have a good sign in the Finance Committee's 19-1 vote for PNTR two weeks ago, and indications of broad support in the Senate as a whole; but we are taking

nothing for granted. We will be meeting and speaking with the leadership and individual Senators over the coming days on PNTR and on the importance of the Levin-Bereuter Commission proposal. Our hope is that the Senate will act quickly, beginning the debate in earnest by the week of June 12<sup>th</sup>, and if possible bringing the bill to a vote by the end of that week. The more we delay, the more we place the achievements to date at risk.

## CONCLUSION

In conclusion, in your work on China's WTO accession and PNTR, you have been part of a project of great historic importance.

As China enters the WTO, we are taking up the task Roosevelt began in 1945: the patient creation of the architecture of prosperity; and the establishment of the economic foundation of a peaceful and secure world for this new century.

Our success to this point is a sign which should offer great hope to Americans, to Chinese, and to the world. You can be very proud of the time and effort you have given over the past months; and I trust that you will be with us at the successful of the work.

Once again, I thank you very much for this moment of recognition.

## **AMERICA AND ASEAN: SHARED VISION, SHARED DESTINY**

Prepared for Delivery

Ambassador Charlene Barshefsky

U.S. Trade Representative

US-ASEAN Business Council

Washington, DC

June 15, 2000

Thank you very much. Let me recognize the distinguished Ambassadors of the ASEAN nations, and the American Ambassadors. And I thank Chairman Jim Kelly and President Ernie Bower of the US-ASEAN Business Council; the Ambassadors Tour sponsors; and the members and guests of the Council very sincerely for the opportunity to join you this evening.

As we meet this evening, growth and confidence are returning to Southeast Asia after a very difficult and painful time. All of us, on both sides of the Pacific, are reflecting on the opportunities of a new century. This is, therefore, a timely moment for us to meet: one in which we can reflect on a new era; the challenges it poses for us; and the principles we bring to it. And that is where I would like to begin tonight.

### **AMERICAN PACIFIC STRATEGY**

The United States is a Pacific nation. More than a century of history has shown us that we have a stake, and we are inevitably involved, in each of the great questions the region faces - peace and stability, prosperity and growth, the protection of our environment. And this fact is the foundation of all our policies.

We make an unshakable commitment to peace and security: through our military presence, our alliances from Japan and Korea to Thailand, the Philippines, Australia and New Zealand; and our engagement with China.

We promote the values of human rights, individual freedom, and the rule of law: which as Jose Rizal, the inspiration of the Filipino anti-colonial movement, wrote more than a century ago, are the strongest assurances nations can have of domestic peace and harmony.

We support long-term development and progress through education: as we see today, with well over 50,000 Southeast Asian students in American colleges and universities.

We work toward common approach to the environmental problems of the air and water we share: conservation of fisheries and wildlife, development of environmentally beneficial technologies, means of addressing climate change.

And we work toward a healthy and open regional economy: as a source of sustainable growth and mutual benefit, and as a contribution to a more peaceful and stable region. This is expressed in our own open market policies, which made us the destination for nearly \$400 billion in Asian goods and services last year, and our Asian trade agenda:

- The broad commitment through APEC to "free and open trade" throughout the region.
- Our support for China's economic integration, through the historic agreement on China's accession to the World Trade Organization, and our progress thus far on permanent Normal Trade Relations.
- Our work toward market-opening and deregulation in Japan, marked by 38 separate agreements since 1992.
- The development of our trade and investment relationship with India, marked most recently by the largest trade agreement in the history of our modern relationship, eliminating India's non-tariff barriers on 2,700 different products.

- And of course the 20 agreements we have reached with ASEAN members.

Taken together, the aspiration of these policies - as President Clinton said to the first APEC Leaders meeting in 1993 - is the development of a "Pacific Community" which is based on a realization of shared destiny and a commitment to mutual benefit; and which helps all the Pacific nations achieve their aspirations for prosperity; development; social justice; and peace.

### THE ASEAN VISION

This is also, of course, the vision of the Association of Southeast Asian Nations - evident in the Bangkok Declaration's founding commitment "to secure the blessings of peace, freedom and prosperity" for Southeast Asia; and in ASEAN's achievements over three decades.

- The steady growth of regional peace and stability, and in particular the healing of the division between capitalist Southeast Asia and Indochina: which has transformed this region of half a billion people from an arena of conflict into a source of stability for Asia.

- Southeast Asia's consequent emergence as a center for world manufacturing, trade and education: which has enabled the children of soldiers and subsistence farmers to become today's college students, professionals, teachers, and entrepreneurs.

- The development of joint security and economic initiatives -- from sponsorship of the ASEAN Regional Forum to the series of trade and investment programs that culminate in the ASEAN Free Trade Area: which has made Southeast Asia's modern leaders - to look at trade alone, Secretary-General Severino; Dr. Supachai Panichpakdi, soon to head the WTO; George Yeo; Dato Rafidah Aziz and many others - more influential than any previous generation in shaping the Pacific economic landscape and the world trading system.

This is a remarkable accomplishment -- and an accomplishment of imagination as well as of economics and diplomacy. President Clinton, in accepting the Charlemagne Prize for support of European unity, remarked that Europe's first steps toward economic integration after the Second World War were the "foundation of something entirely new" in the 1200 years since Charlemagne himself -- European integration achieved not by conquest, but by peaceful and voluntary choice. Looking back across a

similar span of Southeast Asian history -- far past the upheavals of the last century, to the classical era of Angkor, Pagan, Sukhothai and Srivijaya -- one could say the same thing, with equal justice and well-earned admiration, of the foundation of ASEAN.

### **THE US-ASEAN ECONOMIC RELATIONSHIP TODAY**

From the American perspective, this is a transformation of great inherent value for Southeast Asia; and one fully consistent with our vision of the Pacific's future. Its practical results, likewise, are clear -- as Council members can attest -- in the remarkable growth of our economic relationship.

With an economy now nearly \$1 trillion, ASEAN is a market for American exports larger than all but three countries and nearly equal to China, Hong Kong, Taiwan and Macao together, with more than \$1 billion worth of semiconductor chips, 200,000 tons of wheat and 400,000 computers crossing the Pacific to Southeast Asia every single month. It is also the recipient of \$42 billion in American investment.

We in turn are a market of central importance for Southeast Asia, with our imports from the ASEAN exceeding \$80 billion in goods and services last year -- more than ASEAN's sales to China, Japan and Korea combined.

The importance of this trade relationship is especially clear in the aftermath of the financial crisis. While the suffering it brought is not yet over; and we will be studying the long-term lessons of the crisis for many years, it is quite clear that our relationship, both in terms of government-to-government links and human ties, eased the crisis and helped give the affected nations the markets necessary for a more rapid recovery. I should also note that the US-ASEAN Business Council's humanitarian programs in the region, and its support for Southeast Asian students in the United States, played a central role and deserve immense credit.

### **THE UNFINISHED BUSINESS**

Southeast Asians can take great pride in this record. All of us, on both sides of the Pacific, can be pleased with the development of our relationship to this point. But it is clear that we have more work ahead -- in the immediate future and as we think about our longer-term vision for our relationship and the wider Pacific region we share.

## **1. Indochina Trade Normalization and Vietnam Agreement**

First, completion of our normalization of trade relations with Indochina.

This has been a central goal of our Southeast Asian trade policy in the past four years, and we have made substantial progress. With Cambodia, the work is done: its results are evident in the extraordinary growth in Cambodia's exports to the United States, from \$4 million in 1996, before the grant of Normal Trade Relations, to nearly \$600 million last year. We have now gone further, with a special program that increases textile quotas as Cambodia improves respect for internationally recognized core labor standards. With Laos, we have signed a bilateral commercial agreement, and will continue to work with Congress to find the right time for passage.

The largest step, however, remains to be taken. It is nearly a year since our agreement in principle with Vietnam. With Congress in session for only two more months, we have a window of time in which to complete the work of the agreement and the approval of NTR; but it is a window that will close rapidly. For Vietnam, the completed agreement, together with NTR, will mean immediate and fundamentally improved access to an American market -- a tariff cut from Smoot-Hawley rates averaging 40% to Uruguay Round rates of below 3% -- which already supports \$1 billion in Vietnamese exports. Over the medium term, it will promote economic reform and long-term growth within Vietnam. We have an opportunity in the coming weeks to move this forward, and I hope we will be able to take advantage of it.

## **2. Reform and Recovery from Crisis**

Second, the region's recovery from crisis remains incomplete.

As recovery strengthens and people return to work, it is crucial that the admirable work a number of ASEAN countries have undertaken toward financial reform and restructuring continue: to strengthen the foundation of the ASEAN economies, reduce the likelihood of a similar event in the future, and ensure that Southeast Asia remains an attractive destination for investors. This is especially urgent in Indonesia. And for all the region as a whole, it is of particular importance not only with respect to the challenges of the present, but as we look to the future.

That is because as the 21<sup>st</sup> century opens, the Pacific economy is changing in ways which will ask of Southeast Asia's leaders all the vision present at the foundation of ASEAN itself:

- As China enters the WTO, Asia's largest nation will integrate itself more fully into regional trade, investment and competition than at any time in modern history.

- The economic reforms underway in India -- which we see in our trade agreement and in the rapid growth of India's computer and software industries -- will have equally far-reaching implications for the region: in the coming decades, the psychological image and the economic reality of Asia may no longer end at the western shores of Java and Sumatra, but extend into the subcontinent.

- And in the Pacific as elsewhere, the revolution in science and technology is changing economic life more rapidly and profoundly than ever before.

Together, these shifts enable us to glimpse the Pacific economy of the future: one which includes the world's four most populous nations and four largest economies; one which is more tightly linked by communications, computer networks and economic exchange than ever before. All of us must adjust and rethink our policies as this approaches; but for Southeast Asia, the challenge and opportunity is perhaps greater than for any other region.

As the natural crossroads for trade in this larger economy, an integrated, technologically sophisticated ASEAN can serve each part of the Pacific -- as a manufacturer, an agricultural producer, a technological innovator and a provider of finance, shipping and distribution services. But by contrast, an economically fragmented or technologically lagging Southeast Asia will risk falling behind.

## **21<sup>ST</sup>-CENTURY TRADE AGENDA**

This challenge will appear in many different fields of policy: broadening access to the international telecommunications network, strengthening the rule of law, improving education and the skills of workers. But trade policy will play a part. And here I believe our goals in the coming years will be highly compatible.

## **1. ASEAN Free Trade Area**

First, we strongly support the continued economic integration of Southeast Asia. A more integrated market will be simpler, more efficient, and a site for investment which remains attractive in comparison with its neighbors; it will also, of course, be a better market for American exports. We therefore applaud ASEAN's decision to accelerate the ASEAN Free Trade Area, although it is important that this proceed on the ground as rapidly as it has on paper, and that individual ASEAN governments not selectively opt out of more sensitive industries if it is to have the credibility and effect it should.

## **2. Technological Progress**

Second, we see shared benefit in Southeast Asia's technological development: in the prevention of a "digital divide" within the Pacific, and in developing the information economy.

A foundation element for this is improved protection for intellectual property, which will ensure both attractiveness to investors and the ability to develop local software, telecom and entertainment industries.

Equally important is continued liberalization of high-tech manufactured goods. This eases access for companies and individuals to new technologies, and capitalizes on ASEAN's strength as an exporter. To take one example, since the Information Technology Agreement in 1997, ASEAN's exports of computers and semiconductors have risen by over \$10 billion to the United States and \$4 billion to Europe. These are also virtually the only products in which ASEAN's exports to Japan have grown during the Japanese recession.

We can do still more through an ITA II which broadens product coverage, and by updating and improving the agreement to account for the growing convergence of information technology products. Our hope is that all ASEAN governments will be able to join a consensus on this in the near future.

And the ability to benefit from the modern economy rests on rapid and unimpeded development of electronic commerce, modern telecommunications networks and the Internet -- without which, as Singapore's Senior Minister Lee Kuan Yew has recently said, nations will be "marginalized and blindfolded" in the years ahead. The launch of the e-ASEAN initiative is a very good sign here. But one must say that in some countries there are more distressing signals; in particular the criminal penalties Burma has imposed for "unauthorized possession" of computers and modems - which diminish the country's development prospects as sharply as they limit the education and progress of individuals.

### **3. An Open Pacific Region**

And third, we will work with ASEAN at every level to develop a more open Pacific region.

We hope to strengthen and improve our bilateral dialogue -- for example, by making better use of the Trade and Investment Cooperation Committee established in 1991 - as well as the annual US-ASEAN Dialogues. This would complement ASEAN's existing dialogues with Australia and New Zealand, and China, Korea and Japan; and could help us both maintain and strengthen links between the ASEAN Free Trade Agreement and NAFTA in coming years.

Within APEC, looking forward to Brunei's role as host of the Leaders Meeting this fall, we anticipate measured but steady progress toward fulfillment of the goal set at Bogor of "free and open trade" in the region. Here we hope to see regional initiatives like the Auto Dialogue and trade facilitation move forward; to find specific trade liberalization opportunities, as APEC did with the Information Technology Agreement; and, as we saw at the very successful Ministerial meeting in Darwin last week, to build momentum and consensus for a new Round of negotiations at the World Trade Organization, including the beginning of preparatory work on industrial tariffs.

In this we will have important shared interests: the continued development of electronic commerce; the abolition of agricultural export subsidies and lowering of tariffs and other barriers to our farm products; an eased flow of services, from the tourism and travel fields that are so important to Southeast Asian economies, to the finance, telecommunications and other high-tech fields that are the key to growth. These of course are negotiations that have already begun, and our hope is to broaden them into a full negotiating Round. In this, ASEAN's support at Darwin, confirmed again by Prime Minister Chuan as ASEAN Chair last week, is of great importance.

### **CONCLUSION**

Altogether, this agenda holds out the promise of making the shared vision of Pacific Community -- the aspiration of American policy in Asia, and of the ASEAN founders -- into shared destiny.

It will not be a simple process or one without setbacks -- trade policy more often moves ahead slowly and incrementally than, as with China, in more rapid and dramatic fashion. But the development of our

own relationship should enable us to proceed with great confidence.

The work Americans and Southeast Asians have done together, over decades, has given new opportunities and better lives to farmers, to businesses and to working people on both sides of Pacific. In so doing, it has helped to realize the enduring ideals of prosperity, freedom and peace at the heart of our relationship.

These were of course the goals of the ASEAN founders, embarking on a project of integration unique in two millennia of Southeast Asian history; and they remain the aspirations of Americans as we look out on the Pacific of the next millennium.

Thank you very much.

## **TRADE, DEVELOPMENT AND SOCIAL PROGRESS**

**Prepared for Delivery**

**Ambassador Charlene Barshefsky**

**U.S. Trade Representative**

**Center for International Private Enterprise**

**Washington, DC**

**June 16, 2000**

Thank you very much. Let me thank the Center for International Private Enterprise for bringing us together, and welcome all of you to Washington.

Over the past two days, the Center has offered you an ambitious and comprehensive set of briefings, covering the full range of issues facing women entering business and international trade. This afternoon, I would like to speak more generally -- about the principles underlying American trade policy and the World Trade Organization; the initiatives we have underway at home; and our work to make the trading system more inclusive, more open to smaller and newer businesses, and more effective in promoting economic development.

### **USTR AND U.S. TRADE POLICY**

Let me begin, though, with my job and its responsibilities.

As U.S. Trade Representative, I am the President's principal trade negotiator and policy advisor. My

agency is one of the smallest in the American government, with 178 professional staff and a budget of \$24 million. With this we cover nearly \$2.5 trillion in American trade; we monitor and enforce a network of agreements that has grown by nearly 300 since 1992; and we work with your governments to develop the agenda of the future. To look at it very briefly:

- At the World Trade Organization, we are working toward a new Round of global trade negotiations; monitoring and enforcing the implementation of its 20 multilateral agreements; litigating numerous dispute settlement cases; and negotiating on the entry of 30 prospective new WTO members.

- We have regional trade initiatives underway in each part of the world: in the Western Hemisphere, talks aimed at creating a Free Trade Area of the Americas; in Asia, the Asia-Pacific Economic Cooperation forum, or APEC; regional integration in the Middle East; the President's initiative on trade and investment in Africa; the Transatlantic Economic partnership in Europe.

- We are working with each of our major trade partners: towards market-opening and deregulation in Japan; in ensuring implementation of a network of trade agreements worldwide that has grown by nearly 300 since 1992; and in devoting special attention to developing the high-tech infrastructure for trade in the next century.

This is a busy and complex agenda. But all of our work rests on a simple foundation: the commitment to open markets, freer trade, and the rule of law in world commerce Americans made under Franklin Roosevelt, and which we have maintained ever since.

## **HOOVER AND ROOSEVELT**

Our ideas are based in part on economic logic applicable throughout the world: exports allow us to serve larger markets and are generally associated with higher-paying jobs; and imports increase competition and economic efficiency, dampen inflation and raise the standard of living, especially for the poorest families. But we base policy not only on theory but on practical experience with the alternative.

Today, as it happens, is an important anniversary in American trade policy -- although it is not one we often commemorate, because it is so embarrassing. That is, seventy years ago today was President Herbert Hoover's signature of the Smoot-Hawley Act, which was the largest single restriction on trade in American history.

President Hoover's trade policy had rested on the belief that Americans could not compete effectively

with developing countries. As Hoover put it, we "cannot successfully compete against foreign producers because of lower foreign wages and a lower cost of production." These are natural, understandable fears -- present in our trade debates today as well as seventy years ago. In contrast to the present era, however, Hoover persuaded Congress that he was correct. The result remains well-known today: a cycle of tariff hikes and retaliation which cut trade by 70% between 1930 and 1933, deepened the Depression, and intensified the political tensions of the era.

After this experience, Franklin Roosevelt proposed the alternative we have followed ever since. As he put it in 1944:

"A basic essential to peace, permanent peace, is a decent standard of living for all individual men and women and children in all nations. Freedom from fear is eternally linked with freedom from want. [And] it has been shown time and time again that if the standard of living in any country goes up, so does its purchasing power -- and that such a rise encourages a better standard of living in neighboring countries with whom it trades."

Since the Second World War, and together with our trading partners, we have turned this insight into lasting institutions and policies. The work has continued for more than fifty years; and it has brought enormous benefits:

- Growth and Rising Living Standards: The opening of world markets has helped to spark what is in effect a fifty-year boom, in which trade has expanded fifteen-fold since the 1950s, world economic production grown six-fold and per capita income nearly tripled. And the result has been historically unprecedented social progress: since the 1950s, world life expectancy has grown by twenty years, infant mortality dropped by two-thirds, and famine receded from all but the most remote or misgoverned corners of the world.

- Economic Security: In the Asian financial crisis of 1997-99, with 40% of the world in recession, the respect WTO members had for their commitments kept open the markets necessary for affected nations to recover. Thus the system of mutual benefit and rule of law represented by the WTO helped prevent a cycle of protection and retaliation like that of the 1930s; and ultimately to avert the political strife that can erupt in economic crisis.

- Peace and Stability: The GATT and now WTO have helped us address some of the most profound political challenges as well. It helped to reintegrate Germany and Japan in the 1950s, and the nations emerging from colonial rule in the 1960s and 1970s. And it has now taken up a task of equal gravity, as after the Cold War, nearly 30 nations breaking with communist planning systems seek WTO membership to reform their economies and integrate with the world.

## **THE QUESTION OF DEVELOPMENT**

This is a remarkable record. The participants in it, from every continent and every region of the world, can look back on it with some justified pride.

But we must also admit that the world today remains marked by areas in which negotiations to date have fallen short; by new challenges arising from the end of the Cold War and the revolution in science and technology; by inequities we can all recognize; and thus by opportunities that remain untapped.

Central to each of these challenges are the questions of development: Why, in a world more prosperous and dynamic than ever before, are nearly a billion people trapped in absolute poverty? Will new technologies heal or widen this divide? And what role can trade policy play in addressing these challenges?

These questions demands answers for practical reasons -- as stagnating development in any country can bring political tension, and in light of our moral responsibility in the face of suffering and deprivation beyond our borders. The Center for International Private Enterprise itself is an expression of this moral commitment; and trade policy must also respond to it.

## **THE PLACE OF TRADE POLICY IN DEVELOPMENT**

We must begin by recognizing that trade policy can never be enough. Ultimately, countries largely control their own destinies. Trade policy, while it can create new opportunities, can never substitute for effective domestic policy or for financial stability; to believe otherwise is to court disillusion. Rather, development comes from the union of several different fields:

- Appropriate domestic policies: the rule of law and a stable, democratic political system; a market-based economy; health and social safety net policies; financial stability; perhaps above all, education and the development of skills for workers.

- The right balance of international assistance and financial policies; including recognition of the fact

that for the least developed countries, the financial burden posed by debt has made growth very difficult. President Clinton has thus challenged our Congress and the world to forgive 100% of this debt when relief will help finance basic human needs.

- And together with these, a trading system that gives developing nations, in particular the least developed, greater access to world markets and more ability to defend their rights and interests; and which does more to ease the unique difficulties newer and smaller firms encounter in the world market.

To the latter challenge, we bring our own experience and principles, and we have sought advice and ideas from our friends overseas. We can always learn more, and I hope you will give me some of your thoughts later today. But we can begin with two major goals: a more fully open world market; and a trading system which is more transparent and easier to use.

## **A MORE OPEN TRADING SYSTEM**

The first point is more open markets.

### **1. Benefits of Open Economies**

Part of the responsibility for this lies with developing country governments. Experience shows that the most open economies grow fastest, create new and innovative businesses most efficiently, and reduce poverty most effectively.

This is clear not only in American history but worldwide experience. As Southeast Asia, Central Europe and Latin America opened to the world, they grew more rapidly; reduced poverty; and built more stable, peaceful regions. By contrast, South Asia, the Middle East and Africa, where trade barriers remain highest, have reduced poverty more slowly and seen political tensions persist. There is simply no substitute for membership in the WTO; commercially meaningful commitments to reduce tariffs and other barriers to goods and services; participation in the WTO's most modern agreements on information technology, telecommunications and financial services; and the development of regional integration initiatives like the ASEAN Free Trade Area, the Free Trade Area of the Americas, and Africa's three regional trade groups.

### **2. U.S. Programs**

At the same time, however, when countries do the right thing, the world must do more than stand by and applaud.

We offer a generally open market, as we see in more than \$500 billion worth of goods and services imports from developing countries last year, and perhaps \$600 billion this year. We have also, however, recognized that we can do better. Thus, we have developed a series of programs which offer special market access privileges to developing countries:

- The Generalized System of Preferences, or GSP, which offers duty-free treatment to about two-thirds of all goods from developing countries, and which I have recently expanded by over 1,700 tariff lines for the least developed countries.

- The Caribbean Basin Initiative, which over the years has helped Central America and the Caribbean to diversify their economies away from primary commodities into computers, apparel, semiconductors and other goods, making the region more stable and less vulnerable to swings in commodity prices; and which just last month we significantly expanded.

- The African Growth and Opportunity Act, which is a central element of the President's initiative on African policy, creating substantial new opportunities for African entrepreneurs, including guarantees of quota-free and in most cases duty-free treatment for textiles and apparel.

- Regional integration in the Middle East, through a pilot program in support of the peace process, offering duty-free privileges to several joint Israeli-Jordanian industrial projects, and we hope in future to projects involving Palestinians and Egyptians as well. We have also recently announced our plan for a full Free Trade Agreement with Jordan.

- And we are consulting with Congress on the Southeast Europe Trade Preference Act, offering duty-free treatment to a number of goods from the countries most deeply affected by the recent conflicts in the Balkans.

### **3. WTO Negotiations**

Our hope is that others will take similar steps. The European Union, Japan and Canada have expressed

interest in the concept, and we believe the more advanced developing countries should consider it as well. And at the same time, we are working toward opportunities on a broader scale at the WTO.

This begins with the negotiations the WTO opened last February, on agriculture and services. In these, to choose just one example, we hope to see the elimination of export subsidies in agriculture. This is one of the most disruptive practices in trade today, as it not only makes it difficult for developing country farmers to compete on the international market but domestically as well. The rewards of success may be substantial and immediate: according to the UN's Food and Agricultural Organization, when the European Union cut export subsidies on beef sales to West Africa six years ago, the result was an immediate and substantial increase in beef production across some of the world's poorest countries - Mali, Niger, Burkina Faso and others.

We also can do more in other areas, such as manufacturing. We are therefore working to build consensus for a new, more broadly based Round that would include such issues, and have made some progress over the past months.

## **A TRADING SYSTEM EASIER TO USE**

Second, open markets mean little in practice without the ability to reach them. This presents us with two separate challenges: first, ensuring that the least developed countries can take full advantage of a trading system that is more complicated than ever before; and second, making sure the WTO and its agreements give businesses like those many of you operate - new ventures and small family firms - the same opportunities they create for larger firms.

### **1. Technical Assistance and Capacity-Building**

To take the first point, some of the WTO's agreements -- on intellectual property, services, sanitary and phytosanitary standards, or dispute settlement -- demand considerable expertise from participating governments. We are therefore committed to a program of increased technical assistance and capacity-building to build understanding of the agreements; help governments comply with them; and equally help countries assert their rights and interests in negotiations.

This is especially important for the least-developed countries, which come to the WTO with less experience and resources. Last year we joined Bangladesh, Lesotho, Nigeria, Senegal and Zambia, as well as Bangladesh, in a proposal to improve the WTO's current program, known as the Integrated Framework, in these areas.

More broadly, we have already begun a series of workshops and sessions in several different regions of the world -- on our own, and together with colleagues from the Agency for International Development, the Federal Communications Commission, the Department of Agriculture and elsewhere -- to offer advice and assistance on the WTO, as well as on our own market access programs. This will help to make sure that governments, businesses and academics are familiar with and can take advantage of all the options the WTO offers.

## **2. Electronic Commerce and Trade Facilitation**

At the same time, we believe that new information technologies, together with practical trade facilitation measures, can offer a fundamentally better world for smaller and newer businesses.

One of the most profound and exciting trends today is the development of the Internet and a worldwide telecommunications network. Internet access requires little capital, helps entrepreneurs find customers and suppliers quickly, and eases technical and paperwork burdens that can slow participation in trade. Thus electronic commerce is ideally suited for developing countries. We are working to ensure access to these technologies through programs like the Leland Initiative in Africa and the Internet for Economic Development program, which help developing countries gain information technology skills and ease access to the Internet.

At the same time, we are capitalizing on these new opportunities through a greater focus on trade facilitation. Here the work is very practical: in the Free Trade Area of the Americas talks, we have a hemispheric agreement to post all visa and customs requirements on the Internet, and are also implementing streamlined customs procedures for express shipments and commercial samples. Similar initiatives are underway in APEC. And at the WTO, we can build on this work to reach worldwide commitments that make it easier for you to find customers, deal with paperwork and customs regulations, and thus win the benefits trade can provide.

## **CONCLUSION**

Altogether, what we hope to create is a system that does more to support long-term growth and export opportunities for developing countries -- which is easier for governments to use and takes account of the special problems of smaller businesses and new entrepreneurs -- broadly speaking, which gives people a broad sense that the world economy offers opportunity to anyone who is willing to work.

The challenge is complex, and we do not pretend to have all the answers. But we are very confident that we are on the right course: in our own open market policies at home; in the work we have done, in partnership with 135 other WTO members, to build a trading system of shared responsibility and shared benefit; in welcoming every country to its rightful place in this system.

These are the historic commitments of American trade policy. That is the record which we and our trading partners have built together in fifty years of progress toward freedom, prosperity, the rule of law and strengthening peace. It must be our record in the decades to come.

Thank you very much, and let me now take your questions.

**U.S. INTERESTS AND EXPERIENCE IN  
THE WTO DISPUTE SETTLEMENT SYSTEM**

**Testimony of Ambassador Charlene Barshefsky**

**U.S. Trade Representative**

**Trade Subcommittee of the Senate Committee on Finance**

**Washington, D.C.**

**June 20, 2000**

Mr. Chairman, Senator Moynihan and Members of the Subcommittee, thank you very much for this opportunity to testify on our experience with the World Trade Organization's dispute settlement system after five years.

**U.S. TRADE INTERESTS AND ENFORCEMENT POLICY**

In 1999, the United States was the world's largest exporting and importing nation, carrying on \$2.2 trillion in two-way goods and services trade with the world. This represents a \$1 trillion expansion of trade since 1992, contributing substantially to the remarkable record of growth, rising living standards and job creation the United States built in the 1990s. Thus far in the year 2000 as well, both exports and imports are growing rapidly.

This remarkable expansion of trade owes a great deal to the network of nearly 300 trade agreements the Clinton Administration has negotiated over the past seven years. Of special importance was the creation of the World Trade Organization in 1995. The WTO's creation deepened the achievements of its predecessor, the GATT, through a one-third cut in world tariff rates and the elimination of quotas, and broadened the GATT with new agreements covering agriculture, sanitary and phytosanitary measures, services, intellectual property, trade-related investment measures, and other issues -- the vast majority of which apply to all of the WTO's 137 members.

Of course, to win the full economic benefit of the WTO and each other agreement we negotiate, both for America's concrete trade interests and the broader strengthening of the rule of law, we must ensure that our trading partners will fulfil the commitments they have made. And in this work -- together with our creation of USTR's first special unit dedicated solely to monitoring and enforcement of agreements; and the use of our domestic trade laws and other measures -- the WTO's dispute settlement mechanism is of central importance.

## WTO DISPUTE SETTLEMENT UNDERSTANDING

In the Uruguay Round negotiations, Congress made a more effective GATT dispute settlement system a principal U.S. negotiating objective. The result is the WTO's Dispute Settlement Understanding, created at the foundation of the WTO itself, which enables us to assert our rights and protect our interests in the trading system more effectively than ever before. At the same time, the dispute settlement system fully respects American sovereignty, as panels have no power to order any WTO member to change its laws, nor to impose retaliation. The most important changes it makes vis-a-vis the previous GATT system include:

- Imposition of stringent time limits for each stage of the dispute settlement process, including the time for implementation of panel recommendations;
  
- Creation of an Appellate Body to review panel interpretations of WTO agreements and legal issues;
  
- Automatic adoption of panel or Appellate Body reports and of requests for retaliation in the absence of a consensus to reject the report or request; and
  
- Automatic authority for complaining parties to retaliate on request, including in sectors outside the subject of the dispute, if panel recommendations are not implemented or there is no mutually satisfactory solution to the matter.

In those cases where our trading partners are not fulfilling their commitments, in comparison to the dispute settlement options available under the WTO's predecessor, the General Agreement on Tariffs and Trade, we have found the WTO dispute settlement mechanism to be more reliable, as it eliminates opportunities to block panel results; more comprehensive, in that it covers all the WTO agreements,

while the GATT system covered only goods; and more timely in securing results.

## DISPUTE SETTLEMENT PROCEDURES

Before I review our experience in detail, let me set out the procedures the Dispute Settlement Understanding establishes. In essence, although there are opportunities to settle disputes at each stage of the process -- and we take these opportunities whenever possible, consistent with our basic interests in the case -- a completed WTO case can involve up to five stages and take as much as one year. The process is as follows:

First, having identified a probable violation of WTO obligations, we begin by requesting consultation with the government whose measure is in dispute. This is the initial step, and after the consultation request the parties are given sixty days before a complaining party may request establishment of a panel.

Second, if no settlement is reached in this period, we request formation of a panel. These panels generally have three members, who may not be citizens of either party to the dispute unless both parties agree. The panel hears arguments and reviews evidence over a period of six to nine months.

Third, on completing its review, the panel gives the parties to the dispute a complete draft of its report, including findings and conclusions. The parties may provide written comments on the draft and the panel must hold a meeting at any party's request to consider those comments.

Fourth, the panel completes and releases its report, which must be adopted by the Dispute Settlement Body within 60 days after it is issued unless one of the parties to the dispute files an appeal with the WTO Appellate Body.

Fifth, in the event of an appeal, a three-person appellate panel, drawn from an Appellate Body of seven independent experts reviews the case and issues a finding within 60 to 90 days. Governments found in violation of their obligations have a "reasonable period of time" to comply, normally not to exceed 15 months. Most cases are concluded at this point, and in many cases the party has complied in less than a year.

If governments do not comply with the panel or Appellate Body findings, complaining parties have the right to retaliate, in an amount equivalent to the damage done by the violation. This standard is

equivalent to that in section 301 of the Trade Act of 1974, which permits the Trade Representative to apply retaliation equivalent in value to the burden or restriction being imposed on U.S. commerce.

## **EXPERIENCE WITH DSU TO DATE**

Let me now turn to our experience with the dispute settlement mechanism in practice since 1995.

Since 1995, WTO members have filed a total of 202 complaints on 159 distinct matters. Of these, the United States has filed 53 complaints. Our experience in these cases has helped dispel some early fears and misconceptions; develop ideas on further improvements and reforms to the system, both in terms of effectiveness and procedural transparency; and on the whole, confirmed that the Dispute Settlement Understanding is a fundamental improvement in the world trading system and in the enforcement of U.S. trade rights.

To illustrate this, let me now turn to a detailed review of the cases in which the United States has been involved since 1995.

## **CASES BROUGHT BY THE UNITED STATES**

Since the WTO's creation, we have been the world's most active user of the WTO dispute settlement mechanism. Our goal in filing cases is two-fold: first, to protect U.S. rights in cases of high economic interest or precedential importance to American industries, farmers and workers; and second, to ensure that our trading partners understand the importance of compliance with WTO rules. And while we have not agreed with panel findings in every single case, we believe the record shows that the dispute settlement mechanism has enabled us to reach these goals.

Of the 53 cases we have filed to date, 28 have been brought to conclusion. Of these we have prevailed in 25, winning 13 cases in panel proceedings and successfully settling 12 others. In the vast majority of cases, our trading partners have acted to eliminate the violations; in the only two cases where they have failed to do so, we have exercised our right to retaliate.

### **1. Favorable Settlement**

Our hope in filing cases, of course, is to secure U.S. rights rather than to engage in prolonged litigation. Therefore, whenever possible we have sought to reach favorable settlements that eliminate the violation without having to resort to panel proceedings. We have been able to achieve this preferred result in 12 of the 28 cases resolved so far:

- Australia: salmon import ban. Australia recently eliminated its ban on imports of salmon from Canada and the United States after Canada successfully challenged Australia's ban in the WTO. The United States had sought its own consultations with Australia in November 1995 and participated in the Canadian litigation as an interested third party; and U.S. salmon exporters will benefit from the result.

- Brazil: auto investment measures. In August 1996 the United States requested consultations under WTO dispute settlement procedures concerning Brazil's local content requirements for automotive investment. The United States and Brazil reached a settlement agreement in March 1998.

- European Union: market access for grains. In July 1995 the United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligations on imports of grains. Before a panel was established, we reached a settlement. The settlement ensured implementation of the EU's market access commitments on grains, including rice, and provided for consultations on the EU's "reference price system."

- Greece: copyright protection. In 1998 we held consultations with the Greek government because a significant number of television stations in Greece regularly broadcast copyrighted motion pictures and television programs without the authorization of the copyright owners. Effective remedies against such copyright infringements were not provided. In September 1998, the Greek government enacted new legislation to crack down on pirate stations, and the rate of television piracy fell significantly in 1999. We continue to monitor the situation, to ensure continued enforcement.

- Hungary: agricultural export subsidies. In March 1996 the United States, joined by five other countries, began a process of consultations with Hungary under WTO dispute settlement procedures concerning Hungary's lack of compliance with its scheduled commitments on agricultural export subsidies. We reached an agreement with Hungary and the WTO approved a temporary waiver that specifies a program to bring Hungary into compliance with its commitments.

- Japan: protection of sound recordings. As a result of WTO consultations, Japan changed its law - to grant full copyright protection for sound recordings. The Recording Industry Association of America estimated the value of this case at \$500 million in annual sales.

- Korea: shelf-life standards for beef and pork. The United States and Korea consulted under WTO dispute settlement procedures and reached a settlement in July 1995 addressing Korea's arbitrary, government-mandated shelf-life restrictions that were a barrier to U.S. exports of many food products, including beef and pork.

- Pakistan: patent protection. The United States used WTO dispute settlement procedures to enforce Pakistan's obligation under the TRIPS agreement to establish a "mailbox" mechanism for patent applications. In July 1996 the United States requested that the matter be referred to a panel. We subsequently settled this case in February 1997 after Pakistan issued an ordinance bringing its law into conformity with its TRIPS obligations.

- Philippines: pork and poultry imports. The United States used WTO dispute settlement to challenge tariff-rate quotas and other measures maintained by the Philippines on pork and poultry imports. Following WTO consultations, the Philippines agreed in February 1998 to reform its restrictive tariff-rate quotas and licensing practices.

- Portugal: patent protection. The United States invoked WTO dispute settlement procedures to challenge Portugal's patent law, which failed to provide the minimum twenty years of patent protection required by the TRIPS agreement. As a result of the U.S. challenge, Portugal announced a series of changes to its system, to implement its WTO obligations. A settlement was notified to the WTO in October 1996.

- Sweden: enforcement of intellectual property rights. In May 1997 the United States requested consultations with Sweden concerning Sweden's failure to implement its obligations under the TRIPS agreement. The following year, Sweden passed legislation addressing U.S. concerns.

- Turkey: theater box-office taxes. The United States requested consultations in June 1996 under WTO procedures concerning Turkey's tax on box office receipts from foreign films. Turkey maintained a discriminatory "municipality" tax on box office revenues from showing foreign films, but not domestic films. The United States and Turkey reached a settlement in July 1997, and Turkey eliminated its discriminatory tax.

## 2. Panel Successes

When our trading partners have not been willing to negotiate settlements, we have pursued our cases to conclusion. This has occurred 13 times:

- Argentina: Textiles - Argentina has complied with a WTO ruling against its statistical tax on imports and specific duties on various textile, apparel and footwear items in excess of its tariff commitments.

- Australian Leather - We are very close to an agreement with Australia on actions it will take in response to WTO rulings against its export subsidies on automotive leather; and if we fail to reach agreement, the WTO will authorize us to retaliate.

- Canada: Magazines - Canada has eliminated barriers to U.S. magazines, and created new tax and investment benefits and opportunities for U.S. publishers to sell and distribute magazines in Canada.

- Canada: Export Subsidies for Dairy - Canada has reduced its subsidized exports of dairy products, coming into compliance with its WTO obligations on butter, skimmed milk powder, and an array of other dairy products; beginning in the 2000-2001 marketing year, Canada will not be able to export more than 9,076 tons of subsidized cheese, which is less than half of the volume exported in recent years.

- India: Non-Tariff Barriers - India has eliminated import bans and other quantitative restrictions on 2,700 specific types of goods. This is among India's most significant modern trade policy reforms, opening new markets for U.S. producers of consumer goods, textiles, agricultural products, petrochemicals, high technology products and other industrial products.

- India: Intellectual Property Rights - India has complied with its WTO intellectual property rights obligations prior to providing patent protection for pharmaceutical and agricultural chemical inventions;

- Indonesia: Autos - Indonesia has eliminated its 1996 National Car Program, including local content requirements which discriminated against imports of U.S. automobiles;

- Japan: Varietal Fruits - Japan has eliminated restrictions on imports of apples, cherries and other fruit, which U.S. growers estimate will help them export more than \$50 million a year of apples and other products to Japan;

- Japan: Distilled Spirits - Japan has eliminated discriminatory taxes on U.S. exports of distilled spirits. As a result, U.S. exports of these products in the year after implementation of the panel finding grew by 23%, or \$14 million -- faster growth than our exports to other markets, in spite of the Japanese recession;
  
- Korea: Distilled Spirits - Korea has eliminated discriminatory taxes on U.S. exports of distilled spirits.
  
- Mexico: High-Fructose Corn Syrup: The United States successfully challenged Mexico's HFCS antidumping determination in WTO dispute settlement panel proceedings. Mexico did not appeal the panel's findings, and has indicated it will comply with the rulings by September 22, 2000.

Finally, of course, two cases of particular concern involve European Union violations of WTO obligations on beef and bananas. These are unique in our 25 successfully concluded cases, in that the EU has failed to implement findings of both the dispute panel and the Appellate Body, failing to lift its unscientific ban on imports of U.S. meat, and adopting a new banana import regime that perpetuates WTO violations previously found by a WTO panel and the Appellate Body. In response, the Administration has imposed retaliation consistent with our WTO rights, on products totaling \$308 million worth of EU exports to the United States. We continue to work toward a positive resolution of these cases.

### **3. Unfavorable Panel Findings**

Of the 28 cases completed where we were the plaintiff, WTO panels have not ruled in favor of the United States in three cases.

One case involved Europe's reclassification of local-area network computer equipment from one tariff category to another. The WTO findings in that case, however, were of no effect; we succeeded in negotiating the elimination of tariffs on both categories of goods through the multilateral Information Technology Agreement (ITA). The EU has met its obligation to remove the tariffs, and the equipment now enters the EU duty-free regardless of its classification.

In another case, we challenged various Japanese laws, regulations, and requirements affecting imports of photographic film and paper. The WTO panel in this case did not find sufficient evidence that Japanese Government measures were responsible for changes in the conditions of competition between imported and domestic photographic materials. Japan in this case made a number of assertions as to the openness of its photographic film and paper market, and we are actively monitoring the market to ensure that

opportunities for U.S. photographic film and paper are in line with Japan's representations.

In a third case, just concluded yesterday, the United States decided not to appeal a panel finding that Korea's government procurement obligations did not cover an airport project which had not been explicitly included in Korea's coverage list. Nevertheless, the Korean Government has informed us that the entities procuring for that project intend to open remaining procurements to foreign bidders.

## CASES BROUGHT AGAINST THE UNITED STATES

The United States has also been the subject of 39 complaints in the WTO, of which eight have completed all phases of litigation and ten were resolved in a mutually satisfactory manner. Eleven others are presently inactive, while the rest remain in various stages of litigation. Of the eight completed complaints, in one case, a WTO panel upheld the WTO-consistency of Section 301 of the Trade Act of 1974; in the other seven, panels found some aspect of U.S. practice inconsistent with our WTO obligations. In such cases, we have respected our obligations, as we expect others to do. A review of the cases is as follows:

- Section 301 (EU): The WTO panel found that Section 301 ( the principal U.S. domestic trade law addressing foreign trade barriers) is fully consistent with our WTO obligations, both as a legal matter and in terms of our administration of the statute.

- Reformulated Gasoline (Venezuela, Brazil): In a dispute regarding an Environmental Protection Agency (EPA) regulation on conventional and reformulated gasoline, a WTO panel found against one aspect of the regulation that treated domestic companies differently than their foreign competitors. In that case, the WTO Appellate Body took a broad view of the WTO's exception for conservation measures, thus affirming that clean air is an exhaustible natural resource covered by that exception. The WTO ruling recognized the U.S. right to impose special enforcement requirements on foreign refiners that sought treatment equivalent to U.S. refiners. The ability of the United States to achieve the environmental objective of that regulation was never in question, and EPA was able to issue a revised regulation that fully met its commitment to protect health and the environment while meeting U.S. obligations under the WTO. No changes have been made to the Clean Air Act.

- Shrimp/Turtle (India, Thailand, Malaysia, Philippines): In a dispute involving U.S. restrictions on imports of shrimp harvested in a manner harmful to endangered species of sea turtles (the "Shrimp-Turtle" law), the Appellate Body found our law to be fully within the scope of the WTO's exception for conservation measures, and U.S. import restrictions on shrimp harvested in a manner harmful to sea turtles have remained fully in effect. The Appellate Body did, however, find problems with implementation of the law. For example, it noted that procedures for determining whether countries

meet the law's requirements did not provide adequate due process, because exporting nations were not given formal opportunities to be heard, and were not given formal written explanations of adverse decisions; and that the application of the law to Asian countries had been discriminatory, as Western Hemisphere nations had been given substantially more time than Asian countries to comply with its requirements, and were afforded greater opportunities for technical assistance.

Since the decision, we have addressed these procedural issues in a manner which has enhanced rather than weakened sea turtle conservation policies. In July 1999 the State Department revised its procedures to provide more due process to countries applying for certification under the Shrimp-Turtle law. The United States is also now negotiating a comprehensive sea turtle conservation agreement with the countries of the Indian Ocean region, including the complaining countries, and has offered additional technical assistance.

- Textiles and Apparel (Costa Rica): A WTO panel concurred with Costa Rica's complaint about U.S. import restrictions on underwear. The panel finding, however, led to no policy changes, as the U.S. measure at issue was imposed in March 1995 for a two-year period, expiring one month after dispute settlement proceedings concluded.

- Textiles and Apparel (India): A measure on wool shirts from India was unilaterally terminated by the U.S. interagency Committee on Implementation of Textile Agreements (which oversees the U.S. textile import program) due to changed commercial conditions. U.S. production in this category had increased and imports from India in this category had plummeted. The WTO panel did not recommend that the United States make any changes, and no action by the United States was necessary.

- DRAMs (Korea): In a dispute involving a Commerce Department antidumping order on dynamic random access memory chips (DRAMs) from Korea, we prevailed on all but one of the claims raised by Korea. Specifically, Korea won on its claim that the standard in Commerce's regulations (and, thus, the standard applied to the DRAMs order) for revoking an antidumping order should have been whether the retention of the order was "necessary" instead of whether it was "not likely" that dumping would continue or recur if the order were revoked. Commerce amended the regulation in question by incorporating the "necessary" standard from the Antidumping Agreement, made a redetermination of its revocation decision by applying this new regulation to the facts, and concluded that retention of the order was "necessary" in light of evidence showing that a resumption of dumping by the Korean exporters was likely.

- Foreign Sales Corporation (EU): In a case challenging the Foreign Sales Corporation (FSC) provisions in U.S. tax law, the WTO Appellate Body ruled that the FSC tax exemption constitutes a prohibited export subsidy under the WTO Subsidies Agreement, and also violates the WTO Agreement on Agriculture. The panel and Appellate Body reports were adopted on March 20, 2000. In response, we have presented to the European Union a detailed proposal which we believe addresses the problem. We

remain hopeful that we will be able to resolve our differences over the regime in a cooperative and constructive manner.

- Leaded Bar (EU): Finally, the EU prevailed in its case involving the Commerce Department's "change-in-ownership" methodology, as applied in three administrative reviews of its countervailing duty order on leaded bars from the United Kingdom. The panel found Commerce's methodology to be inconsistent with the WTO Subsidies Agreement, and the WTO Appellate Body upheld that finding. Meanwhile, the countervailing duty order in question was revoked by operation of law, on January 1, 2000, under the Department of Commerce's "sunset review" procedures.

## **POSITIVE EXPERIENCE**

Looking back on this experience as a whole, there are certainly some panel findings with which we have disagreed, and areas in which we believe the dispute settlement mechanism can be improved. Before turning to these areas, however, let me note two areas in which our experience to date should dispel unnecessary fears or misconceptions.

### **1. Respect for Sovereignty**

First, the dispute settlement system fully respects American sovereignty. No panel has the power to order the United States or other countries to change their laws; neither does any panel have the power to impose retaliation on WTO members. If a panel finds that a country has not lived up to its commitments, all it may do is recommend that the country begin observing its obligations. It is then up to the disputing countries to decide how to settle their differences. The defending country may choose to change in its policy; to offer trade "compensation" such as lower tariffs; or not to change its measure, in which case the complainant can retaliate by suspending trade concessions equivalent to the trade benefits it has lost.

### **2. Least Developed Countries**

Second, some had been concerned that the system might place the least developed countries at a disadvantage, due to their relative lack of expertise in trade law and the WTO in particular. However, no cases have been filed against any of the WTO's least developed members, nor do any appear likely.

## **IMPROVEMENT OF THE DISPUTE SETTLEMENT UNDERSTANDING**

While the system has worked very well for us, we do believe there are areas that can be improved, and we are working to do so.

### **1. Improvements in Ensuring Compliance**

First, the dispute settlement mechanism can be more effective in promoting compliance with WTO findings and facilitating swift action in the event of non-compliance. This was especially clear in the case dealing with the European Union's banana trade regime. We have been working over the past year to cl