

1 Otherwise, I think that we fritter away whatever  
2 authority we have in trade policy.

3 Mr. Kantor. I couldn't agree more, Senator.  
4 Let me just add that Prime Minister <sup>Miyazawa</sup> ~~Neazawa~~, late  
5 in 1992, indicated in a public interview that the  
6 new Administration would do as all other  
7 Administrations, Democrat and Republican, have  
8 done, and that is cry wolf early, beat our chest,  
9 talk about what we are going to do, and then, not  
10 do it.

11 What I hope to do is the opposite, is to  
12 enforce the law and enforce our agreements, but  
13 not make any bolder statements that we can stand  
14 behind.

15 Senator Danforth. Let me just say, if I can  
16 in the half a minute I have left, oil seeds would  
17 be a similar type of situation. There is a real  
18 violation of law, a violation of international  
19 agreement.

20 Two different GATT cases were brought on oil  
21 seeds. No remedy. Then, we said, "Let's  
22 arbitrate." That was stiffed.

23 Then, we entered into an agreement purporting  
24 to settle the oil seed problem. The American Soy  
25 Bean Association and also, as a matter of fact,

1 the New York Times have claimed this is a victory  
2 for the European community.

3 Again, we had clear remedies available to us.  
4 They were not utilized. It weakens our  
5 credibility and also weakens domestic support for  
6 trade policy. Do you have comments specifically  
7 on the oil seed matter?

8 Mr. Kantor. Well, I think we ought to look  
9 closely at the most important agreement we have  
10 reached. It was on November 20th at Blair House.  
11 The oil seed agreement is part of that. The Blair  
12 House Agreement is part of the Uruguay Round.

13 There are some concerns I have with it. It  
14 deals with acreage, as you know, acreage  
15 limitations. And I think we ought to look at that  
16 very closely.

17 I think the oil seed area, of course, is a  
18 critical part. The agricultural exports is  
19 something we ought to pay close attention to.

20 Senator Danforth. Well, I hope we will not  
21 end up agreeing to something that is negative  
22 rather than positive as far as this matter is  
23 concerned.

24 Senator Moynihan. Thank you, Senator.

25 May I just volunteer only for myself that I

1 think both the general points you made and the  
2 specific points you made are compelling.

3 Now, that utility directive has not yet been  
4 ratified. There is a ratification process?

5 Mr. Kantor. That is right, Senator. It has  
6 been adopted by the EC as of January 1. I think  
7 only one country in the --

8 Senator Moynihan. In the manner that we  
9 adopt constitutional amendments and each  
10 constituent State has to ratify it?

11 Mr. Kantor. Exactly. That would be an  
12 analogy to it, Senator.

13 Senator Moynihan. If you would send them the  
14 directive to think hard before they do that, I  
15 mean, that strikes me as unacceptable.

16 Senator Baucus. Mr. Chairman, if I might?  
17 That is a very good point. It is precedent here  
18 that that will work.

19 The banking directive. You probably recall  
20 that a couple of years ago, the EC proposed its  
21 banking directive. It had the same kinds of  
22 consequences: protecting its market.

23 And we Americans, frankly, we were quite  
24 upset. It sent a very strong signal to the  
25 community. And they backed off. So there is

1 precedent for doing so. And I --

2 Senator Moynihan. Perhaps our first  
3 consultation with you informally could be on this  
4 subject. Would you think so, Senator Danforth?

5 Senator Danforth. Yes, I do.

6 Senator Moynihan. That you would just say,  
7 "Hold on now. If the EC starts that way, then the  
8 next thing you know, we have trade wars,  
9 trilateral wars."

10 Senator Rockefeller.

11 Senator Rockefeller. Thank you, Mr.  
12 Chairman.

13 I notice that we have ten members here. And  
14 I am just wondering if there is a way of  
15 shanghaiing one additional one so we can vote,  
16 unless there is an objection. I guess I will  
17 proceed.

18 Mr. Kantor, I read --

19 Senator Moynihan. The Senator does raise the  
20 subject. And if there is no objection, we have  
21 established a quorum. And therefore a rolling  
22 quorum would be in order. And we could take a  
23 vote now while there are 11 of us present. And  
24 then we will see whether the full quorum could be  
25 because we are giving Mr. Kantor an awful lot of

1 things to do, but we are not giving him the job to  
2 do it with.

3 [Laughter]

4 Senator Chafee. Well, Mr. Chairman, I do not  
5 get the purpose of the hearing. Why do we have a  
6 hearing if we are all going to vote before we --

7 Senator Moynihan. I said if there is no  
8 objection.

9 Senator Chafee. But, Mr. Chairman, there are  
10 other ways of doing this. And certainly, the  
11 question is about a quorum. The fear is, by the  
12 time everybody finishes their questions, there  
13 will be no quorum.

14 I think you have established a quorum. When  
15 we are through, whether you have a physical quorum  
16 present or not, it seems to me that you can then  
17 poll the members and report out the nomination, if  
18 such is the desire of the members.

19 Senator Moynihan. There have been objections  
20 to that. We will take counsel, if we may do so.

21 Senator Rockefeller has the floor.

22 Senator Rockefeller. Mr. Kantor, I read in  
23 the newspaper a few days ago that a certain  
24 Rockefeller was against your confirmation. I want  
25 it to be clear that that was an uncle of mine and

1 not me. I am for your confirmation very much.

2 Mr. Kantor. Thank you, Senator.

3 Senator Rockefeller. And I am because of  
4 various principles, one of which is that I think  
5 that a skilled negotiator is the most important  
6 quality of a U.S.T.R. person.

7 The Chinese have a phrase, "Know your enemy  
8 like yourself, a 1,000 battles, a 1,000  
9 victories."

10 And it is my belief of what I have come to  
11 know about you in working with you over the past  
12 year or so is that you are not only extremely  
13 bright, but you are very shrewd.

14 In answer to the questions this morning, one  
15 would think that, in fact, you had already been in  
16 the U.S.T.R. position for several years. People  
17 are now routinely asking you technical questions  
18 which you are spitting back dates and all kinds of  
19 details.

20 For someone who is not supposed to know about  
21 trade, I think you have already demonstrated the  
22 learning curve is very, very fast. Plus, frankly,  
23 I think sometimes it is good not to know  
24 everything about a subject when you are going  
25 because you are not in a theological camp.

1 Others in the world camp say, "Oh, good  
2 grief. Here comes all kinds of problems." And as  
3 a result, they have to do this or they do that,  
4 tough and soft, whatever it might be to adjust.

5 People are trying to figure out who Mickey  
6 Kantor is as U.S.T.R. And I like that. I think  
7 that is a very good position.

8 I strongly believe not only in the question  
9 that Senator Danforth--with whom I agree on most  
10 things in trade--asked, but your answer to his  
11 question I thought was the most important  
12 statement that you have made, and that is that  
13 credibility needs consistency.

14 It needs patience. And you do not need to  
15 shout a lot. You simply need to follow through on  
16 your word. It has always been my view.

17 We have trade surpluses in response to what  
18 Senator Chafee was asking a few moments.  
19 Basically, the only trade surpluses are with  
20 Belgium, Denmark, and the Netherlands. Those are  
21 the only ones that reach the \$5, \$6, or \$7 billion  
22 level. Virtually everything else is a deficit.

23 I have always felt that since 1986 with the  
24 Semiconductor Agreement when the Japanese -- for  
25 example, we should not just pick on the Japanese

1 because there are other countries.

2 And the Europeans in many ways are rugged,  
3 more intractable. It is just that we are more  
4 accustomed to dealing with them so we accept it  
5 more.

6 But the Semiconductor Agreement did not work.  
7 We were calling for 20 percent penetration of the  
8 Japanese market. President Reagan, nine months  
9 later, imposed a \$300 million retaliation, so to  
10 speak. And the Japanese had frankly openly  
11 admitted it was that retaliation that caused them  
12 to begin to respond.

13 The level still has merit. It is still 15.9  
14 percent. There is lots of work to be done, but I  
15 think consistency, being able to establish that  
16 you feel something strongly, that your negotiating  
17 position is flexible, but when you have made up  
18 your mind on behalf of the country, it will be  
19 there and it will stay is incredibly important.

20 To change subjects, in the Uruguay Round, it  
21 would be my guess that we will not conclude one  
22 and that we probably will not conclude one by  
23 either the three months prior to the final date,  
24 which brings up the question of, if that is to be  
25 the case and if that is not to be generally a good

1 thing and the world trading system is important,  
2 is it possible to lay out on the table the idea of  
3 trying to reach a Uruguay Round agreement on a  
4 lesser scale, perhaps on things which are more  
5 readily agreed to and then get an agreement on  
6 those things?

7 Mr. Kantor. Certainly, Senator, that  
8 approach should be considered. As you know, there  
9 was a view towards going for what people called a  
10 maximum package. That meant everything from  
11 market access to subsidies to multilateral trade  
12 organization to other factors.

13 And they are including some provisions of the  
14 Dunkel draft that I am concerned with and that  
15 would involve our antidumping and countervailing  
16 duty laws. I think we ought to take a close look  
17 at that.

18 Mr. Chairman, that is one other subject that  
19 will be high on my agenda, if confirmed by the  
20 United States Senate. And that is another thing  
21 in addition to the directive that we should  
22 discuss together.

23 I think we need to take a look at that. I  
24 think you are right, Senator Rockefeller. There  
25 are some very difficult problems in market access

1 of manufacturing goods, of agricultural goods.

2 I see my friend, Senator Pryor there. He  
3 knows about Japanese rice. He knows about  
4 Arkansas rice, my adopted home State of Arkansas.

5 [Laughter]

6 Mr. Kantor. And I think that we need to look  
7 closely at that. And that might make good sense,  
8 but I think we need to talk about it. I would not  
9 do it obviously without close consultation.

10 There is obviously no new Administration yet.  
11 So we have not discussed it, only in the briefest  
12 of terms. And so I would be careful to say that  
13 no conclusion has been reached, but it is  
14 certainly something that bears some discussion.

15 Senator Rockefeller. Just one quick  
16 question, the Commerce Department next week will  
17 release its preliminary dumping margins which  
18 follow its releases of subsidies margins. I guess  
19 it was in November.

20 If its decisions are positive which I expect  
21 they are going to be for our domestic industry,  
22 that may prompt a renewed interest in a  
23 multilateral steel agreement.

24 And I would just ask if you would consult  
25 closely with us, those of us who care a lot about

1 that industry on this committee and elsewhere,  
2 particularly on this committee, and also that you  
3 would not agree to any EC proposals which permit  
4 subsidies and particularly regional subsidies.

5 Mr. Kantor. Senator, I appreciate that. I  
6 also think we need to discuss the confluence of  
7 the steel dumping cases, the multilateral steel  
8 agreement negotiations, and the Uruguay Round.

9 As you know, they all connect together,  
10 intersect. And we have to look at that very  
11 carefully. It is a very important item. And I  
12 would like to consult.

13 We have a very large agenda if I am confirmed  
14 because that is just one more item that is going  
15 to be on the plate, literally one minute after 12  
16 tomorrow.

17 Senator Rockefeller. Thank you, Mr. Kantor.  
18 And thank you, Mr. Chairman.

19 Mr. Kantor. Thank you, Senator.

20 Senator Moynihan. It is so agreed. And that  
21 is a matter of consultation. You are not taking  
22 notes, Mr. Kantor, are you?

23 Mr. Kantor. It is in my head, Mr. Chairman.

24 Senator Moynihan. Senator Rockefeller, I  
25 think --

1           Mr. Kantor. In fact, I do have notes here.  
2 I just do it very surreptitiously.

3           [Laughter]

4           Senator Moynihan. Can I just point out that  
5 I believe it was Senator Rockefeller who mentioned  
6 that there is a multilateral trade organization  
7 contemplated in the Uruguay Round and that it is  
8 big decision.

9           And it was expected in the United Nations  
10 agreements that were reached in San Francisco that  
11 there would be an international trade  
12 organization. It would be modeled on the  
13 international labor organization.

14           That came to be in this committee, the Senate  
15 Finance Committee. It may be just as well because  
16 its headquarters was going to be in Havana.

17           Senator Bradley. It may still be.

18           [Laughter]

19           Senator Moynihan. But thereafter, the  
20 international organization consisted of Eric  
21 Windham White and three secretaries in a villa  
22 outside of Geneva.

23           And whether that was sufficient for the  
24 1950s, it was true in the time of our negotiations  
25 of the Kennedy Round. This may be a good idea.

1 It may not. It is to be determined.

2 Senator Boren.

3 Senator Boren. Thank you very much, Mr.  
4 Chairman.

5 I will be brief. Most of my questions have  
6 already been asked by my colleagues. I am very  
7 glad to hear the emphasis that you place, Mr.  
8 Kantor, on the side agreements in terms of the  
9 free trade agreement with Mexico.

10 I think those are exceedingly important and  
11 what supports the general thrust of the agreement.  
12 I think without the side agreements being pursued  
13 vigorously, we could have some real difficulty in  
14 terms of getting approval of NAFTA. So I  
15 appreciate hearing your comments about that.

16 I would also underline the comments that some  
17 of my other colleagues have made in terms of no  
18 agreement and GATT would be better than any  
19 agreement if it is not to our benefit. And those  
20 of us who come from agricultural States among  
21 others are very concerned about that.

22 Let me say, Mr. Chairman, I not only support  
23 this nomination, I support it enthusiastically. I  
24 would agree with my colleagues who know Mr. Kantor  
25 that he brings to this task the two most important

1 qualities.

2 One is ability. And I have had an  
3 opportunity to see him in action in other contexts  
4 and to see his negotiating skills at work in other  
5 contexts. And having negotiated with some  
6 formidable negotiators around this table and not  
7 taking anything away from any of them because they  
8 can be tough in negotiation, you are certainly one  
9 of the most able negotiators I have ever seen in  
10 action.

11 Mr. Kantor. Thank you, Senator.

12 Senator Boren. And your professional career  
13 demonstrates that as well as my own first hand  
14 experience with you.

15 And so I think that is the most important  
16 skill. And that along with a very quick mind in  
17 terms of understanding the technical details we  
18 have seen in the course of this hearing, I think,  
19 will serve you in good stead.

20 I think you also, along with ability, bring  
21 the other quality I think is most important and  
22 that is a true commitment to public service.

23 I do not know how many of my colleagues know  
24 about your background in terms of your actions as  
25 a citizen outside of government as a citizen

1 volunteer, but I would say to my colleagues that  
2 Mr. Kantor has been very active in areas near and  
3 dear to my heart.

4 One is his work as a private citizen in  
5 working with private organizations and private  
6 funding to help get started the Los Angeles and  
7 California Conservation Corps which provides a  
8 wonderful opportunity to young people in the inner  
9 cities to work on park projects to learn the work  
10 ethic.

11 It literally transforms their lives. It is  
12 one of the most successful programs in the  
13 country. And in many ways he has been the driving  
14 force behind that program.

15 And another area he spends many, many hours  
16 on is the cause of campaign finance reform--which  
17 we will be addressing soon in the Senate--and as a  
18 member of the California Commission on Campaign  
19 Financing reform.

20 So he brings to this job, not only tremendous  
21 ability, but he brings with it a good heart and a  
22 concern and a care for public service. And he has  
23 demonstrated that in so many ways in his life.

24 I feel very, very fortunate, indeed, that we  
25 have a person of this quality willing to serve our

1 country at this time. I am very enthusiastic  
2 about the nomination.

3 And I know that my colleagues, as they work  
4 with Mr. Kantor, and those who have not worked  
5 with him in the past, as Senator Conrad said, for  
6 many, many years, and those who have not had the  
7 chance to work with him will be as enthusiastic as  
8 I am and will become more enthusiastic every time  
9 to have an opportunity to work with this nominee.

10 Let me just raise one point that I think has  
11 not been raised. Among our other concerns about  
12 GATT, some of our trading partners have talked  
13 about a culture exemption. And we are alarmed  
14 about what that can mean.

15 It can well mean that books, music, movies,  
16 creative products in this country would not  
17 receive the protection and the fair treatment that  
18 they deserve.

19 And I just wonder if you are aware of that  
20 problem and if this is an area that you will take  
21 special concern.

22 Mr. Kantor. Yes, I will, Senator. The  
23 protection of intellectual property in the Uruguay  
24 Round has been a contentious issue, as you know,  
25 with a number of countries. It has enormous

1 implications for us.

2 One of our great export products of this  
3 country comes out of my area of the world, as you  
4 know, as many other areas.

5 Senator Boren. Right.

6 Mr. Kantor. It is interesting to be from  
7 Nashville, from a country music State and then  
8 live in Los Angeles where other areas of  
9 entertainment are represented. So I am  
10 particularly concerned about that.

11 I have looked at it closely over the last  
12 three weeks since I have had a chance to look at  
13 it. That is one of the major stumbling blocks  
14 right now. I have heard this three or four times:  
15 no agreement is better than a bad agreement. It  
16 is always the case.

17 I had some very good advice the other day  
18 also that motion is not movement. And I think I  
19 ought to take those very seriously as I go forward  
20 with this job, assuming I can get through these  
21 hearings.

22 [Laughter]

23 Senator Boren. I appreciate those comments.  
24 And I do think again the intellectual property  
25 issue is an important one. It makes an important

1 contribution to our economy.

2 Senator Moynihan. And Senator Pryor.

3 Senator Pryor. Thank you, Mr. Chairman.

4 We welcome Mr. Kantor today to the Finance  
5 Committee. It certainly has been a special  
6 opportunity for me, Mr. Chairman and colleagues,  
7 to get to know Mr. Kantor as he and Mrs. Kantor  
8 have basically lived in Arkansas for the last  
9 year. And they have been wonderful assets to our  
10 community.

11 Mr. Kantor. Thank you, Senator.

12 Senator Pryor. And we hope that you will  
13 continue living there when you are not up here.

14 [Laughter]

15 Senator Pryor. In fact, I do not know  
16 whether you are registered to vote there or not.

17 [Laughter]

18 Senator Pryor. If you do register, there is  
19 a matter or two I may want to discuss with you on  
20 another subject.

21 [Laughter]

22 Senator Pryor. But Senator Rockefeller a  
23 moment ago talked about one or two of the  
24 important statements that you have made, Mr.  
25 Kantor. And I would like to stress another

1 important statement that I find that you have  
2 made.

3 In fact, in your opening statement, several  
4 paragraphs have been given to the issue of a  
5 strong recusal policy, to ethics. And I think  
6 that is very, very appropriate. And I applaud you  
7 for it.

8 Mr. Kantor. Thank you, Senator.

9 Senator Pryor. I think also, this is  
10 something we have not heard enough about in the  
11 last several years. And I am glad that you are  
12 putting this issue on the table. And I think that  
13 we should be all involved with it because I think  
14 we have some problems.

15 In fact, in the last year or two, a book was  
16 written. It was entitled, Agents of Influence.  
17 It was written by Pat Choate.

18 And it states, "From 1973 to 1990, one-  
19 third," this is pretty alarming, "of all U.S.T.R.  
20 officials that held primary and principal trade  
21 positions left those positions to become  
22 registered foreign agents."

23 That is I think an indictment. Now, I would  
24 like to make note, these are not just Republicans.  
25 These are Democrats alike. So I think we must

1 address this as a whole problem.

2 The new Administration, I think, is making a  
3 renewed commitment along this way in ridding us of  
4 this situation. And I am just hopeful that you  
5 are going to be continuing a part of it.

6 Some call it the revolving door, but I think  
7 it is certainly long overdue to be discussed.  
8 First, do you have any comments on that? Or would  
9 you like to respond?

10 Mr. Kantor. Just a quick one, Senator. And  
11 I appreciate that. If the house is still  
12 available on Beechwood Drive, I will come back to  
13 Little Rock. We enjoyed it there very much.

14 Senator Pryor. Thank you.

15 Mr. Kantor. Although I am still registered  
16 to vote in California. I might hasten to add  
17 though, my two colleagues who were here today will  
18 take umbrage at that, but I am very proud of my  
19 adopted State of Arkansas.

20 I served for years until I resigned just this  
21 month from the California Commission on Campaign  
22 Financing. It was not only a commission that  
23 looked at campaign financing reform, but at  
24 lobbying reforms.

25 I am very sensitive to that problem. What I

1 have tried to do and I hope that I have  
2 accomplished it is to adhere to the pledge that  
3 President-elect Clinton wants us to slam that  
4 revolving door shut for the future. And it should  
5 be.

6 And I think I will put a complete wall  
7 between myself and what I have done in the past as  
8 a partner and as a lawyer and as an advocate for  
9 private interest.

10 Doing that, I think I can go forward and  
11 exercise independent judgment and be an agent for  
12 change, not an agent for influence.

13 Senator Pryor. Thank you, Mr. Kantor.

14 And finally, Mr. Chairman, I may have two or  
15 three questions for the record, if we can submit  
16 those questions.

17 [Senator Pryor's questions appear in the  
18 appendix.]

19 Senator Pryor. And I have had extensive  
20 conversations with Mr. Kantor in private about our  
21 rice situation and agriculture issues and other  
22 trade issues. And I look forward to him serving  
23 in this capacity and to working with him.

24 Thank you, Mr. Chairman. And thank you, Mr.  
25 Kantor. I give you back the balance of my time.

1           Senator Moynihan. Thank you, sir. And if  
2 possible, we would like to have questions by 5:00  
3 o'clock.

4           Senator Grassley.

5           Senator Grassley. Thank you, Mr. Chairman.

6           Before I ask questions, I was not here  
7 because I was downstairs where the Attorney  
8 General-select was being interviewed for that  
9 position. I am a member of that committee, but I  
10 would have voted yes on Shalala and yes on Altman.

11          Senator Moynihan. It is so recorded. And we  
12 are pleased to hear that, sir.

13          Senator Grassley. Thank you.

14          I think, Mr. Kantor, that you probably have  
15 answered for Dole and Conrad and Baucus very good  
16 questions that have been asked on agriculture.  
17 And I find your answers that I have heard very  
18 satisfactory.

19          I would approach the issue of agriculture and  
20 GATT from just a little other point of view to see  
21 what sort of continuity or lack of continuity  
22 there might be between the new Administration and  
23 the old Administration on agriculture and GATT.

24          And I would start with a point that Mrs.  
25 Hills has made so often about agriculture being

1 the lynch pin of a GATT agreement. If there is  
2 not a good agriculture agreement, there will not  
3 be an agreement in any other areas.

4 In the last couple of months, not being able  
5 to follow it very closely, sometimes some quick  
6 agreements being made, I wonder if the present  
7 Administration has stuck to that as well as they  
8 have the last two years, but I do not know for  
9 sure.

10 And I do not want to say that they have not,  
11 but assuming they have not, let me have you speak  
12 philosophically about how you see agriculture as a  
13 lynch pin or not a lynch pin in regard to a future  
14 GATT agreement that hopefully will be agreed to  
15 under your administration.

16 Mr. Kantor. Thank you, Senator. As a basic  
17 proposition, as I said earlier, agriculture  
18 representing over \$40 billion in exports a year,  
19 over 10 percent of what we export is critical to  
20 us.

21 Number two, it is a major item, if not the  
22 major item in the Uruguay Round, as you know so  
23 well. The November 20 Blair House Agreement  
24 coming after some, I think, contentious  
25 negotiations and handled I think very well by

1 Ambassador Hills involved both oil seeds and  
2 subsidies, export subsidies, as you know.

3 Internal supports are being addressed in the  
4 Dunkel draft itself. I think there are reasons to  
5 look very carefully at that Blair House Agreement.

6 The reason I say that, Senator, is, as I  
7 expressed earlier, the base year using that  
8 agreement is 86-87 and it involves a 21 percent  
9 cut on both sides to the EC and the United States.  
10 In this language, I have learned multilateralized,  
11 if an agreement could be reached.

12 The problem is, when you have a base year of  
13 86-87, as you know so well, and we cut after that  
14 our subsidies and then you take 21 percent, we are  
15 starting at such a lower base than the Europeans  
16 in this connection. We will have some problem  
17 with a level playing field of a fair situation.

18 Therefore, I want to look at it carefully. I  
19 am not reaching any conclusion, but I suspect it  
20 is something that you would be concerned about as  
21 well.

22 Senator Grassley. On another broad area that  
23 is somewhat philosophical, but if you can tell us  
24 the direction that the new Administration and you  
25 speaking for trade might take.

1           Too often in both Republican and Democratic  
2 Administrations previously, and this is not just  
3 true of agriculture, it will be true of a lot of  
4 areas, we have often seen a Secretary of State  
5 undercut maybe trade areas, agricultural areas  
6 when sometimes they would argue, "Well, national  
7 security was at stake."

8           In other words, you want to be careful what  
9 you do to Japan because they are involved in our  
10 national security. You might want to be careful  
11 of what we do in South Korea and western Europe  
12 for the same area.

13           To what extent is this same pattern going to  
14 be pursued or not pursued by you and by this new  
15 Administration, as best you can determine the  
16 policy of this new Administration at this point?

17           Mr. Kantor. The President-elect has spoken  
18 eloquently about this very problem that you raise  
19 right now. We must have an integrated economic  
20 approach.

21           One facet of our economic policy does not  
22 stand apart from another facet. As we look at  
23 that, trade is just one part, but a vital part of  
24 that package.

25           What we need to look at as far as I am

1 concerned, and this is more than a philosophical  
2 statement, is creating economic viability at home.  
3 If we do that, that is part of our national  
4 security.

5 No longer does just our defense and national  
6 security interests depend on our military,  
7 although it is a very important aspect, or our  
8 foreign policy concerns.

9 Our economic viability is critical if we are  
10 going to exercise the kind of influence we want to  
11 exercise in this very dangerous world that we  
12 face.

13 And so therefore, trade becomes an important  
14 part of that viability. So I would say that in  
15 creating an integrated economic package, trade  
16 will be a critical part of it. The U.S. Trade  
17 Representative will sit on the Executive Committee  
18 of the National Economic Council, will report  
19 directly to the President-elect.

20 So therefore, I think when any considerations  
21 are taken up, which concern foreign policy  
22 concerns, trade concerns, trade domestic policy,  
23 and the economy, no one aspect will dominate. We  
24 see it as an integrated package, if you will, a  
25 seamless web. And it has to be looked at in that

1 fashion.

2 Senator Grassley. My time is just about out.  
3 I would make one point and ask you to continue  
4 looking into it. It was a matter that I brought  
5 up in my office and you did not make any  
6 commitment. I did not ask you to make any  
7 commitment.

8 It would not be appropriate at this moment  
9 for you to make any sort of a commitment, but that  
10 would be the concern of the home appliance  
11 industry vis-a-vis NAFTA. And that is an  
12 important industry in my State, but nationally as  
13 well.

14 And when it comes to some side agreements,  
15 maybe their problems and concerns that have been  
16 expressed in the paper that I gave you will not be  
17 forgotten.

18 Thank you.

19 Mr. Kantor. Thank you, Senator.

20 Senator Moynihan. Thank you, Senator.

21 If I could just make a point in support of  
22 what Senator Grassley has said. As late as 1989,  
23 three-quarters of the manufactured exports of the  
24 United States required a government license. You  
25 had to get permission to sell anything in the

1 world market. And we wonder why it does not  
2 always work so well.

3 Senator Bradley.

4 Senator Bradley. Thank you very much, Mr.  
5 Chairman.

6 I take it that you were defining the free  
7 market that we are thinking about where you have  
8 to get an export license.

9 Senator Moynihan. Yes, export.

10 Senator Bradley. Two thoughts, Mr. Kantor,  
11 and then, two questions. First, I think that your  
12 appointment is an excellent appointment. I think  
13 you will do a terrific job. I think you will be  
14 able to move things along in negotiations. I  
15 think that is the most important thing for a Trade  
16 Representative.

17 Mr. Kantor. Thank you.

18 Senator Bradley. I have spoken to you about  
19 NAFTA. I believe it is the most important foreign  
20 policy decision that President-elect Clinton will  
21 make in his first six to eight months.

22 I think it is enormously important for the  
23 future of this country. It offers a promise that  
24 might not come again.

25 And I urge you to seize it, to conclude

1 quickly any side agreements that you have  
2 obligated yourself to negotiate with Mexico, to  
3 quickly submit to us the new Administration's  
4 adjustment package that will facilitate this  
5 agreement, and to push it forward with great  
6 energy, the energy that I believe that you have.

7 The second point is we have to understand  
8 that our largest trading partner in the world is  
9 no longer Europe. It is Asia. And we have to  
10 begin to think a little differently about some of  
11 the big markets in Asia because it is by far the  
12 fastest growing area in the world.

13 We have talked about both of these issues.  
14 And I hope that you will in practice deliver on  
15 some of the things that we have talked about. I  
16 know you will.

17 Mr. Kantor. Thank you, Senator.

18 Senator Bradley. Two quick questions on a  
19 separate item, and that is, export promotion of  
20 tobacco products. Previous Administrations have  
21 pressured other countries to lower their health  
22 and advertising standards in order to have us to  
23 be able to sell cigarettes. Do you expect to put  
24 an end to these practices?

25 Mr. Kantor. Yes, I do, Senator. I think

1 that these regulations or laws are scientifically  
2 based as we would want our laws to be respected  
3 that are scientifically based in this or any other  
4 area.

5 Then, we should not be in the business of  
6 trying to override those in some negotiation and  
7 push tobacco in this way. Yes, I would agree with  
8 you on that.

9 Senator Bradley. In previous  
10 Administrations, as they were formulating their  
11 policy on tobacco exports, they did not consult  
12 HHS. Would you expect to consult the Health and  
13 Human Services Secretary on issues related to  
14 tobacco, even export issues?

15 Mr. Kantor. Yes, I would, Senator. In fact,  
16 I would like to say, Ambassador Hills had a  
17 representative of HHS on the trade policy staff  
18 committee. I would continue that.

19 I think it is an important aspect of what we  
20 look at as we engage in trade policy. I will  
21 continue that. I will have continuing dialogue  
22 with, I hope, Secretary Shalala.

23 She has just been passed out of this  
24 committee. I hope that she will be confirmed by  
25 the Senate. She is an old friend of mine and a

1 wonderful Secretary. And I commend the committee  
2 for what it did this morning. And I would look  
3 forward to those discussions.

4 But I think in following Ambassador Hills'  
5 lead frankly, I think we ought to keep the HHS  
6 representative on that staff committee and also  
7 make sure that when questions that involve HHS  
8 come up, the Trade Policy Review Group, which you  
9 know very well, it is so important that a  
10 representative from HHS is on that as well.

11 Senator Bradley. I thank you very much, Mr.  
12 Kantor. And I would simply like to reiterate my  
13 own strong feeling that NAFTA might not come again  
14 with a country in which half the populations are  
15 under the age of 15, Mexico.

16 Unless we can pass this agreement and deal  
17 with the adjustment questions in the process,  
18 then, we are not going to have as much economic  
19 growth as we otherwise would have. And we are  
20 going to have mounting social problems.

21 That is why I think it is the most important  
22 foreign policy measure that this new  
23 Administration will confront in its first six  
24 months. I know that you are aware of that, are  
25 you not?

1 Mr. Kantor. I am very aware of that,  
2 Senator. And I know it is right on the front  
3 burner.

4 Senator Bradley. Mr. Chairman, I would like  
5 to be recorded in favor of Secretary Shalala and  
6 also Secretary Altman, and if I am not here when  
7 the vote is taken on Trade Representative Kantor.

8 Senator Moynihan. Thank you, Senator. That  
9 will be done.

10 And now the final questioner in our first  
11 round.

12 And may I note that there have been 15  
13 Senators present so that you have some sense of  
14 the importance with which we view this job.

15 Senator Breaux.

16 Senator Breaux. Thank you, Mr. Chairman. I  
17 apologize, Mr. Chairman, for being late.

18 Mr. Kantor, it is good to see you.

19 Mr. Kantor. Senator, it is nice to see you,  
20 sir.

21 Senator Bradley. One thing is true about  
22 inauguration season is that mornings come too  
23 early and nights last too long.

24 [Laughter]

25 Senator Breaux. And I hope we all survive.

1           Senator Moynihan. There speaks the voice  
2 of --

3           Senator Breaux. Too much experience.

4           Senator Moynihan. Of New Orleans.

5           Senator Breaux. Too much experience can be a  
6 bad thing in this area.

7           [Laughter]

8           Senator Breaux. I congratulate you for  
9 getting an appointment. And I know that you will  
10 do a good job. I think that your background and  
11 profession in your private life will help you in  
12 the need for a strong Trade Representative.

13           I would hope that the phrase, "We will have  
14 to study it" will never become a final answer for  
15 you and your department when you appear before the  
16 Congress.

17           I think on too many occasions in the last  
18 Administration, serious problems were met with the  
19 response, "We will have to study it." And that  
20 was not a final answer, but it became a final  
21 answer in too many areas.

22           There was good work done by the Trade  
23 Representative. There is no question about it,  
24 but in areas that I was parochially involved in,  
25 "We will have to study it" became the only answer

1 I ever got.

2 And I particularly point out, I think, the  
3 absolutely closed system that Japan has when we  
4 try to market rice which my State is one of the  
5 larger producers, as is California.

6 We studied it is my suggestion. It is time  
7 to take some action and try to move in that  
8 direction.

9 The other point I think is that I would very  
10 much like to see the Trade Representative really  
11 be a voice for an aggressive trade policy that  
12 becomes part of our overall international policy.  
13 It is as important as geo-political events around  
14 the world now, if not even more important because  
15 of the change in the world.

16 And I think the Trade Representative really  
17 has to fight and become a fighter for Americans  
18 trading internationally.

19 All the other problems will be brought to you  
20 from all the other departments and why you cannot  
21 do what I think your mission clearly tells you  
22 that you have to do.

23 And so I think your job really is to be a  
24 forceful voice. And I know that you have the  
25 capacity to do that.

1           One quick point on NAFTA. And I think maybe  
2 my colleague, Senator Conrad, mentioned it. NAFTA  
3 has a defect in it for those of us who represent  
4 sugar producing areas--and that is sugar beets as  
5 well as sugar cane--in the sense that I read the  
6 treaty as saying that Mexico can somehow become a  
7 surplus producer of sugar by importing sugar  
8 sweeteners, not using their sugar, thereby  
9 allowing them to dump it into the United States.

10           I guess you have been presented with that  
11 problem. And I would just ask you to make a brief  
12 comment on it.

13           Mr. Kantor. Well, in answer to Senator  
14 Conrad's question along the same lines, and I am  
15 very well aware of your concerns, Senator Breaux,  
16 I think President-elect Clinton has indicated  
17 there are three supplemental agreements to be  
18 negotiated, as I mentioned in my statement: one  
19 involving worker standard and safety, one  
20 involving the environment, and one involving  
21 unexpected surges of imports.

22           I believe if we are sagacious and careful and  
23 consult regularly, that is where we can deal with  
24 the problem that you are legitimately raising  
25 here. We do not need to study it, Senator.

1 I think we can talk about it here. We can  
2 consult. The new Administration can come to a  
3 conclusion and use the opportunity frankly of this  
4 supplemental agreement to try to address that  
5 issue without reopening NAFTA itself.

6 Senator Bradley. Well, I wish you well and  
7 look forward to working with you in the new  
8 Administration.

9 Mr. Kantor. Thank you very much, Senator.

10 Senator Breaux. Thank you, Mr. Chairman.

11 Senator Moynihan. We thank you, Senator.

12 And now for a second round. If I could just  
13 take a moment here to say that there are three  
14 points, Mr. Kantor. We do want to move forward  
15 with the NAFTA agreement and some of the  
16 modifications.

17 One of things that was just pretty  
18 conspicuously missing in the text we got was a  
19 matter of labor standards and the idea of an  
20 international trade organization that was put  
21 together in the post-war era was meant to really  
22 be in parallel with the international labor  
23 organization and the labor treaties.

24 And they are important to this committee.  
25 And we would hope that we will see something in

1 that area. I cannot speak for individuals, but I  
2 think you should know that this committee has  
3 strong feelings given our situations in China  
4 about prison labor, about Tibet and such like  
5 places.

6 And you heard Senator Riegle on the question  
7 of their trade surplus. The trade surplus as such  
8 is not such a good thing or a bad thing, but if it  
9 comes about in ways that we would not have ever  
10 accepted it in our own economy, then we ought not  
11 accept it in others.

12 And just on that point of licenses, may I  
13 make the point that on the licensing arrangement,  
14 it is much easier to get a license to export  
15 something manufactured to the People's Republic of  
16 China than it is to Russia.

17 Russia is a successor state in all manner of  
18 ways, including, "Don't sell them any  
19 refrigerators. They might put penicillin in it or  
20 do something like that." It does deserve your  
21 attention, even though it is not your immediate  
22 problem.

23 Senator Packwood.

24 Senator Packwood. I do not know if you are  
25 aware, Mr. Kantor, of the GATT panel finding on

1 beer in Canada. Canada is discriminating against  
2 the import of American beer despite the North  
3 American Free Trade Agreement. The problems with  
4 Ontario is particularly a problem.

5 A GATT panel has ruled in our favor, but GATT  
6 panels are not self-enforcing. Both countries  
7 have to agree or Canada has to agree in this case.  
8 What can you do to urge them along, force them  
9 along, coerce them along to agreeing with the  
10 panel's recommendation?

11 Mr. Kantor. Well, in fact, Senator, we do  
12 have the power, as you know, with that kind of  
13 background in the appropriate circumstances to  
14 take a look at Section 301.

15 Senator Packwood. Yes. We can retaliate.  
16 We would rather get them to open their market.

17 Mr. Kantor. We want to get them to open  
18 their market. There have been instances in the  
19 past where the institution under investigation of  
20 301 with certain countries, where that has been  
21 fairly effective in trying to get negotiations  
22 started in getting something done.

23 That is something I think we ought to consult  
24 about, both with you and with this committee. We  
25 talked about it in your office, as you will

1 recall. And it is something of which I have some  
2 concern.

3 I do not think this would be the appropriate  
4 place, given one day before the inauguration to  
5 make a policy pronouncement in that regard or  
6 preempt the President-elect of the United States,  
7 but it is something of some concern.

8 I think that is part of not saying things  
9 that you live to regret, standing behind what you  
10 commit to, and making sure that the countries know  
11 that is what you will do.

12 Senator Packwood. This is one somewhat  
13 tangential to Senator Danforth's utilities  
14 problem. It would appear that we have a panel  
15 finding. We have right on our side as GATT sees  
16 it so that it is not something that requires  
17 further negotiation. It requires enforcement.

18 What do you think you can do about the 20  
19 percent Semiconductor Agreement with Japan to get  
20 them to the 20 percent?

21 Mr. Kantor. Well, it comes up this spring.  
22 We will have to review that. And again, it is  
23 something of, we are at 15.9 percent, as I think  
24 Senator Rockefeller pointed out when he was here.  
25 It has grown from nine to almost 16 percent since

1 1986.

2 It is not at the 20 percent. That was a  
3 goal. It was not a requirement, but I still think  
4 it may come within the dictates of 301 and  
5 therefore be enforceable under those dictates.

6 Now, I would like to look at that and talk to  
7 general counsel; not only of my agency, but  
8 through the new Administration and talk to this  
9 committee and other committees, both on the House  
10 side and here. It is a difficult problem, but it  
11 is critical to one of our key industries in this  
12 country.

13 Senator Packwood. I think the 20 percent is  
14 a Japanese commitment, unless I am mistaken.

15 Mr. Kantor. No. It is a goal. In fact, I  
16 think, if I am not mistaken, Senator, you might  
17 take a look at that or we may consult about it,  
18 but I --

19 Senator Moynihan. Could you hold while we  
20 consult counsel here? This is a point that we  
21 would not want to be unclear on.

22 [Pause]

23 Senator Moynihan. Our counselors say there  
24 is a side letter that Senator Baucus was referring  
25 to which states that this is our expectation. So

1 we would think of it as more than a goal. Would  
2 you agree?

3 Mr. Kantor. But that is why I said, Mr.  
4 Chairman, that I think it can be enforced under  
5 301, but it was not a commitment.

6 I was trying to distinguish between the words  
7 commitment and goal. Somewhere in between may lie  
8 expectation. But I believe under 301, it is  
9 enforceable.

10 Senator Moynihan. Perhaps you would give the  
11 committee something in writing when you get a  
12 chance to do this.

13 Mr. Kantor. Thank you, Mr. Chairman.

14 Senator Moynihan. We do not want to press  
15 you, but there are issues here.

16 Senator Packwood, is that agreeable to you?

17 Senator Packwood. Yes. That is fine, thank  
18 you.

19 Several members have touched upon most-  
20 favored-Nation status for China. You will have  
21 the issue in your lap very soon. What would be  
22 your recommendation to the President?

23 If China does not change much, if roughly  
24 they were where they were last year, they made a  
25 slight nudge on labor and a slight nudge on -- but

1 sort of where they were last year, what is your  
2 recommendation?

3 Mr. Kantor. Well, this is a recommendation  
4 that has to be developed throughout the entire new  
5 Administration, as you well know, Senator. It  
6 involves human rights concerns. It involves  
7 nuclear proliferation, trade concerns.

8 We just saw, I think, last week a story in  
9 virtually every newspaper about the concern of  
10 alleged transshipments of as much as \$5 billion in  
11 Chinese textiles and other goods. \$4 billion in  
12 textiles I think it was.

13 And I think we have to look at that carefully  
14 in terms of the MFN status and Jackson-Vanik and  
15 other concerns in this area.

16 Senator Packwood. Do you have any intuitive  
17 feeling about a recommendation?

18 Mr. Kantor. Not at this point. I do not  
19 think this would be proper for me to indicate that  
20 at this point. I would like to consult with the  
21 committee on it is another thing. There are so  
22 many items on our agenda collectively and with the  
23 new Administration as we go in, but I think they  
24 can be handled.

25 And I think to give an intuitive answer right

1 now might be unfortunate.

2 Senator Packwood. Thank you, Mr. Chairman.

3 Senator Moynihan. Thank you, Senator.

4 Senator Baucus.

5 Senator Baucus. Thank you, Mr. Chairman.

6 Very briefly, Mr. Kantor, you have a job  
7 which gives you enormous potential to create new  
8 jobs in America. In fact, if the United States is  
9 successful in negotiating a successful Uruguay  
10 Round and a successful NAFTA and etcetera, you  
11 will create more jobs than any other Cabinet  
12 member.

13 Your job is that critical, is that focused,  
14 and that crucial. You have the capacity as  
15 U.S.T.R., if successful to create more jobs in  
16 America than any other single Cabinet official.

17 Second, I think it is important for us not to  
18 only react to trade problems as they come up, but  
19 it is even more important these days for us to be  
20 thinking in the longer term and to create policy  
21 and to make something happen that is more  
22 beneficial for our country and for the world in  
23 the context that we are not always reacting and  
24 trying to put out fires.

25 One example is our relationship with the

1 country of Japan. It is a very difficult  
2 relationship. Essentially, it is because our  
3 cultures are so different and we are so far away  
4 from each other.

5 We know a little about the Japanese, not a  
6 lot. Americans just do not travel that much  
7 really compared with people in other countries.

8 On the other hand, Japanese know private  
9 about us, but given their historical context and  
10 their background and history and etcetera, they  
11 have a different view of the United States and a  
12 little bit different view of their role in the  
13 world.

14 I strongly urge you as U.S.T.R. and strongly  
15 urge the new Administration to be very proactive  
16 and creative and try to come up with a U.S.-Japan  
17 policy.

18 About four years ago, I wrote an article in  
19 the Cornell International Law Journal on this  
20 subject, the United States and Japan relationship,  
21 and suggested in that article that we Americans--  
22 this was in the aftermath of the United States-  
23 Canadian Free Trade Agreement--get to explore some  
24 kind of bilateral trade agreement in a larger  
25 context, an agreement generally with Japan.

1           Multilateralism is important. Unilateralism  
2           is important, so is bilateralism. I mean, there  
3           is a role for each. I think each one helps the  
4           other. The main goal is pragmatism. We Americans  
5           should be pragmatic and practical, not be too  
6           wedded to one approach at the expense of the  
7           other.

8           But I urge you very strongly with respect to  
9           Japan. It is so critical in the future. We have  
10          heard about the fact that Asia is the fastest  
11          growing market. It is true. And when it goes to  
12          Southeast Asia, particularly, it is overwhelmed  
13          with just the dynamism and the growth and the  
14          potential in that part of the world.

15          And certainly the Japanese relationship with  
16          Southeast Asia is very critical to the United  
17          States relationship with Southeast Asia.

18          I very strongly urge you to take advantage of  
19          the opportunity we now have as Americans to create  
20          a very strong and forceful and constructive and  
21          creative new era in U.S.-Japanese relationships.

22          A former Montana Senator, the former Majority  
23          Leader in the United States Senate, Mike  
24          Mansfield, was Ambassador to Japan for 12 years,  
25          often said -- and we have heard the statement and

1 it is as true and perhaps more true now than it  
2 was then. He said many times that, "The United  
3 States and Japanese bilateral relationship was the  
4 most important in the world, bar none."

5 I think he is right. They are all important,  
6 but that is a lynch pin. If we can get strong a  
7 relationship with Japan, it puts an end to a lot  
8 of this bickering and fighting. And it starts to  
9 create an era so that we do not have to worry so  
10 much about Semiconductor Agreements, etcetera,  
11 etcetera, an agreement which helps each country do  
12 what it knows it should do.

13 We know what we should be doing in budget  
14 deficits and other actions. And we know what  
15 Japan should do. Their political leaders know it.  
16 They just need more external pressure. We know  
17 it. We can stand a little more external pressure,  
18 too.

19 It is an opportunity that I urge you to  
20 seriously explore.

21 Mr. Kantor. In fact, Senator, I had the  
22 great honor and privilege of having breakfast with  
23 Senator Mansfield just last week and not only  
24 enjoyed it, but it was very instructive for me.  
25 And I would hope to continue that. He is an

1 extraordinary human being, as you know better than  
2 I. And I enjoyed that immensely, but it was very  
3 helpful.

4 Senator Baucus. Listen to him on China MFN,  
5 too.

6 Mr. Kantor. Thank you, Senator.

7 Senator Baucus. Thank you.

8 Senator Moynihan. With that cryptic note,  
9 Senator Chafee.

10 Senator Chafee. Thank you, Mr. Chairman.

11 Mr. Kantor, let me just sound a note of  
12 caution, if I might, and of concern, and that is  
13 of embarking on a course in trade negotiations  
14 that primarily is characterized by, quote,  
15 toughness, end quote.

16 In other words, if we cannot get 100 percent  
17 of what we want, we will not play. The perfect  
18 being the enemy of the good.

19 You as an old negotiator know a lot about  
20 that. And while the U.S., I think we have to  
21 remember, has lots of buy-American provisions in  
22 our highway programs and in our mass transit  
23 programs and we have farm subsidies and we have  
24 quotas--just look at sugar, for example, when you  
25 talk quotas--but somehow no other Nation should

1 have any of those provisions.

2 And if there is one thing that can create a  
3 world-wide depression it is the reconstruction of  
4 the trade barriers that have been knocked down  
5 over the past 30 years.

6 And we have seen what Messrs. Smout and  
7 Hawley did to this country in June of 1930. And  
8 there is a lesson I do not think we should forget,  
9 but somehow there is the feeling that the U.S. can  
10 do anything it wants and other Nations have to  
11 dance to our tune.

12 But I think we have to remember that Nations  
13 frequently do not behave sensibly. They are  
14 motivated by pride. They are motivated by  
15 history. They are motivated by internal politics  
16 that cause them to act irrationally from our  
17 standards.

18 And just remember this, that a lot of the  
19 tough talk you hear urging you on will come from  
20 members of Congress. And I would just like to  
21 quote you a line from Seven Days in May which is a  
22 great novel. This is the line, it describes a  
23 Senator, "He moved with all the arrogance that  
24 comes from years of power uninhibited by  
25 responsibility." That is the end of the quote.

1 [Laughter]

2 Senator Chafee. And so we can talk tough,  
3 but just remember your boss has to pick up the  
4 pieces.

5 Now, I would like to ask you a little more  
6 questions. There has been a lot of stress today  
7 on NAFTA. And I am all for that. And I think  
8 that is wonderful. I think we have that somewhat  
9 on track because of the signing of the agreement.  
10 And therefore, the fast track stays in effect.

11 I would like to concentrate a little more on  
12 GATT. I think that the Uruguay Round represents  
13 tremendous opportunities for this Nation.

14 On the other hand, I think that a failure to  
15 go ahead with the GATT -- and I know there are  
16 plenty of problems. And no one is saying that the  
17 agriculture cannot be better than it is worked  
18 out, although we have had a lot of bright people  
19 working on it, but there are other factors  
20 involved.

21 There is the intellectual property that you  
22 previously mentioned. There are the financial  
23 services, legal services, banking. And there is,  
24 as I mentioned before, the agricultural.

25 So I would just like for you just to address

1 in a few minutes, if you might, some thoughts you  
2 might have on GATT. I know you have met with  
3 Carla Hills and others. Where do you see this  
4 thing going?

5 Mr. Kantor. I have talked to Ambassador  
6 Hills on a number of occasions since my  
7 designation by the President-elect. She has been  
8 very kind with her time as an old friend to try to  
9 induct me into this old club, this very small  
10 club, if I am confirmed by the Senate.

11 In doing that, obviously, the Uruguay Round  
12 and GATT negotiations were on the front burner.  
13 And she walked me through where they were. One of  
14 the things that became clear, Senator, that for  
15 every problem that seemed to be solved, two new  
16 problems were raised in terms of definitions.

17 One of those was in the, for instance an  
18 example, nonferrous metal area. Sir Leon and  
19 Britain indicated that they were prepared--meaning  
20 the EC. He is the new trade minister for the EC,  
21 as you know--to make significant, significant cuts  
22 in nonferrous metal tariffs, but did not describe  
23 what that meant.

24 And when they got down to negotiating on  
25 January 2nd, it was clear, significant in terms of

1 the EC, but was not very significant in terms of  
2 the interests of this country.

3 And so I use that only by an example to  
4 indicate, when you look at, as you said,  
5 intellectual property concerns or services or  
6 market access, zero for zero is what we have tried  
7 to negotiate in many areas. It becomes very  
8 difficult in the definition stage, as well as just  
9 getting there.

10 On market access, we have real problems, not  
11 only with the EC, but with the Japanese on rice,  
12 with the Japanese on services, as you know, and  
13 with the Japanese on wood products.

14 And so all of those will be challenges that I  
15 think not only this new Administration faces, but  
16 we face together because I think that is what we  
17 have to move on.

18 If we do not have not only a comprehensive  
19 policy, but consensus, we are not going to be very  
20 effective in our negotiations.

21 Senator Chafee. Well, thank you. My time is  
22 up, but I would just refer once again to that old  
23 saying about the perfect being the enemy of the  
24 good, which you as an old negotiator know a lot  
25 about.

1           And we are not going to get an agreement that  
2           is going to be perfect for everybody, but I think  
3           it behooves us to really press forward on this.

4           I come from a section of the country that is  
5           not involved with the agriculture side, but is  
6           involved with the intellectual property, the  
7           financial services and the manufacturing side of  
8           it. So I would hope that because of the  
9           concentration on NAFTA that GATT would not be  
10          lost.

11          Mr. Kantor. Thank you, Senator. I would  
12          just indicate that that is an old Russian proverb.  
13          I think I first heard it from an old colleague of  
14          yours, Senator John Culver of Iowa, the first time  
15          when I heard that.

16          Senator Chafee. Thank you.

17          Mr. Kantor. Thank you, Senator.

18          Senator Moynihan. But I think Senator Chafee  
19          makes an important point that the United States is  
20          going to prosper to the degree of trade and  
21          services and the protection of things like  
22          intellectual property that that is where much of  
23          our economy resides. And that is why what is new  
24          about this GATT Round, the Uruguay Round is that  
25          it extends beyond just goods and things.

1 I think GATT -- who knows offhand? Question,  
2 what proportion of world trade in dollar volume is  
3 regulated by the GATT? It is only about 10  
4 percent, five?

5 Mr. Kantor. Senator, with all due respect, I  
6 do not know the answer to your question.

7 Senator Moynihan. About five percent. Now,  
8 that is important to get clear. You can spend all  
9 your time talking about something that is about  
10 five percent of the value of world trade unless  
11 you can get that percentage up by the issues that  
12 are on the table in the current round.

13 If all you are doing is negotiating five  
14 percent of the world trade, well, it is  
15 interesting, but not exactly the world's most  
16 important event.

17 Senator Breaux, I think you are our last  
18 questioner in our second round.

19 Senator Breaux. Thank you, Mr. Chairman.

20 One brief point.

21 Senator Moynihan. Excuse me, Senator Breaux.  
22 Would you forgive me, sir?

23 Senator Danforth. Go ahead. You were next.

24 Senator Moynihan. Senator Danforth. Forgive  
25 me.

1           Senator Danforth. Mr. Kantor, just remember  
2           that other sage comment, "The trade agreement that  
3           is not going to be enforced is the enemy of good  
4           trade policy."

5           I want to use my remaining five minutes to  
6           make two comments really to express to you two  
7           views which are probably not universally shared  
8           and to express two hopes.

9           The first view is this, I am concerned that  
10          too much else gets loaded on our trade  
11          negotiators, too much else meaning too many other  
12          national purposes in addition to expanding our  
13          ability to sell in the markets of other countries.

14          I am very concerned, for example, about  
15          conditioning MFN for China, on human rights  
16          improvements. I think that using trade policy in  
17          order to accomplish other goals are very good  
18          purposes, but the result is to subsume trade  
19          policy under other things.

20          I have to say that I felt the same with  
21          respect to the Clinton position on NAFTA.  
22          Obviously, everybody wants a clean environment.  
23          Everybody wants fair labor practices, but when  
24          NAFTA trade negotiations are used to accomplish  
25          extraneous things, then trade becomes secondary

1 not primary.

2 My hope therefore is that in your job, trade  
3 will be your brief. Trade will be your concern,  
4 not everything else that is on the Nation's  
5 agenda, but trade and that you will be somebody  
6 who is going to try to ward off attempts to load  
7 trade with more and more and more other things.  
8 That is my first view and my first hope.

9 My second is this, and from what you said  
10 earlier and what Senator Pryor said, I think that  
11 this is probably obviously a minority position,  
12 but I am going to say it anyhow. I think that the  
13 President-elect's ethics rules with respect to  
14 post-governmental employment, I think that those  
15 rules constitute a serious blunder, a really bad  
16 mistake.

17 I think that you are going to find it hard to  
18 get good people in the kind of jobs you have to  
19 fill. I think that the rules go too far. For  
20 example, a trade negotiator under these rules is  
21 prohibited for five years after leaving the  
22 government employment from representing or  
23 advising a foreign client on any matter related to  
24 the performance of the Federal Government.

25 As an example, a textile negotiator for five

1 years could not represent British Airways in a  
2 matter related to the FAA or the Department of  
3 Transportation.

4 I really think that it is an objective which  
5 is laudable, but a very, very tight stringent way  
6 of trying to accomplish it, which is going to hurt  
7 the administration of U.S. trade policy.

8 My hope is that if I am correct, you will  
9 recommend changing the policy. I know that no  
10 President--and we certainly saw this with  
11 President Bush and I guess we are going to see it  
12 with President-elect Clinton--ever wants to be  
13 accused of waffling, changing his mind, reneging  
14 on a promise.

15 This is already said on the book of  
16 President-elect Clinton even before he takes  
17 office. But if something is done which turns out  
18 to be a mistake, it is not of any service to  
19 continue on that track.

20 And if it turns out that the ethics rules do  
21 less to serve the cause of ethics than to hinder  
22 the performance of U.S. trade policy, I hope you  
23 will let us know that. I hope you will let the  
24 President-elect know that.

25 And I hope that you will know that there is

1 at least one Republican Senator who is not going  
2 to be dumping all over you for changing your mind,  
3 but is going to say that you are doing the right  
4 thing by changing your mind.

5 I might also say that I hope that between now  
6 and whenever that executive order is finally  
7 signed, you might take a look at exactly how it is  
8 drafted for the sake of providing some relief or  
9 some flexibility in how it turns out in print.

10 Mr. Kantor. Thank you, Senator. I  
11 appreciate that.

12 Senator Moynihan. Would you wish to comment?

13 Could I just say to you that there is no  
14 member of the United States Senate who is more  
15 respected in matters of professional and personal  
16 ethics than Senator Danforth. And he speaks from  
17 experience as an attorney, an Attorney General,  
18 and as a theologian. And anything he thinks will  
19 have a great influence in this body.

20 And perhaps, you do not want to say anything,  
21 but if you want to, please.

22 Mr. Kantor. I would just suggest that I hope  
23 you are wrong. I hope that does not occur. So  
24 far, it does not seem to be an impediment. But if  
25 you turn out to be right, then, I have tried to

1 present myself as a flexible person, someone who  
2 looks at the facts and tries to be effective in  
3 what I am doing. And I would take a look at that,  
4 but I think we can slam, as I said, this revolving  
5 door shut. I think the section which you cited is  
6 an important one.

7 Senator Moynihan. Sir, with great respect  
8 because you are going to do a lot of negotiating,  
9 you cannot slam a revolving door shut.

10 [Laughter]

11 Mr. Kantor. Maybe I have been spinning  
12 around too long.

13 Senator Moynihan. The chair wishes to  
14 announce that an authoritative article in the  
15 Cornell Journal of International Law has  
16 established that the amount of world trade covered  
17 by the GATT is seven percent.

18 Thank you, Senator Baucus.

19 Senator Baucus. Thank you, Mr. Chairman.

20 Senator Breaux, I think is our last  
21 questioner.

22 Senator Breaux. Thank you, Mr. Chairman.

23 I want to say to my colleague from Missouri  
24 that if it is the new ethics rules that have  
25 stopped the interests in serving, I certainly have

1 not seen it from the number of applications that  
2 we have received from people to work in the new  
3 Administration. I think it is 10,000 applications  
4 for every one position or at least it seems like  
5 it.

6 I think people are anxious to work in the new  
7 government, even with the strict rules. It is a  
8 sacrifice.

9 And I agree with Jack Danforth. I think it  
10 is probably unnecessary to be that restrictive,  
11 but I do not think it has slowed down the number  
12 of people interested in the various positions that  
13 need to be filled in this new Administration.

14 Let me just raise a concern, Mickey, and that  
15 is, I think that President-elect Clinton is going  
16 to have as his goal to raise the interest of trade  
17 and competitiveness as part of the new  
18 Administration. I think that is very important.

19 Two things that we have recommended that I  
20 would ask you just to make a comment on, number  
21 one, there is a great deal of overlapping in the  
22 trade area. I mean, you just take  
23 telecommunications, for instance.

24 We have the State Department involved in it.  
25 You have the Commerce Department involved in it.

1 You have the U.S.T.R. involved in it. And you  
2 have the FCC involved in it.

3 And people sometimes are stumbling over each  
4 other to come up with a specific and clear trade  
5 policy in these areas where we have so much  
6 overlapping.

7 We have suggested that perhaps they could  
8 consider consolidating the trade functions into a  
9 new department of trade and technology which would  
10 combine the functions of U.S.T.R. and the trade  
11 part of the Commerce Department to have a  
12 streamlined department of trade and technology. I  
13 would like just your general comments on that.

14 And the second suggestion is to elevate trade  
15 as part of our national policy and national agenda  
16 in a global economy is to get the national  
17 security advisor to the President to have an  
18 assistant for trade, an assistant for the  
19 military, but also to put a person who had had a  
20 trade function in the National Security Council  
21 because trade is a part of our national security.  
22 And it is going to be certainly in the twenty-  
23 first century.

24 So do you have any just general comments on  
25 both of those suggestions?

Mr. Kantor. In fact, I do. Number one, the Department of Commerce and the Office of Trade Representative, as you know so well, Senator, are cross-sectioned or overlapped in a number of areas. I would think the past may be prolong in this case.

With due respect to Senator Danforth on the Republican side and watching them for years and admiring how they do campaigns, we have never had in the Democratic Party the kind of relationship we had between the Democratic National Chair and the Chair of the Clinton-Gore campaign, meaning Ron Brown and myself.

If the past is prolong, then I think some of these relationships with my great friend Warren Christopher or with Senator Bentsen--who, as you know, I worked closely with in the campaign or with Ron Brown who I just mentioned--will be very helpful in that regard, but we cannot leave it just, I think, to our personal relationships.

I think increased use of the Trade Policy Review Group, the effectiveness of Mr. Rubin of the National Economic Council will be helpful in all of those areas.

As far as the other departments, I read the

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1 same article, a number of statements, in fact, by  
2 members here in this body and in the other body.

3 I am a little bit wary of the over-  
4 bureaucratization of my proposed function. I  
5 think we have to be somewhat careful and cautious.  
6 I think the Trade Representative's office is  
7 fairly effective because it is small and has a  
8 very, very good core of people who are there as  
9 professionals.

10 On your second point, we have already moved  
11 in the area of the National Security Council as  
12 far as liaison with trade and liaison with the  
13 National Economic Council because we saw the  
14 problem that you have seen in the transition that  
15 has happened. And we want to continue that  
16 relationship in the White House.

17 Senator Breaux. Thank you and good luck.

18 Mr. Kantor. Thank you, Senator.

19 Senator Moynihan. Thank you, Senator.

20 Senator Baucus, do you have any questions.

21 Senator Baucus. No, Mr. Chairman.

22 Senator Moynihan. Senator Danforth, any  
23 other questions?

24 Senator Danforth. No, Mr. Chairman.

25 Senator Moynihan. There being no further

1 questions, the hearing is now adjourned.

2 [The prepared statements of Senators Roth and  
3 Hatch appear in the appendix.]

4 [Whereupon, the hearing was concluded at  
5 12:34 p.m.]

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**Opening Statement of  
United States Trade Representative Designate  
Mickey Kantor  
before the  
Finance Committee of the  
United States Senate**

**January 19, 1993**

**Mr. Chairman, Senator Packwood, distinguished Members of the Senate Finance Committee:**

It is a tremendous privilege to appear before you today. I want to thank President-elect Clinton for giving me this honor -- to serve this Administration and to serve my country, if recommended by this Committee and confirmed by the Members of the United States Senate as the United States Trade Representative. This office has always had a special relationship to this committee and its House counterpart. I value that relationship and will work hard to enhance it.

I have been a practicing lawyer for nearly a quarter of a century. During that time, I have been involved in hundreds of negotiations on issues ranging from aerospace to transportation, from energy to retailing. Over that same period of time, I have been involved in negotiations on behalf of migrant farm workers in South Florida, and served as a presidential appointee on the Board of the Legal Services Corporation. As founder and Chair of the Los Angeles Conservation Corps, I devoted my energies to a tough program of discipline and opportunity for young people left out of the mainstream but eager to work. In addition I supported the legal and educational needs of Hispanic Americans as a Board Member of the Mexican American Legal Defense and Education Fund. Most recently, I have had the pleasure of serving with my good friend -- and one of America's most distinguished public servants -- Secretary of State-designate Warren Christopher, as a member of the "Christopher Commission" investigating the policies and practices of the Los Angeles Police Department.

I have devoted my life, as a lawyer and as a civic leader, to bringing people together: to building coalitions that serve the public interest. As United States Trade Representative, I believe that I can effectively build upon that record to develop coalitions that will result in clear and consistent trade policies -- policies which benefit the citizens of this country. Those coalitions must be bipartisan. We must develop them together. Trade policy does not lend itself to partisan solutions or stand apart from economic policy, and this Administration will not stand apart from Congress. I pledge to work with the members of this Committee, with all of the members of the 103rd Congress and with the private sector to ensure that our trade efforts will empower our citizens to compete and win in the global marketplace.

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**Opening Statement**  
**Mickey Kantor**  
**page 2**

As this committee knows well, the incoming Administration faces an extraordinary array of challenging trade issues. I think you will understand that we have not yet formulated our policies toward many of these issues, and want to do so in consultation with you. But there are several key principles that guide my thinking, and the approach of the Clinton Administration, to the trade issues that will confront us:

Our trade policy must be part of a coordinated and integrated economic strategy. No amount of negotiating, bilaterally or multilaterally, can overcome or offset the burdens placed on U.S. companies from misguided economic policies or uncontrolled health care costs. Nor are trade negotiations a substitute for educating our children or training our workers. The Clinton Administration will not blame other countries for our own domestic shortcomings. We will not solve those problems overnight, but we will deal with them aggressively and forthrightly.

Trade policy is not the only reason that we are failing to meet the challenge of global competition, but it is still a very important factor. This Administration will favor increased trade; we believe it is vital for a growing U.S. economy. But the days when we could afford to subordinate our economic interests to foreign policy and defense concerns are long past. As President-elect Bill Clinton has noted time and again, our national security is directly related to our economic viability. We will not be guided by the assumption that other nations share our commitment to free trade and open markets, when the real world evidence makes it clear that some do not. We will insist that our trading partners join us in strengthening the international trading system.

We will work to open foreign markets to U.S. manufactured goods, agricultural products and services. Our prosperity depends in large part on our ability to export. Allowing other nations to close their markets provides them with an enormous competitive advantage in key sectors. This committee was instrumental in the bipartisan effort, spanning six years, to put in place a more realistic, effective trade policy. I pledge to you that I will use the tools you have given this office to protect and advance U.S. interests.

There is nothing academic or theoretical about the job I will undertake, if you support my confirmation. In my visits with the Senators on this committee, I benefitted from your knowledge of our trade and economic problems. Each of you painted a vivid picture of the pain that many in our country are suffering from loss of jobs and economic opportunity. I travelled all over this country during the campaign that just ended, and I want to assure you that I have seen that pain, too. I will not be able to satisfy all of you, or all your constituents, all the time - far from it - but I hope that you will know that I understand just what my efforts, and those of the Clinton Administration, mean to the people that you represent.

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**Opening Statement  
Mickey Kantor  
page 3**

I pledge to carry out my responsibilities diligently to develop U.S. international trade policies and conduct trade negotiations. I will work toward consistent trade policies that other countries understand and respect. I will aggressively urge our trading partners in Europe, the Pacific Rim, and elsewhere to open their markets to American goods and services.

Specifically, I will urge other countries to reduce their tariffs and other barriers to market access in the ongoing Uruguay Round. The United States must also maintain its ability to respond effectively to foreign unfair trade practices, such as dumping and subsidization.

I will move forward to negotiate the agreements that President-elect Clinton has called for as supplements to the basic North American Free Trade Agreement (NAFTA). The supplemental agreements will deal with the environment, worker standards and safety, and unexpected import surges.

The NAFTA and GATT negotiations are only part of a wide array of pressing international trade issues that await the Clinton Administration, or will arise soon after January 20. The United States must respond to the new Utilities Directive of the European Community. We have ongoing antidumping and subsidy cases against imported steel from virtually all major U.S. trading partners. High on our agenda with Japan must be Japan's adherence to the Semiconductor Agreement; Japan's new voluntary restraint agreement for automobiles; and the continuing large Japanese trade surplus with the United States. And we must address the upcoming renewal of MFN treatment for the People's Republic of China.

I will move to carry out another important responsibility of the U.S. Trade Representative -- enforcing a variety of U.S. laws and international trade agreements. The most notable of these laws is Section 301. If another country is violating a trade agreement with us or engaging in unjustifiable, unreasonable, or discriminatory acts against us, then the U.S. Trade Representative can investigate and negotiate with the other country. I see this and other laws as among the many tools that I can draw upon to help open foreign markets to U.S. exports.

Mr. Chairman, I also want to directly address the issue of the ethical and professional standards which will be defined and met not just by this office but throughout this Administration.

We campaigned throughout the country on the promise of change. Change in this context means we will slam the revolving door shut.

Like my colleagues, I have taken formal steps to insure that no prior affiliation or representation will affect my independent judgment or create even the appearance of conflict. These recusals are specifically designed for the office for which I am being considered, and they are particularly appropriate in light of Ambassador Hills' pledges four years ago.

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**Opening Statement**  
**Mickey Kantor**  
page 4

I withdrew as a partner from the firm of Manatt, Phelps, Phillips & Kantor as of December 31, 1992. My name has been removed from the name of the firm. During my tenure as U.S. Trade Representative, I pledge to have no professional contacts with members or employees of my former law firm. I have also resigned from all boards on which I am a member.

For a period of one year, I will recuse myself from any transaction or matter which would have a unique and special effect on any entity that has been a client of my firm at any time during the past two years. I will permanently recuse myself from any particular transaction or matter involving a client which my former firm has represented concerning that transaction or matter during my association with the firm. I will also permanently recuse myself in any particular matter which I served as counsel while in private practice, although I do not anticipate that any such matter would arise before the U.S.T.R. However, unless there is some unique and special effect on the client involved, I shall not recuse myself on trade or policy matters which affect the overall industry or industries of which any of the above clients is a part.

Mr. Chairman, before I conclude this brief opening statement to respond to questions which you and your colleagues may have for me, I want to express my deep appreciation to a few very special people in my life. It was a privilege and a once-in-a-lifetime experience to serve as the campaign chair for the President-elect. The Kantor family has been blessed by the friendship of Bill and Hillary Clinton over the last 14 years. No aspect of this nomination could make me prouder than the President-elect's confidence and trust in me.

Like the Vice President-elect, I am a son of the State of Tennessee. I grew up in a family that admired and supported the Gore family. I want to express my thanks to Vice President-elect Gore here in this chamber where he and his father before him served their country and brought such pride to those of us from Tennessee.

I could not be sitting before you today without the strength, commitment, support and love of my wife, Heidi and my three children: Leslie, Douglas and Alix. To them, I pledge to help in any and every way possible to make this country a better place for their future -- and for the future of every American family.

Thank you, Mr. Chairman.

III

- more -

THE UNITED STATES TRADE REPRESENTATIVE  
Executive Office of the President  
Washington, D.C. 20506

Statement of Ambassador Michael Kantor  
Title VII Action with Respect to the EC  
February 1, 1993

I am today announcing the initial actions by the United States in response to certain discriminatory procurement practices maintained by the European Community. These discriminatory procurement practices prevent some of our most competitive companies from selling products such as telecommunications and power generating equipment to government owned utilities. Government owned utilities make up the bulk of the European market in these sectors. This European-wide policy of discrimination against non-EC products stands in stark contrast to the open and non-discriminatory access their firms enjoy in selling to our predominantly private utilities market. This situation is intolerable.

The entry into force of the EC's Utilities Directive highlights the current imbalance in government procurement between the U.S. and the Community. We have long sought to eliminate this imbalance by negotiating a strengthened GATT Government Procurement Code that provides access on both sides of the Atlantic. We have not sought a one-way deal. We have sought fairness.

The Clinton Administration intends to take firm steps to ensure open and fair world trade. We do not want to close our procurement market, but we must insist that our major trading partners show an equivalent commitment to open and non-discriminatory procurement policies. We stand ready to conclude an agreement, but we will not hesitate to enforce our right to be treated fairly.

I therefore announce the following steps:

First, that effective March 22, 1993 the United States will prohibit the procurement of EC sourced products not covered by the GATT procurement code or by our defense and security related agreements with EC countries for all Federal agencies.

Second, that the USTR will immediately solicit public comments concerning the impact of other possible actions restricting imports of telecommunications and power generating equipment from the EC.

Third, that the U.S. government will begin an immediate study of the desirability and feasibility of withdrawing from the GATT Government Procurement Code. We will seek public comments on this possible action, which may indeed be necessary if we cannot obtain a better balance under that agreement.

This Administration does not take such action lightly. We believe that this is a measured first step. U.S. telecommunications and electrical suppliers have long suffered significant damage from the restrictions placed on them in European markets. While we welcome many aspects of the recently issued EC Utilities Directive, we consider it unacceptable that it retains such restrictions. Over the past year, U.S. negotiators have met several times with the EC to find a mutual solution. Despite our efforts, no solution has emerged. The EC has simply refused to show a sufficient desire to conclude a balanced arrangement. I have instructed my negotiators to make every effort to continue working towards a balanced resolution of this dispute. In the absence of such an outcome, however, the United States will act and will act firmly.

Today's action enjoys the full support of the President and his entire Administration. It has been taken only after careful consultation with all affected agencies and guidance from the National Economic Council. It reflects a strong desire by President Clinton to address the trade problems of this country in a manner that is fair to all, and that demonstrates our commitment to a global economy.

February 1, 1993

Fact Sheet

TITLE VII ANNOUNCEMENT

United States Trade Representative (USTR) Michael Kantor today announced the Administration's intention to prohibit awards of contracts by federal agencies for products and services from some or all of the Member States of the European Community (EC), to take effect with respect to U.S. issuances of solicitation published on or after March 22, 1993. The action will be imposed under authority of Title VII of the Omnibus Trade and Competitiveness Act of 1988. Kantor also requested public comment on this sanction by March 5, 1993, as well as on additional possible actions to be taken in response to EC discrimination against U.S. businesses in government procurement.

Notice of this action will be published in the Federal Register on or about February 4, 1993. The notice will further request public comment concerning the costs and benefits of continued U.S. participation in the GATT Agreement on Government Procurement (the "Code"), in connection with a U.S. Government study of the desirability and feasibility of withdrawing from the Code, which is now being initiated.

Purchases covered by the Code (See Appendix) and purchases by U.S. government agencies in support of U.S. national security interests, including all purchases by the Department of Defense, will be excluded from the prohibition on awards for EC products and services. Also excluded will be specific procurements or classes of procurements where public health, safety, or public interest considerations require such exclusions. This action will not be taken if the discrimination identified in the April 22, 1992 Title VII identification is eliminated prior to the scheduled imposition of the action, or if the President determines such action to be contrary to the national interest.

I. Title VII Statute

Title VII of the 1988 Trade Act amended the Trade Agreements Act of 1979 to require, among other things, that the Administration annually submit to Congress through 1996 a report identifying foreign countries that discriminate against U.S. products or services in government procurement according to specified statutory criteria. These functions have been delegated to the USTR by executive order.

Title VII provides for consultations with countries identified in the report as discriminating and for appropriate Presidential action with regard to such countries if the discrimination is not addressed within specified time frames.

## II. Title VII Action with respect to the EC

The USTR announcement, on behalf of the Administration, follows the February 21, 1992 report to Congress in which the Bush Administration identified the EC under Title VII for the discriminatory procurement policies of government-owned telecommunications and electrical utilities in certain EC member states. Specifically cited in this report was the EC's "Utilities Directive," which came into effect on January 1, 1993, and which requires EC utilities to favor EC goods over those of the U.S. and other foreign countries. The Directive replaces the informal barriers U.S. firms had faced previously in some EC markets with official discrimination in all EC utilities markets, with the exception of Spain, where the Directive will become effective on January 1, 1996, and Greece and Portugal, where the Directive will become effective on January 1, 1998.

On April 22, 1992, pursuant to section 305(g)(1)(a) of the Trade Agreements Act of 1979, as amended, the President identified the EC as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against U.S. products or services that results in identifiable harm to U.S. businesses. In accordance with the provisions of Title VII, the President modified the imposition of sanctions so that they would take effect by January 1993, subject to EC implementation of the discriminatory provisions of the Utilities Directive. The President noted that in accordance with the statute, the sanctions would be equivalent, in their effect, to the discrimination against U.S. products or services, and would be subject to such terms and conditions as he considers appropriate.

## III. Background

### Previous Title VII Reviews of the EC

In the first two Title VII reviews in 1990 and 1991, the Administration passed information to the Congress on the practices of the EC and certain Member States with respect to telecommunications and heavy electrical procurement practices, but did not formally identify them under the statute. In the 1991 review, however, the Administration announced its intention to conduct an "early review" of these practices in January 1992, pending an anticipated outcome in negotiations on the Government Procurement Code. As a result of this early review, the Administration identified the European Community on February 22, 1992 under Title VII as discriminating against U.S. businesses in procurement by its state-owned telecommunications and power generation utilities.

## Results of the 1992 Early Review

The specific grievance cited in the February 1992 Title VII report is discrimination in equipment procurement by certain EC state-owned telecommunications and power generation utilities. Many of these utilities have for years bought equipment (such as telecommunications switches and turbine generators) exclusively from national suppliers. This broad, informal discrimination was replaced on January 1, 1993 by the Utilities Directive, which requires utilities to observe formal non-discriminatory and transparent procurement rules. This largely favorable directive is marred by a provision (Article 29) that discriminates against goods with over 50% foreign content by requiring EC utilities to apply a 3% price preference to "European" bids, and giving utilities the option of rejecting non-European bids. Article 29's terms permit it to be waived for countries with whom the EC has concluded a bilateral or multilateral market access agreement covering utilities.

In April, 1992, the Title VII sanctions were modified to be imposed by January, 1993 to provide U.S. and EC negotiators with the opportunity to complete the Government Procurement Code negotiations and parallel telecommunications negotiations. Such a result would have enabled the EC to waive Article 29 before it was scheduled to take effect and to apply an open, competitive, and non-discriminatory system of procurement in these sectors. Despite this delay, and despite considerable negotiating effort, the Utilities Directive took effect on January 1, 1993 with Article 29 in force.

### Negotiations

The U.S. has negotiated both bilaterally and multilaterally with the EC to address discrimination in the telecommunications and heavy electrical sectors. Multilateral negotiations have focused on expanding the coverage of the Code. Code coverage would subject these utilities to the rigorous non-discriminatory procedures of the Code, as well as its basic national treatment principle. It would also constitute the kind of market access agreement that would allow the EC to waive Article 29 of the Directive. Moreover, it would add billions of dollars of EC procurement opportunities for U.S. firms, helping to redress the imbalance of U.S. versus EC Code opportunities. To date we have been unable to secure expanded Code coverage to either EC telecommunications or heavy electrical utilities.

Additionally, the U.S. and EC have negotiated bilaterally over the last two years on telecommunications. Like the Code negotiations, however, U.S. and EC negotiators have not been able to reach an agreement that would eliminate the discrimination in the EC market.

The U.S. is prepared to continue the negotiations with the EC. The U.S. strongly prefers a negotiated agreement that provides non-discriminatory and effective access to EC utilities' procurement.

## APPENDIX

Major categories of non-Code-covered procurement include:

- o All services contracts, including construction contracts;
- o All contracts with a value of less than \$176,000;
- o All contracts procured by federal agencies not on the following list:

Department of Agriculture  
Department of Commerce  
Department of Education  
Department of Health and Human Services  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
United States Agency for International Development  
Department of the Treasury  
General Services Administration  
National Aeronautics and Space Administration  
Department of Veterans Affairs  
Environmental Protection Agency  
United States Information Agency  
National Science Foundation  
Panama Canal Commission  
Executive Office of the President  
Farm Credit Administration  
National Credit Union Administration  
Merit Systems Protection Board  
ACTION  
United States Arms Control and Disarmament Agency  
Office of Thrift Supervision  
Federal Housing Finance Board  
National Labor Relations Board  
National Mediation Board  
Railroad Retirement Board  
American Battle Monuments Commission  
Federal Communications Commission  
Federal Trade Commission  
Interstate Commerce Commission  
Securities and Exchange Commission  
Office of Personnel Management  
United States International Trade Commission  
Export-Import Bank of the United States  
Federal Mediation and Conciliation Service  
Selective Service System  
Smithsonian Institution  
Federal Deposit Insurance Corporation  
Consumer Product Safety Commission

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Equal Employment Opportunity Commission  
Federal Maritime Commission  
National Transportation Safety Board  
Nuclear Regulatory Commission  
Overseas Private Investment Corporation  
Administrative Conference of the United States  
Board for International Broadcasting  
Commission on Civil Rights  
Commodity Futures Trading Commission  
Peace Corps  
National Archives and Records Administration  
Department of Defense

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**Opening Statement of  
United States Trade Representative Designate  
Mickey Kantor  
before the  
Finance Committee of the  
United States Senate**

**January 19, 1993**

**Mr. Chairman, Senator Packwood, distinguished Members of the Senate Finance Committee:**

**It is a tremendous privilege to appear before you today. I want to thank President-elect Clinton for giving me this honor -- to serve this Administration and to serve my country, if recommended by this Committee and confirmed by the Members of the United States Senate as the United States Trade Representative. This office has always had a special relationship to this committee and its House counterpart. I value that relationship and will work hard to enhance it.**

**I have been a practicing lawyer for nearly a quarter of a century. During that time, I have been involved in hundreds of negotiations on issues ranging from aerospace to transportation, from energy to retailing. Over that same period of time, I have been involved in negotiations on behalf of migrant farm workers in South Florida, and served as a presidential appointee on the Board of the Legal Services Corporation. As founder and Chair of the Los Angeles Conservation Corps, I devoted my energies to a tough program of discipline and opportunity for young people left out of the mainstream but eager to work. In addition I supported the legal and educational needs of Hispanic Americans as a Board Member of the Mexican American Legal Defense and Education Fund. Most recently, I have had the pleasure of serving with my good friend -- and one of America's most distinguished public servants -- Secretary of State-designate Warren Christopher, as a member of the "Christopher Commission" investigating the policies and practices of the Los Angeles Police Department.**

**I have devoted my life, as a lawyer and as a civic leader, to bringing people together: to building coalitions that serve the public interest. As United States Trade Representative, I believe that I can effectively build upon that record to develop coalitions that will result in clear and consistent trade policies -- policies which benefit the citizens of this country. Those coalitions must be bipartisan. We must develop them together. Trade policy does not lend itself to partisan solutions or stand apart from economic policy, and this Administration will not stand apart from Congress. I pledge to work with the members of this Committee, with all of the members of the 103rd Congress and with the private sector to ensure that our trade efforts will empower our citizens to compete and win in the global marketplace.**

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**Opening Statement**  
**Mickey Kantor**  
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As this committee knows well, the incoming Administration faces an extraordinary array of challenging trade issues. I think you will understand that we have not yet formulated our policies toward many of these issues, and want to do so in consultation with you. But there are several key principles that guide my thinking, and the approach of the Clinton Administration, to the trade issues that will confront us:

Our trade policy must be part of a coordinated and integrated economic strategy. No amount of negotiating, bilaterally or multilaterally, can overcome or offset the burdens placed on U.S. companies from misguided economic policies or uncontrolled health care costs. Nor are trade negotiations a substitute for educating our children or training our workers. The Clinton Administration will not blame other countries for our own domestic shortcomings. We will not solve those problems overnight, but we will deal with them aggressively and forthrightly.

Trade policy is not the only reason that we are failing to meet the challenge of global competition, but it is still a very important factor. This Administration will favor increased trade; we believe it is vital for a growing U.S. economy. But the days when we could afford to subordinate our economic interests to foreign policy and defense concerns are long past. As President-elect Bill Clinton has noted time and again, our national security is directly related to our economic viability. We will not be guided by the assumption that other nations share our commitment to free trade and open markets, when the real world evidence makes it clear that some do not. We will insist that our trading partners join us in strengthening the international trading system.

We will work to open foreign markets to U.S. manufactured goods, agricultural products and services. Our prosperity depends in large part on our ability to export. Allowing other nations to close their markets provides them with an enormous competitive advantage in key sectors. This committee was instrumental in the bipartisan effort, spanning six years, to put in place a more realistic, effective trade policy. I pledge to you that I will use the tools you have given this office to protect and advance U.S. interests.

There is nothing academic or theoretical about the job I will undertake, if you support my confirmation. In my visits with the Senators on this committee, I benefitted from your knowledge of our trade and economic problems. Each of you painted a vivid picture of the pain that many in our country are suffering from loss of jobs and economic opportunity. I travelled all over this country during the campaign that just ended, and I want to assure you that I have seen that pain, too. I will not be able to satisfy all of you, or all your constituents, all the time - far from it - but I hope that you will know that I understand just what my efforts, and those of the Clinton Administration, mean to the people that you represent.

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**Opening Statement**  
**Mickey Kantor**  
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I pledge to carry out my responsibilities diligently to develop U.S. international trade policies and conduct trade negotiations. I will work toward consistent trade policies that other countries understand and respect. I will aggressively urge our trading partners in Europe, the Pacific Rim, and elsewhere to open their markets to American goods and services.

Specifically, I will urge other countries to reduce their tariffs and other barriers to market access in the ongoing Uruguay Round. The United States must also maintain its ability to respond effectively to foreign unfair trade practices, such as dumping and subsidization.

I will move forward to negotiate the agreements that President-elect Clinton has called for as supplements to the basic North American Free Trade Agreement (NAFTA). The supplemental agreements will deal with the environment, worker standards and safety, and unexpected import surges.

The NAFTA and GATT negotiations are only part of a wide array of pressing international trade issues that await the Clinton Administration, or will arise soon after January 20. The United States must respond to the new Utilities Directive of the European Community. We have ongoing antidumping and subsidy cases against imported steel from virtually all major U.S. trading partners. High on our agenda with Japan must be Japan's adherence to the Semiconductor Agreement; Japan's new voluntary restraint agreement for automobiles; and the continuing large Japanese trade surplus with the United States. And we must address the upcoming renewal of MFN treatment for the People's Republic of China.

I will move to carry out another important responsibility of the U.S. Trade Representative -- enforcing a variety of U.S. laws and international trade agreements. The most notable of these laws is Section 301. If another country is violating a trade agreement with us or engaging in unjustifiable, unreasonable, or discriminatory acts against us, then the U.S. Trade Representative can investigate and negotiate with the other country. I see this and other laws as among the many tools that I can draw upon to help open foreign markets to U.S. exports.

Mr. Chairman, I also want to directly address the issue of the ethical and professional standards which will be defined and met not just by this office but throughout this Administration.

We campaigned throughout the country on the promise of change. Change in this context means we will slam the revolving door shut.

Like my colleagues, I have taken formal steps to insure that no prior affiliation or representation will affect my independent judgment or create even the appearance of conflict. These recusals are specifically designed for the office for which I am being considered, and they are particularly appropriate in light of Ambassador Hills' pledges four years ago.

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**Opening Statement**

**Mickey Kantor**

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I withdrew as a partner from the firm of Maratt, Phelps, Phillips & Kantor as of December 31, 1992. My name has been removed from the name of the firm. During my tenure as U.S. Trade Representative, I pledge to have no professional contacts with members or employees of my former law firm. I have also resigned from all boards on which I am a member.

For a period of one year, I will recuse myself from any transaction or matter which would have a unique and special effect on any entity that has been a client of my firm at any time during the past two years. I will permanently recuse myself from any particular transaction or matter involving a client which my former firm has represented concerning that transaction or matter during my association with the firm. I will also permanently recuse myself in any particular matter which I served as counsel while in private practice, although I do not anticipate that any such matter would arise before the U.S.T.R. However, unless there is some unique and special effect on the client involved, I shall not recuse myself on trade or policy matters which affect the overall industry or industries of which any of the above clients is a part.

Mr. Chairman, before I conclude this brief opening statement to respond to questions which you and your colleagues may have for me, I want to express my deep appreciation to a few very special people in my life. It was a privilege and a once-in-a-lifetime experience to serve as the campaign chair for the President-elect. The Kantor family has been blessed by the friendship of Bill and Hillary Clinton over the last 14 years. No aspect of this nomination could make me prouder than the President-elect's confidence and trust in me.

Like the Vice President-elect, I am a son of the State of Tennessee. I grew up in a family that admired and supported the Gore family. I want to express my thanks to Vice President-elect Gore here in this chamber where he and his father before him served their country and brought such pride to those of us from Tennessee.

I could not be sitting before you today without the strength, commitment, support and love of my wife, Heidi and my three children: Leslie, Douglas and Alix. To them, I pledge to help in any and every way possible to make this country a better place for their future -- and for the future of every American family.

Thank you, Mr. Chairman.

**III**

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