

**TESTIMONY OF AMBASSADOR MICHAEL KANTOR
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before the House Energy and Commerce Committee
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THE ADMINISTRATION'S CASE FOR NAFTA

Mr. Chairman, members of the Committee, I am pleased to appear before you today to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA), with the recently negotiated supplemental agreements.

This fall, members of the administration have appeared before Committees in the House and the Senate and over the next few weeks, we will be participating in other hearings focusing on the NAFTA. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is central to our national interests.

The question we must ask ourselves as we consider the NAFTA is whether the United States will be significantly better off with the NAFTA and its side agreements than by rejecting them. We believe that the answer to that question is a clear and resounding yes.

The case for NAFTA comes down to two compelling points: NAFTA will increase economic growth and jobs in the United States, and NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico. Prominent among those problems are issues related to environmental protection and our citizens' health and safety that I know are of particular interest to this committee.

There is a related point that is missed too often by the opponents of this agreement: rejecting the NAFTA and the supplemental agreements will not solve the problems that trouble us. The NAFTA will help us solve these problems in a way that benefits our country and our continent.

NAFTA and Our Trading Goals

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember that what NAFTA really does is some very simple things which Americans have long sought in our trading relationships. The NAFTA levels a playing field that is now tilted against us. Over time it will eliminate tariffs and non-tariff barriers among the United States, Mexico and Canada. Mexico and Canada will give our products preferential treatment compared to our competitors in

Europe and in Asia and end the failed maquiladora programs. In addition NAFTA and its side agreements will address long-neglected environmental and labor issues.

The NAFTA creates the world's largest market: 370 million people and \$6.5 trillion of production. That makes us stronger here at home, and better able to compete with Europe and Asia.

At the same time, NAFTA has strong rules to stop unfair treatment of American products and American investors. It requires Mexico to change laws that have forced our companies to move production to Mexico in order to sell their products in Mexico. It requires protection from piracy of our films, our books and our technology. The supplemental agreements will require stronger enforcement of laws protecting labor and the environment, and will help us work together with Canada and Mexico to improve deficient laws.

NAFTA and the Administration's Economic Strategy

The NAFTA package is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most competitive economy in the world. By doing so, we will expand job opportunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing. Technology has revolutionized the world. Our economy is no longer self-contained, and the U.S. economy no longer dominates the world's economy. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy -- health care reform, reducing the deficit, increasing public and private investment, reinventing government, welfare reform, changes in education, worker training, investing in technology -- all work in pursuit of the same objective: to build a more secure productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. We have regained our position as the world's leading exporter. Last year U.S. trade in goods and services exceeded one trillion dollars.

Opening up new markets is the key to new job creation and

economic growth. NAFTA presents an opportunity to compete and win in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market -- 400 million people throughout Central and South America and the Caribbean.

The United States seeks to open markets everywhere. We seek to trade and to compete worldwide. We have nearly \$200 billion each year in two-way trade with the countries of the European Community; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round -- taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system -- remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems. They took these steps at the urging of the United States.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profound negative economic and political consequences throughout the hemisphere and for the prospects for the expansion of trade in the global trading system.

The NAFTA is an instrument for helping the United States, Mexico and Canada cooperate in meeting Asian and European competition. It will help us produce more globally competitive products.

In the new global economy, there are challenges and risks, as

well as great opportunities. I am confident that American workers are up to the challenge of competing -- and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this change; we have gone through a six year trial run.

Job Growth and Trade with Mexico

Mexico, recognizing that its economic policies had been disastrous, has begun to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.
- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.
- 70% of all dollars spent by Mexicans on imports are spent on U.S. products.

The success of the past seven years has occurred even though Mexican trade barriers remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, ensures continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past seven years.

Virtually every responsible study that has looked at the labor issue concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The Administration believes that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, overall, job gains will significantly exceed job losses. The studies also agree that the jobs lost will be a relatively small. This is true because Mexico's economy is only one-twentieth the size of ours, and our tariff and non-tariff barriers are already low. Mexico's productive assets, capacity and infrastructure are far below levels and standards in the United States or even Canada.

NAFTA and Our Current Trade Problems

Ironically, most of the concerns you hear in America about NAFTA are in reality problems that exist right now -- problems that the NAFTA will address. For example, in the trade area, despite Mexico's recent liberalization and despite the enormous gains we have enjoyed in our bilateral trade in recent years, the playing field is still tilted against us. NAFTA will level the playing field for U.S. workers.

For one, it will eliminate Mexican performance requirements and other unfair rules in the auto sector -- requirements that imports of vehicles into Mexico must be off-set two-to-one by exports of Mexican-made cars. It will eliminate the requirement for Mexican importers to secure a government permit each time they want to buy U.S. strawberries. Mexico has the right under the GATT to raise its tariffs up to 50%. If it chooses to do so, U.S. exports would not be affected because of the protections we gain under NAFTA.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements which allowed the central government to dictate the levels of Mexico's agricultural imports. As a result, protected from competition from imports, Mexican producers were inefficient, and the Mexican economy was characterized by widespread poverty. Mexico's protectionist regime did not serve the interests of Mexico's people.

Perhaps the closed Mexican economy reflected the historical Mexican mistrust of, and antagonism toward, the United States. For whatever reason, Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program created trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexico's high import barriers and Mexican rules requiring firms selling in the Mexican market to open factories in Mexico have made it difficult if not impossible for many of our companies to sell products made in the U.S. in Mexico. Non-tariff barriers -- licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The NAFTA will transform the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, the maquiladora program is effectively eliminated, along with import protections, and existing factories will be permitted to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA locks in current access and expands on it.

NAFTA will require relatively few changes on our part -- while requiring Mexico to sweep away decades of protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports will disappear for the United States (and for Canada, for most products) when the NAFTA goes into effect. However, a license may still be required to bring in covered products from all other countries.

Major Features of NAFTA

Reduction of Mexican Tariffs: Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when

NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first five years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive than those of our rivals.

Removing Mexican non-tariff barriers. NAFTA reduces or eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

In addition, NAFTA includes important benefits for other key U.S. sectors:

Opening up Trade in Services. NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

Protecting U.S. copyrights, patents and trademarks. NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By enhancing protection of U.S. owners of technology, and of book, film and recording rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, with exports, valued conservatively, of about \$34 billion in 1990.

The Benefit to Small Business. I have noted the statements of several sectors citing the benefits which will result from NAFTA; that sentiment is widely held in the business community, by businesses large and small. Indeed, small businesses stand to be among the major beneficiaries of NAFTA. Small businesses are often less able to invest the time and resources to wrestle with the tariff and licensing requirements which presently block the way to the Mexican market. With tariffs reduced or eliminated, and non-tariff barriers coming down, U.S. small business, which makes up a growing share of U.S. exports, will be able to sell their American-made products into the Mexican market.

The Environment

I welcome the opportunity to focus particular attention on environmental issues, because the combination of the provisions of the NAFTA and the NAFTA side agreement on the environment constitute truly path-breaking advances in the area of trade and the environment. Just five years ago, when the Congress approved the U.S.-Canada Free Trade Agreement, few if any environmentalists had even considered trade issues relevant -- or vice versa. In the NAFTA and the side agreements of the NAFTA, you now see not only heightened sensitivity to the need to safeguard our rights to protect our own environment, health and safety, but provisions aimed at seeing that the benefits of increased trade and economic growth are accompanied by provisions aimed at improving standards and enforcement of laws affording these protections.

There are good reasons that the environmental efforts we have made have drawn the strong endorsement of six preeminent private environmental groups. The NAFTA and the side agreements achieve a number of historic firsts, including:

- o creation of the first ever North American Commission on the Environment, with a mandate to promote cooperation to improve environmental protection on our continent;
- o the most explicit international affirmation ever of our right to keep out imported products that fail to meet the standards we set for protection of our health, safety and environment, even if these standards differ from international norms;
- o protection of the rights of our state and local governments to set and enforce higher standards than federal (or international) norms;
- o provisions favoring upward harmonization of standards in North America, without derogating from our democratic right to choose our own standards;

- o provisions against relaxation of environmental health or safety standards in order to attract or retain an investment, and provisions to encourage effective enforcement of national laws, backed by sanctions for a persistent failure to effectively enforce those laws;
- o explicit recognition of the precedence over the NAFTA of certain core environmental agreements containing trade sanctions;
- o a strengthened commitment to cleaning up the border environment.

These provisions and others will help us improve environmental conditions in North America. No one can fail to be disturbed by the vivid pictures we have all seen of existing environmental problems along the U.S.-Mexico border. These problems partly stem from past failures to adequately check against industrial pollution, but also from the lack of adequate infrastructure (water treatment, sewage and so forth) for the growing human population. The maquiladora program aggravated these problems by encouraging industrial development at the border.

Critics of the NAFTA try to point to these existing conditions as a reason to reject the NAFTA, implying that NAFTA, a treaty not yet in force, should somehow be blamed for all bad existing conditions at the border, and arguing that the NAFTA will increase these problems. And despite the explicit language of the NAFTA and the side agreements, the most extreme critics irresponsibly try to frighten people that NAFTA will cause us to weaken environmental protection and lower our standards.

We should not accept continuation of the bad conditions at the border, any more than we should accept unsafe products. But NAFTA is not the problem with regard to these concerns; NAFTA and the side agreements are part of the solution. NAFTA will eliminate special incentives to export products in Mexico to the United States, thereby reducing the incentive to locate industries at the crowded border. And NAFTA and the side agreements will help promote sustainable development with improved environmental protection and enforcement.

As Kathryn Fuller, of the World Wildlife Fund stated on September 15: "Our support of the NAFTA and the Agreement on Environmental Cooperation boils down to this: ultimately, the environment of north America will be better with the passage of NAFTA than without it."

NAFTA and the side agreements contain both provisions to ensure that trade liberalization does not come at the expense of environmental protection and provisions to help improve environmental protection.

NAFTA and Standards and Sanitary and Phytosanitary Measures

The NAFTA texts on Standards and Sanitary and Phytosanitary Measures preserve our ability to maintain, strengthen, and enforce existing U.S. health, safety, and environmental standards, and establishes ways for all three trading partners to strengthen their standards. Specifically, the NAFTA's provisions:

- o Affirm the right of each party to choose the level of protection of human, animal, or plant life or health it considers appropriate;
- o Do not impair existing U.S. federal and state health, safety, and environmental standards, and preserve our right to ban non-conforming imports;
- o Continue to allow each country, including its state and local governments, to enact standards that are stricter than international or national standards;
- o Commit the NAFTA parties to work jointly to enhance their standards;
- o Continue to allow parties to act to protect human, animal or plant life or health based on available information when there is insufficient information to conduct a risk assessment;
- o Ensure advance notice to the public of proposed regulatory actions in each of the three countries, to review and comment upon those actions, and to have such comments taken into account prior to final decision;
- o Establish a Committee on Standards-Related Measures to facilitate compatibility of standards, consult regularly on matters of common concern in this area, and enhance cooperation on developing, applying, and enforcing standards-related measures; and
- o Establish a Committee on Sanitary and Phytosanitary (S&P) Measures to enhance food safety and improve sanitary conditions, promote compatibility of S&P measures, and facilitate technical cooperation and consultation on specific S&P bilateral or trilateral issues.

While granting the federal government and the states broad discretion to set their own environmental, health and safety standards, NAFTA does require governments to meet certain elementary requirements when applying laws and regulations to achieve the government's chosen levels of protection, in order to safeguard against blatant trade protectionism in the guise of a health regulation.

The NAFTA requires that sanitary or phytosanitary measures -- those measures related to agricultural pests and disease and contamination in food -- have a scientific basis and be based on a risk assessment appropriate to the circumstances. The term "scientific" is not separately defined in the text. Accordingly, under general principles of international law, the term scientific is to be interpreted in good faith, using its ordinary meaning in context and in the light of the object and purpose of the NAFTA. Consequently, the ordinary dictionary meaning would apply.

It is clear that under the NAFTA, the requirement that measures be based on "scientific principles" and not be maintained "where there is no longer a scientific basis" do not involve a situation where a dispute settlement panel may substitute its scientific judgment for that of the government maintaining the S&P measure. The question under the NAFTA in this regard is whether the government maintaining the S&P measure has "a scientific basis" for the measure. "Scientific basis" is defined as "a reason based on data or information derived using scientific methods."

The question is also not whether the measure was based on the "best" science or the "preponderance" of science or whether there was conflicting science. The question is only whether the government maintaining the measure has a scientific basis for it. This is because the NAFTA S&P text is based on a recognition that there is seldom, if ever, scientific certainty and consequently any scientific determination may require a judgment among differing scientific opinions. The NAFTA preserves the ability of governments to continue to make those judgments.

In addition, the NAFTA requires each party to ensure that any S&P measure that it adopts is applied only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility. NAFTA's opponents have argued that the use of the term "necessary" in the text actually means "least trade restrictive." This is not true. The NAFTA's negotiators specifically discussed whether there should be a "least trade restrictive" test in the NAFTA, and all three countries agreed that this obligation would not be included. Rather, this obligation addresses how a health law or regulation that is in place is applied. It does not address the validity of the underlying health law or regulation itself, or the level of protection afforded by those laws. As is the case with "scientific," the term "necessary" is to be given its ordinary meaning in light of the context.

NAFTA opponents have erroneously charged that the NAFTA's obligation that the United States, Canada and Mexico ensure that state and provincial governments give effect to and observe the NAFTA's provisions (Article 105) somehow interferes with our states' ability to maintain measures to protect public health or

the environment. Article 105, and any measures taken thereunder to secure observance by state and local governments of provisions of the NAFTA will in no way diminish or impair the constitutional and legal rights of state and local governments to adopt, maintain, or apply measures to protect public health and the environment.

The implementation of Article 105 for the United States, and the precise legal relationship between the NAFTA and a country's domestic law is a matter for each participating government to decide. In the United States, this issue will be addressed in the NAFTA implementing bill. We anticipate that, in working with the Congress, state officials and environmental organizations, the NAFTA implementing legislation would provide that there is no private right of action under that implementing legislation, so that no individual or other non-governmental entity such as corporations or firms will have the ability to invoke the provisions of the NAFTA to challenge state or local law in either federal or state courts.

In passing, let me note that Article 105 does not apply to the NAFTA's provisions on standards-related measures. The core requirement in the NAFTA with respect to standards-related measures is that they are applied in a non-discriminatory fashion.

Another red herring has been the allegation that under the NAFTA the United States would have to permit the entry of Mexican or Canadian trucks which do not meet our safety standards. This is totally false. We can and will continue to enforce our safety standards as vigorously as possible. In addition, our rules related to long combination vehicles will continue unchanged.

In brief, far from weakening environmental, health and safety standards, the NAFTA and the supplemental agreements set in motion the process for our three countries to improve and enhance protection of health, safety and the environment.

International Environmental Agreements

The NAFTA gives clear priority to the trade provisions of certain international environmental agreements. During negotiation of the NAFTA, Congress and the environmental community wanted to ensure there was no ambiguity about the relationship between the NAFTA's provisions and the trade provisions of key international environmental agreements. In particular, they wanted an explicit assurance that the important trade obligations of the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (or related U.S. bilateral agreements with Canada and Mexico) could be fully implemented without any NAFTA conflict. These agreements are specifically listed in the NAFTA as agreements whose trade

obligations take precedence over any inconsistent obligations under the NAFTA. In addition, the NAFTA provides that the list of international environmental agreements whose trade obligations are to be given precedence can be expanded. We will include our two bilateral migratory bird treaties once the NAFTA takes effect. We are pursuing the addition of other international environmental agreements even now.

NAFTA Dispute Settlement

NAFTA's dispute settlement chapter contains several provisions responsive to concerns expressed by environmentalists. First, NAFTA makes explicit that the party challenging an environmental measure has the burden of proving that it is inconsistent with the agreement.

Second, the dispute settlement panel, on its own initiative or at the request of a disputing party, may request a written report from an independent Scientific Review Board on any issues of fact concerning the environment, health, and safety. The dispute settlement panel will take the Review Board's report into account before reaching its final decision and will release the report to the public together with any final panel decision that is publicly released.

Third, if a party to a dispute claims that its action related to its obligations under one of the international environmental or conservation agreements, or under NAFTA's provisions on Standards or Sanitary and Phytosanitary measures, it has the option of having the dispute considered exclusively under the NAFTA (rather than the GATT) with access to a NAFTA Scientific Review Board. Environmental groups requested inclusion of this provision because they preferred NAFTA dispute settlement provisions to those of the GATT.

NAFTA's opponents have complained that its dispute settlement process is closed and secretive. In fact, any disputes that may arise under the NAFTA will be between governments -- and our first interest will be in getting such diplomatic differences resolved. However, the United States recognizes that the outcome of these disputes may be of great interest to those in the United States outside the government. Accordingly, the Office of the United States Trade Representative will provide, as it has in all recent trade disputes, for public notice and opportunity for input into dispute settlement proceedings involving the United States under the NAFTA.

USTR currently provides public notice of the initiation of disputes through publication in the Federal Register. It also briefs interested individuals and groups on the dispute proceeding and accepts input from the public into the facts and arguments involved in a dispute settlement proceeding. For example, USTR has

met with interested members of the environmental community, industry and congressional staff on numerous occasions to brief them on a particular dispute, including the status of the proceeding and the issues involved.

USTR also makes available to the public U.S. submissions to dispute settlement panels and the final reports of the dispute settlement panels.

Finally, it should be emphasized that the NAFTA dispute settlement results will not supersede U.S. laws unless and until we act domestically to implement the results. That will require a very public process in the United States.

Investment Provisions

The NAFTA Investment Chapter permits each party to impose stringent environmental requirements to ensure that investment activity in its territory is undertaken in an environmentally sensitive manner, so long as the requirements do not discriminate between domestic and foreign investors. This includes, for example, the requirement in many states for environmental impact assessments of new private construction as well as government projects.

Further, the parties renounce the relaxation of health, safety or environmental measures for the purpose of attracting or encouraging investment. The text sets forth a procedure for compulsory consultations between parties in case such a relaxation occurs, with the purpose of ending the practice.

The Supplemental Agreement on the Environment

President Clinton endorsed the NAFTA last October during the campaign in a speech at North Carolina State University, but he also set out a series of principles which he wanted to see incorporated into supplemental agreements -- including one on the environment. President Clinton, Prime Minister Campbell, and President Salinas signed this historic agreement on September 14.

President Clinton made a promise to the American people which he has kept: that he would make sure economic growth with Mexico did not come at the expense of the environment.

The fundamental objective of the environment agreement is to promote cooperation to improve environmental conditions throughout North America and to improve national enforcement of national laws relating to environmental protection.

The agreement contains important obligations regarding citizens' access to justice. These include commitments to openness

and transparency in both the development of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for environmental law enforcement.

While recognizing their rights to set whatever levels of protection they deem appropriate, the three countries pledge to ensure that their laws and standards continue to provide high levels of environmental protection and to work cooperatively in enhancing protections. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process. Countries are obligated to report on the state of their environments, and to promote environmental education, scientific research, and technological development.

The Agreement creates a new Commission on Environmental Cooperation. The three countries' top environmental officials (the EPA Administrator for the United States) will comprise the Commission's Council.

A Joint Advisory Committee made up of nongovernmental organizations from all three countries will advise the Council in its deliberations.

The heart of the Commission is its Secretariat, housed in a single location and operating under the direction of an Executive Director, who will take broad direction from the Council but maintain a high degree of independence.

A major goal of the Commission is to broaden cooperative activities among the NAFTA partners. The Commission will have an aggressive and important workplan.

It will promote greater public access to information about hazardous substances (what we call "community right-to-know"). It will consider ways to promote the assessment and mitigation of transboundary environmental problems. The Commission will serve as a point of inquiry for public concerns about the NAFTA's effect on the environment, and be an avenue for NAFTA dispute settlement panels to obtain environmental expertise when faced with environmental issues.

It will consider the environmental implications of process and production methods (PPMs), or, as the agreement states, "environmental implications of products throughout their lifecycles."

Transparency is the hallmark of the NAFTA supplemental agreement on environmental cooperation, and citizens of all three countries will be free to make submissions to the commission on their concerns related to the full range of environmental issues.

The Commission's secretariat will act on submissions appropriately to develop fact-finding reports. The reports will be made public if two of three Parties concur (i.e., the party that is the subject of the report cannot bar publication).

The agreement creates a consultative process for the Council to discuss issues, including those brought to light through the public submission process and the Secretariat's fact-finding activities. Special attention is given to matters involving non-enforcement of a nation's environmental law when consultations fail to resolve the matter.

In the event that one Party considers that another Party has persistently failed to effectively enforce its environmental laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement.

The agreement has a broad, inclusive scope. Any environmental or natural resource issue may be addressed through the work program, and any environmental concern or obligation of the agreement may be the subject of consultations between parties, from migratory and endangered species to transboundary pollution, to advising the NAFTA Commission on disputes on health restrictions. Understandably, the realm of issues subject to dispute settlement panels and possible sanctions is more circumscribed, focused on whether the Parties are effectively enforcing their environmental laws, and whether that nonenforcement is related to trade or competition among the Parties.

In short, the Agreement on Environmental Cooperation will ensure that economic growth is consistent with goals of sustainable development.

Process and Production Methods

Let me be more specific about our plans for the Commission on Environmental Cooperation in this area.

From our perspective, consideration of the issue of "process and production methods" or PPMs is a high priority element of the workplan. This involves the very complex, and often sensitive, questions of how to address any environmental effects of products due to the processes or production methods associated with them. Questions like: how was the product harvested?, how was it processed?, what effects will its consumption have on say, the environment?

These questions are of a global nature, not limited just to the context of North America. Therefore, while the Administration is committed to taking them up with our North American neighbors in

the context of NAFTA and the supplemental agreement on environmental cooperation, we are also seeking a broader dialogue. Indeed, preparatory discussions are already underway in the OECD to develop a sound analysis of PPMs. We are actively involved in those discussions.

Another important step from our perspective will be to engage the GATT, beginning with a post-Uruguay Round workprogram on the environment, which we hope will be launched at the conclusion of the Uruguay Round. This work would of necessity have to include a thorough examination of the adequacy of the GATT's substantive rules as they relate to PPMs. Broadly, our objective is to ensure that countries are able to effectively address environment objectives while not providing a means for arbitrary limits on trade. Easier said than done. This project will take time -- but we will take it on in good faith, multilaterally and in the North American context.

Environmental Funding

During the campaign, the President noted the pressing need to address environmental problems along our southern border. The Administration is actively engaged in the issue, from the National Park Service, to USDA's Rural Development Agency, the National Fish and Wildlife Service and public health and housing agencies. The Environmental Protection Agency is coordinating the effort to build on and improve activities under our bilateral border plan.

However, a key to improved environmental conditions along the border is finding the resources to address the problem. As I announced on August 13, Mexico and the United States have proposed the creation of a new Border Environment Administration. The goal of the new institution will be to marshal resources to address the pressing needs for wastewater treatment, drinking water, disposal of municipal solid wastes and possibly other infrastructure needs. Local input to the decision-making process will be a prime aspect of the new institution. The Border Environment Administration will certify projects for eligibility for loans from an associated financing facility that will raise capital primarily from the private market. The Department of the Treasury and others are consulting with Congress, the states and the public as these negotiations proceed.

If we reject NAFTA, we lose the opportunity to put these unique cooperative institutions to work to tackle the significant environmental problems between our countries and in the border region.

In brief, rejecting NAFTA will do nothing to resolve environmental problems. In truth, we would lose a remarkable opportunity, first, to set a precedent for future trade agreements, and secondly, to find solutions with our two neighbors. This is

why six major environmental groups, representing a majority of environmentalists in this country, announced their support two weeks ago for passage of the NAFTA.

John Adams, Chief Executive of the NRDC, in endorsing the NAFTA on September 15 said: "...As the NAFTA process has unfolded, the North American environmental community has established an enduring and effective voice on the trade policy choices affecting citizens throughout the continent". True indeed, but too modest. The concerns expressed by the environmental community are global reach in reach. The NAFTA begins here in North America the process of ensuring those concerns are addressed throughout the world.

Foreign Policy Implications

The NAFTA deserves to be approved on its economic merits. However, the foreign policy implications of this issue should also not be minimized. Echoing comments made by Secretary of State Warren Christopher recently: "Rejection of NAFTA would seriously damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade. It would undermine our position as a negotiating partner on global trade agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

Conclusion

All Americans agree that we cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

We would ask the opponents of NAFTA: does walking away from the NAFTA seem like good trade and economic strategy? Can you envision Japan or the EEC -- if they were in our position -- rejecting a deal like this? Would either of them kick sand in the face of their third biggest, and fastest growing, trading partner? Would they opt for the status quo, the unbalanced relationship, where Mexico keeps the tariff and non-tariff barriers it chooses to keep?

Would they ever be willing, in one unthinking lurch, to throw away the friendship and progress that have characterized the past seven years, dramatically reversing the historic pattern of mistrust and antagonism? Would they conceivably believe that it would be easier, somehow, to cooperate with Mexico on the environment, controlling drug traffic, or illegal immigration, if NAFTA were defeated?

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically. There were powerful political reasons for opposing it.

But when he studied it, he found that NAFTA -- particularly if strengthened by supplemental agreements -- would be strongly in the economic interest of the United States. It was not a favor that we were doing for Mexico. It would benefit both countries, and Canada as well. It would not solve all our nation's economic problems, but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

The Administration has the responsibility of convincing Congress and the country that NAFTA is in the national economic interest, and we intend to do so. I am confident that by the time Congress votes on NAFTA later this year, the country will recognize that NAFTA is a vital part of the solution to the economic challenges that face us.

TESTIMONY OF AMBASSADOR MICHAEL KANTOR
United States Trade Representative

Before the House Committee on Agriculture
September 29, 1993

THE ADMINISTRATION'S CASE FOR NAFTA

Mr. Chairman, members of the Committee, I am pleased to appear before you today, along with Secretary Espy and EPA Administrator Carol Browner, to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA), with the recently negotiated supplemental agreements.

Two weeks ago, I presented testimony on this issue to the Senate Finance Committee with Secretary of State Warren Christopher and Secretary of the Treasury Lloyd Bentsen, and to the House Committee on Ways and Means with the Secretary of Labor Robert Reich and Administrator Browner. And, last Tuesday, Secretary Espy and I appeared before the Senate Committee on Agriculture, Nutrition and Forestry on this subject.

Over the next few weeks, I and my cabinet colleagues will be participating in other hearings focusing on the NAFTA in both the House and the Senate. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is strongly in the national interest.

NAFTA and the Administration's Economic Strategy

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember NAFTA really does a very simple thing. It eliminates over time tariffs and non-tariff barriers among the United States, Mexico and Canada, creating the world's largest market: 370 million people and \$6.5 trillion of production.

NAFTA will reinforce and enhance the free trade agreement negotiated between the United States and Canada and will help equalize the terms of trade between the United States and Mexico. Current rules clearly are in Mexico's favor. Mexico's trade-weighted tariffs average 10 percent, compared with four percent for the United States. Mexico is also a major beneficiary of the Generalized System of Preferences (GSP). This means that a significant portion of its exports to the United States enter duty free under this GATT-sanctioned tariff preference program for developing countries. The GSP program is a one-way tariff preference program.

In the agricultural sector, Mexico maintains an extensive system of licenses issued at the government's discretion which control

imports of a broad range of farm goods. In most cases, Mexico's agricultural import licensing requirements were established specifically to protect against the threat of unrestricted imports from the United States. While the United States also maintains non-tariff barriers on certain agricultural products (Section 22 quotas on dairy products, peanuts, certain types of cotton, and sugar-containing products, as well as potential restrictions on beef and other meats under the U.S. Meat Import Law), Mexico is not a major exporter of any of these products. In our bilateral relationship, the maintenance of these non-tariff barriers helps Mexico much more than it helps us. Conversely, the elimination of these barriers will be more beneficial to the United States than to Mexico.

The vast new market created by NAFTA also makes us more competitive against Europe and Japan and will result in the creation of new jobs. And it is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most productive, most competitive economy in the world. By doing so, we will expand high wage and high skill job opportunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing.

As all of you are all too aware, over the last twenty years, real wages and job opportunities for unskilled workers in manufacturing have declined. But at the same time, technological advances have made American workers more productive. Technology has revolutionized the world, as well. Our economy is no longer self-contained. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy started with the President's economic package: putting our economic house in order by attacking the budget deficit, increasing public and private investment, and undoing some of the unfairness in the tax code by making upper income taxpayers pay their fair share of the burden. We are beginning to see the benefits of Congress's approval of the package last month: interest rates at a thirty year low, job creation and a growing economy.

Our drive for health care reform is fundamentally motivated by the desire to secure for every American access to the health care that they and their families need. But the soaring cost of health care also makes our strongest corporations uncompetitive and threatens the existence of many small businesses. Similarly, our initiative to reinvent government is intended to make government

more effective and accessible, but it will also reduce the size and cost of government, freeing up resources that can be used for productive investment.

These initiatives -- along with welfare reform, changes in education, worker training, investing in technology -- all work in pursuit of the same objective: to build a more productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. Since we are producing more with fewer workers, opening up new markets is the key to new job creation and economic growth. Closing ourselves off from the world does nothing to improve our competitiveness and only deprives us of new economic opportunities. As President Clinton has said, we must compete, not retreat behind our borders.

This is, of course, precisely what our competitors are doing. The European Community is expanding trade with Eastern Europe and the countries of the former Soviet Union. Japan is searching out new opportunities in China, Malaysia, Indonesia and the rest of Asia.

In this intensely competitive global economy, NAFTA presents an opportunity to compete freely in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market -- 400 million people throughout Central and South America and the Caribbean.

The United States seeks to open markets everywhere and trade and compete worldwide. We have nearly \$200 billion each year in two-way trade with the EC; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round -- taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system -- remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems. They took these steps at the urging of the United States.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profoundly negative economic and political consequences throughout the hemisphere.

The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. Without fanfare, and with much pain from adjustment, we have returned to being a world class manufacturer of automobiles and steel. We have regained our position as the world's leading exporter. But expanding our access to markets and assuring that the markets of other nations are as open to our goods and services as ours are to theirs is absolutely critical to our success at creating economic growth and jobs.

Japanese firms have long benefitted from having a lock on the emerging markets of Asia. NAFTA will give U.S. firms a definite advantage in the Mexican market. The NAFTA gives the U.S. the potential to compete more effectively with Japanese economic strategies. Japanese companies have invested heavily in the emerging economies of the Far East and set up assembly plants to assemble Japanese components into finished products for export. This creates a trade surplus for Japan with these countries and increases Japan's production and exports. The NAFTA can be an instrument for helping the United States and Mexico cooperate in meeting Japanese competition and producing more globally competitive products.

In the new global economy, there are challenges and risks, as well as great opportunities. I am confident that American workers are up to that challenge -- and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this change; we have gone through a seven year trial run.

Job Growth and Trade with Mexico

Starting in 1986, Mexico, recognizing that its economic policies had been disastrous, began to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.
- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.

The success of the past seven years has occurred even though Mexican trade barriers -- tariff and non-tariff -- remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, will ensure continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past seven years.

Virtually every responsible study -- and there have been over two dozen -- concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The consensus is that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, they agree that the jobs lost will be a relatively small number compared to the jobs that are lost in the United States overall, because of defense conversion, corporate downsizing, and technological change. This is true because Mexico's economy is only one-twentieth the size of ours and our tariff and non-tariff barriers are already low.

Despite the overwhelming evidence, some have argued that 5.9 million U.S. jobs are "at risk" if NAFTA is adopted. They got that number simply by calculating the number of U.S. jobs in industries where wages account for more than 20% of the value of output. It includes high wage, high skill sectors such as sonar equipment, aerospace, medical equipment and telecommunications where credible studies agree that there will be a future job gain due to NAFTA. It also includes non-traded sectors, such as bakers, which do not compete with Mexico at all.

We believe the critics are looking at the future through a rear view mirror. To the extent that there has been job loss to Mexico, it is precisely because of trade distortions in the current

trade relationship with Mexico, which we seek to change through NAFTA.

NAFTA and the Status Quo

The status quo in our trade relationship with Mexico is, quite simply, unacceptable. NAFTA will level the playing field for U.S. workers. It makes the rules fair and ends an unbalanced trading relationship that has existed between the United States and Mexico that has worked to disadvantage U.S. companies and workers producing in the United States.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements. The result was that Mexico was largely closed to imports. Its economy was characterized by inefficient, protected producers, which contributed to widespread poverty and did not serve the interests of Mexico's people.

Perhaps the closed Mexican economy reflected the historical Mexican mistrust of, and antagonism toward, the United States. For whatever reason, Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program resulted in trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexican import protection and rules requiring firms selling in the Mexican market to locate in Mexico made it difficult if not impossible for firms producing in the U.S. to sell into Mexico. Non-tariff barriers -- licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The result of the maquiladora program and Mexican protection has been to distort U.S.-Mexican trade, limiting exports from the U.S. to Mexico and exaggerating exports from Mexico to the U.S.

NAFTA transforms the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, Mexico eliminates its import protection and the maquiladora program is also effectively eliminated, permitting firms to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA will not only lock in current access but expand that access.

NAFTA will require relatively little change on our part -- while requiring Mexico to sweep away decades of protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports would disappear for the United States (and Canada, for most products) when the NAFTA goes into effect. However, a license could be required to bring in covered products from all other countries.

U.S. exporters of most agricultural products will share unrestricted access to the Mexican market with their Canadian counterparts. For dairy, poultry, and egg products, however, U.S. shippers will have preferential access to Mexico's market: Canada and Mexico agreed to exempt these items from their agreement. It should be noted that Mexico is the world's largest import market for powdered milk, and demand is expanding for all dairy, poultry and egg products. With the access provided by NAFTA, our proximity to the market, and our potential to produce large supplies of competitively-priced dairy, poultry and egg products, NAFTA will provide an excellent opportunity for boosting export sales of these products.

Major Features of NAFTA

Reduction of Mexican Tariffs: Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first five years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive.

Removing Mexican non-tariff barriers. NAFTA reduces or eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

Major Benefits of NAFTA

Opening up Trade in Agriculture. I am sure that Secretary Espy will elaborate in more detail on the benefits NAFTA includes for American agriculture. But let me touch on some of these.

As this Committee knows, exports are the life blood of American agriculture. As much as one-quarter of our total agricultural production is exported and for some key commodities, the share shipped overseas is even higher. The economic well-being of our agricultural sector is directly linked to our ability to sell our products in international commerce. To ensure growth in our agricultural economy and prosperity in our rural communities, we must secure and expand our agricultural export markets. NAFTA does that.

After Japan, Canada and Mexico are the second and third largest markets for U.S. agricultural exports. Since 1987, shipments of American farm products to Mexico have nearly tripled, climbing from \$1.2 billion to \$3.8 billion in 1992 and establishing Mexico as our fastest growing market for farm-produced goods. In fact, our two neighbors accounted for more than 20 percent (\$8 billion) of U.S. agricultural exports in 1992. NAFTA secures our access to these markets and establishes a sound basis for further growth.

NAFTA contains separate bilateral undertakings on cross-border trade in agricultural products, one between Canada and Mexico, and

the other between Mexico and the United States. As a general matter, the rules of the U.S.-Canada Free Trade Agreement on tariff and non-tariff barriers will continue to apply to agricultural trade between Canada and the United States.

The U.S.-Mexico agreement on market access for agricultural goods represents a significant change from the status quo and is one of the highlights of NAFTA. Upon implementation of NAFTA, tariffs and tariff-rate quotas will replace current non-tariff barriers in U.S.-Mexican agricultural trade. Roughly one-half of U.S.-Mexican trade will be duty free when the Agreement goes into effect. Nine years later, all agricultural tariffs between the United States and Mexico will be eliminated except duties on certain highly sensitive products.

Barriers on U.S. imports of sugar, peanuts, orange juice and a few fruits and vegetables will not be eliminated until the fourteenth year after the Agreement takes effect. Also at the beginning of the fourteenth year, Mexico will fully eliminate its barriers on corn, dry beans, powdered milk, sugar and orange juice.

Mexican import licensing requirements for covered U.S. agricultural products will be eliminated as soon as the NAFTA takes effect. This will secure access to the Mexican market for U.S. producers of products such as corn, dried beans, non-fat dry milk, poultry, barley/malt, animal fats, potatoes, eggs, tobacco, grapes and other products. While we have shipped significant quantities of many of these commodities to Mexico, the cessation of licenses has been a constant threat. Exporters who have been regularly supplying the market suddenly find that their Mexican importer cannot obtain a license. Under present circumstances, there is little or no recourse.

Another threat to our access has been the fact that most of Mexico's tariffs are bound in the GATT at 50 percent. However, Mexico typically applies a lower rate -- usually from zero to 20 percent. Without a NAFTA, we have no basis for challenging an increase in Mexican tariffs, unless the GATT-bound rate of 50-percent is exceeded.

A decision by the Mexican government to increase duties on live cattle and beef last fall is instructive in considering the value of NAFTA. Although bound at 50 percent, Mexico had been applying no duty on cattle and beef. However, last November tariffs were increased up to 15 to 25 percent on live cattle and various categories of beef. Since we had no NAFTA rights and could not exercise our GATT rights because the increase did not exceed the GATT-bound rate, we could not effectively respond.

The NAFTA requires that Mexico eliminate all duties on U.S. and Canadian live cattle and beef. It may maintain the higher duties on all other countries.

Mexican demand for food is likely to grow significantly over the next few decades. The NAFTA, our proximity to the market, and our unparalleled ability to produce large quantities of competitively-priced farm products ideally positions U.S. farmers to satisfy much of that expected growth. As evidence of the potential for growth in Mexican demand for food:

- o Mexico's population is about 90 million. With a median age of 19, compared with 33 years of age for the United States and Canada, Mexico's population growth rate is, and will continue to be, significantly higher than ours.

- o Mexican demand for food is expected to strengthen, perhaps by 5 to 6 percent annually, throughout this decade as the population grows, the economy picks up steam, and incomes rise.

- o Mexico's, limited natural resource base (arable land and water supplies) will require increased imports of food and feedstuffs to keep pace with an expanding demand. Mexico has about 0.7 acres of arable land per person, compared with 1.9 for the United States. (With Mexico's population rising at a faster rate, the U.S. advantage will widen.)

The bottom line is that the NAFTA will give U.S. agricultural producers significant opportunity in our hottest market. We expect particular benefits for our exports of beef, pork, poultry, eggs, dairy products, fresh fruit, grains and oilseeds.

Increased import demand from Mexico will have a positive impact on U.S. farm prices and cash receipts, boosting U.S. farm cash receipts a projected 2 to 3 percent. USDA also projects that U.S. agricultural exports to Mexico will be \$2.6 billion higher annually when NAFTA is fully implemented than they would be without a NAFTA. This means about 56,000 additional jobs.

Enhancing Regional Health and Safety. Next to arguments about possible job losses, no issue has been more emotional in the debate than the unfounded charge by opponents that NAFTA undermines the ability of the U.S. government, and the states, to establish and enforce their environmental, health or safety laws and maintain high standards. Opponents repeatedly raise the specter of Mexican fruits and vegetables covered with DDT or other prohibited pesticide residues, and wrongly suggest that we will not be able to stop their implementation.

NAFTA does not require the federal government to lower its environmental, health and safety standards. Indeed, NAFTA makes explicit that each government may establish the levels of

protection for human, animal or plant life or health that the government considers to be appropriate and that any work under the NAFTA to make standards compatible among the three countries is to be done "without reducing the level of safety or of protection of human, animal or plant life or health, the environment or consumers." Moreover, under the NAFTA, state and local laws are free to differ from federal laws, and can be more stringent than those laws.

Another favorite scare tactic of NAFTA opponents is to claim that NAFTA will require us (or our states) to adopt international standards. In fact, the NAFTA explicitly provides, in Article 713, that a party can maintain measures more stringent than international standards.

While granting the federal government and the states broad discretion to set their own environmental, health and safety standards, NAFTA does require governments to meet certain elementary requirements when applying laws and regulations to achieve the government's chosen levels of protection in order to safeguard against blatant trade protectionism in the guise of a health regulation. For example, NAFTA requires that the sanitary or phytosanitary measure used have a scientific basis and be based on a risk assessment appropriate to the circumstances. This is a reasonable requirement. (The term "sanitary or phytosanitary measure" is the technical term for laws and regulations to protect human, animal or plant life or health from such risks as plant or animal pests or diseases or from contaminants in food.)

Our trading partners have repeatedly sought to exclude perfectly safe U.S. products from their markets by citing false "health" pretexts. The NAFTA will help ensure that they cannot unfairly exclude U.S. exports. At the same time, the NAFTA obligations do not threaten U.S. sanitary and phytosanitary measures, since our regulatory system and that of our states already meet the NAFTA requirements.

Consequently, and contrary to the claims of its opponents, NAFTA poses no threat to such U.S. laws as the Delaney Clause. (Under the Delaney Clause, Congress has decided that zero tolerance is the acceptable level of risk from carcinogenic residues.) That is a judgment we are free to make under the NAFTA, which expressly allows each country to choose the level of risk it will accept in sanitary and phytosanitary measures.

Far from weakening environmental, health and safety standards, the NAFTA and the supplemental agreements affirmatively encourage our three countries to improve and enhance protection of health, safety and the environment. The supplemental agreement requires the signatories to "ensure that [their] laws and regulations provide for high levels of environmental protection" and to "strive to improve them", and creates a framework for working cooperatively

to harmonize our standards upwards. It also contain commitments for effective domestic enforcement of environmental and labor health and safety laws, as well as a dispute settlement system, backed ultimately by the possibility of trade sanctions, to expose and remedy problems of weak enforcement of such laws.

In short, it is clear that we are far better off in the effort to improve protection of the environment, health and safety with the NAFTA.

NAFTA includes important benefits for other key U.S. sectors:

Opening up Trade in Services. NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

Protecting U.S. copyrights, patents and trademarks. NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuits, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By protecting intellectual property rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, and exporting, by a conservative estimate, \$34 billion in 1990.

The Supplemental Agreements on Labor and the Environment

President Clinton endorsed NAFTA last October during the campaign in a speech at North Carolina State University, but he also set out a series of principles which he wanted to see incorporated into supplemental agreements and related initiatives.

He made a promise to the American people which he has today kept: that he would make sure economic growth with Mexico did not come at the expense of the environment or workers' rights, and that we would be protected from the possibility of import surges.

On September 14, President Clinton, Prime Minister Campbell, and President Salinas signed historic agreements on environmental and labor cooperation. In addition, Mexican Trade Secretary Jaime Serra, Canadian Minister of International Trade Tom Hockin and I have concluded the negotiation of an understanding on import surges.

These Agreements are ground-breaking. The fundamental objectives of the labor and environment agreements are to work cooperatively to improve conditions for labor and the environment throughout North America and to improve national enforcement of national laws relating to labor and the environment. They commit all three nations to fair, open and equitable administrative and judicial processes for the enforcement of environmental and labor laws.

Each establishes a Commission, headed by a cabinet-level representative of each government, which will make sure that the concerns of labor and of the environment have no less attention than that accorded in NAFTA to trade issues.

The Commissions will provide the first trinational forum for addressing environmental and labor problems facing this continent. For example, the environmental commissions can look at the spectrum of environmental issues from migratory and endangered species to transboundary pollution, to advising the NAFTA Commission on disputes on health restrictions. The labor commission will work on matters from worker safety, to worker rights, to improved protection against child labor abuses and improving competitiveness and productivity.

The Cabinet officials will carry out their new responsibilities with the support of a secretariat, and the Commissions will be able to draw on private expertise as well. The environmental secretariat will be centrally located; the labor secretariat will consist of national sections in each country.

To encourage improved enforcement, each of the agreements provides a means by which there can be an independent, objective evaluation and report on the effectiveness of national enforcement of national laws in the environmental and labor areas: by the secretariat (in the case of the environmental agreement) and by an Evaluation Committees of Experts (in the labor agreement).

The agreements also provide for dispute settlement in the event of a persistent pattern of failure to effectively enforce national laws. Where consultations fail to resolve such disputes, a neutral panel of independent experts would be established by a two-thirds vote of the parties. Ultimately, if a panel found that there was such a persistent pattern, and if a party failed to remedy the matter, then there could be fines and trade sanctions. Canada has agreed, in lieu of trade sanctions, to make assessments

and other panel-ordered remedies fully enforceable by the Commission in Canadian courts.

Import Surge and Other Safeguard Protections

The Import Surge Agreement will complement the NAFTA by improving the effectiveness of safeguard provisions that allow action against imports that might cause or threaten serious injury to a domestic industry including the workers of that industry. The understanding on import surges establishes a new mechanism -- we refer to it informally as an "early warning system" -- for consultations among the NAFTA countries and for examining economic factors, including employment, in the region. It is meant to anticipate national trade measures, authorized under the NAFTA, to respond to increased imports. For example, a country might call for consultations and a joint examination in the committee as a result of declining employment in a particular industry.

The NAFTA itself contains several important provisions to safeguard a country's industry and workers against import surges.

- o A bilateral safeguard mechanism permits the "snap-back" to pre-NAFTA or MFN tariff rates for up to three years -- or four years for extremely sensitive products -- if increased imports from Mexico are a substantial cause of or threaten serious injury to a domestic industry.
- o A global safeguard mechanism allows the imposition of tariffs or quotas on imports from Mexico and/or Canada as part of a multilateral safeguard action when imports from either or both countries are a substantial cause of or threaten serious injury to a domestic industry.
- o Sensitive agriculture products are handled specially in the form of tariff-rate quotas, where high MFN tariffs kick in above a specified quantity of imports.
- o Sensitive textile and apparel products also have special safeguard provisions to respond to those industries needs.

The Working Group established under the agreement will consider how well NAFTA's safeguard provisions are working and make recommendations for revisions, as appropriate.

Overall, the supplemental agreements strengthen NAFTA, and represent an unprecedented commitment to cooperate on these issues in connection with a trade agreement.

Foreign Policy Implications

The NAFTA deserves to be approved on its economic merits. However, especially in the light of U.S. agriculture's heavy

dependence on international markets, foreign policy implications of this issue should not be minimized. Echoing comments recently made by my friend and colleague, Secretary of State Warren Christopher: "Rejection of NAFTA would seriously damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade.

As the Secretary of State pointed out, a U.S. failure to approve NAFTA would undermine Mexico's capacity to cooperate with us on vital cross-border issues that affect millions of Americans.

Second, it would send a chilling signal about our willingness to engage in Latin America at a time when so many of our neighbors are genuinely receptive to cooperation with the United States.

Third, it would hand our major economic competitors in Europe and East Asia a clear opportunity to gain an advantage in what should be natural and growing markets for us.

Fourth, it would undermine our position as a negotiating partner on global trade Agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

Conclusion

We cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically.

But when he studied it, he found that NAFTA -- particularly if strengthened by supplemental agreements -- would be strongly in the economic interest of the United States. It would not solve all our nation's economic problems, but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

That concludes my testimony, Mr. Chairman. I would be pleased to answer any questions.

The Administration Case For NAFTA
Statement of Ambassador Michael Kantor
October 19, 1993

Good morning, Mr. Chairman and distinguished members of the Ways and Means Committee. It is a pleasure to address the Committee regarding legislation to implement the North American Free Trade Agreement.

Since President Clinton signed the Supplemental Agreements to the NAFTA in September, the staffs and members of this committee have worked diligently to craft the legislation, which the Administration believes will implement an agreement that will help restore economic hope in this country. The North American Free Trade Agreement, in fostering growth and prosperity throughout North America, is part and parcel of the economic policies to which the Clinton Administration is committed. Economic policies that will create high wage jobs for Americans and make us more competitive against the Japanese and the Europeans. All parts of our economic strategy are geared toward the realization that we must compete in a global economy. Health care reform, deficit reduction, welfare reform, changes in education, worker training, investing in technology all work in pursuit of the same objective of building a more productive and competitive economy.

Mr. Chairman, I appreciate and I know my staff appreciates the spirit of cooperation that has prevailed during this process and we thank you for it.

I would like to say a few brief words about the process upon which we have embarked- fast track. Fast Track is a prime example of how the executive and legislative branches can work together. Trade is historically and constitutionally the purview of Congress -- and rightfully so -- but, of course, it is also a foreign policy issue. In that sense, I think Fast Track is a sensible way to address trade negotiations -- the President negotiates the agreement with the consultation and advice of the Congress.

Indeed, Fast Track has been effective in producing our two most recent major trade agreements -- the Tokyo Round and Canadian Free Trade Agreement. It is my expectation that the Fast Track procedure will, in this instance, produce a NAFTA which the Committees of jurisdiction and the Congress can support.

Our trade policy is an essential part of the Administration's strategy. In the global economy, opening up new

markets is the key to new job creation and economic growth. The stakes are high.

Let me, more specifically, say a few words about what we are trying to accomplish with NAFTA. President Clinton was elected to change the status quo and that is exactly what NAFTA does -- changes the status quo of a trade relationship with Mexico that works against U.S. businesses and workers. Mexican goods entering the U.S. enjoy very low tariffs while U.S. goods entering Mexico face tariff levels two and a half times higher than ours.

Mexico, through tariff and non-tariff barriers has historically done much to create incentives for the US to move jobs to Mexico. NAFTA provides an opportunity to change that.

- * It phase eliminates the trade distortions that have been created under the Maquiladora program.
- * Mexico's high tariffs will come down.
- * Mexico's nontariff barriers (or unfair rules) will come down.
- * Because of the precedent setting Supplemental Agreement on the Environment and Labor Mexico's present lax enforcement of environmental and labor standards will cease to give operating advantages to companies locating there.

It is clear, Mr. Chairman, our companies, farmers and workers are world-class competitors. But expanding our access to markets and assuring that the markets of other nations are as open to our goods and services as ours is to theirs is absolutely critical to our success at creating economic growth and jobs and competing in the global economy.

NAFTA presents an opportunity to compete freely in a vast new market: 90 million people in Mexico hungry for U.S. goods. NAFTA is also a step to an even larger market -- 400 million people throughout Central and South America and the Caribbean.

NAFTA eliminates tariffs and non tariff barriers among the United States, Mexico and Canada, creating the world's largest market: 370 million people and \$6.5 trillion of production. That, in turn, makes us more competitive against Europe and Japan and will result in the creation of new jobs.

This Administration wants to change the status quo in our trading relationship with Mexico. We want to eliminate the tariffs and non-tariff barriers that hurt our ability to compete in Mexico. We want to eliminate the Maquiladora program, which has distorted U.S. business decisions and hurt U.S. workers. We want to work together with the Mexicans to try to solve the

environmental problems that plague our border, and, with the Supplemental Agreement on Environment, ensure that the economic growth from NAFTA does not come at the expense of the environment.

But we are not going into NAFTA blindly. Starting in 1986 Mexico, recognizing that its economic policies had been disastrous, began to open up its economy and lower trade and investment barriers. The results have been dramatic for the United States:

-- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.

-- U.S. exports to Mexico increased from \$12.4 billion to \$40.6 billion in 1992, with increases coming across the board from computers to services to agriculture.

-- Mexico has become our third leading export market, our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).

-- 400,000 U.S. jobs related to exports to Mexico were created.

The success of the past seven years has occurred even though Mexican trade barriers -- tariff and non-tariff -- remain far higher than ours. Bringing down the remaining barriers will ensure continued growth of U.S. exports to Mexico.

Mr. Chairman, I would like to address what has been one of the lesser talked about issues in the course of the NAFTA debate: the stunning foreign policy consequences of rejecting the NAFTA. The distinguished Secretary of State, Warren Christopher, was extremely articulate and persuasive on this point in his appearance before the Senate Finance Committee and I would like to touch upon the more salient points of this issue.

U.S. foreign policy, in many ways, begins with our neighbors, Canada and Mexico. As a result of the CFTA, bilateral trade and investment have increased with our neighbor to the north. For Mexico, however, NAFTA is about far more than just tariffs and trade. It is a symbol of the new relationship and the pragmatic pursuit of cooperation which could mean a new beginning in U.S./Mexico relations.

NAFTA is a pivotal point in our relationship with Mexico. As such, it convinces Secretary Christopher, me, and others that the NAFTA is in the overriding national interest of the United States.

Rejecting NAFTA would undermine Mexico's capacity to cooperate with us on a number of cross-border issues that affect

millions of Americans.

Rejecting NAFTA would send a chilling signal about our willingness to engage in Latin America at a time when so many of our neighbors are generally receptive to renewed improved cooperation with us.

Rejecting NAFTA would undermine our position as a reliable negotiating partner on global trade agreements vital to the economic renewal of the United States.

NAFTA, if it is approved, will reinforce Mexico's unprecedented efforts, led by President Salinas, to open its economy, climb out of much of its debt, renew its growth, privatize its industries, welcome foreign investments and reduce tariffs by 80% from their 1986 levels.

President Clinton is committed to building a hemispheric community of democracies linked by growing economic ties and common beliefs. NAFTA will encourage democratic governments throughout the hemisphere, that have opened their economies to trade and investment with the U.S., to continue down those paths.

Critics of NAFTA seem to believe U.S. workers can't compete with their foreign counterparts. U.S. workers are the most productive in the world, and they didn't get that way because we closed ourselves off from the world. They got that way with ingenuity, superior technology and hard work. Even though the challenges may be great, if we open up markets for U.S. workers, and let them compete on a level playing field, they can do even better.

All Americans agree that we cannot respond to the challenge of a changing world by drifting. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

The President has said many times, he would not support NAFTA if he did not know, based on the most intense study, that it would create jobs. The fact is we have to compete in a global economy now. We have to open and expand markets, if we want to create jobs, and be more productive and competitive. The exciting and radical changes we all have witnessed over the last years that have created a global economy are here to stay. We have to harness these changes and make them benefit all Americans. The key to doing that is expanding trade, through NAFTA, through the Uruguay Round, and other trade negotiations.

The President said it best when he signed the historic side agreements to NAFTA. "Are we going to compete and win or are we going to withdraw?"

TESTIMONY OF AMBASSADOR MICHAEL KANTOR
United States Trade Representative

before the Senate Commerce Committee
October 21, 1993

THE ADMINISTRATION'S CASE FOR NAFTA

Mr. Chairman, members of the Committee, I am pleased to appear before you today to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA), with the recently negotiated supplemental agreements.

This fall, members of the administration have appeared before Committees in the House and the Senate and over the next few weeks, we will be participating in other hearings focusing on the NAFTA. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is central to our national interests.

The question we must ask ourselves as we consider the NAFTA is whether the United States will be significantly better off with the NAFTA and its side agreements than by rejecting them. We believe that the answer to that question is a clear and resounding yes.

The case for NAFTA comes down to two compelling points: NAFTA will increase economic growth and jobs in the United States, and NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico. Prominent among those problems are issues related to environmental protection and our citizens' health and safety that I know are of particular interest to this committee.

There is a related point that is missed too often by the opponents of this agreement: rejecting the NAFTA and the supplemental agreements will not solve the problems that trouble us. The NAFTA will help us solve these problems in a way that benefits our country and our continent.

NAFTA and Our Trading Goals

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember that what NAFTA really does is some very simple things which Americans have long sought in our trading relationships. The NAFTA levels a playing field that is now tilted against us. Over time it will eliminate tariffs and non-tariff barriers among the United States, Mexico and Canada. Mexico and Canada will give our products preferential treatment compared to our competitors in Europe and in Asia and end the failed maquiladora programs. In addition NAFTA and its side agreements will address long-neglected environmental and labor issues.

The NAFTA creates the world's largest market: 370 million people and \$6.5 trillion of production. That makes us stronger here at home, and better able to compete with Europe and Asia.

At the same time, NAFTA has strong rules to stop unfair treatment of American products and American investors. It requires Mexico to change laws that have forced our companies to move production to Mexico in order to sell their products in Mexico. It requires protection from piracy of our films, our books and our technology. The supplemental agreements will require stronger enforcement of laws protecting labor and the environment, and will help us work together with Canada and Mexico to improve deficient laws.

NAFTA and the Administration's Economic Strategy

The NAFTA package is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most competitive economy in the world. By doing so, we will expand job opportunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing. Technology has revolutionized the world. Our economy is no longer self-contained, and the U.S. economy no longer dominates the world's economy. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy -- health care reform, reducing the deficit, increasing public and private investment, reinventing government, welfare reform, changes in education, worker training, investing in technology -- all work in pursuit of the same objective: to build a more secure productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. We have regained our position as the world's leading exporter. Last year U.S. trade in goods and services exceeded one trillion dollars.

Opening up new markets is the key to new job creation and economic growth. NAFTA presents an opportunity to compete and win in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market -- 400 million people throughout Central and South

America and the Caribbean.

The United States seeks to open markets everywhere. We seek to trade and to compete worldwide. We have nearly \$200 billion each year in two-way trade with the countries of the European Community; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round -- taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system -- remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems. They took these steps at the urging of the United States.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profound negative economic and political consequences throughout the hemisphere and for the prospects for the expansion of trade in the global trading system.

The NAFTA is an instrument for helping the United States, Mexico and Canada cooperate in meeting Asian and European competition. It will help us produce more globally competitive products.

In the new global economy, there are challenges and risks, as well as great opportunities. I am confident that American workers are up to the challenge of competing -- and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this

change; we have gone through a six year trial run.

Job Growth and Trade with Mexico

Mexico, recognizing that its economic policies had been disastrous, has begun to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.
- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.
- 70% of all dollars spent by Mexicans on imports are spent on U.S. products.

The success of the past seven years has occurred even though Mexican trade barriers remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, ensures continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past seven years.

Virtually every responsible study that has looked at the labor issue concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The Administration believes that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, overall, job gains will significantly exceed job losses. The studies also agree that the jobs lost will be a relatively small. This is true because Mexico's economy is only one-twentieth the size of ours, and our tariff and non-tariff barriers are already low. Mexico's productive assets, capacity and infrastructure are far below levels and standards in the United States or even Canada.

NAFTA and Our Current Trade Problems

Ironically, most of the concerns you hear in America about NAFTA are in reality problems that exist right now -- problems that the NAFTA will address. For example, in the trade area, despite Mexico's recent liberalization and despite the enormous gains we have enjoyed in our bilateral trade in recent years, the playing field is still tilted against us. NAFTA will level the playing field for U.S. workers.

For one, it will eliminate Mexican performance requirements and other unfair rules in the auto sector -- requirements that imports of vehicles into Mexico must be off-set two-to-one by exports of Mexican-made cars. It will eliminate the requirement for Mexican importers to secure a government permit each time they want to buy U.S. potatoes. Mexico has the right under the GATT to raise its tariffs up to 50%. If it chooses to do so, U.S. exports would not be affected because of the protections we gain under NAFTA.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements which allowed the central government to dictate the levels of Mexico's agricultural imports. As a result, protected from competition from imports, Mexican producers were inefficient, and the Mexican economy was characterized by widespread poverty. Mexico's protectionist regime did not serve the interests of Mexico's people.

Perhaps the closed Mexican economy reflected the historical Mexican mistrust of, and antagonism toward, the United States. For whatever reason, Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program created trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexico's high import barriers and Mexican rules requiring firms selling in the Mexican market to open factories in Mexico have made it difficult if not impossible for many of our companies to sell products made in the U.S. in Mexico. Non-tariff barriers -- licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The NAFTA will transform the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, the maquiladora program is effectively eliminated, along with import protections, and existing factories will be permitted to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA locks in current access and expands on it.

NAFTA will require relatively few changes on our part -- while requiring Mexico to sweep away decades of protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports will disappear for the United States (and for Canada, for most products) when the NAFTA goes into effect. However, a license may still be required to bring in covered products from all other countries.

Major Features of NAFTA

Reduction of Mexican Tariffs: Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when

NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first five years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive than those of our rivals.

Removing Mexican non-tariff barriers. NAFTA reduces or eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

In addition, NAFTA includes important benefits for other key U.S. sectors:

Opening up Trade in Services. NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

Protecting U.S. copyrights, patents and trademarks. NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By enhancing protection of U.S. owners of technology, and of book, film and recording rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, with exports, valued conservatively, of about \$34 billion in 1990.

The Benefit to Small Business. I have noted the statements of several sectors citing the benefits which will result from NAFTA; that sentiment is widely held in the business community, by businesses large and small. Indeed, small businesses stand to be among the major beneficiaries of NAFTA. Small businesses are often less able to invest the time and resources to wrestle with the tariff and licensing requirements which presently block the way to the Mexican market. With tariffs reduced or eliminated, and non-tariff barriers coming down, U.S. small business, which makes up a growing share of U.S. exports, will be able to sell their American-made products into the Mexican market.

The Environment

The combination of the provisions of the NAFTA and the NAFTA side agreement on the environment constitute truly path-breaking advances in the area of trade and the environment. Just five years ago, when the Congress approved the U.S.-Canada Free Trade Agreement, few if any environmentalists had even considered trade issues relevant -- or vice versa. In the NAFTA and the side agreements of the NAFTA, you now see not only heightened sensitivity to the need to safeguard our rights to protect our own environment, health and safety, but provisions aimed at seeing that the benefits of increased trade and economic growth are accompanied by provisions aimed at improving standards and enforcement of laws affording these protections.

There are good reasons that the environmental efforts we have made have drawn the strong endorsement of six preeminent private environmental groups. The NAFTA and the side agreements achieve a number of historic firsts, including:

- o creation of the first ever North American Commission on the Environment, with a mandate to promote cooperation to improve environmental protection on our continent;
- o the most explicit international affirmation ever of our right to keep out imported products that fail to meet the standards we set for protection of our health, safety and environment, even if these standards differ from international norms;
- o protection of the rights of our state and local governments to set and enforce higher standards than federal (or international) norms;
- o provisions favoring upward harmonization of standards in North America, without derogating from our democratic right to choose our own standards;
- o provisions against relaxation of environmental health or

safety standards in order to attract or retain an investment, and provisions to encourage effective enforcement of national laws, backed by sanctions for a persistent failure to effectively enforce those laws;

- o explicit recognition of the precedence over the NAFTA of certain core environmental agreements containing trade sanctions;
- o a strengthened commitment to cleaning up the border environment.

These provisions and others will help us improve environmental conditions in North America. No one can fail to be disturbed by the vivid pictures we have all seen of existing environmental problems along the U.S.-Mexico border. These problems partly stem from past failures to adequately check against industrial pollution, but also from the lack of adequate infrastructure (water treatment, sewage and so forth) for the growing human population. The maquiladora program aggravated these problems by encouraging industrial development at the border.

Critics of the NAFTA try to point to these existing conditions as a reason to reject the NAFTA, implying that NAFTA, a treaty not yet in force, should somehow be blamed for all bad existing conditions at the border, and arguing that the NAFTA will increase these problems. And despite the explicit language of the NAFTA and the side agreements, the most extreme critics irresponsibly try to frighten people that NAFTA will cause us to weaken environmental protection and lower our standards.

We should not accept continuation of the bad conditions at the border, any more than we should accept unsafe products. But NAFTA is not the problem with regard to these concerns; NAFTA and the side agreements are part of the solution. NAFTA will eliminate special incentives to export products in Mexico to the United States, thereby reducing the incentive to locate industries at the crowded border. And NAFTA and the side agreements will help promote sustainable development with improved environmental protection and enforcement.

As Kathryn Fuller, of the World Wildlife Fund stated on September 15: "Our support of the NAFTA and the Agreement on Environmental Cooperation boils down to this: ultimately, the environment of north America will be better with the passage of NAFTA than without it."

NAFTA and the side agreements contain both provisions to ensure that trade liberalization does not come at the expense of environmental protection and provisions to help improve environmental protection.

NAFTA and Standards

The NAFTA includes agreements on standards-related measures and on sanitary and phytosanitary measures. I would like to take a few minutes to describe those agreements and respond to frequently asked questions about them.

Standards-related measures ("SRMs") deal with voluntary and mandatory product standards and the procedures used to determine whether a particular product meets the standard. Sanitary and phytosanitary measures ("S&P") generally deal with protecting human, animal and plant life and health from risks of plant- and animal-borne pests and diseases, and additives and contaminants in foods and feedstuffs.

The NAFTA explicitly recognizes that countries have a legitimate need for product standards and for regulations to protect human, animal and plant life and health. The NAFTA provisions are designed to preserve the ability of governments to act in this area while guarding against the unjustified use of these types of measures as a way to protect domestic industry. In each case, the NAFTA sets up requirements and procedures that will help to distinguish legitimate measures from protectionist measures. The NAFTA also will help facilitate making these measures compatible among the three NAFTA parties, where appropriate.

The NAFTA explicitly recognizes the right of each country to adopt and apply standards-related measures, such as truck safety measures. The NAFTA asks only that these measures be applied non-discriminatorily. That is, the U.S. Government will subject Mexican service providers and products in the United States to the same standards it applies to U.S. service providers and products in the United States. This principle applies equally to licensing drivers and labelling ketchup jars.

To be sure, disputes may arise over whether specific environmental measures are merely disguised trade barriers. Some critics have used this possibility to charge that the NAFTA will serve as a basis for challenging U.S. and state environmental laws.

The NAFTA does require governments to meet certain elementary requirements regarding their standards-related measures and their sanitary and phytosanitary measures. It was important for us to subject these requirements to dispute settlement provisions, because our trading partners have repeatedly sought to exclude U.S. exports from their markets by citing false pretexts.

However, the NAFTA's obligations do not threaten U.S. measures, because our regulatory systems already are non-discriminatory or science-based.

Countries accused of using environmental measures to restrict trade may choose to have the dispute submitted to the NAFTA dispute settlement rather than to procedures under GATT. In fact, NAFTA's critics fail to mention that without NAFTA, GATT challenges would still be possible, as they have been for years.

In most types of disputes arising under the NAFTA, the dispute settlement panel, on its own initiative or at the request of a disputing party, may request a written report from an independent Scientific Review Board on any issues of fact concerning the environment, health, safety, and other scientific matters. The dispute settlement panel will take the Review Board's report into account before reaching its final decision and will release the report to the public together with any final panel decision that is publicly released.

NAFTA's critics have argued -- again incorrectly -- that the NAFTA automatically preempts state law that conflicts with the NAFTA's obligations. In fact, nothing in the NAFTA requires preemption of state law. For those few areas where the NAFTA negotiators considered that state measures might in fact be inconsistent with the NAFTA (investment and services provisions), the NAFTA provides a procedure for grand-fathering such measures. That is, if the procedures are followed, those non-conforming state measures in the investment and services areas will be exempted from NAFTA's obligations.

We do not believe that there are existing non-conforming state measures related to environment, health and safety. However, even in the event that a NAFTA dispute settlement panel were to determine that a state law were inconsistent with the NAFTA, the NAFTA would still not preempt state law.

If we follow the pattern of the GATT and the U.S.-Canada Free Trade Agreement, the federal government's efforts to secure state conformity with the NAFTA are likely to be entirely cooperative. The Administration typically works very closely with the states involved in any dispute settlement proceedings, both before and after any panel consideration, in a cooperative effort to determine the best course of action. Although ultimately the federal government, through its Constitutional authority, retains the authority to overrule inconsistent state law through legislation or civil suit, use of this authority has not been necessary in the nearly half-century history of the GATT or the five years that the CFTA has been in effect.

Finally, if we follow the practice under the CFTA implementing legislation, the NAFTA implementing legislation will ensure that there is no "private right of action" under the NAFTA that might mean that states could face lawsuits by companies or individuals seeking to enforce compliance with the NAFTA or its supplemental agreements.

Product standards

Product standards are commonplace in an industrialized society. Product standards may be voluntary industry standards, such as the size of lead to put in mechanical pencils, or they may be governmental standards, such as requirements for automobile brake lights. There is no question of the need for or appropriateness of having product standards.

At the same time, product standards have been used in other countries to keep out U.S. goods or to disadvantage U.S. exports compared to goods produced in the importing country. Such abuse of standards typically increases as tariff and other non-tariff trade barriers are reduced through negotiation. The NAFTA provisions on standards-related measures (SRMs) are designed to ensure that standards are not used to create unnecessary obstacles to trade.

Summary of agreement

Any understanding of the NAFTA SRMs text depends on an understanding of some basic concepts. These include the following.

What is a standards-related measure?

The term "standards-related measure" or "SRM" actually consists of three separate types of measures:

- (1) "standards,"
- (2) "technical regulations," and
- (3) "conformity assessment procedures."

Each of these terms is defined in turn in the NAFTA. However, the key distinctions are that "standard" refers to voluntary product standards, "technical regulation" refers to mandatory product standards, and "conformity assessment procedure" is the method used to determine that a product satisfies a standard or technical regulation.

What is a standard?

The term "standard," in common usage, is much broader than the term as it is defined and used in the NAFTA. In the NAFTA, a "standard" means:

- (a) characteristics for a good or a service,
- (b) characteristics, rules or guidelines for:
 - (i) processes or production methods relating to such good, or
 - (ii) operating methods relating to such service, and
- (c) provisions specifying terminology, symbols, packaging, marking or labelling for:

- (i) a good or its related process or production method,
or
- (ii) a service or its related operating method,
for common and repeated use, including explanatory and other
related provisions, set out in a document approved by a
standardizing body, with which compliance is not mandatory.

Standards can be either government standards, or more commonly they can be private standards developed by private standardizing bodies.

What is a technical regulation?

The term "technical regulation" refers to mandatory (and therefore governmental) product standards. Under the NAFTA, a technical regulation means:

- (a) characteristics or their related processes and production methods for a good,
- (b) characteristics for a service or its related operating methods, or
- (c) provisions specifying terminology, symbols, packaging, marking, or labelling for:
 - (i) a good or its related process or production method,
or
 - (ii) a service or its related operating method,
set out in a document, including applicable administrative, explanatory and other related provisions, with which compliance is mandatory.

What is a conformity assessment procedure?

Under the NAFTA, a "conformity assessment procedure" is any procedure used, directly or indirectly, to determine that a technical regulation or standard is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration or approval used for such a purpose, but does not mean an approval procedure.

NAFTA provisions

The NAFTA SRMs text explicitly recognizes the right to adopt, maintain, or apply any standards-related measure, including enforcement measures. The text also explicitly recognizes the right of each NAFTA party to establish the levels of safety and protection of human, animal or plant life or health, the environment or consumers it considers appropriate.

The NAFTA does not deal with specific product standards as such. Instead, the NAFTA SRMs text sets up several general procedural and other requirements to be observed when adopting or maintaining SRMs. These requirements are intended to ensure that

product standards do not create unnecessary obstacles to trade.

The core requirement in the NAFTA SRMs text is the requirement of non-discriminatory treatment, which has two facets. First, SRMs are not to discriminate against imported goods or service providers in favor of domestic goods or service providers. Second, SRMs are not to discriminate against goods or service providers from a NAFTA party in favor of goods or service providers from another country.

The NAFTA also requires advance public notice and opportunity to comment on proposed SRMs or modifications to SRMs. In the case of federal measures, the NAFTA requires at least 60 days notice. The NAFTA also requires a delay between publication of the final SRM and its effective date. However, there is an exception from these requirements where necessary to address an urgent problem relating to safety or to protection of human, animal or plant life or health, the environment or consumers. These procedures were modeled after our own federal agency requirements under the Administrative Procedures Act.

Recognizing the crucial role of SRMs in achieving legitimate objectives, the NAFTA parties commit to work jointly to enhance the level of safety and of protection of human, animal and plant life and health, the environment and consumers. The NAFTA provides for the use of relevant international standards, where they would be effective or appropriate to fulfill the NAFTA party's legitimate objectives, as a basis for each NAFTA party's own SRMs in order to facilitate trade among the parties. At the same time, the NAFTA explicitly affirms the right of each NAFTA party to have SRMs that achieve a higher level of protection than the relevant international standard.

The NAFTA parties also commit to make their respective SRMs compatible to the greatest extent practicable, without reducing the level of safety or of protection of human, animal or plant life or health the environment or consumers. Greater compatibility should be achieved through the notice and comment procedures mentioned above and through the working groups envisioned under the Agreement.

Other NAFTA SRMs provisions include an obligation for each NAFTA party to treat a technical regulation of another NAFTA party as equivalent to its own if the exporting party's measure adequately fulfills the importing party's legitimate objectives.

The NAFTA also establishes a Committee on Standards-Related Measures to facilitate compatibility of standards, consult regularly on matters of common concern in this area, and enhance cooperation on developing, applying, and enforcing standards-related measures.

Differences between SRM's and S&P Texts

The NAFTA SRMs agreement differs fundamentally from the NAFTA agreement on sanitary and phytosanitary measures in the means used to determine whether a measure is protectionist in nature. The SRMs text relies on non-discriminatory treatment. The S&P text relies on science and risk assessment. A strict requirement for non-discriminatory treatment is not possible for S&P measures, since they will frequently discriminate against imported goods or goods from one country because those goods pose a different risk of a plant or animal pest or disease. Under the S&P text, discrimination is allowed as long as it is not arbitrary or unjustifiable.

NAFTA and Sanitary and Phytosanitary Measures

The NAFTA text on sanitary and phytosanitary measures preserves our ability to maintain, strengthen, and enforce existing U.S. health, safety, and environmental standards, and establishes ways for all three trading partners to strengthen their standards. Specifically, the NAFTA's provisions:

- o Affirm the right of each party to choose the level of protection of human, animal, or plant life or health it considers appropriate;
- o Do not impair existing U.S. federal and state health, safety, and environmental standards, and preserve our right to ban non-conforming imports;
- o Continue to allow each country, including its state and local governments, to enact standards that are stricter than international or national standards;
- o Commit the NAFTA parties to work jointly to enhance their standards;
- o Continue to allow parties to act to protect human, animal or plant life or health based on available information when there is insufficient information to conduct a risk assessment;
- o Ensure advance notice to the public of proposed regulatory actions in each of the three countries, to review and comment upon those actions, and to have such comments taken into account prior to final decision; and
- o Establish a Committee on Sanitary and Phytosanitary (S&P) Measures to enhance food safety and improve sanitary conditions, promote compatibility of S&P measures, and facilitate technical cooperation and consultation on specific S&P bilateral or trilateral issues.

While granting the federal government and the states broad discretion to set their own environmental, health and safety

standards, NAFTA does require governments to meet certain elementary requirements when applying laws and regulations to achieve the government's chosen levels of protection, in order to safeguard against blatant trade protectionism in the guise of a health regulations.

The NAFTA requires that sanitary or phytosanitary measures -- those related to agricultural pests and disease and contamination in food -- have a scientific basis and be based on a risk assessment appropriate to the circumstances. The term "scientific" is not separately defined in the text. Accordingly, under general principles of international law, the term scientific is to be interpreted in good faith, using its ordinary meaning in context and in the light of the object and purpose of the NAFTA. Consequently, the ordinary dictionary meaning would apply.

Responding to Common Misunderstandings Regarding NAFTA Standards Provisions

- The NAFTA does not limit environmental standards to the lowest common denominator and does not inhibit the development of more stringent regulations if they are needed to protect human health or the environment. The NAFTA is specifically drafted to ensure the ability of each country, including its state and local governments, to maintain stringent environmental standards.

In particular, the NAFTA recognizes the right of each country to enact and enforce laws and regulations that protect human health and the environment. Furthermore, the agreement specifically provides that each country may establish those levels of safety and protection of human, animal and plant life and health, of the environment and of consumers that it considers appropriate.

Where the NAFTA calls on the three countries to cooperate on health and environmental standards it deliberately refers to joint efforts to "enhance" protection, not lower it. In addition, the agreement states clearly that any efforts to make environmental or health standards compatible among the three countries should be undertaken "without reducing the level of safety or of protection of human, animal or plant life and health, the environment and consumers." Furthermore, the NAFTA also specifically preserves each country's right to apply more stringent environmental or health measures than those provided under internationally-agreed standards.

- The NAFTA harmonization process does not require that we come to agreement with Canada and Mexico on particular standards. That is, if Canada and Mexico refuse to change their standards, we may insist on retaining ours as well.

The NAFTA does not require that the United States change any particular standard. Instead, the NAFTA creates a process by which the three countries can try to reach greater compatibility of standards among the three countries, but that does not require us to agree to any particular change in our standards. Further, if the Administration believed that changes were desirable, whether because of discussions under the NAFTA or for any other reason, we would consult fully with Congress and domestic interests, and we would have to obtain Congressional approval of legislation to change U.S. laws. No "harmonization" process can ever force us to agree to standards we find unacceptable, nor could Congress be bound by any result it found unacceptable. Congress would need to pass specific legislation to effect a change.

- The NAFTA preserves state standards that are more stringent than federal standards.

From the beginning of the NAFTA negotiations, a fundamental objective of U.S. policy was to ensure that the NAFTA did not result in lowering U.S. health and environmental protection standards, including state and local standards. The Agreement secured that objective.

The agreement does apply to state laws and regulations in most respects. But it does so not by mandating compliance with federal law but by requiring that state measures comply with the rules set out in the agreement. Just as the federal government will be free to maintain or change its laws, subject to NAFTA rules, so will state and local governments.

The NAFTA is drafted as a set of prohibitions. Unless the NAFTA prohibits a certain type of measure or practice, a NAFTA country is free to maintain or impose it. Since nothing in the NAFTA precludes states from maintaining or adopting standards that are higher than federal rules, they will continue to have the right to do so.

The NAFTA negotiators specifically used the plural "levels" in Article 904(2) and in the equivalent provision of Chapter Seven (Article 712(2)), which talk in terms of each Party's right to set the levels of health, safety, or environmental protection that it sees fit, in part in order to account for the fact that each country may have a multiplicity of levels due to differences among the states and between the states and federal government.

- The NAFTA does not require the federal government to pre-empt state laws.

In the SRMs text, the federal government is simply obligated to "seek, through appropriate measures" to ensure that states

observe the relevant NAFTA rules. This lesser degree of obligation, set out in Article 902, reflects an understanding among the three countries that the NAFTA should not intrude unduly on the ability of states to regulate in this important sphere.

Nothing in the NAFTA requires the federal government to take legal action against state measures that NAFTA dispute settlement panels may determine to be inconsistent with trade obligations. Under the NAFTA, panel opinions are advisory only. If the defending country loses, it is not required to remove or change the offending measure. It may offer trade compensation instead or simply permit the other country to take retaliatory action of equivalent effect.

As has been the case under the GATT, in those rare instances where state rules may be successfully challenged under the NAFTA, the federal government will work cooperatively with the states to seek a satisfactory resolution of the matter. Under the NAFTA, each country will retain full discretion, under our own political and legal system, to determine how to satisfy our trade obligations.

- The NAFTA's procedural harmonization provisions will not eliminate public notice and comment on standards. Nothing in the NAFTA would eliminate existing U.S. public notice and comment requirements. In fact, the standards text in general requires public notice and comment for standards and is modeled after U.S. practice.

Truck Standards

I would also like to use this opportunity to dispel a widespread myth about the NAFTA concerning U.S. vehicle size and weight limits.

- No provision of the NAFTA requires us to compromise our truck safety standards or to change our vehicle size and weight limits. The NAFTA implementing legislation will make no such changes in our law. We will not, and indeed could not, make any changes to U.S. vehicle size and weight laws via any NAFTA process without obtaining new legislation from Congress.
- Under NAFTA all three countries agree to work toward compatible technical and safety standards, including vehicle size and weight requirements, hazardous materials transport, road signs, supervision of motor carrier compliance and other such transportation-related standards. That could facilitate commerce, but not at the cost of safety. We have not committed ourselves to agree to anything that would compromise safety standards.

- Mexican and Canadian motor carriers operating in the United States must meet the same safety and operating requirements and standards, including size and weight limits, as U.S. carriers, now and in the future.
- Nothing in the NAFTA prevents any country from maintaining its present standard or issuing new standards as needed.
- The NAFTA, and its working groups, cannot preempt state standards.

Professional Standards

And finally, let me stress, that the procedures currently in use in the United States to test, evaluate and certify professional competency will continue. The NAFTA does not exclude Mexican or Canadian nationals from a state's licensing and examining requirements.

- For example, anyone who wants to practice medicine or dentistry in the United States must be licensed by the appropriate regulatory bodies.
- In addition, although there are provisions in the NAFTA relating to temporary entry which allow for admission of eligible individuals into the United States, Canada or Mexico under certain conditions, these provisions **do not convey a right to perform or provide a service.**
- In regard to professional services providers, the specific admission rights are given to certain defined categories of professionals who meet minimum educational requirements or possess alternative credentials, and who seek to engage in business activities at a professional level.
- The categories are set out in a new schedule that tracks the one currently in effect between the United States and Canada. There is an annual numerical limit for temporary admission of Mexican professionals.
- These provisions, however, do not substitute for valid licenses to practice medicine, engineering, accounting or other licensed professions which are recognized by the appropriate regulatory bodies in the United States.

CAFE

Under the NAFTA, the United States will change one provision related to the Corporate Average Fuel Economy (CAFE) requirements. First of all, however, let me stress that the NAFTA does not affect the U.S. legally mandated CAFE fuel efficiency standards or the

unilateral right of the United States to change those standards.

The United States will treat Mexican production the same as Canadian production always has been, which will assist North American manufacturers to make efficient production decisions. Content added in Mexico and Canada will be considered "domestic" content for purposes of the definition of a "domestically manufactured" automobile under the CAFE requirements. Canadian content is already accorded the same treatment as U.S. content and has been since the enactment of the CAFE requirements in 1975.

Manufacturers that began the production of automobiles in Mexico prior to model year 1992, may make a one-time election anytime after 1996, when to begin counting Mexican content as "domestic" content for purposes of CAFE. They must apply the new definition after 2004. Production in Mexico of companies that began assembly in Mexico after model year 1991 will be counted in the United States as domestic content only for purposes of the CAFE requirements upon implementation of the NAFTA.

The seven-year grace period for an election by existing NAFTA manufacturers is intended to provide flexibility to producers that may have structured their sourcing patterns in accordance with the current situation. The CAFE definition of "domestic" content has no bearing on the NAFTA rules of origin or Mexico's local content requirement.

The Supplemental Agreements on Labor and the Environment

President Clinton endorsed NAFTA last October during the campaign in a speech at North Carolina State University, but he also set out a series of principles which he wanted to see incorporated into supplemental agreements and related initiatives.

After months of negotiations, President Clinton, Prime Minister Campbell, and President Salinas signed historic agreements on environmental and labor cooperation on September 14.

He made a promise to the American people which he has kept: that he would make sure economic growth with Mexico did not come at the expense of the environment or workers' rights, and that we would be protected from the possibility of import surges.

These Agreements are ground-breaking. The fundamental objectives of the labor and environment agreements are to work cooperatively to improve conditions for labor and the environment throughout North America and to improve national enforcement of national laws relating to labor and the environment. They commit all three nations to fair, open and equitable administrative and judicial processes for the enforcement of environmental and labor

laws.

These supplemental agreements strengthen NAFTA, and represent an unprecedented commitment to cooperate on these issues in connection with a trade agreement. They ensure our ability to take action and impose sanctions if our trading partners engage in persistent patterns of failure to enforce their laws.

Foreign Policy Implications

The NAFTA deserves to be approved on its economic merits. However, the foreign policy implications of this issue should also not be minimized. Echoing comments made by Secretary of State Warren Christopher recently: "Rejection of NAFTA would seriously damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade. It would undermine our position as a negotiating partner on global trade agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

Conclusion

All Americans agree that we cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

We would ask the opponents of NAFTA: does walking away from the NAFTA seem like good trade and economic strategy? Can you envision Japan or the EEC -- if they were in our position -- rejecting a deal like this? Would either of them kick sand in the face of their third biggest, and fastest growing, trading partner? Would they opt for the status quo, the unbalanced relationship, where Mexico keeps the tariff and non-tariff barriers it chooses to keep?

Would they ever be willing, in one unthinking lurch, to throw away the friendship and progress that have characterized the past seven years, dramatically reversing the historic pattern of mistrust and antagonism? Would they conceivably believe that it would be easier, somehow, to cooperate with Mexico on the

environment, controlling drug traffic, or illegal immigration, if NAFTA were defeated?

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically. There were powerful political reasons for opposing it.

But when he studied it, he found that NAFTA -- particularly if strengthened by supplemental agreements -- would be strongly in the economic interest of the United States. It was not a favor that we were doing for Mexico. It would benefit both countries, and Canada as well. It would not solve all our nation's economic problems, but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

The Administration has the responsibility of convincing Congress and the country that NAFTA is in the national economic interest, and we intend to do so. I am confident that by the time Congress votes on NAFTA later this year, the country will recognize that NAFTA is a vital part of the solution to the economic challenges that face us.

The Clinton Administration's Goals for the November Asia-Pacific Economic Cooperation (APEC) Forum's Annual Meeting.

American Society of International Law
November 2, 1993

Introduction

I am delighted to be here today to discuss the Clinton Administration's Goals for the upcoming annual Ministerial meetings of APEC: the Asia-Pacific Economic Cooperation forum.

The Administration's Overall Policy Objectives

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

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

The Administration believes that global economic interdependence and trade expansion offer tangible routes to a new prosperity. Export related manufacturing jobs pay better than other manufacturing jobs by as much as 17 percent. The opportunities for the U.S. are enormous in a broad range of capital goods, telecommunications, computer related and digital electronics, creative intellectual property reliant industries, not to mention high valued added agriculture and other high skilled manufacturing and service sectors. Untapped markets exist for those prepared to pursue them and we intend to do all we can to help U.S. firms capture them.

Asia and the Pacific: Its Place in the Global Economy

Asia and the Pacific, as defined by APEC's 15 members, is the most economically dynamic region in the world. It combines five major industrial economies, the four Asian newly-industrializing economies often referred to the four dragons, and the fast-emerging economies of the ASEAN nations and the People's Republic of China.

Collectively the 15 APEC economies represent the most powerful regional economy in the world. Together they contain 40 percent of the world's population, have a combined gross domestic product of \$13 trillion and account for 40 percent of total world trade. In 1992, our trans-Pacific trade exceeded our trans-Atlantic trade by 50 percent. U.S. investment in Asia and the Pacific doubled between 1985 and 1990 while at the same time, Asian and Pacific investment in the United States has become an important source of capital for our own economic growth, not to mention new jobs. Today there are about 2.5 million jobs in the United States that are dependent of Asian trade.

U.S. Policy Towards Asia and the Pacific

President Clinton, in his address at Tokyo's Waseda University last July, noted that the time has come for America to join with Japan and its Asian neighbors to create "a new Pacific Community." Viewing the Asia-Pacific region as a vast source of jobs, income and growth for Americans, he described APEC as "the most promising economic forum we have for debating a lot of these issues."

President Clinton was delighted to discover that the first year of his Presidency coincides with the year that the United States is chairing APEC. He seeks to capitalize on this opportunity to emphasize the importance of the Asia-Pacific region to the U.S. economy.

In keeping with our domestic policy of expanding the job market, part of our economic strategy is to open up new markets in areas of fast growth, such as the Asia-Pacific region, in order to maximize our opportunities there and avoid handing them to our competitors.

Another part of our economic strategy is to seek ways to meet the challenges we will face if we are to be competitive. Already, the EC's trade with Asia is on the brink of surpassing that with the United States for the first time. We need to develop constructive alliances with our neighbors in the Asia-Pacific region if we are to adapt successfully to rapidly changing global economic dynamics and remain a leader in the Pacific.

Demonstrating his high level of commitment towards APEC, the President will host an unprecedented meeting with leaders of the 15 APEC economies in Seattle on November 20. At no time in the past has a group of leaders from these nations gathered to discuss economic issues. Not since 1966 under Lyndon Johnson have a group of Asian leaders come to the United States to meet collectively with a U.S. President. This meeting, which will discuss how to reduce barriers and create opportunities among APEC members, will follow the Fifth APEC Ministerial meeting which will take place on the 18th and 19th of November.

APEC and Its Importance

The Administration views APEC as the ideal vehicle for forging new relationships with our Asian and Pacific neighbors as we jointly look ahead to the 21st century. Believing the Asia-Pacific region will be critical to the United States' economic future, we support a stronger, more active APEC that will become the forum for regional trade and investment liberalization, as well as broader economic cooperation.

When APEC was founded in 1989, it was essentially a facilitation and cooperation forum having as its major objective the successful conclusion of the Uruguay Round. Since last year's ministerial meeting in Bangkok, however, work has expanded significantly to address practical means to reduce transactional costs of trade within the region and to lay the groundwork for future policy decisions.

The Administration's Goals for APEC's Ministerial Meetings

As chair of APEC this year, the United States has selected the development of APEC's role in interregional trade and investment as its theme. Towards this end, we have proposed a Declaration on an APEC Trade and Investment Framework that would take APEC beyond its current role as a facilitation and cooperation forum to more of a policy role to be expanded through consultation and consensus by its members. This proposal recently received the blessing of APEC Senior Officials and will be presented to Ministers in Seattle later this month for adoption.

In addition to the adoption of this Trade and Investment Framework we are planning three other key results at the Ministerial meeting:

- o Presentation of a report by a group of eminent, non-government affiliated individual representatives from throughout the region containing a vision for what APEC should become in the next decade.
- o Identification of significant ways for the business community to become more involved in APEC's work.
- o Arrival at a decision concerning the application of new members and criteria for future applications.

Let me focus briefly on each of these four planned results:

First, the trade and investment framework, if adopted, will represent a substantial step forward for APEC. It outlines an evolving trade and investment policy role for APEC in addition to APEC's mandate to facilitate business and economic ties among members. It will establish a permanent Trade and Investment

Committee and propose an initial year work program which will continue some very productive areas of APEC's activities in customs and investment, for example, but also move gradually into additional policy areas as the comfort level and commitment of members expand.

Second, the presentation of the Eminent Person's Group report will provide a starting point from which APEC members can move forward to begin debating long-term goals for APEC. The motivation for forming this group was to develop an independent, unbiased, long-term vision for APEC by selecting members not bound by normal policy constraints. Their vision will not automatically be adopted but rather serve to stimulate debate.

The report, which has been circulated among members in advance, will highlight potential threats to economic growth in the region, propose its own long-term vision for APEC and the region and recommend initiatives for implementing its vision.

The report proposes that APEC accelerate and expand cooperation within the region by leading an initiative to create an Asia-Pacific Economic Community aimed at eventually establishing free trade and investment within the region. It will also outline possible short-term building blocks for attaining this goal and recommend continued broad support for the multilateral system.

Third, examining ways to expand the private sector's role in APEC, a number of options are under discussion ranging from each member seeking its own private sector's advice to a more formal APEC-wide advisory process.

Already, there has been a considerable level of participation by the private sector in APEC's ten Working Groups. (These Working Groups focus on the cooperation aspect of APEC's mandate in particular subject areas such as Trade Promotion, Telecommunications, Transportation and Tourism).

Fourth, the issue of new members is one of the most hotly debated at present. The desire to include new members is currently juxtaposed against an increasing concern among many members that APEC must first consolidate and produce concrete results. While Mexico, Papua New Guinea and Chile are under active consideration, no consensus exists at present.

Conclusion

Our goals are to see APEC assume a more policy-oriented role in the areas of trade and investment; to consider and begin an active debate on APEC's future direction; to find an expanded role for the private sector within APEC; and to settle the issue of membership.

The Clinton Administration will utilize the Seattle meeting as a vehicle to demonstrate to the region and the nation that the U.S. intends to remain a leader in the Pacific and that it will continue to promote free trade and open markets in the region and the world.

Domestically, the Administration will underscore the vital role played on the Asia Pacific region in U.S. domestic prosperity and global growth. APEC pulls into focus the tremendous importance of the region to our domestic economic strength; the efforts we are making to open up its markets and the challenges we will face if we are to be competitive.