

Testimony to the Senate Finance Committee
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U.S. Trade Representative
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THE URUGUAY ROUND:
GROWTH FOR THE WORLD, JOBS FOR THE U.S.

Introduction

Mr. Chairman, thank you very much. I appreciate the chance to be here today to discuss with you the Uruguay Round agreement, reached by 117 countries on December 15. As this committee well knows, the agreement marked the completion of more than seven years of negotiations.

The Uruguay Round agreement will reduce barriers blocking exports to world markets (in agriculture, manufactured goods, and services) and will create a more fair, more comprehensive, more effective, and more enforceable set of world trade rules. In order to assure the efficient and balanced implementation of the agreements reached, they also created a new World Trade Organization (WTO).

The Administration believes that the Uruguay Round agreement will justify the years of hard work and frequent disappointment that has marked the negotiating process. It will provide a major boost to the global economy in the coming years and into the next century, from which the United States will benefit a great deal. This agreement sets the stage for the U.S. to become a more competitive, productive and prosperous nation in the years to come.

I look forward to working with you this spring as we prepare the legislation that will implement the Round, and which the Administration will seek to have enacted this year.

I also want to acknowledge those who helped make reaching this historic agreement a reality. The Administration benefitted from the work of our predecessors, Presidents Reagan and Bush, and Trade Representatives Bill Brock, Clayton Yeutter and Carla Hills. They saw the importance of the Uruguay Round, set high standards for an ambitious agreement and refused to accept less.

We benefitted from the steadfast, bipartisan support of Congress, led by this Committee and the House Ways and Means Committee. Congress supported the negotiations, but demanded constant proof that the results of the Round furthered the interests of U.S. companies and workers. You set strong negotiating objectives in the 1988 Trade Act, which I believe that we have met.

We benefitted from the advice and support of the private sector, who recognized the importance of completing the Round for the U.S. economy and global growth, and who gave us insight and understanding of the needs of hundreds of sectors of our strong and diverse economy.

The Uruguay Round trade agreement is the largest, most comprehensive trade agreement in history. The existing GATT system was incomplete; it was not completely reliable; and it was not serving U.S. interests well. The new agreements open up major areas of trade and provide a dispute settlement system which will allow the U.S. to ensure that other countries play by the new rules they have just agreed to.

The successful conclusion of the Uruguay Round negotiations was an important part of the President's strategy for strengthening the domestic economy. Barely a year ago, President Clinton entered office, faced with daunting challenges in his effort to restore the American Dream.

The economy was stagnant. Unemployment was high, and confidence was down. In just one year, we have turned a corner. Our economy is growing and millions of jobs have been created. People are getting back to work.

But these are just the first steps in preparing our nation for the 21st century. The President is addressing the long-term issues facing our economy.

How do we ensure the American Dream for all? How do we reverse the decline in real wages among workers in this country? How will we compete against the Europeans and the Japanese? How do we eliminate the gap between high-skill workers, for whom opportunities abound, and those lower skilled workers who lack opportunities, and even hope? At a time our workers are the most productive in the world, meaning it takes less workers to do the same work, how do we create new jobs and opportunities?

All of the elements of the President's economic strategy -- reducing the deficit, reforming education, the President's re-employment program, and health care -- are geared towards solving these problems, creating jobs and making our country more prosperous for our children. All of the parts work in tandem, each reinforcing the other.

An essential element in this strategy is to expand and open foreign markets. Expanding trade is critical to our ability to compete in the global economy and create high-wage jobs. That is why the President spent so much time in 1993 -- with not only the Uruguay Round but also the North American Free Trade Agreement, the establishment of the Japan Framework, the Asia Pacific Economic Cooperation conference to facilitate trade in that

region. That is why we vigorously enforced our trade laws which resulted in opening the markets for heavy electrical equipment in Europe, telecommunications in Korea, construction in Japan, and enhanced protection for copyrighted and patented products in a number of nations, led by Taiwan and Thailand.

The U.S. economy is now woven into the global economy. Over a quarter of the U.S. economy is dependent on trade. Where we once bought, sold and produced mostly at home, we now participate in the global marketplace. American workers compete with their foreign counterparts every day, sometimes within the same company. By expanding our sales abroad, we create new jobs at home and we expand our own economy.

The global economy presents rewards not risks. Our greatest risk is in failing to understand the challenge. Jobs related to trade earn, on average, 17 percent more than jobs not related to trade. Prosperity is the partner to change and American workers are at their best when facing the challenges of a new era.

The benefits of trade ripple through our economy. Trade benefits not only the company that exports, but also the company which produces parts incorporated in exported products, the insurance agency which insures exporters, and the grocery store near the exporter's factory. At the same time, increased access to foreign markets and increased competition at home benefit consumers. Lower trade barriers reduce prices, improve the quality, and widen the choice of consumer good. This benefits both families and companies looking for good bargains and good quality.

U.S. workers and companies are poised to take advantage of the dynamics of the global economy, if they have access to foreign markets and can be ensured they are competing on fair terms with their foreign counterparts. Fast growing economies in Latin America and Asia are hungry for American goods. Countries around the globe are embracing market economies and are in need of everything from hospital equipment to consumer goods.

"Made in the USA" still represents a standard of excellence, especially for products that will become more important in the coming century. America leads the world because of our imagination and creativity.

The United States, then, is positioned economically, culturally and geographically to reap the benefits of the global economy.

Economically, because our workers are the most productive in the world, and our economy is increasingly geared towards trade.

Culturally, because of our tradition of diversity, freedom and tolerance will continue to attract the best and the brightest

from around the world ensuring that we will never stagnate as a people.

Geographically, because we are at the center of a nexus between our historic trading partners in Europe and Japan, and the new dynamic economies in Latin America and Asia.

Our trade policy is guided by a simple credo. We want to expand opportunities for the global economy, but insist on a similar responsibility from other countries.

Trade is a two way street. After World War II, when the American economy dominated the world, we opened ourselves up, to help other countries rebuild. It was one of the wisest steps this country ever took, but now we cannot have a one way trade policy. The American people won't support it and the Administration won't stand for it.

For other nations to enjoy the great opportunities here in the U.S. market, they must accept the responsibility of opening their own market to U.S. products and services. Ultimately, it is in their own self interest to do so, because trade fosters economic growth and create jobs in all countries involved. If a country closes itself to U.S. goods and services, they should expect the same from us.

The Uruguay Round ensures American workers are trading on a two-way street; that they benefit from this new globalized economy; that they can sell their products and services abroad; and that they can compete on a level playing field.

President Clinton led the effort to reinvigorate the Uruguay Round and to break the gridlock, which had stalled the negotiations despite seven years of preparation and another seven years of negotiations.

We did not accomplish everything we wanted to in the Uruguay Round. In the services area, we wanted to go further than the world was ready to go. The transition periods for patent and copyright protection are longer than we wanted. We were bitterly disappointed by the European Union's intransigence with respect to national treatment and market access for our entertainment industries.

But the final result is very good for U.S. workers and companies. It helps us to bolster the competitiveness of key U.S. industries, to create jobs, to foster economic growth, to raise our standard of living and to combat unfair foreign trade practices. The agreement will give the global economy a major boost, as the reductions in trade barriers create new export opportunities, and as the new rules give businesses greater

confidence that export markets will remain open and that competition in foreign markets will be fair.

More importantly, the final Uruguay Round agreement plays to the strengths of the U.S. economy, opening world markets where we are most competitive. From agriculture to high-tech electronics, to pharmaceuticals and computer software, to business services, the United States is uniquely positioned to benefit from the strengthened rules of a Uruguay Round agreement that will apply to all of our trading partners.

The Uruguay Round

The Uruguay Round is the right agreement at the right time for the United States. It will create hundreds of thousands of high-wage, high-skill jobs here at home. Economists estimate that the increased trade will pump between \$100 and \$200 billion into the U.S. economy every year after the Round is fully implemented.

This historic agreement will

- cut foreign tariffs on manufactured products by over one third, the largest reduction in history;
- protect the intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software from piracy in world markets;
- ensure open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction;
- greatly expand export opportunities for U.S. agricultural products by reducing use of export subsidies and by limiting the ability of foreign governments to block exports through tariffs, quotas, subsidies, and a variety of other domestic policies and regulations;
- assure that developing countries live by the same trade rules as developed countries and that there will be no free riders;
- create an effective set of rules for the prompt settlement of disputes, thus eliminating shortcomings in the current system which allowed countries to drag out the process and to block judgments they did not like; and
- open a dialogue on trade and environment.

This agreement will not

- impair the effective enforcement of U.S. laws;

- limit the ability of the United States to set its own environmental or health standards; or
- erode the sovereignty of the United States to pass its own laws.

The Uruguay Round agreement will create a new organization -- the World Trade Organization -- that will support a fair global trading system into the next century and replace the General Agreement on Tariffs and Trade (GATT).

Some have expressed concern that the Uruguay Round results mean the loss of Section 301. That is simply not an accurate analysis. I have pledged that we will open markets multilaterally where possible and bilaterally where necessary. As a result of the Round we have made Section 301 a more effective tool in the multilateral context. We have improved existing trade rules, extended the rules to cover new areas of trade, and strengthened the procedures to enforce the rules. In other words, we will be able to use Section 301 to ensure that the multilateral rules are observed. For issues not covered by the new rules and for countries not members of the WTO, there will be no change in the way we resolve disputes; we will continue to use section 301 bilaterally. In addition, we will not shrink from using Title VII to combat unfair trade.

Notwithstanding tremendous international pressure to weaken antidumping and countervailing duty laws in the Uruguay Round, we were able to preserve the important elements of U.S. practice. These laws will continue to be our most important and most effective response to dumping and subsidies that injure U.S. industries.

As in the past, we will identify those trade barriers that have the most significant impact on our exporters of goods and services and develop a strategy for addressing them. We intend to work closely with Congress in implementing how we go after foreign trade barriers in both the bilateral and multilateral context. We are confident we have no shortage of tools.

While the world has benefitted enormously from the reduction of trade barriers and expansion of trade made possible by the GATT, the GATT rules were increasingly out of step with the real world. They did not cover many areas of trade such as intellectual property and services; they did not provide meaningful rules for important aspects of trade such as agriculture; and they did not bring about the prompt settlement of disputes. The old GATT rules also created unequal obligations among different countries, despite the fact that many of the countries that were allowed to keep their markets relatively closed were among the greatest beneficiaries of the system.

The WTO will require that all members take part in all major agreements of the Round, eliminating the free-rider problem. From agreements on import licensing to antidumping, all members of the WTO, will belong to all of the major international agreements.

The WTO will also require developing countries -- an increasingly important area of U.S. trade -- to follow the same rules as everyone else after a transition period. They will no longer enjoy the fruits of trade, without accepting responsibility and opening their own markets. The WTO will have a strengthened dispute settlement system, but will allow us to maintain our trade laws and sovereignty.

The WTO plays to the strengths of our economy. For example:

Market Access. The WTO will reduce industrial tariffs by over one third. On exports from the U.S. and the European Community, the reduction is over 50 percent. In an economy increasingly reliant on trade opening markets abroad is absolutely essential to our ability to create jobs and foster economic growth here at home. Our nation's workers are the most productive in the world and reduced tariffs will enable these workers to compete on a more level playing field.

Agriculture. U.S. farmers are the envy of the world, but too often they were not able to sell the products of their hard labor abroad, because the old GATT rules did not effectively limit agricultural trade barriers. Many countries have kept our farmers out of global markets by limiting imports and subsidizing exports. These same policies have raised prices for consumers around the world.

The Uruguay Round agreements will reform policies that distort the world agricultural market and international trade in farm products. By curbing policies that distort trade, in particular export subsidies, the World Trade Organization will open up new trade opportunities for efficient and competitive agricultural producers like the United States.

Services. The WTO will extend fair trade rules to a sector that encompasses 60% of our economy and 70% of our jobs: services. Uruguay Round participants agreed to new rules affecting around eighty areas of the economy such as advertising, law, accounting, information and computer services, environmental services, engineering and tourism. When a company makes a product, it needs financing, advertising, insurance, computer software, and so forth. Competition for these services is now global. We lead the world in this sector with nearly \$180 billion in exports annually. The WTO will implement new rules on trade in services, which will ensure our companies and workers can compete fairly in the global market. While in certain key areas, such as

telecommunications and financial services, the U.S. did not obtain the kind of market access commitments we were seeking, we kept our leverage by refusing to grant MFN treatment to our trading partners, and continued negotiations.

Intellectual Property. Creativity and innovation is one of America's greatest strengths. American films, music, software and medical advances are prized around the globe. The jobs of thousands of workers here in this country are dependent on the ability to sell these products abroad. Royalties from patents, copyrights, and trademarks are a growing source of foreign earnings to the U.S. economy.

The World Trade Organization will administer international rules to protect Americans from the global counterfeiting of their creations and innovations. These are the areas which represent some of the most important U.S. industries of the future. Stemming the tide of counterfeiting works to protect U.S. companies and workers, particularly as U.S. exports of intellectual property goods increase annually.

For example, our semiconductor industry is a driving force for U.S. technology advances and competitiveness. These products affect nearly every aspect of our lives and are incorporated in many of the goods traded internationally.

The TRIPS agreement is the first international agreement that places stringent limits on the grant of patent compulsory licenses for this critical technology. Under TRIPS, this industry's patents and layout designs can not be used for commercial purposes without the permission of the patent or design owner.

In short, the Uruguay Round agreements set the stage for free and fair trade in the world, and global prosperity and partnership at the end of this century and into the next.

INDUSTRIAL MARKET ACCESS

The United States achieved substantially all of its major objectives in the industrial goods market access negotiations. As a result, increased market access opportunities will be available to U.S. exporters of industrial goods.

Key provisions of the market access for goods agreement include:

- o Expanded market access for U.S. exporters through tariff reductions secured from countries which represent approximately 85 percent of world trade;

- o The elimination of tariffs in major industrial markets, and significantly reduced or eliminated tariffs in many developing markets, in the following areas:
 - Construction Equipment
 - Agricultural Equipment
 - Medical Equipment
 - Steel
 - Beer
 - Distilled spirits
 - Pharmaceuticals
 - Paper
 - Toys
 - Furniture
- o Deep cuts ranging from 50 - 100 percent on important electronics items (semiconductors, computer parts, semiconductor manufacturing equipment) and on scientific equipment by major U.S. trading partners; and
- o Harmonization of tariffs by developed and major developing countries in the chemical sector at very low rates (0, 5.5 and 6.5 percent).
- o Vastly increased scope of bindings at reasonable levels from developing countries, which will ensure predictability and certainty for traders in determining the amount of duty that will be assessed.

In general, most tariff reductions will be implemented in equal annual increments over 5 years. Some tariffs, particularly in sectors where duties will fall to zero, such as pharmaceuticals, will be eliminated when the agreement enters into force. Other tariffs, particularly in sensitive sectors, including some sensitive sectors for the United States, will be phased-in over a period of up to ten years.

As part of the United States offer, many non-controversial duty suspensions introduced in the 102nd Congress, as well as many introduced in the 103rd Congress, were made permanent. Implementation of these reductions will occur on entry into force of the Agreement.

We still have some unfinished business to address including finalizing our negotiations with Japan. The Japanese offers do not respond to U.S. requests for Japan's participation in duty-elimination initiatives for wood, white spirits and copper, or substantial reductions in leather and footwear and certain chemicals. Similarly, work is still required to complete market access negotiations with certain developing countries where we will continue to press for reduction in areas such as textiles

and adherence to the chemical harmonization proposal agreed by most of our major trading partners.

The schedule for finalizing the results of the market access negotiations requires governments to submit draft final schedules on or before February 15, 1994, and final schedules by March 31, 1994. A process of verification and rectification is required. Additionally, the United States is encouraging other partners that have not yet done so to improve existing offers to match the U.S. contribution.

AGRICULTURE

The Uruguay Round agreement on agriculture strengthens long-term rules for agricultural trade and assures the reduction of specific policies that distort agricultural trade. U.S. agricultural exports will benefit significantly from the reductions in export subsidies and the market openings provided by the agriculture agreement.

The United States was successful in its effort to develop meaningful rules and explicit reduction commitments in each area of the negotiations: export subsidies, domestic subsidies and market access. For the first time, agricultural export subsidies and trade-distorting domestic farm subsidies are subject to explicit multilateral disciplines, and must be bound and reduced. In the area of market access, the United States was successful in achieving the principle of comprehensive tariffication which will lead to the removal of import quotas and all other non-tariff import barriers. Under tariffication, protection provided by non-tariff import barriers is replaced by a tariff and minimum or current access commitments are required. For the first time, all agricultural tariffs (including the new tariffs resulting from tariffication) are bound and reduced.

Reduction commitments will be phased in during 6 years for developed countries and 10 years for developing countries. Budgetary outlays for export subsidies must be reduced by 36 percent and quantities exported with export subsidies cut by 21 percent from a 1986-90 base period. Non-tariff import barriers such as variable levies, import bans, voluntary export restraints and import quotas, are subject to the tariffication requirement. For products subject to tariffication, current access opportunities must be maintained and minimum access commitments may be required. Existing tariffs and new tariffs resulting from tariffication will be reduced by 36 percent on average (24 percent for developing countries) with a minimum reduction of 15 percent for each tariff line item (10 percent for developing countries). All tariffs will be bound.

Trade-distorting internal farm supports must be reduced by 20 percent from 1986-88 base period levels, allowing credit for farm support reductions undertaken since 1986. Direct payments that are linked to production-limiting programs will not be subject to the reduction commitment if certain conditions are met. Domestic support programs meeting criteria designed to insure that the programs have no or minimal trade distorting or production effects ("green box") also are exempted from reduction commitments. Due to the farm support reductions contained in the 1985 and 1990 Farm Bills, the United States has already met the 20 percent requirement and will not need to make additional changes to farm programs to comply with the Uruguay Round commitments.

Internal support measures and export subsidies that fully conform to reduction commitments and other criteria will not be subject to challenge for nine years. However, subsidized imports will continue to be subject to U.S. countervailing duty procedures, except for domestic support meeting the "green box" criteria, which will be exempt from countervailing duty actions for nine years.

TEXTILES AND CLOTHING

The textile and apparel sector has always been a critical one in this Round. From the very beginning of the negotiations at Punta Del Este, the developing countries have linked their willingness to accept disciplines in services and intellectual property, as well as further market opening, on the achievement of the phase-out of the Multifiber Arrangement (MFA). The MFA has governed trade in textiles and clothing for the past 20 years.

The Administration, however, was equally insistent on five key goals: 1) that the phase-out occur in a gradual manner that would permit our industry to adjust over time to the changes in the trading system; 2) that foreign markets be opened to U.S. textile and clothing exports for the benefit of U.S. workers; 3) that the U.S. retain control over which products would be integrated into the GATT at each stage of the phase-out period; 4) that strong safeguards be included in order to provide protection in the event of damaging surges in imports during the phase-out period; and 5) that in light of the phase-out of the MFA, that tariff cuts in this sector be held to a minimum.

We believe we have done very well in achieving those goals. While some in the sector had favored a 15-year phase-out of the MFA, we believe the 10-year period and the manner in which the phase-out is structured will give us ample tools to ensure a smooth transition. No limitations were placed on our right to make our own decisions about which products would be integrated at any given stage of the phase-out. This will ensure that the

Administration can take into account the sensitivity of any given item in determining when quotas would be removed from that product in order to integrate it into the GATT.

In addition, the agreement includes strong safeguards that will allow us to take action against any import surges that might occur during the phase-cut period.

In the area of tariffs, in recognition of the fact that the MFA will be phased out, the Administration resisted EC demands to cut all our peak tariffs by 50%. In fact, while the average U.S. tariff cut on all industrial items is 34 percent, the U.S. offer reduces textile and clothing tariffs by less than 12 percent overall. Particularly sensitive products received an even lower cut.

We also fought hard for commitments to open markets abroad for U.S. textile and apparel products. While we made very substantial progress in opening markets in most countries, we refused to close on inadequate offers -- notably those of India and Pakistan-- and are working vigorously to secure improved offers from these and other countries. We also ensured that non-WTO members, such as China, would not receive the benefit of the MFA phaseout until they become members of the WTO.

SAFEGUARDS

The Safeguards agreement incorporates many concepts long included in U.S. law -- Section 201 of the Trade Act of 1974 -- ensuring that all countries will use comparable rules and procedures when taking safeguard actions. The agreement provides for suspending the automatic right to retaliate for the first three years of a safeguard measure; thus providing an incentive for countries to use WTO safeguard rules when import-related, serious injury problems occur.

ANTIDUMPING

The U.S. objectives in the Uruguay Round antidumping negotiations were to improve transparency and due process in antidumping proceedings, develop disciplines on diversionary dumping, and ensure that the antidumping rules continue to provide an effective tool to combat injurious dumping. The Agreement substantially achieves these objectives.

In preparation for the final Uruguay Round negotiations, Members of Congress and U.S. industries identified several issues that would have to be addressed to make the so-called Dunkel Draft

Antidumping Agreement acceptable to the United States, including: standard of review, anti-circumvention, sunset, union and employee standing, and cumulation. As of December 1, 1993, there was neither any support for U.S. proposals to improve the Dunkel Draft nor any set procedure for consideration of such proposals other than the assertion that changes would be made only by consensus -- a virtually impossible condition.

Given these circumstances, it is remarkable that U.S. negotiators were able to achieve significant results in each of the areas identified as requiring change. The most important changes -- and those that made the final agreement acceptable to the United States -- include:

- o Addition of an explicit standard of review that will make it more difficult for dispute settlement panels to second-guess U.S. antidumping determinations;
- o Removal of the anti-circumvention provision which would have weakened existing U.S. anti-circumvention law;
- o Modification of a rigid sunset provision that would have required near-automatic termination of antidumping orders after five years;
- o Addition of express authorization for the ITC's practicing of "cumulating" imports from different countries in determining injury to a domestic industry;
- o Improvements in the standing provisions that protect the rights of unions and workers to file and support antidumping petitions and that clarify the degree of support required for initiating an investigation.

In addition to these changes, there are other important aspects of the final Antidumping Agreement that make it a good agreement for the United States. One such aspect is the transparency and due process requirements proposed by the United States at the beginning of the Uruguay Round and accepted in their entirety. For example, the Agreement requires investigating authorities to provide public notice and written explanations of their actions. These new requirements should benefit U.S. exporters by improving the fairness of other countries' antidumping regimes.

The Agreement also incorporates important aspects of U.S. antidumping practice not previously recognized under the 1979 Antidumping Code. These fundamental aspects of U.S. antidumping practice are now immune from GATT challenge. For example, the agreement expressly authorizes the International Trade Commission's "cumulation" practice of collectively assessing injury due to imports from several different countries and the Department of Commerce's practice of disregarding below costs

sales, if they are substantial, in determining fair value for export sales.

The Antidumping Agreement will require some changes in existing U.S. antidumping law. These changes, however, will not jeopardize our ability to combat unfair trade practices. Many of these changes are the result of the much greater detail in the new Agreement concerning the methodology investigating authorities may apply in conducting antidumping investigations. These methodological definitions will add valued predictability to all antidumping practices and protect conforming U.S. practices from GATT challenge.

SUBSIDIES AND COUNTERVAILING MEASURES

The Subsidies agreement establishes clearer rules and stronger disciplines in the subsidies area while also making certain subsidies non-actionable, provided they are subject to conditions designed to limit distorting effects. The Agreement creates three categories of subsidies and remedies: (1) prohibited subsidies; (2) permissible subsidies which are actionable if they cause adverse trade effects; and (3) permissible subsidies which are non-actionable if they are structured according to criteria intended to limit their potential for distortion.

The Agreement prohibits export subsidies, including de facto export subsidies, and subsidies contingent upon the use of local content. It also establishes a presumption of serious prejudice in situations where the total ad valorem subsidization of a product exceeds 5 percent, or when subsidies are provided for debt forgiveness or to cover operating losses.

Subject to specific, limiting criteria, the Agreement makes three types of subsidies non-actionable. Government assistance for regional development is non-actionable to the extent that the assistance is provided within regions that are determined to be disadvantaged on the basis of neutral and objective criteria and the assistance is not targeted to a specific industry or group of recipients within eligible regions. Finally, government assistance to meet environmental requirements is non-actionable to the extent that it is limited to a one-time measure equivalent to 20 percent of the costs of adapting existing facilities to new standards and does not cover any manufacturing cost savings which may be achieved.

Government assistance for industrial research and development is non-actionable if the assistance for "industrial research" is limited to 75 percent of eligible research costs and the assistance for "pre-competitive development activity" (through the creation of the first, non-commercial prototype) is limited to 50 percent of eligible costs. We successfully negotiated

changes to the original R&D criteria so that they provided protection to our existing technology programs while ensuring that other countries cannot provide development or production support. The Administration intends to scrutinize strictly all claims of entitlement by other countries to protection under this provision. We also intend to use the review of the provision which will occur 18 months after implementation of the Uruguay Round agreement to ensure the provision has not been abused. We are convinced that under this provision the United States will be able to continue to cooperate with industry to develop the technologies of tomorrow without the threat of countervailing duty actions, while ensuring that other countries cannot provide development or production subsidies free from such actions.

Both the non-actionable subsidy provisions and the provisions establishing a rebuttable presumption of serious prejudice will expire automatically 5 years after the entry into force of the agreement, unless it is decided to continue them in current or modified form.

The Agreement also makes countervailing duty rules more precise, and in many cases reflects U.S. practice and methodologies. For example, for the first time, GATT rules will explicitly recognize U.S. "benefit-to-the-recipient" standard. In addition, the Agreement imposes multilateral subsidy disciplines on developing countries. Although subject to certain derogations, a framework has been established for the gradual elimination of export subsidies and local content subsidies maintained by developing countries.

TRADE-RELATED INVESTMENT MEASURES

The TRIMS Agreement prohibits local content and trade balancing requirements. This prohibition will apply whether the measures are mandatory or are required in return for an incentive. A transition period of 5 years will be given developing countries to eliminate existing prohibited measures, but only if they notify the GATT regarding each specific measure. Only a two-year transition is provided for developed countries.

Not later than 5 years after entry into force of the WTO Agreement there will be a review of the operation of the Agreement. As part of this review, the WTO Council for Trade in Goods will consider whether the Agreement should be complimented with provisions on investment policy and competition policy.

There are four agreements covering customs-related matters. The **Import Licensing Agreement** more precisely defines automatic and non-automatic licensing. The agreement will help ensure that where countries continue to maintain import licensing regimes,

the procedures required to obtain a license are no more burdensome than necessary.

New provisions in the **Customs Valuation Agreement** will facilitate developing countries' adherence to the Code, and the dispute settlement provisions of the Code have been aligned with the tougher integrated dispute settlement provisions.

The **Preshipment Inspection Agreement** requires countries which use pre-shipment inspection companies to supplement or replace national customs services to ensure that the activities of PSI companies will be carried out on a non-discriminatory basis for all exporters; that quantity and quality inspections are in accordance with international standards; that inspection operations will be performed in a transparent manner and exporters will be immediately informed of all procedural requirements necessary to obtain a clean report of findings; and that unreasonable delays will be avoided in the inspection process. In addition, the Agreement establishes an independent, binding review procedure to expedite the resolution of grievances or disputes that cannot be resolved bilaterally. These changes should ensure that the activities of PSI companies do not impede or place undue burdens on U.S. exporters.

The **Rules of Origin Agreement** establishes a three-year work program to harmonize rules of origin among WTO Members. The Agreement also establishes a Committee which is to work with a Customs Cooperation Council Technical Committee to develop detailed definitions on which to base these harmonized rules of origin. During the transition period, criteria used to establish origin must precisely and specifically define the requirements to be met. These rules of origin are not to be used to influence trade or to create distortions or restrictions of trade. In addition, countries are required to publish changes to their rules of origin at least sixty days before such changes come into effect.

TECHNICAL BARRIERS TO TRADE

The Agreement on Technical Barriers to Trade improves the rules respecting standards and technical regulations. In particular, the agreement provides that standards, technical regulations and conformity assessment procedures (e.g., testing, inspection, certification, quality system registration, and other procedures used to determine conformance to a technical regulation or standard) are not discriminatory or otherwise used by governments to create unnecessary obstacles to trade. The Agreement improves disciplines concerning the acceptance of results of conformity assessment procedures by another country and enhances the ability of a foreign-based laboratory or firm to gain recognition under

another country's laboratory accreditation, inspection or quality system registration scheme. The Agreement includes a process for the exchange of information, including the ability to comment on proposed standards-related measures made by other WTO Members and a central point of contact for routine requests for information on existing requirements. Furthermore, unlike the existing TBT Code every country that is a Member of the new WTO will be required to implement the new TBT Agreement.

The new TBT Agreement ensures that each country has the right to establish and maintain standards and technical regulations at its chosen level of protection for human, animal and plant life and health and of the environment, and for prevention against deceptive practices. The Agreement generally encourages the use by governments of international standards, when possible and appropriate. At the same time it provides that each country may determine its appropriate level of protection and ensures that the encouragement to use international standards will not result in downward harmonization.

SANITARY AND PHYTOSANITARY MEASURES

The Agreement on the Application of Sanitary and Phytosanitary ("S&P") Measures will guard against the use of unjustified S&P measures to keep out U.S. agricultural exports. S&P measures are laws, regulations and other measures aimed at 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. They include a wide range of measures such as quarantine requirements and procedures for approval of food additives or for the establishment of pesticide tolerances. The S&P agreement is designed to distinguish legitimate S&P measures from trade protectionist measures. For example, S&P measures must be based on scientific principles and not maintained without sufficient scientific evidence and must be based on an assessment of the risk to health, appropriate to the circumstances.

The S&P agreement safeguards U.S. animal and plant health measures and food safety requirements. The agreement clearly recognizes and acknowledges the sovereign right of each government to establish the level of protection of human, animal and plant life and health deemed appropriate by that government. Furthermore, the United States has a long history of basing its S&P measures on scientific principles and risk assessment.

In order to facilitate trade, the S&P agreement generally requires the use of international standards as a basis for S&P measures. However, each government remains free to adopt an S&P measure more stringent than the relevant international standard where the government determines that the international standard

does not provide the level of protection that the government deems appropriate.

Because there may often be a range of S&P measures available to achieve the same level of protection, the agreement provides for an importing member to treat another member's S&P measure as equivalent to its own if the exporting member shows that its measures achieve the importing member's level of protection. The agreement also provides for adapting S&P measures to the sanitary or phytosanitary characteristics of a region, in particular calling for recognition of pest or disease free areas and areas of low pest or disease prevalence. For example, if an exporting member can assure an importing member that a particular area or region is free of pests or diseases of concern to the importing member, the exporting member should be able to trade from that area.

Finally, there are provisions for transparency of S&P measures, including public notice and comment and the maintenance of inquiry points where information about S&P measures can be obtained.

In the final days of the negotiations, the United States was able to obtain several improvements in the S&P agreement to respond to environmental concerns. The original S&P text provided that S&P measures must "...not be maintained against available scientific evidence." This language was unclear and did not take account of the fact that there is often conflicting scientific evidence. This section of the Agreement was changed to "...not maintained without sufficient scientific evidence, except as provided in paragraph 22." Paragraph 22 allows a member to provisionally adopt S&P measures on the basis of available pertinent information where there is insufficient relevant scientific evidence.

To clarify that there no "downward harmonization" of S&P measures is required under the agreement, the U.S. obtained an explanatory footnote to paragraph 11, which provides that a "scientific justification" is one basis for introducing or maintaining a measure more stringent than the relevant international standard. The footnote explains that "there is a scientific justification if, on the basis of an examination and evaluation of available scientific information..., a Member determines that the relevant international standards, ... are not sufficient to achieve its appropriate level of protection."

The United States also succeeded in obtaining changes to the original S&P text requirement that members "ensure that ... measures are the least restrictive to trade, taking into account technical and economic feasibility." This language was unclear and could be given an overly narrow, unreasonable interpretation. The revised language requires that members ensure that their S&P

measures are "not more trade restrictive than required to achieve their appropriate level of protection, taking into account technical and economic feasibility." In addition, a footnote was inserted clarifying that a measure is not more trade restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of protection and is significantly less restrictive to trade. These two changes make it clear that a member is not required to adopt unreasonable S&P measures or to change a measure based on insignificant trade effects.

SERVICES

The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sectors. The GATS also provides a specific legal basis for future negotiations aimed at eliminating barriers that discriminate against foreign services providers and deny them market access. The principal elements of the GATS framework agreement include most-favored-nation (MFN) treatment, national treatment, market access, transparency and the free flow of payments and transfers. The rules embodied in the framework are augmented by sectoral annexes dealing with issues affecting financial services, movement of personnel, enhanced telecommunications services and aviation services.

Complementing the framework rules and annexes are binding commitments to market access and national treatment in services sectors that countries schedule as a result of bilateral negotiations. In order to fulfill the market access and national treatment provisions of the GATS, each government has submitted a schedule of market access commitments in services which will become effective upon entry into force of the GATS. Countries are also permitted to take one-time exemptions from the most-favored-nation provision in the GATS. Schedules of commitments include horizontal measures such as commitments regarding movement of personnel and service providers. The schedules also include commitments in specific sectors, such as: professional services (accounting, architecture, engineering), other business services (computer services, rental and leasing, advertising, market research, consulting, security services), communications (value-added telecommunications, couriers, audio-visual services), construction, distribution (wholesale and retail trade, franchising), educational services, environmental services, financial services (banking, securities, insurance), health services and tourism services. Maritime and civil aviation commitments were also scheduled by a small number of countries.

The GATS contains a strong national treatment provision that requires a country to accord to services and services suppliers of other countries treatment no less favorable than that accorded to its own services and services suppliers. It specifically requires GATS countries to ensure that their laws and regulations do not tilt competitive conditions in the domestic market against foreign firms in services sectors listed in its schedule of commitments.

The GATS also includes a market access provision which incorporates disciplines on six types of discriminatory measures that governments frequently impose to limit competition or new entry in their markets. These laws and regulations -- such as restrictions on the number of firms allowed in the market, economic "needs tests" and mandatory local incorporation rules -- are often used to bar or restrict market access by foreign firms. A country must either eliminate these barriers in any sector that it includes in its schedule of commitments or negotiate with its trading partners for their limited retention.

For services companies who benefit from sectoral commitments, the framework also guarantees the free flow of current payments and transfers. The provision on transparency requires prompt publication of all relevant measures covered by the agreement. Subject to negotiations, specific laws or regulatory practices may be exempted from MFN treatment, by listing them in an annex provided for that purpose. This mechanism allows countries to preserve their ability to use unilateral measures as a means of encouraging trade liberalization.

Given the breadth and complexity of the services sector, the GATS provides for the progressive liberalization of trade in services. Successive negotiations may be commenced at five-year intervals to allow improvements in market access and national treatment commitments and to allow liberalization of MFN exemptions. The GATS also sets out terms for the negotiation of several framework provisions which currently contain no substantive disciplines such as subsidies, government procurement, and emergency safeguard actions. In addition, Ministerial Decisions related to the GATS establish work programs in several areas such as trade and the environment, basic telephone services, maritime transport services and reduction of barriers to trade in professional services. Moreover, while there were no commitments from the European Union on audio-visual, the sector is fully covered by GATS and the Administration will aggressively pursue the interests of this industry through a variety of channels.

TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS

Trade in U.S. goods and services protected by intellectual property rights reflects a consistent trade surplus. For

example, U.S. copyright industries--movies, computer software, and sound recordings--are consistently top U.S. export earners. U.S. semiconductors are found in the computers and appliances we all use each day. U.S. pharmaceutical companies are among the most innovative, and our exports of these important products have been growing. Strengthened protection of intellectual property rights and enforcement of those rights as provided in the TRIPS agreement will enhance U.S. competitiveness, encourage creative activity, and expand exports and the number of jobs.

The TRIPS agreement establishes, for the first time, detailed multilateral obligations to provide and enforce intellectual property rights. The Agreement obligates **all Members** to provide strong protection in the areas of copyrights and related rights, patents, trademarks, trade secrets, industrial designs, geographic indications and layout designs for integrated circuits.

In the area of **copyrights** the text resolves some key trade problems for U.S. software, motion picture and recording interests by:

- o protecting computer programs as literary works and databases as compilations;
- o granting owners of computer programs and sound recordings the right to authorize or prohibit the rental of their products;
- o establishing a term of 50 years for the protection of sound recordings as well as requiring Members to provide protection for existing sound recordings; and
- o setting a minimum term of 50 years for the protection of motion pictures and other works where companies may be the author.

In the area of **patents** the Agreement resolves long-standing trade irritants for U.S. firms. Key benefits are:

- o product and process patents for virtually all types of inventions, including pharmaceuticals and agricultural chemicals;
- o meaningful limitations on the ability to impose compulsory licensing, particularly on semiconductor technology; and
- o a patent term of 20 years from the date the application is filed.

As for **trademarks**, the Agreement:

- o requires trademark protection for service marks;
- o enhances protection for internationally well-known marks;
- o prohibits the mandatory linking of trademarks; and
- o prohibits the compulsory licensing of marks.

The Agreement also provides rules for the first multilaterally agreed standards for protecting trade secrets, and improved protection for layout designs for integrated circuits. Provisions on protection for geographic indications and industrial designs are consistent with U.S. law and regulations.

Most importantly, countries are then obligated to provide effective enforcement of these standards, including meeting due process requirements and providing the remedies required to stop and prevent piracy.

While the transition period for developing countries is too long and we must still work to ensure that U.S. sound recording and motion picture producers and performers receive national treatment and obtain the benefits that flow from their products, the TRIPs agreement is a major step forward in guaranteeing that all countries provide intellectual property protection and deny pirates safe havens.

DISPUTE SETTLEMENT

The Dispute Settlement Understanding (DSU) creates new procedures for settlement of disputes arising under any of the Uruguay Round agreements. The new system is a significant improvement on the existing practice. In short, it will work and it will work fast.

The process will be subject to strict time limits for each step. There is a guaranteed right to a panel. Panel reports will be adopted unless there is a consensus to reject the report and a country can request appellate review of the legal aspects of a report. The dispute settlement process can be completed within 16 months from the request for consultations even if there is an appeal. Public access to information about disputes is also increased.

After a panel report is adopted, there will be time limits on when a Member must bring its laws, regulations or practice into conformity with panel rulings and recommendations, and there will be authorization of retaliation in the event that a Member has not brought its laws into conformity with its obligations within that set period of time.

The automatic nature of the new procedures will vastly improve the enforcement of the substantive provisions in each of the agreements. Members will not be able to block the adoption of panel reports. Members will have to implement obligations promptly and the United States will be able to take trade action if Members fail to act or obtain compensation. Trade action can consist of increases in bound tariffs or other actions and increases in tariffs may be authorized even if there is a violation of the TRIPS or Services agreements.

The DSU includes improvements in providing access to information in the dispute settlement process. Parties to a dispute must provide non-confidential summaries of their panel submissions that can be given to the public. In addition, a Member can disclose its submissions and positions to the public at any time that it chooses. Panels are also expressly authorized to form expert review groups to provide advice on scientific or other technical issues of fact which should improve the quality of decisions.

WORLD TRADE ORGANIZATION

The Agreement Establishing the World Trade Organization (WTO) encompasses the current GATT structure and extends it to new disciplines that have not been adequately covered in the past. The new organization will be more credible and predictable and thus benefit U.S. trade interests.

The WTO will help to resolve the "free rider" problem in the world trading system. The WTO system is available only to countries that are contracting parties to the GATT, agree to adhere to all of the Uruguay Round agreements, and submit schedules of market access commitments for industrial goods, agricultural goods and services. This will eliminate the shortcomings of the current system in which, for example, only a handful of countries have voluntarily adhered to disciplines on subsidies under the 1979 Tokyo Round agreement.

The WTO Agreement establishes a number of institutional rules that will be applied to all of the Uruguay Round agreements. We do not expect that the organization will be different in character from that of the existing GATT and its Secretariat, however, nor is the WTO expected to be a larger, more costly, organization.

GATT ARTICLES

The mandate of the GATT Articles negotiating group was to discuss improvements to any GATT provision not being negotiated

elsewhere. The balance-of-payments reform (BCF) text increases disciplines and transparency over the use of EOP measures. The state trading text affirms the obligation of GATT contracting parties to ensure that their state trading enterprises -- government-operated import/export monopolies and marketing boards, or private companies that receive special or exclusive privileges from their governments -- operate in accordance with GATT rules. The text on preferential trading arrangements clarifies the GATT rules that pertain to regional arrangements (customs unions and free trade arrangements) and defines the state/local relationship in regard to GATT obligations. The understanding on waivers of obligations will ensure that waivers are time-limited and that are subject to greater conditions and disciplines. There also are clarifications of GATT Articles II:1(b) (regarding "other duties or charges") and Article XXXV (regarding tariff negotiations).

TRADE POLICY REVIEW MECHANISM

The Final Act confirms an April 1989 agreement establishing the Trade Policy Review Mechanism (TPRM), which examine, on a regular basis, national trade policies and other economic policies having a bearing on the international trading environment.

GOVERNMENT PROCUREMENT

The new GATT Government Procurement Code is a substantial improvement over the existing Code, significantly expanding the value of procurement opportunities covered by other countries and altering the character of the agreement to one much more rooted in reciprocity. For the first time, Code coverage is expanded to services and construction. It also opens the way for substantial coverage of subcentral governments and government-owned enterprises.

The new Code is like the old Code in limiting membership to those countries that specifically accede to it. Membership in the WTO does not necessarily lead to membership in the Procurement Code. The new Code departs from the old one, however, in creating a structure that makes reciprocity more workable between individual countries and actively encourages new countries to join. By authorizing departures from most-favored-nation (MFN) treatment, the new Code ensures that our relationships with all signatory countries are strictly reciprocal.

The new Code also provides improved disciplines. It restricts distorting practices such as offsets and ensures more effective enforcement through the establishment of national bid challenge systems, while also increasing flexibility in certain procedural requirements to adapt the Code to new efficiencies in

procurement, like those contemplated in the Vice President's Reinventing Government proposals.

In negotiations on coverage, the United States offered a substantial value of our states procurement to countries that were willing to address our priorities in their procurement markets. Since there was a consensus to allow exceptions to MFN coverage, we were able to agree to cover our states for countries (Korea, Israel and Hong Kong) that offered substantial coverage of their subcentral governments and government-owned enterprises and not be forced to extend our states coverage to countries whose offers fell short.

We leave open the possibility, however, of extending coverage with any one country through bilateral negotiations in the future. Most importantly, the United States and the European Union agreed to accomplish this by April 15 of this year. We expect this expanded coverage to include the European Unions's electrical sector under the Code and telecommunications sector under a separate, but parallel, bilateral agreement.

Finally, the new Code agreement sets the stage for new countries to accede and subject their procurement practices to international disciplines. The most recent addition is the Republic of Korea, which completed its accession with the conclusion of negotiations on the new Code. We expect that Taiwan, the Peoples Republic of China and Australia may soon follow as new signatories to the Code.

AIRCRAFT

Aircraft trade issues had been contentious throughout the negotiations because the European Community sought to have aircraft entirely excluded from the disciplines of the new UR Agreement on Subsidies and Countervailing Measures. Instead, the EC appeared intent on substituting a weaker discipline, having a revised Agreement on Trade in Civil aircraft entirely supersede any new subsidies agreement for aircraft products.

In the final week of negotiations, it became clear that the draft Aircraft Agreement had serious shortcomings. That text, if adopted, would have provided no new disciplines on production or development subsidies, nor would it have increased public transparency of government supports to aircraft manufacturers, such as those to the Airbus Consortium. Instead, the proposed revised Aircraft Agreement would have weakened those disciplines by allowing additional subsidies. Most significantly, past supports to Airbus would have been "grandfathered", completely exempting them from action under Subsidies Agreement. Moreover, certain provisions of the text might have provided a pretext for unjustified GATT action against our military and NASA research

programs -- programs that have also provided benefits to the Europeans and are in no way comparable to the immense state subsidies that have been systematically provided to Airbus for civil aircraft development and production.

While we worked hard to negotiate to remedy these insufficiencies, U.S. proposals were not adequately reflected in revisions to the Aircraft Agreement. Such an outcome was clearly unacceptable both to the U.S. industry and to the U.S. Government. Just days before the end of the negotiations, the U.S. stood firm and refused to accept the draft Aircraft text as the basis for an agreement.

As a result of our resolve, the EC, and subsequently all other countries negotiating the Uruguay Round, agreed to bring aircraft under the stronger disciplines of the new Agreement on Subsidies (with only minor changes) and the more expeditious and certain dispute settlement procedures contained in the UR dispute settlement agreement. The Subsidies Agreement will be applicable to all civil aircraft products including aircraft of all sizes and types, engines and components, and to all WTO member countries. This was the principal objective of the U.S. aerospace industry, which produces the largest trade surplus of any U.S. manufacturing industry, an estimated \$28 billion in 1993.

We continue to seek to tighten the existing disciplines on government support for aircraft development, production and marketing currently contained in the 1979 GATT Agreement on Trade in Civil Aircraft and to expand the coverage of that agreement to other countries that produce civil aircraft. Those negotiations will continue with the goal of reaching agreement by the end of 1994.

ENVIRONMENT

Comprehensive as it is, the Final Act does not cover every several aspect of trade policy of great importance to the United States and to this Administration. Our trading partners recognize that the work of shaping the World Trade Organization to the needs of the 21st century must continue without pause.

In December, the Uruguay Round participants decided to develop a program of work on trade and environment to present to the ministers in Marrakech in April. We begin with the agreed premise that international trade can and should promote sustainable development, and that the world trading system should be responsive to the need for environmental protection, if necessary through modification of trade rules.

The United States will seek a work program that ensures that the new WTO is responsive to environmental concerns. International trade can contribute to our urgent national and international efforts to protect and enhance environmental quality and conserve and restore natural resources. At the same time, we will continue to advocate trade rules that do not hamper our efforts to carry out vital and effective environmental policies, whether nationally or in cooperation with other countries. We will be working closely with environmental organizations and business groups, as well as the various agencies, and of course this Committee and others in Congress, as we define our trade and environment objectives.

Conclusion

Mr. Chairman, it appears that Congress will be considering the Uruguay Round implementing legislation at an auspicious time for America. The U.S. economy is expanding; investment is increasing; jobs are being created; and optimism about the prospects for our economy is soaring. This economic expansion reflects the fact that this country is moving in the right direction; and we are doing it together. The policies of the Clinton Administration, starting with our budget plan; the adjustments made over the last several years by our workers and companies-- all of our efforts make us as a nation stronger and more competitive.

In setting the negotiating objectives for the Uruguay Round, Congress clearly signalled its belief that strengthening the multilateral rules of the GATT would make America more competitive in world markets. We succeeded. We met those objectives; and I am convinced that the new multilateral rules agreed to in the Uruguay Round will work together with our ongoing efforts to increase regional cooperation. America is uniquely positioned to benefit from expanding trade-- in this hemisphere and in the world. The Uruguay Round builds on our strengths. It will benefit us, and the world economy as a whole.

THE WHITE HOUSE

Office of the Press Secretary

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PRESS BRIEFING

BY

U.S. TRADE REPRESENTATIVE, MICKEY KANTOR

DEPUTY SECRETARY OF THE TREASURY, ROGER ALTMAN

AND DEPUTY ASSISTANT TO THE PRESIDENT FOR ECONOMIC POLICY, W. BOWMAN CUTTE

The Briefing Room

3:16 P.M. EDT

AMBASSADOR KANTOR: First, I'm Mickey Kantor of the United States Trade Representative. I have on my left -- first time he's ever been on my left -- the Deputy Secretary of the Treasury, Roger Altman, and on my right, Bo Cutter, NEC. We have Under Secretary of Commerce Jeff Garten, Under Secretary of State Joan Spiro, Ambassador Barshefsky of Wall Street Journal fame. (Laughter.) Who else do we have here? And we're expecting Council of Economic Advisors to be down here in a moment. Defense Department? Yeah, right. (Laughter.) EPA.

First, let me just give you a bit of a briefing on Prime Minister Hosokawa's visit and talk a little bit about what has been going on in the negotiations. And then I'll, of course, be willing to answer questions. But then Roger and, I think, Bo would like to say a couple of words as well.

As you know, Prime Minister Hosokawa arrives here on Friday morning to meet with the President as a result of the agreements reached in Tokyo during the G-7 meetings between the governments of Japan and the government of the United States in the so-called framework agreement. These meetings are to be held twice a year and discuss global issues, macroeconomic issues, as well as sectoral or sectoral trade issues; all of which will be discussed during this visit.

The Prime Minister will meet with the President during lunch and, of course, there will be, I expect, a press conference I guess on Friday afternoon, if I'm not mistaken.

As you know, the framework is part of the Clinton administration policy as we have attempted to open markets and expand trade. It was reached during the G-7 meetings in July due to the very good work of Roger, Bo and the rest of the people I introduced, including Charlene and Joan -- and Jeff wasn't there yet. He's

joined the team and a very valuable member of this team.

That framework agreement called for the governments of Japan and the United States to address three major segments of issues. One, global issues -- including AIDS, population and the environment were three that I remember off the top of my head; two, macroeconomic issues; and third, of course, were the sectoral issues. And the first four sectoral issues which were supposed to be addressed at the first summit meeting, which is Friday, were telecommunications and medical equipment in the government procurement area, insurance and autos and auto parts.

For the past year, this administration has been engaged in a campaign around the world to open markets and expand trade. This President has been the most successful President in American history in pursuing those objectives. This administration has made

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it clear that we don't seek to close markets, we seek to open other markets in order to create jobs here at home and grow our economy. Whether it's the North American Free Trade Agreement or the Uruguay Round of the General Agreement on Tariffs and Trade, where this President led the world in terms of opening markets, we have made it clear that is our goal.

The framework agreement with Japan is exactly -- is consistent with that -- fully consistent with that policy. And let me explain what it does. What it does is to ask Japan, of course, in the macroeconomic area to stimulate their economy in order that they can spur consumer spending and, of course, to grow their economy, the second largest in the world, in order to spur global growth.

In addition, it calls upon Japan to open their markets in these four critical sectors as a first step towards opening Japan's markets generally. It should not escape anyone's attention that the Japanese markets are closed by any measure that you might want to use. If you look at the telecommunications market that we're working on, the Japanese market has five percent foreign import penetration where the G-6, or the other G-6 nations of the G-7, foreign import penetration averages 25 percent. The average manufactured goods to gross product penetration, the Japanese market is 3.1 percent, I think is correct; and it's over twice that much average for the other G-6 nations.

And I could go on and on, but in every sector that you look at, including foreign direct investment, where the Japanese foreign direct investment stock is about four-tenths of one percent, whereas, for instance, the United States is around 22 percent, and Europe, I think, is about 36 percent, you see the difference between a closed market in Japan and an open market in the United States.

Clearly, the only way to address is three ways: One, to set goals -- a goal of increased access of foreign competitive goods in the Japanese market. That is in the framework. Second, to insist that we have concrete results. That is in the framework. Number three, to insist we have measures to implement these agreements in a way that will deregulate the Japanese economy in a way that will make sure we have increased access of competitive foreign goods and services. And last, but certainly not least, measures of results, both quantitative and qualitative, so-called objective criteria in the framework. The reason is it is not in anyone's interest to reach yet one more agreement with Japan that both countries agree to adhere to certain acts to make sure that we grow our markets and not have a measure of result that can be used to determine whether or not we're successful.

There is a unified administration in this regard. There is unity up on the Hill, between Republicans and Democrats of both House and Senate, in supporting this approach. Also in the business community. I would only note the Business Roundtable and the U.S.-

Japan Chamber have also supported this approach. And, of course, the labor movement does as well.

Not only are we speaking as a country with one voice, we are negotiating this agreement -- and this is critical -- on MFN, on a multilateral basis. This is not just to seek to open Japanese markets for U.S. exports. The goal here is to open Japanese markets for all foreign exports, because that truly will not only grow trade but spur global growth as well.

We are looking for tangible progress and that is what we hope we can do between now and Friday in our negotiations with our Japanese allies.

Roger.

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MR. ALTMAN: I really only have two points I'd like to add. I'd just like to try to remind everyone about the essence of the framework agreement struck last July in Tokyo. The essence was that Japan is out of step with the rest of the industrialized world, and that it's time for Japan to come into line, to converge. It's out of step as measured by the gigantic current account surpluses which Japan is running \$130 to \$140 billion a year, 3 to 3.5 percent of GDP depending upon how you measure it. These gigantic surpluses at a time when the rest of the industrialized world is in deficit. What's the impact of those surpluses? Well, it drains growth and it drains jobs from the rest of the world.

Second, the import penetration statistics Mickey used -- import penetration for foreign goods and services in Japan is at about half of the G-7 average other than Japan, hasn't budged for 20 years. So by these two very basic measurements, Japan is out of step. What we're seeking through this agreement are steps which will represent the road to convergence so that after a medium-term period of time, Japan will be -- Japan's performance in these areas will be symmetrical to that of the rest of the industrialized world. And it surely is not too much to have asked; and of course we did strike this agreement that it's time for such convergence.

The second point I want to make concerns the old saw of managed trade. One reads every other hour it seems that the U.S. is seeking managed trade, isn't that awful, and so on. Well, that's not what this is about. This is about market access and opening markets, not managing them. Is it managed trade or unmanaged -- is it managing trade or is it unmanaging trade to deregulate the Japanese insurance market so that foreign providers, foreign players are eligible to participate -- eligible? And is it managing trade or unmanaging trade to open up the Japanese public procurement market in these areas, for example, of telecommunications and medical equipment so that foreign producers can be eligible to compete?

Well, that's not managed trade; that's improving market access. We are not seeking guaranteed market outcomes. We are seeking full-fledged market access. And I think it's a critical difference. I think it's been widely misrepresented. And it's most important here on the eve of the summit, I think, that we clarify that because this managed trade argument is a canard.

Bo.

MR. CUTTER: I'll only make one point, which is that the combined macroeconomic measures and the market-opening sectoral measures that we've proposed are not a one-way street; that they are in the interest both of the United States and of Japan. That it's obviously a macroeconomic stimulus package in Japan is in our interest because it would ultimately lower the current account deficit and would have an impact on our capacity to export.

But we have emphasized from the beginning that both of them are fundamentally in the interest of the Japan economy. A stimulus package is obviously so -- the Japanese economy is mired in the worst recession that it's seen in the last 20 to 25 years. The market opening issues are even more in their interest. It's broadly, I think, perceived and agreed that the way out for the Japanese economy, that it's next source of growth, is to put in place market liberalization efforts which will lead to strong and sustained domestic consumer-led growth.

So we believe that the measures that we've proposed are very much in both nations' interests and that a win-win is possible.

Q You said that you were not interested -- this was not about the U.S. closing our markets. If there is no agreement on

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the framework talks, what sort of options do we have that are not closing our markets?

AMBASSADOR KANTOR: We have, of course, a number of interesting options which, of course, we'll discuss. We hope and expect, of course, that we can reach agreement and we'll come to that discussion if we're not able to, but we expect that we will.

Q But there are things that do not close our markets? I mean, wouldn't we be talking about quotas or tariffs or super 301 actions or a strong yen policy or something -- aren't they all things that would end up being -- where we would close our markets to them if they're not opening to us?

AMBASSADOR KANTOR: The mind is a wonderful thing and very creative.

Q What does that mean? (Laughter.)

AMBASSADOR KANTOR: Exactly what I said.

Q Mr. Cutter, in mid-December you told a group of reporters that you had returned from Asia with a feeling that there is a sea change in Japan's attitude toward -- if that's the case, why are these talks so difficult, and do you still have that feeling?

MR. CUTTER: What I said was a sea change in Japan's attitude toward the economy and the open nature of the economy. And if you talk to the private sector in Japan, if you look at the commission reports, what private businesses are saying, that's very evident -- is that there is a realization on the private sector side of the Japanese economy and, I think, increasingly in the political structure that there is a -- that Japan's fundamental interests now lie in the liberalization of their markets. That has been the consistent judgment of every commission that's been established, every business group within Japan.

That is, however, not who we're negotiating with right at the moment. We are negotiating with, we've called them bureaucrats. They're perhaps more appropriately called the mandarins of the government of Japan. And those attitudes change slowly.

AMBASSADOR KANTOR: Besides he was referring to the Chesapeake Bay, not the Pacific Ocean. (Laughter.)

Q The political calculations are interesting. You presumably are going to hold up Mr. Hosokawa as the force of light, and perhaps reading from what Mr. Cutter just said, the mandarins as the forces of darkness. What if that doesn't work out? What if you send Mr. Hosokawa home to Tokyo humiliated in the Japanese political

context? Is that a risk you're prepared to make.

AMBASSADOR KANTOR: Well, first of all, candid, open, serious discussions in a responsible way between two trading partners whose relationship is the most important bilateral economic relationship in the world don't necessarily have to end up in anyone being humiliated; nor do I expect this to happen; nor does anyone else expect it to happen or want it to happen. That is not what we're trying to achieve here.

What we're trying to achieve is agreements that work, agreements that open the Japanese market for foreign imports. We can no longer live as Roger referred to \$131 billion surpluses which the Japanese enjoyed this year in trade with the world; \$60 billion -- nearly \$60 billion with the United States. It creates both economic and political asymmetries which are not in the best interest of Japan or the United States. Further, opening their markets what the

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Japanese will do will lower the cost of goods because of competition, raise the standard of living, and because of competition, become more innovative. This is not only in the best interest of foreign exporters, it's in the interest of the Japanese citizens and their government as well.

And one more item I might add. When Prime Minister Hosokawa formed his new party in 1992, he wrote a very interesting treatise which explained why he formed the new party. And it is very clear that a major reason was to break up the bureaucracy and thereby open trade in order for Japan to become more competitive and to grow a consumer economy.

Q What page did you say that was on?

AMBASSADOR KANTOR: Page 11. Well, page one and 11. You've got to put them both together. And in page three there's another thing about concrete results.

Q He is in a fragile political position.

AMBASSADOR KANTOR: Who knows how many times I've read that?

Q But he's in a fragile political position in Tokyo.

AMBASSADOR KANTOR: We're trying to strengthen it.

Q Can I ask a question of Mr. Altman? Back in 1985 when the United States thought that trade was out of balance, they had the G-7 come up with -- well, it was the G-5 then -- come up with the Plaza Accord to reduce the value of the dollar by 50 percent over two years. Is this something where we could go to the G-7 partners and ask for pressure on Japan, maybe a strong yen policy, in order to try to correct trade balances?

MR. ALTMAN: I learned the hard way not to comment on questions like that. We'll leave that until later.

Q Mr. Altman, you say this isn't managed trade; you've also said you want to deregulate the Japanese economy. But when you try to strike an agreement that has quantitative or qualitative measures, you ask the government to sign it and then you ask them to make sure there's an outcome, aren't you asking them to manage their economy, regulate their economy in a way that assures that outcome?

MR. ALTMAN: What we're seeking in these areas -- the three Mickey mentioned, which are the focus of this six-month period, ending February 11th, is deregulation. We have presented, for example, a highly specific set of proposed deregulatory steps, which

surprises. The program will be completed in one year.

Q Ambassador Kantor, despite the troubles here, you say you are still optimistic about reaching an agreement on Friday. Can you bring us up to date on --

AMBASSADOR KANTOR: I didn't say I was optimistic.

Q You said you still you expect to reach an agreement on Friday. What leads to that optimism in light of the current circumstances?

AMBASSADOR KANTOR: Well, I didn't say I was optimistic. I said --

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them -- is that in general, there's no agreement on what constitutes progress. So there have been endless debates about whether a smidgen here or a smidgen there constitutes enormous progress that the Japanese often describe, or, in reality, de minimus progress.

Q What kind of measurement are you looking for --

MR. ALTMAN: Let me just give you an example. It happens to be in financial services, which the Treasury of course is very oriented to. The -- and it concerns asset management. The amounts of money in Japanese public pension funds are mountainous because of the Japanese savings rate and the role that the Japanese postal system plays as a collector of funds. I'm going to give you approximations, but the vast majority of those public pension fund assets are not available for management to any foreign party by regulation. I think something like 90 percent are ineligible for management by foreign parties, regardless of the qualifications of those parties, regardless of the nationalities of those parties and so on.

So, in financial services we would say, a measurement of progress would be a percentage of public pension fund assets which are available for management by non-Japanese parties. And if the Japanese would agree to that, and ultimately, they certainly will, then we could all see. The percentage three years from now is not 90 but 88. Any reasonable person would say, No progress. It's a measurement. And what we achieved in the framework and what we will wait for until hell freezes over is an agreement that there will be measurements. Because this endless debate over, yes, there's progress, no there isn't, has got to end.

Q This question is for either Deputy Secretary Altman or Mr. Cutter. The Japanese stimulus package that came out was described by Secretary Bentsen yesterday as a modest step and Secretary Bentsen said it remains to be seen whether it's adequate to really do the job that the U.S. has been seeking. Would the U.S. have preferred that the tax cut be longer lasting or permanent than the one-year proposal?

MR. ALTMAN: Well, the concern that we expressed, Secretary Bentsen expressed, reflects the apparent one-shot nature of the tax cut. It's a one-year tax cut, and no commitment that it will be ongoing beyond that. Lots of studies have shown that if you're talking about rebates, and as Bo was pointing out yesterday, this appears to be the equivalent of rebates if not the reality of them. The propensity to save them is very high, because they are one-shot items.

Now, the framework commits Japan to pursue policies over the "medium term" which will lead to a "substantial reduction" -- sorry, "highly significant reduction" in their current account. The medium term can be debated, but it's certainly not

Ambassador Barshefsky has led on, in the insurance sector -- specific, frankly, quite a long list. If the Japanese should accept those -- and they surely should -- then the market would be on its way to being opened. And then once it is truly opened -- and we need measurements to determine that -- but once it is truly open, let the best man win. But now, it's not open at all.

Q Or woman.

MR. ALTMAN: Woman, then. Let the best woman win.

Q But there must be some measurements that tell you whether or not --

MR. ALTMAN: Of course, of course. We agreed in the framework agreement that one of the flaws of the prior agreements -- and Mickey reminds all of us that there are something like 33 of

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Q I stand corrected. You said you expect to reach an agreement on Friday.

AMBASSADOR KANTOR: Because I think that there is a willingness as exhibited in the framework on the part of Japan as, I think Bo said, to open their markets because it's not only in the best interest of the Japanese, it's the best interest of the rest of the world. Now, obviously, we are at loggerheads over a couple of issues right now, and we may or may not reach an agreement on Friday. But I think given their commitment to the framework, the government of Japan's commitment to the framework, that we would expect we would reach an agreement. Now, that may not happen.

Q Yesterday we were told that the prospects were gloomy. Has anything changed or is Mr. Hata's arrival -- what do you expect from that? Is that a significant change?

AMBASSADOR KANTOR: Well, we'll see. We haven't met -- he doesn't arrive until this evening. We'll be meeting with him tomorrow and we'll see if that changes both the atmosphere and direction of the talks.

Q Mr. Ambassador, a question here. I was talking to some Japanese negotiators today -- this is sort of a two-part question. One, they describe the talks as, generally, as nearer to conclusion. And the reason they say is that there's agreement generally on macro issues and on procedural issues. And that the only thing left are these targets which the U.S. is insisting on -- that they are trying to essentially downplay this issue of targets and saying, look, we've made a lot of --

AMBASSADOR KANTOR: Well, there's no issue of targets. There is nothing about targets in any of these --

Q -- forward-looking use of numbers

AMBASSADOR KANTOR: Objective criteria, both qualitative and quantitative, and measure results.

Q Right, but other than that, which they are clearly downplaying, they say that that's the only thing holding it up. They also say that when you were there with Mr. Cutter that Hosokawa and the three ministers that you met clearly told you that Japan would not accept these as goals, and they said they wondered whether you had understood it that way and communicated it that way to the President.

AMBASSADOR KANTOR: Well, what was communicated is the goal is increased access for foreign goods and services into the Japanese market. That's the goal. The measures of the objective criteria, the way you measure success as Roger said -- which is the

Only way to ensure that we can have these agreements between these two great allies over whether or not these agreements are working with it. Deregulation actually is a fact.

When we were in Tokyo, all that was basically said is they didn't want one target number which would become the sole, determinant of whether or not these agreements were successful or unsuccessful. We're not asking for that, nor have we ever asked for that.

Q The four sectors -- is the progress or lack of progress about the same in each sector?

AMBASSADOR KANTOR: There are some differences but the fact is that we are as of today stuck on dead center. But the fact is that there are some differences within and between the sectors. You can imagine that there would be.

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Q Ambassador Kantor, which -- do you need to be able to say that visit was not a complete loss?

AMBASSADOR KANTOR: Well, I don't want to define what is -- because I think there is more to this visit, obviously, than merely the sectoral agreements. But the fact is that these are an important part of what these two leaders will be discussing and what has been negotiated over the past seven months. Although this is -- I think Roger described it -- the modest step has been taken in the macroeconomic area and they will be, I think, discussions on global issues. Obviously we have not reached agreement on any of the sectors that we determined we would reach agreement by February 11. But there will be other discussions as well.

This is not like a -- we're not in the middle of a sporting event to see who wins and who loses and who's successful. What we're trying to do is move a relationship to a higher plane in order to open up the second largest economy in the world in order to spur global growth. That's what this is about.

Q Ambassador Kantor, if the Japanese won't agree to the use of objective criteria as you've described them, how big a rupture is that in trying to move to a different plane? And how much does that undo what progress you all have touted since Tokyo and the last seven months?

AMBASSADOR KANTOR: Well, I think it's not helpful.

Q What is the status of the talks today? Have there been any discussions between the two sides?

AMBASSADOR KANTOR: No.

Q And is that -- was that cancelled because you were waiting for Hata to come tonight? And is it true that you walked -- we're being told that the U.S. side walked out of the talks last night.

AMBASSADOR KANTOR: Well, "walked out" is making more dramatic. I think we indicated quite clearly that we thought that the discussions were not progressing and that we should not meet today. We learned this morning that the Foreign Minister is on his way, so we're going to wait until tomorrow to meet with him and see if -- and see what he has to say.

Q Not helpful is the strongest thing you can say about their rejection of the American principle that you all are touting as the key stumbling block right now?

AMBASSADOR KANTOR: Not helpful, I think, is
descriptive

Q Can I ask you how you're going to proceed on the Canadian lumber dispute? (Laughter.)

AMBASSADOR KANTOR: You can ask.

Q And whether you think the process of settling the dispute -- the integrity of that process is now in question because of those --

AMBASSADOR KANTOR: Well, we have, as you know, two problems. One is whether we're going to ask for an extraordinary challenge, or in that connection, and there are allegations of conflicts of interest on part of two of the panel members who happen to be Canadians who happen to vote in the majority. Those issues are being addressed right now.

MORE

I indicated quite clearly, yesterday, that if, in fact, the panel is not reconstituted as a result of these concerns over conflicts of interest, then we would pursue an extraordinary challenge.

One more question, yes.

Q Your administration has often characterized the relationship between the U.S. and Japan as a three-stool thing. That you see one stool, the economic stool is weak; the two other legs are strong. I have never seen a two-legged stool stand. Does it mean that you would let --

AMBASSADOR KANTOR: It depends which circus you go to. (Laughter.)

Q You would let, if there's a collapse of talks on Friday, you would let the whole relationship collapse on two legs?

AMBASSADOR KANTOR: Well, you've got to assume that the whole economic leg would be broken. You've got a three-legged stool; one is security, one is political, and the third, of course, is economic. The economic leg is weak. The President described that in his meeting, in fact, with then-Prime Minister Miyazawa is -- it's almost been a year ago, now, I forget, April -- it was April of 1993. The other two legs are very strong. We need to strengthen the economic leg and that's what this framework was described to do.

Thank you very much.

END

3:45 P.M. EST

Testimony of
Ambassador Michael Kantor
United States Trade Representative
Before the
Senate Appropriations Committee
Subcommittee on Commerce, Justice, State,
The Judiciary and Related Agencies
March 1, 1994

Mr. Chairman, I appreciate your invitation to appear before you to present the Fiscal Year 1995 appropriation request for the Office of the United States Trade Representative.

It has been nearly one year since I first testified before the Subcommittee. This morning, I would like to describe some of what we accomplished last year -- and the important tasks that lie ahead.

1993 Accomplishments

Mr. Chairman, last year the United States enjoyed the most successful -- and important -- year in trade in our history.

In one year, President Clinton achieved the main goals of his 1993 trade agenda. His Administration accomplished the following:

- After years of gridlock, we concluded the Uruguay Round, the broadest, most comprehensive trade agreement in history, which will stimulate the U.S. and the global economy, and create a new organization -- the World Trade Organization -- that will support a fair global trading system into the next century;
- We negotiated supplemental agreements to the North American Free Trade Agreement (NAFTA) and saw its approval by Congress;
- At the G-7 Summit in Tokyo in July, the President reached a market access agreement with the "Quad" nations -- the European Community, Japan, Canada, and the United States -- which provided a jump-start for the Uruguay Round, and agreed to establish with Japan the Framework for a New Economic Partnership to achieve reform in Japan's economy, open the Japanese market and correct macroeconomic imbalances which inhibit global growth and prosperity;
- President Clinton led a successful meeting of Asian nations -- the fastest growing economic region on earth -- in Seattle, and culminating a year of U.S. leadership of the

Asia-Pacific Economic Cooperation, which will lead to expanded trade in the region;

- We negotiated key agreements which opened previously closed markets to U.S. companies -- a heavy electrical equipment agreement with Europe, a construction agreement with Japan, and a telecommunications agreement with Korea -- which represent a further step in our effort to create jobs and foster growth; and
- We negotiated dozens of bilateral agreements with countries from Cyprus to Venezuela that help ensure U.S. workers and companies can compete fairly in the global economy.

By leading the effort to open markets abroad and expand trade, the President has laid the foundation for prosperity into the next century. As a nation increasingly interdependent with the global economy, the ability of the United States to expand trading opportunities is essential to the economic health of our nation. His presidency is committed to reviving the American Dream, and these steps are integral to that effort.

FY 1994 and FY 1995 Agenda

This year and the next will be every bit as challenging as 1993. What we do in the coming months may be less visible than what we did last year, but it is just as important and will take the same commitment of resources. We need to build on the momentum gained, and take advantage of the great opportunities we face. Let me share with you our agenda.

Uruguay Round

The Uruguay Round agreement reached in December by no means ends the work we must do. Several critical tasks lie ahead. First, after we work with the Congress to ratify the Uruguay Round this year, we must get the new world trade organization up and running.

Second, we have a golden opportunity to negotiate market access with countries seeking accession to the WTO, including China, Taiwan, Saudi Arabia and many of the new republics from the former Soviet Union.

And third, we want to look at a new agenda in trade, which should be fostered by the new World Trade Organization, but needs to be sustained through bilateral and regional alliances as we build toward a truly world trading system. We also need to build on an effective dispute settlement mechanism in the WTO and make sure the United States government ensures that this mechanism works and works well.

Japan

As you know, on February 11, President Clinton announced that we had been unable to conclude negotiations with Japan on four new trade agreements called for under the U.S. - Japan Framework of July 1993. The announcement followed six months of intensive negotiations.

Under the Framework, we had agreed with the Government of Japan to pursue trade agreements which would lead to "tangible results", results which would be measurable through the use of "objective criteria". In the end, the Japanese would not follow through on incorporating these key principles in a meaningful way. For our part, we declined to conclude agreements without these principles, out of concern that any such agreements would be cosmetic and fail to lead to real change in the Japanese market. Too many of our past trade agreements have fallen into this pattern.

At present, we are assessing the appropriateness of the Framework in serving as the primary forum for addressing our trade policy concerns with Japan. We are also examining other options, including those provided by Congress under the Trade Law.

Subsequent to impasse in the Framework talks, but relevant to our concerns about the efficacy of past agreements, USTR on February 15 announced a determination under section 1377 of the Omnibus Trade and Competitiveness Act of 1988 that Japan had not complied with a 1989 agreement to open its cellular telephone market to foreign manufacturers. This action resulted from a clear-cut failure of Japan to live up to a series of agreements dating back to 1986 and span two trade agreements and a commercial understanding. We are now in the process of drawing up a list of Japanese products on which to levy sanctions in the wake of the determination.

China

In China, we have a market access agreement that is working in some respects. They are lifting quantitative barriers on about 256 items and goods, but they are not opening up in agriculture as fast as we would like. Last month, we reached a textile agreement with the Chinese and we need to make sure that this is enforced, to stop the transshipment of textiles and apparel, circumventing both U.S. law and international law. China wants GATT accession and in order to achieve that the Chinese need to work with the United States and others to make sure they are adhering to world trade regimes.

Latin America

There is no greater opportunity we have than in Latin America, the second fastest growing economic region in the world.

It is the one region in the world where we have a large trade surplus because they are importing huge amounts of capital and other goods in order to build their industries and their economies.

That is important for us as we try to build on to the NAFTA. We will use a "building block" approach, using bilateral agreements as well as the NAFTA, to try to build an expanded trade zone in the hemisphere.

It is incredibly important that we not rest on our laurels with the NAFTA, and that we not forget that living south of Mexico are about 320 million people in the second fastest growing economic region in the world.

European Union

We have a number of items on the agenda with the European Union, but given our agreement in the Uruguay Round, our relations with the European Union have never been better in the area of trade. We have issues -- such as the broadcast directive and opening up the telecommunications market, which is about 20 billion dollars a year -- which we will address.

Generalized System of Preferences

We plan to seek legislative renewal of the successful Generalized System of Preferences program. Authority for GSP ends on September 30, 1994, and we will propose an extension that expands benefits for the least developed countries, while retaining conditionality and lowering the thresholds for product and country renewal for other beneficiaries.

APEC

Through FY 1995 and beyond, we will also build on our success from APEC -- the Asia Pacific Economic Cooperation. Asia is not just Japan and China. It is the ASEAN nations, New Zealand, Australia, Korea and Hong Kong. Collectively, APEC countries are the fastest growing economies in the world. With the Seattle summit last year, we set up a good trade and investment framework with the APEC, but we need to extend that framework even further.

Other Agenda Issues

As we negotiate bilaterally and multilaterally to open new markets and eliminate trade barriers, we will also work hard for a better environment, for better workers' rights and enhanced labor standards.

International trade does not occur in a vacuum. Trade is no longer just about lower tariffs. Trade affects the environment, labor standards, and human rights. Competition policies which

effectively block U.S. exports have an impact on trade. Through Fiscal Year 1995 and into the future, we are going to have to look at all of these issues, as well as continuing trade issues like investment, intellectual property and illicit payments. As we negotiate trade agreements and work through the newly established World Trade Organization and the OECD, we will work for improvements in each of these areas.

FY 1995 Budget Request

As you can see, Fiscal Years 1994 and 1995 are demanding times for USTR. This is a vitally important period for the agency and for trade because of the great opportunities we face. Exploiting those opportunities will draw on all of our energies and our budgetary resources.

We are requesting today an FY 1995 budget which allows USTR to capitalize on the opportunities and challenges before us, yet which also carries out the President's program for budgetary restraint throughout the Federal government.

The FY 1995 budget request is for \$21.0 million and 168 Full Time Equivalent staff. Our request maintains USTR staffing at the FY 1994 FTE level and decreases the appropriation level by \$225,000 below FY 1994.

The \$225,000 funding decrease is a net reduction resulting from a number of offsetting factors. Highlights of these changes are:

- ** a \$228,000 increase for a new Tied Aid program, to be administered by the Department of State, but financed by Federal trade and foreign affairs agencies, like USTR;
- ** a \$501,000 decrease in travel and transportation expenses, reflecting the extraordinarily busy travel demands in FY 1994, and the return to more traditional levels in FY 1995;
- ** a \$227,000 reduction in printing expenses, also reflecting the unusually high FY 1994 costs resulting from the completion of two major agreements that year (NAFTA and the Uruguay Round);
- ** a \$412,000 net decrease in office rent and other administrative overhead (partially offset by rising costs from inflation), which is part of our ongoing efforts to curb administrative expenses; and
- ** a \$234,000 reduction from personnel savings that stem from more restrictive hiring practices and tighter management of job vacancies.

Conclusion

Mr. Chairman and Members of the Committee, our budget request meets the dual tests of first providing the budgetary resources we need to meet the work agenda for FY 1995, and second carrying out the President's program for budget restraint.

I would be remiss if I did not mention this morning that in my opinion the American taxpayer gets no better "bang for the buck" than from the investment in USTR employees. Virtually all of the funds in USTR's budget pays for employee salaries and work expenses. They are the hardest working staff I have seen in Government or the private sector, and there is no doubt that the \$21 million investment in this agency's budget will pay dividends for American business and workers many times over for many years into the future.

This concludes my statement and I would be pleased to answer any questions you have.

Testimony to the House Foreign Affairs Committee
Ambassador Michael Kantor
U.S. Trade Representative
March 2, 1994

THE CLINTON ADMINISTRATION TRADE POLICY:
AN UPDATE

Introduction

Mr. Chairman, thank you very much. It is a pleasure to be here today to discuss with you several trade issues; specifically, the Uruguay Round agreement, implementation of the North American Free Trade Agreement (NAFTA), the Japan framework negotiations, and the status of our trade relationship with China.

Mr. Chairman, let me first say a few words about why this administration views the effort to open foreign markets and expand trade as one of its highest priorities, and essential to the economic health of this country. Trade policy is an important part of the President's strategy for strengthening the domestic economy.

A little over a year ago, President Clinton entered office, faced with daunting challenges in his effort to restore the American Dream. The economy was stagnant. Unemployment was high, and confidence was down. In just one year, we have turned a corner. Our economy is growing and millions of jobs have been created. People are getting back to work.

But these are just the first steps in preparing our nation for the 21st century. The President is addressing the long-term issues facing our economy.

How do we ensure the American Dream for all? How do we reverse the decline in real wages among workers in this country? How will we compete against the Europeans and the Japanese? How do we eliminate the gap between high-skill workers, for whom opportunities abound, and those lower skilled workers who lack opportunities, and even hope? At a time our workers are the most productive in the world, meaning it takes less workers to do the same work, how do we create new jobs and opportunities?

All of the elements of the President's economic strategy -- reducing the deficit, reforming education, the President's re-employment program, and health care reform -- are geared towards solving these problems, creating jobs and making our country more prosperous for our children. All of the parts work in tandem, each reinforcing the other.

An essential element in this strategy is to expand and open foreign markets. Expanding trade is critical to our ability to

compete in the global economy and create high-wage jobs. That is why the President spent so much time in 1993 -- with not only the Uruguay Round but also the North American Free Trade Agreement, the establishment of the Japan Framework, the Asia Pacific Economic Cooperation conference to facilitate trade in that region. That is why we vigorously enforced our trade laws which resulted in opening the markets for heavy electrical equipment in Europe, telecommunications in Korea, construction in Japan, and enhanced protection for copyrighted and patented products in a number of nations, led by Taiwan and Thailand.

The U.S. economy is now woven into the global economy. Over a quarter of the U.S. economy is dependent on trade. Where we once bought, sold and produced mostly at home, we now participate in the global marketplace. American workers compete with their foreign counterparts every day, sometimes within the same company. By expanding our sales abroad, we create new jobs at home and we expand our own economy.

The global economy presents rewards not risks. Our greatest risk is in failing to understand the challenge. Jobs related to trade earn, on average, 17 percent more than jobs not related to trade. Prosperity is the partner to change and American workers are at their best when facing the challenges of a new era.

The benefits of trade ripple through our economy. Trade benefits not only the company that exports, but also the company which produces parts incorporated in exported products, the insurance agency which insures exporters, and the grocery store near the exporter's factory. At the same time, increased access to foreign markets and increased competition at home benefit consumers. Lower trade barriers reduce prices, improve the quality, and widen the choice of consumer good. This benefits both families and companies looking for good bargains and good quality.

U.S. workers and companies are poised to take advantage of the dynamics of the global economy, if they have access to foreign markets and can be ensured they are competing on fair terms with their foreign counterparts. Fast growing economies in Latin America and Asia are hungry for American goods. Countries around the globe are embracing market economies and are in need of everything from hospital equipment to consumer goods.

"Made in the USA" still represents a standard of excellence, especially for products that will become more important in the coming century. America leads the world because of our imagination and creativity.

The United States, then, is positioned economically, culturally and geographically to reap the benefits of the global economy.

Economically, because our workers are the most productive in the world, and our economy is increasingly geared towards trade.

Culturally, because of our tradition of diversity, freedom and tolerance will continue to attract the best and the brightest from around the world ensuring that we will never stagnate as a people.

Geographically, because we are at the center of a nexus between our historic trading partners in Europe and Japan, and the new dynamic economies in Latin America and Asia.

Our trade policy is guided by a simple credo. We want to expand opportunities for the global economy, but insist on a similar responsibility from other countries.

Trade is a two way street. After World War II, when the American economy dominated the world, we opened ourselves up, to help other countries rebuild. It was one of the wisest steps this country ever took, but now we cannot have a one way trade policy. The American people won't support it and the Administration won't stand for it.

For other nations to enjoy the great opportunities here in the U.S. market, they must accept the responsibility of opening their own market to U.S. products and services. Ultimately, it is in their own self interest to do so, because trade fosters economic growth and create jobs in all countries involved. If a country closes itself to U.S. goods and services, they should expect the same from us.

The Uruguay Round

Mr. Chairman, on December 15, 1993, 117 countries concluded a major agreement to reduce barriers blocking exports to world markets (in agriculture, manufactured goods, and services) as well as to create a more fair, more comprehensive, more effective, and more enforceable set of world trade rules. In order to assure the efficient and balanced implementation of the agreements reached, they also created a new World Trade Organization (WTO).

I look forward to working with you this spring as we prepare the legislation that will implement the Round, which I hope the Congress will approve this year.

The Uruguay Round trade agreement is the largest, most comprehensive trade agreement in history. The existing GATT system was incomplete; it was not completely reliable; and it was not serving U.S. interests well. The new agreements open up major areas of trade and provide a dispute settlement system which will allow the U.S. to ensure that other countries play by

the new rules they have just agreed to.

The Uruguay Round ensures American workers are trading on a two-way street; that they benefit from this new globalized economy; that they can sell their products and services abroad; and that they can compete on a level playing field.

President Clinton led the effort to reinvigorate the Uruguay Round and to break the gridlock, which had stalled the negotiations despite seven years of preparation and another seven years of negotiations.

We did not accomplish everything we wanted to in the Uruguay Round. In the services area, we wanted to go further than the world was ready to go. The transition periods for patent and copyright protection are longer than we wanted. We were bitterly disappointed by the European Union's intransigence with respect to national treatment and market access for our entertainment industries.

But the final result is very good for U.S. workers and companies. It helps us to bolster the competitiveness of key U.S. industries, to create jobs, to foster economic growth, to raise our standard of living and to combat unfair foreign trade practices. The agreement will give the global economy a major boost, as the reductions in trade barriers create new export opportunities, and as the new rules give businesses greater confidence that export markets will remain open and that competition in foreign markets will be fair.

More importantly, the final Uruguay Round agreement plays to the strengths of the U.S. economy, opening world markets where we are most competitive. From agriculture to high-tech electronics, to pharmaceuticals and computer software, to business services, the United States is uniquely positioned to benefit from the strengthened rules of a Uruguay Round agreement that will apply to all of our trading partners.

The Uruguay Round is the right agreement at the right time for the United States. It will create hundreds of thousands of high-wage, high-skill jobs here at home. Economists estimate that the increased trade will pump between \$100 and \$200 billion into the U.S. economy every year after the Round is fully implemented.

This historic agreement will:

- cut foreign tariffs on manufactured products by over one third, the largest reduction in history;
- improve the protection for intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software from piracy in world markets;

- ensure open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction;
- greatly expand export opportunities for U.S. agricultural products by reducing use of export subsidies and by limiting the ability of foreign governments to block exports through tariffs, quotas, subsidies, and a variety of other domestic policies and regulations;
- assure that developing countries live by the same trade rules as developed countries and that there will be no free riders;
- create an effective set of rules for the prompt settlement of disputes, thus eliminating shortcomings in the current system which allowed countries to drag out the process and to block judgments they did not like; and
- open a dialogue on trade and environment.

This agreement will not:

- impair the effective enforcement of U.S. laws;
- limit the ability of the United States to set its own environmental or health standards; or
- erode the sovereignty of the United States to pass its own laws.

The Uruguay Round agreement will create a new organization -- the World Trade Organization -- that will support a fair global trading system into the next century and replace the General Agreement on Tariffs and Trade (GATT).

Some have expressed concern that the Uruguay Round results mean the loss of Section 301. That is simply not an accurate analysis. I have pledged that we will open markets multilaterally where possible and bilaterally where necessary. As a result of the Round we have made Section 301 a more effective tool in the multilateral context. We have improved existing trade rules, extended the rules to cover new areas of trade, and strengthened the procedures to enforce the rules. In other words, we will be able to use Section 301 to ensure that the multilateral rules are observed. For issues not covered by the new rules and for countries not members of the WTO, there will be no change in the way we resolve disputes; we will continue to use Section 301 bilaterally. In addition, we will not shrink from using Title VII to combat unfair trade.

Notwithstanding tremendous international pressure to weaken

antidumping and countervailing duty laws in the Uruguay Round, we were able to preserve the important elements of U.S. practice. These laws will continue to be our most important and most effective response to dumping and subsidies that injure U.S. industries.

As in the past, we will identify those trade barriers that have the most significant impact on our exporters of goods and services and develop a strategy for addressing them. We intend to work closely with Congress in implementing how we go after foreign trade barriers in both the bilateral and multilateral context. We are confident we have no shortage of tools.

While the world has benefitted enormously from the reduction of trade barriers and expansion of trade made possible by the GATT, the GATT rules were increasingly out of step with the real world. They did not cover many areas of trade such as intellectual property and services; they did not provide meaningful rules for important aspects of trade such as agriculture; and they did not bring about the prompt settlement of disputes. The old GATT rules also created unequal obligations among different countries, despite the fact that many of the countries that were allowed to keep their markets relatively closed were among the greatest beneficiaries of the system.

The Agreement Establishing the World Trade Organization (WTO) encompasses the current GATT structure and extends it to new disciplines that have not been adequately covered in the past. The new organization will be more credible and predictable and thus benefit U.S. trade interests.

The WTO will help to resolve the "free rider" problem in the world trading system. The WTO system is available only to countries that are contracting parties to the GATT, agree to adhere to all of the Uruguay Round agreements, and submit schedules of market access commitments for industrial goods, agricultural goods and services. This will eliminate the shortcomings of the current system in which, for example, only a handful of countries have voluntarily adhered to disciplines on subsidies under the 1979 Tokyo Round agreement.

The WTO Agreement establishes a number of institutional rules that will be applied to all of the Uruguay Round agreements. We do not expect that the organization will be different in character from that of the existing GATT and its Secretariat, however, nor is the WTO expected to be a larger, more costly, organization.

The WTO will also require developing countries -- an increasingly important area of U.S. trade -- to follow the same rules as everyone else after a transition period. They will no longer enjoy the fruits of trade, without accepting responsibility and

opening their own markets. The WTO will have a strengthened dispute settlement system, but will allow us to maintain our trade laws and sovereignty.

The Dispute Settlement Understanding (DSU) creates new procedures for settlement of disputes arising under any of the Uruguay Round agreements. The new system is a significant improvement on the existing practice. In short, it will work and it will work fast.

The process will be subject to strict time limits for each step. There is a guaranteed right to a panel. Panel reports will be adopted unless there is a consensus to reject the report and a country can request appellate review of the legal aspects of a report. The dispute settlement process can be completed within 16 months from the request for consultations even if there is an appeal. Public access to information about disputes is also increased.

After a panel report is adopted, there will be time limits on when a Member must bring its laws, regulations or practice into conformity with panel rulings and recommendations, and there will be authorization of retaliation in the event that a Member has not brought its laws into conformity with its obligations within that set period of time.

The automatic nature of the new procedures will vastly improve the enforcement of the substantive provisions in each of the agreements. Members will not be able to block the adoption of panel reports. Members will have to implement obligations promptly and the United States will be able to take trade action if Members fail to act or obtain compensation. Trade action can consist of increases in bound tariffs or other actions and increases in tariffs may be authorized even if there is a violation of the TRIPS or Services agreements.

The DSU includes improvements in providing access to information in the dispute settlement process. Parties to a dispute must provide non-confidential summaries of their panel submissions that can be given to the public. In addition, a Member can disclose its submissions and positions to the public at any time that it chooses. Panels are also expressly authorized to form expert review groups to provide advice on scientific or other technical issues of fact which should improve the quality of decisions.

The WTO plays to the strengths of our economy. For example:

Market Access. The WTO will reduce industrial tariffs by over one third. On exports from the U.S. and the European Community, the reduction is over 50 percent. In an economy increasingly reliant on trade opening markets abroad is absolutely essential to our ability to create jobs and foster economic growth here at

home. Our nation's workers are the most productive in the world and reduced tariffs will enable these workers to compete on a more level playing field.

Agriculture. U.S. farmers are the envy of the world, but too often they were not able to sell the products of their hard labor abroad, because the old GATT rules did not effectively limit agricultural trade barriers. Many countries have kept our farmers out of global markets by limiting imports and subsidizing exports. These same policies have raised prices for consumers around the world.

The Uruguay Round agreements will reform policies that distort the world agricultural market and international trade in farm products. By curbing policies that distort trade, in particular export subsidies, the World Trade Organization will open up new trade opportunities for efficient and competitive agricultural producers like the United States.

Services. The WTO will extend fair trade rules to a sector that encompasses 60% of our economy and 70% of our jobs: services. Uruguay Round participants agreed to new rules affecting around eighty areas of the economy such as advertising, law, accounting, information and computer services, environmental services, engineering and tourism. When a company makes a product, it needs financing, advertising, insurance, computer software, and so forth. Competition for these services is now global. We lead the world in this sector with nearly \$180 billion in exports annually. The WTO will implement new rules on trade in services, which will ensure our companies and workers can compete fairly in the global market. While in certain key areas, such as telecommunications and financial services, the U.S. did not obtain the kind of market access commitments we were seeking, we kept our leverage by refusing to grant MFN treatment to our trading partners. Currently, we are continuing negotiations and MFN treatment will be held in abeyance until the end of this negotiating period.

Intellectual Property. Creativity and innovation is one of America's greatest strengths. American films, music, software and medical advances are prized around the globe. The jobs of thousands of workers here in this country are dependent on the ability to sell these products abroad. Royalties from patents, copyrights, and trademarks are a growing source of foreign earnings to the U.S. economy.

The World Trade Organization will administer international rules to protect Americans from the global counterfeiting of their creations and innovations. These are the areas which represent some of the most important U.S. industries of the future. Stemming the tide of counterfeiting works to protect U.S. companies and workers, particularly as U.S. exports of

intellectual property goods increase annually.

For example, our semiconductor industry is a driving force for U.S. technology advances and competitiveness. These products affect nearly every aspect of our lives and are incorporated in many of the goods traded internationally.

The TRIPS agreement is the first international agreement that places stringent limits on the grant of patent compulsory licenses for this critical technology. Under trips, this industry's patents covering semiconductor technology and semiconductor layout designs can not be used for commercial purposes without the permission of the patent or design owner.

In short, the Uruguay Round agreements set the stage for free and fair trade in the world, and global prosperity and partnership at the end of this century and into the next.

NAFTA Implementation

The NAFTA came into effect on January 1. Mexico now accords about 50% of U.S. exports duty-free treatment. Remaining Mexican tariffs on U.S. industrial goods will be phased out over ten years.

It is too early to see changes in trade patterns as a result of the NAFTA. But there is strong anecdotal evidence that NAFTA will have a positive effect. Already, Zenith's sales of U.S.-made TV picture tubes, which benefit from NAFTA rules of origin, have jumped dramatically, and Zenith has hired 300 new workers at its Illinois picture tube plant. And Chrysler has produced the first Cherokees for export to Mexico at its Toledo, Ohio, assembly plant, to take advantage of NAFTA's opening the Mexican market for fully assembled vehicles. We expect to hear similar stories in the months ahead.

My colleagues are working hard to get the commissions on labor and environment up and running. Secretary Reich and Administrator Browner will be meeting with their counterparts in March. These commissions are an important first for a trade agreement, and represent a significant recognition of the important relationship of trade issues to labor and environmental issues.

Japan

Mr. Chairman, let me now bring you up to date on the status of our negotiations with Japan. As you are well aware, Japan is our second largest trading partner and the second largest economy in the world. But too much of that trade is one-way. As the President said the other day, the people of this country simply

cannot understand why the United States has a \$60 billion trade deficit with Japan; why U.S. products which are popular and competitive around the globe are kept from entering Japan. Repairing this bilateral trade relationship is a key priority of the Clinton Administration.

Despite some progress over the past decade, a maze of regulations and barriers, many of which are completely non-transparent, still limit U.S. exports to Japan. That situation has long been intolerable, and certainly other administrations have tried to fix it. Indeed, it seems like we have had an annual minuet with the Japanese for the last twenty years: we would reach agreement after agreement that sounded good, but little changed and Japan's trade surpluses kept growing.

Last July in Tokyo, we created a framework for negotiations with Japan to open their market and rectify the asymmetrical trade relationship Japan has with us and the world. We agreed to seek agreements containing "objective criteria" that would result in "tangible progress."

This administration has said from the beginning that it is better to reach no agreements than bad agreements that would merely paper over our differences and not bring concrete measurable results. Around 4:30 in the morning of February 11th, it became clear that there was no possibility that we would be able to reach agreement with Japan.

This has never happened before in our relationship with Japan. Previous administrations often papered over the differences. Both sides went away feeling good, business goes on as usual, and then 6 months or a year later, we discover that nothing happened, and the cycle of bitterness and recrimination continues.

Our job is to create jobs and economic opportunities for American workers and open markets throughout the world is critical for that to happen.

Let me stress that our bilateral relationship with Japan remains strong. Japan is a key ally, and while we have problems in the economic part of that relationship, the rest of the relationship is healthy.

In fact, this dispute can be seen as a significant maturing of our relationship. For the first time, both sides are openly and honestly admitting the differences between us. We are no longer willing to look the other way when key American economic interests are at stake. We will no longer tolerate Japanese barriers to U.S. exports.

Our negotiations ended three weeks ago. We are now assessing all options to determine how to open Japan's markets.

Cellular Agreement Violation

A few days after the breakdown of the framework negotiations, the administration took action in a long-standing case that clearly demonstrates how the Japanese market remains closed to American businesses. Although this case was not associated with the unsuccessful framework negotiations, our decision to take action in this case shows our resolve in using all measures to open the Japanese market.

The United States Government decided on December 2, 1993 to make a decision by February 15, 1994 as to whether Japan was in compliance with the 1989 Third Party Radio and Cellular Agreement.

On that date, I determined that Japan had violated the 1989 agreement by failing to provide comparable market access to Japan's cellular telephone and network equipment market. We have been pursuing access to this market since 1985. Two trade agreements, another commercial agreement, and more than eight years later, U.S. cellular telephone systems remain effectively excluded from over half the Japanese market.

This is, in many ways, a classic case of the determination of Japan to keep its markets closed, particularly to high technology foreign products. There is no doubt that Motorola's cellular phones and network equipment are among the best in the world. In the part of Japan where Motorola has market access, a system using its technology has achieved great success. That system has more than 438,500 subscribers. But the Motorola system has been effectively shut out of the critical Tokyo market, particularly at a time when Japanese manufacturers were trying to develop products competitive with Motorola's. In fact, the system using Motorola technology in the Tokyo market has only 12,800 subscribers. Clearly, Motorola has lost hundreds of millions of dollars in sales opportunities.

In an agreement embodied in a series of letters between 1985 and 1987, the Government of Japan committed to a series of steps to open the Japanese market to foreign telecommunications goods and services and to reduce regulation in that market. Despite this agreement, Motorola was shut out of the Tokyo/Nagoya market. As a result, in April 1989, USTR found Japan in violation of its obligations under that agreement under Section 1377, published a preliminary retaliation list for public comment, and held a public hearing.

Just prior to the deadline for imposition of sanctions, Japan agreed, in the 1989 Third Party Radio and Cellular Telephone Agreement, the agreement I cited on February 15, to take specific measures to allow comparable market access. In the agreement, Japan designated, by name, a cellular telephone operator to

install the Motorola system. By doing so, Japan also assumed the responsibility of ensuring that the operator performed. That operator, as an agent of the Government of Japan, reiterated in a 1992 letter its commitment to build the system. Notwithstanding that agreement and the prior two trade agreements, the system, only after considerable U.S. Government involvement, does not yet cover even 40% of the Tokyo region. Comparable market access has not been achieved. As I've noted, this is a clear violation of the 1989 agreement.

We plan, by March 17th, to announce for public comment a list of proposed trade actions.

China

China's market is the second fastest growing in the world and there are significant opportunities for U.S. companies.

Yet, because of onerous trade barriers, our manufacturers, farmers, and exporters have not been able to take full advantage of China's growth and our trade deficit has been growing at a rapid rate, reaching \$23 billion in 1993. Eliminating trade barriers in China and opening its market is a major priority for this administration.

The Chinese have committed to a significant opening of their market and liberalizing their import regime in the memorandum of understanding on market access. Our trade with China must become a two-way street and it is essential that the Chinese fully implement their agreement with us so that American companies receive comparable access to China's market.

Although some problems remain, China is in overall compliance with the agreement. In meeting the December 31, 1993 deadline for certain actions, China took important steps to increase transparency and to open its market to U.S. industrial goods.

Specifically, China eliminated on schedule import restriction on 258 items by HTS tariff line, and removed 171 machinery and electronics items from import "controls" -- many ahead of schedule. China has also streamlined its import approval process -- including greatly simplifying the process for machinery and electronics products.

But some areas are still to be resolved. China has not met deadlines for ensuring that its sanitary and phytosanitary standards are based on scientific justifications -- and USTR and USDA negotiators are now holding discussions with the Chinese. In addition, we have informed the Chinese that we expect significant liberalization of quantitative restrictions in 1994 on the remaining products on the annex to the Agreement that are of key

interest to U.S. exporters.

We are monitoring China's compliance with this agreement under section 306 of the 1974 Trade Act. This gives us the flexibility to move to immediate retaliation if we believe the Chinese are in violation of the agreement.

As I said, there are significant opportunities for U.S. companies in China's growing market. Traditionally, our trade with China has been agricultural products such as wheat, fertilizer, and wood products. I expect China's market for agricultural products to grow rapidly over the next few years as the Chinese lift restrictions on a broad range of agricultural products in markets typically heavily protected.

Yet the composition of our trade is changing in reflection of the growing sophistication of China's own market. The Chinese are buying more high-tech products, largely in industries where we have a competitive advantage: electronics, machinery, telecommunications equipment, medical technology, oilfield and gas machinery, and auto parts. Last year, aircraft and parts were our largest export, followed by computers and power generation equipment.

At the same time, the Clinton Administration remains very concerned about China's record on human rights. That is why the President decided last year to link extension of Most Favored Nation status to specific conditions on human rights, while making use of other tools available to us in the areas of trade and non-proliferation. The standards set by the President on human rights must be met for MFN to be extended for another year.

Intellectual Property Rights

Another area of concern for us is the protection of intellectual property in China. China has changed its laws and issued regulations in accordance with the Intellectual Property Rights Memorandum of Understanding, signed in January 1992. Enforcement of these laws and regulations, however, is virtually non-existent.

There are many examples of IPR piracy in China, but perhaps the most egregious is infringement on a mass scale of foreign CDs and laser disks. There are 26 factories in the south of China with a production capacity of over 50 million CDs -- in a domestic market of roughly 2 million -- and they are already beginning to flood southeast Asia with their pirated products.

Last week we began negotiations with the Chinese on the creation of an effective enforcement system. China must take effective measures to protect U.S. and other foreign intellectual property. If not, USTR will elevate China to Priority Foreign Country

status in April and commence a Special 301 investigation shortly thereafter.

Conclusion

As we move forward on all of these issues, we should not lose sight of what is at stake. Our goal in all of these efforts is the same: to lay the foundation for prosperity for the years ahead and into the next century.

When I was young, everyone assumed we would do better than our parents, and our children would do better than us. We are finally restoring that sense of confidence in our future, by realizing that to make our nation a better place for our children we must be engaged in the world. We must assume the responsibilities of leadership in the global community. We must, as the President said in his speech at American University, put "the American people first without withdrawing from the world and people beyond our borders."

Trade is not abstract. Our success -- or failure -- in opening markets, and creating new opportunities will be felt at the workplace, and in people's homes.

Our success will be felt by the worker on the assembly line, building telecommunications equipment for China or Mexico. It will be felt by the worker producing medicine and medical equipment for countries around the globe. It will be felt by the farmer, who is at last able to sell rice in Japan.

It is felt by the software engineer, who can feel his or her computer programs are protected from piracy with strengthened intellectual property rules.

And our success will be felt by the millions of workers in jobs not directly related to trade, but dependent on it anyway -- in retailing, insurance, or construction.

The President put it best in his speech at American University. "The truth of our age is this and must be this: open and competitive commerce will enrich us as a nation. It spurs us to innovate. It forces us to compete. It connects us with new customers. It promotes global growth without which no rich country can hope to grow wealthier."

Last year, President Clinton challenged us. "In the face of all the pressures to do the reverse," he said, "we must compete not retreat."

We are meeting that challenge -- by facing up to our problems here at home, and competing abroad.

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STATEMENT OF AMBASSADOR MICKEY KANTOR
ON THE EXECUTIVE ORDER REINSTITUTING SUPER 301
March 3, 1994

From the time President Clinton took office, the central thrust of this Administration's trade policy has been to open markets and expand trade. We believe that manufactured goods, services and agricultural products made in the United States can compete anywhere in the world---as long as the markets of other countries provide us with the opportunity to compete fairly. We are committed to breaking down trade barriers: multilaterally where possible, bilaterally where necessary.

It is this market opening thrust that connects the completion of the Uruguay Round, the implementation of NAFTA, our expanding relations with APEC, intellectual property rights protection in a number of countries, our efforts to forge a more balanced trading relationship with Japan, and our successes with respect to heavy electrical equipment in Europe, telecommunications in Korea, construction in Japan, and a broad range of industrial products in China.

To complement our market opening efforts around the world, and to help establish trade priorities, the President has asked me to announce that he is today signing an executive order reinstating the trade law provisions known as Super 301.

President Clinton first endorsed Super 301 as a strong market opening tool in a speech at Georgetown University on November 20, 1991. He pledged to restore Super 301 during his election campaign and since he assumed office. From the day this Administration began, I have on numerous occasions repeated the Administration's view that Super 301 worked to open foreign markets and should be reinstated. By today's action, we are doing so.

It should be clearly understood: we are not designating or identifying any practice of any country today. Rather, we are putting in place the Super 301 procedure. Under this Executive Order, the Trade Representative will identify in 1994 and 1995 those "priority foreign country practices," the elimination of which have the greatest potential for the expansion of U.S. exports. The identification will actually occur on September 30th, six months after the issuance of the annual National Trade Estimate report on March 31.

Twenty-one days after identification, the priority foreign country practices will become the subject of

investigations under Section 301 of the Trade Act. The first step of that process is consultations with the foreign government in question, in an effort to reach agreement on the elimination of the practices in question, or in appropriate cases, compensation for the damage done by the practices.

If no agreement is reached, the investigation will continue. Where the foreign practices at issue constitute violations of trade agreements, such as the GATT, or the new WTO, we will take those practices to the dispute resolution process created in those agreements, as Section 301 requires us to do. At the end of the investigation, the Trade Representative will have to determine if the practices are actionable under Section 301 and, if so, what action he should take in response to them. Trade action could result if the practices are not eliminated.

Let me be clear about how this Executive Order fits into our market opening efforts:

---On March 31, we will present the NTE report, which is a comprehensive report on the foreign trade barriers to our products and services. While that report will review many barriers in many countries, it will also provide a good idea of which foreign barriers are of most concern to us.

---In the months that follow, we hope to make progress, with other countries, in reaching agreements to reduce or eliminate some of the more significant barriers facing our exports. But our trading partners will know that on September 30, we will identify those "priority foreign country practices"--the most serious barriers to U.S. products and services---which will become the subject of investigation under Section 301.

---The Executive Order signed today is a flexible instrument. For example, it permits the Trade Representative to send our trading partners an early warning that certain of their practices may be identified in the future if they are not eliminated. It also provides that the Trade Representative can exclude foreign country practices which might otherwise be "priority" because they are already being addressed by provisions of U.S. trade law, existing bilateral trade agreements or in trade negotiations, and progress is being made toward their elimination. This provision underscores our intent to use this Executive Order in conjunction with all our other market opening efforts.

Our goal is to eliminate the major trade barriers around the world which block market access for our products and services. If we can do that without ever identifying a "priority foreign country practice" under Super 301, we will have accomplished our goal. But no one should doubt our commitment to keep moving forward, opening markets and expanding trade, as we have done since President Clinton took office.

History of the "Super 301" Process

The Super 301 process, which was required by statute in 1989 and 1990, required the Administration to identify "trade liberalization priorities," including "priority countries" and "priority practices," the elimination of which was likely to have "the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent."

Within 21 days after submitting the report of priorities to the Congress, the USTR was required to initiate an investigation under section 302 of the Trade Act (popularly called "section 301 investigations") on every priority practice of each priority country.

Super 301 in 1989 and 1990

In 1989, six priority practices in three priority countries (Japan, India and Brazil) were identified: (1) import bans and other import licensing restrictions in Brazil; (2) government procurement of foreign satellites by Japan; (3) government procurement of supercomputers by Japan; (4) restrictions on imports of wood products in Japan; (5) trade-related investment measures in India; and (6) insurance market barriers in India.

USTR initiated section 301 investigations on all six practices. The United States reached agreement with Japan in all three of the investigations involving Japanese practices, and Brazil dismantled its import restrictions; but little progress was made with India in the two investigations involving its practices.

During the months leading up to Super 301 identifications in 1989, bilateral negotiations with Korea resulted in agreements to liberalize conditions for foreign investment and to eliminate import bans and other measures to protect local production. In addition, some progress was made with Korea on import restrictions affecting agricultural products. Similarly, the authorities on Taiwan agreed to develop an action plan that opened the market on Taiwan to all exporters, especially through reductions in tariffs on manufactured goods. As a result, neither Korea nor Taiwan were identified as priority countries.

In 1990, USTR identified the Uruguay Round as its top trade liberalization priority, and re-identified India and India's two practices as priorities under the statute. No new section 301 investigations were initiated, since we were pursuing investment and insurance barriers with India in the Round.

Super 301 Under the Executive Order

In 1994 and 1995, the USTR will submit its report on priority foreign country practices no later than September 30, and within 21 days of submitting that report, USTR will initiate section 301 investigations with respect to all priority foreign country practices identified.

Section 301 Investigations

A section 301 investigation includes fact-finding, consultations with the affected domestic industry, and consultations with the foreign government involved. Where a trade agreement, such as the GATT, is involved, the USTR requests dispute settlement proceedings under that agreement, if applicable. During the investigation the USTR will seek to negotiate agreements which provide for the elimination of, or compensation for, the practice concerned.

In every section 301 investigation, including those initiated as a result of Super 301, if no agreement is reached, the USTR must determine whether the practice under investigation is actionable under section 301 -- i.e., violates a trade agreement, or is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce. If the practice is deemed actionable, the USTR must also determine what retaliatory action, if any, should be taken under section 301.

The timing of these determinations depends on the type of practice involved. The determinations in trade agreement investigations must be made either 30 days after the conclusion of dispute settlement proceedings, or 18 months after initiating the investigation, whichever is earlier. In investigations of practices not involving the violation of a trade agreement, the determinations must be made 12 months after initiating the investigation.

Where a trade agreement is violated, the USTR is required to retaliate unless a specific statutory exception applies. Where there is no violation of a trade agreement or other international obligation, the USTR has discretion in deciding whether to retaliate.

Section 301 gives the USTR broad authority to retaliate, subject to the direction of the President. Retaliatory measures may include increased tariffs, quotas on imports, restrictions or fees on services, withdrawal from a trade agreement, or other appropriate action. If retaliatory measures are imposed under section 301, they may be modified or terminated at any time, and they automatically expire after four years if not renewed.