Statement to the Subcommittee on Trade
House Ways and Means Committee
Ambassador Michael Kantor
May 16, 1994

THE IMPORTANCE OF THE URUGUAY ROUND

Mr. Chairman, it is a pleasure to appear before you today. I appreciate the hard work you, your staff and the other members of this committee have done to move in a timely manner on the implementing legislation for the Uruguay Round agreement. All of us at USTR appreciate the high level of bipartisan cooperation on this issue, and we look forward to working with you in the next few weeks as we finish preparing the legislation.

Mr. Chairman, last December, President Clinton led the effort to break the gridlock and complete the Uruguay Round negotiations to the General Agreement on Tariffs and Trade. Those negotiations had stalled after seven years of preparations, and seven years of negotiating. This agreement, which was signed by over one hundred nations in Marrakech, Morocco on April 15, is the largest, most comprehensive trade agreement in history.

By leading the effort to conclude the Round, President Clinton ensured that the United States continue its historic role as a global economic leader committed to trade expansion. In the aftermath of World War II, we created international institutions, such as the GATT, that lowered trade barriers and wrote rules that led to increased trade. A half century of global prosperity is the legacy of our leadership during the post World War II reconstruction, and during the Cold War.

Now, we must show the same global leadership by leading the world in implementing the Round. All of our major trading partners have agreed to ratify the agreement domestically for entry into force on January 1, 1995. It is our responsibility as the world's largest economy, and largest trading nation, to implement the Round as quickly as possible.

In addition, our credibility in asking Japan and others to open up their markets is inextricably tied to our implementation of the Uruguay Round agreement. Failure to quickly implement the largest trade agreement in history will raise doubts of our willingness to open markets and compete in the global economy.

Much depends on our approving the Round as quickly as possible, especially the opportunity to gain the benefits from it. The Uruguay Round is the right agreement at the right time for the United States. It reflects the realities of a changed, more interdependent world.

A globalized economy has changed the way we do business. Once

our economy was self-contained. Now we are interdependent with the rest of the world. Over a quarter of our GNP is dependent on trade. As a mature economy, the United States must open new markets to foster growth. We have four percent of the world's population: future economic opportunities will occur with the other 96 percent.

President Clinton, the first President born after World War II, is the first President to understand that the prosperity of our workers, and the prospects of their children, depends on our ability to compete and win in the global economy.

At the same time, our foreign policy is now connected to our trade policy. The Cold War has ended and nations around the globe have developed market economies and democracy. This month we saw another, with South Africa's historic free elections. As a result of efforts to reform their economies and embrace democracy, nations around the globe are exploding with growth. It is in the national interest of the United States to bring these nations into the global trading system, and ensure they play by the rules.

Increasingly, the GATT was out of step with the rapidly changing world. The GATT rules 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 Uruguay Round writes new rules of trade which create the foundation for a global trading system. It brings the nations of the world into the trading system -- with the obligations and responsibilities that entails.

It is an agreement that plays to our strengths as the world's largest trading country, exporter and most productive economy. It opens foreign markets to an unprecedented degree at precisely the time when our companies and workers have honed their competitive edge. It will create millions of additional high-wage, high-skill jobs for U.S. workers in the coming decade. 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.

In addition, the Uruguay Round agreement establishes rules of trade for key sectors of our economy that our growing and becoming more important for U.S. competitiveness. The intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software gain new protection

from piracy in world markets. The Round also ensures open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction. Finally, at a time that U.S. exports to developing countries are becoming an increasingly important area of economic opportunity, the Round ensures that developing countries live by the same trade rules as developed countries and that there will be no free riders.

This agreement helps our largest exporters, like aerospace and computer companies, and benefits our fastest growing exporters, like chemical products and electronics. And it helps small businesses by reducing paperwork, simplifying or eliminating import licensing requirements, and harmonizing customs procedures.

We are at what the President has called the third defining moment in the 20th century. The end of the Cold War presents new opportunities and new dangers, but we are confronted by the same basic choice: engagement or withdrawal? As the President has said, we believe that open and competitive commerce enriches us a nation, and the world.

Testimony before the Legislation and National Security Subcommittee of the Committee on Government Operations

of

AMBASSADOR MICHAEL KANTOR

UNITED STATES TRADE REPRESENTATIVE

1994 Title VII Review of
Foreign Country Procurement Discrimination
Against U.S. Goods or Services
and
Multilateral and Bilateral International Trade
Negotiations on Government Procurement

May 19, 1994

I would like to thank you, Mr. Chairman, and the members of this Subcommittee for the opportunity today to describe Administration efforts to open foreign government procurement markets to U.S. suppliers through use of Title VII of the Omnibus Trade and Competitiveness Act of 1988 and multilateral and bilateral negotiations on government procurement. This is the second time I have testified before this Subcommittee on government procurement, and much has occurred on this front since I last testified on this issue less than a year ago.

In this short period, we have concluded multilateral negotiations on a new GATT Government Procurement Code and an historic agreement with the European Union, reached in Marrakech, Morocco, under this new Code. With our Mexican and Canadian partners, we have implemented the NAFTA chapter on government procurement. We have also used the tools provided under Title VII to spur action by the Japanese government to open its construction market. Finally, we have opened new dialogues with other countries in an effort to open foreign government procurement markets. I would also like to emphasize that we will continue to pursue a telecommunications procurement agreement with the European Union and seek more open government procurement markets in Japan under the Framework negotiations.

Today I will review our findings in the 1994 Title VII report, which was transmitted to this Subcommittee on April 30, and discuss in detail negotiations on the GATT Code and specifically with the European Union. But before I discuss these issues, I would like to note briefly for the Committee the importance of the entire package of Uruguay Round Agreements.

When 125 countries signed the Uruguay Round Agreement in Marrakech last month, they concluded the largest, most

comprehensive trade agreement in history. The Uruguay Round Agreement plays to the strengths of the U.S. economy since it opens world markets in areas where we are most competitive and will be an important element in an integrated national economic strategy. Economists estimate that increased trade from the Uruguay Round Agreement will pump between $100 billion and $200 billion annually into the U.S. economy once it is fully implemented. A study by DRI/McGraw Hill estimated that the net U.S. employment gain over and above the normal growth of the U.S. economy will be about 1.4 million jobs by the tenth year after implementation.

The 1994 Title VII Review

As in past Title VII reviews, the Administration used all available information on the procurement practices of foreign countries. In addition to the data we had developed in past Title VII reviews, we relied on updated reports from our embassies and comments from the private sector responding to our notices in the Federal Register and the Commerce Business Daily. We also used information collected for the annual National Trade Estimates Report.

In this year's report, we have focused most of our attention on concerns with procurement practices in the medical technology and telecommunications sectors in Japan. Both of these sectors are priority sectors in the U.S.-Japan Framework negotiations. In our report, we noted that we had decided not to identify Japan at this time and would revisit this decision by June 30. In both of these sectors, foreign suppliers have found that gaining market access has been an uphill battle.

We were not able to reach agreement on these sectors by the February 11 meeting of the President and former Japanese Prime Minister Hosokawa. On March 28, the Government of Japan issued an Action Plan on Government Procurement containing detailed sections on telecommunications and medical technology. This Action Plan reflected some modest movement towards addressing U.S. concerns but did not provide a basis for resuming the Framework negotiations. On April 15, I met with the former Foreign Minister and now Prime Minister Hata in Marrakech, Morocco to discuss, among other issues, the possibilities for resuming the Framework negotiations. While we made some progress in these discussions, we are now awaiting a Japanese response to the points I raised at this meeting. A Japanese delegation has just arrived in Washington to explore ways for informally restarting the Framework talks. In deciding whether to identify Japan under Title VII by June 30, we will assess the seriousness of any official Japanese response.

We also decided in this year's Title VII report to maintain the sanctions currently in force against the European Union for

its discriminatory procurement practices in the telecommunications sector. These sanctions, which were first imposed on May 28, 1993, emcompass the full range of potential sanctions on civilian procurements provided for under Title VII, consistent with U.S. obligations under the Code and the bilateral U.S.-EU MOU on Government Procurement. While we believe that the agreement we reached with the European Union in Marrakech on April 15 should be viewed as an important achievement in our bilateral relations, we are still disappointed that we could not have gone further and concluded an agreement on telecommunications as well.

Finally, we included information in this year's report on four countries' procurement practices, which do not meet the criteria for identification under Title VII but, nevertheless, are areas of concern. The procurement practices of Japan with respect to supercomputers and computers are at the top of this list. We plan to closely monitor developments in these procurement markets to see that Japan adheres to our existing agreements on these sectors. Additionally, we provided information on Australia for its practices in the information technology sector; Brazil for its recently enacted discriminatory requirements in the computer, software, telecommunications and digital electronics sectors; and China for its generally non-transparent procurement regime.

We also included in this year's report the General Report called for under Title VII, tracking the history of our use of the statute to root out foreign discriminatory procurement practices.

<u>The New GATT Procurement Code and the Marrakech Agreement with the EU</u>

After many years of difficult negotiations, I am pleased to say that we have concluded a new GATT Government Procurement Code, which includes substantial coverage of subcentral governments and government-owned utilities. The cornerstone of this new Code will be the bilateral coverage agreed between the United States and European Union on April 13 in Marrakech, Morocco, just before the signing of the new Code.

This new Code, which is scheduled to enter into force on January 1, 1996, is a step forward in multilateral negotiations on government procurement and an improvement over the existing Procurement Code. It will translate into many billions of dollars worth of new bidding opportunities for U.S. firms, with corresponding benefits for U.S. products and services.

As you know, the existing Procurement Code, negotiated during the Tokyo Round, is very limited, covering only procurement of goods by central government entities. The Code

has been an important agreement in filling the hole left by the GATT, which does not cover government procurement, but the Code does not cover some of the most commercially attractive areas of procurement, in particular, government-owned utilities. Since shortly after the conclusion of negotiations on the existing Code in the Tokyo Round, we have been seeking access to these huge procurement markets, especially the heavy electrical and telecom markets. We have also been interested in joining other participating countries in beginning to cover subcentral government entities under the Code.

This past December in Geneva we made an important step towards completing a comprehensive new Code but were not able to conclude a final agreement with the European Union. On December 15, when the multilateral negotiations on the new Code effectively ended, the United States and European Union had only agreed to cover central government procurement and to continue working towards completing a bigger agreement including subcentral governments and utilities by April 15, 1994, the scheduled signature date for the new Code agreement.

Negotiations over several years in Geneva on the Code were very important in spurring the United States and European Union to reach a final Code agreement. First of all, the countries participating in the negotiations agreed to substantial changes in some of the procedural provisions of the Code. Most importantly, the new Code will require all Parties to provide independent bid challenge procedures for all covered procurements. This means that U.S. suppliers will have a legal remedy, guaranteed by the new Code agreement, in these other countries and will not have to rely solely on the dispute settlement provisions of the agreement. The new Code also imposes new, more stringent disciplines on the use of offsets, which are often used by developing countries to require local content, local investment or technology transfer in connection with government contracts.

In terms of coverage of the new Code, it has been extended to services, including construction, and to subcentral government entities and government-owned utilities for the first time, but only on the basis of reciprocity. As a result, we were able to specify derogations from most-favored-nation treatment so that we lost no leverage in continuing to seek coverage of U.S. priorities in the procurement markets of other countries. For example, we have agreed to cover our state governments and our government-owned utilities only with respect to Korea, Israel and--as a result of our agreement in Marrakech--the European Union. We leave open the possibility, however, of extending coverage with other countries through bilateral negotiations on reciprocity in the future. In negotiating coverage with all countries, we have protected U.S. procurement programs for small and minority-owned businesses and other economically-

disadvantaged groups, administered at both the state and Federal levels.

In our negotiations with the European Union between December 15 and April 15, EU negotiators focused on U.S. coverage of state and city governments and elimination of Buy American requirements on Federally-funded mass transit, highway and airport projects, while we sought coverage of the EU power generation sector and a substantial value of EU subcentral procurement under the Code and conclusion of a separate bilateral agreement on telecommunications. The agreement reached in Marrakech, Morocco on April 13, is clearly the boldest step that either party has ever taken in negotiations on government procurement, even though it falls short of including all objectives on both sides. As I noted before, we are disappointed that we could not conclude an agreement on telecommunications, but we were also determined that access to this EU market not be linked to Buy American restrictions in unrelated markets, such as mass transit and highways.

From a U.S. perspective, the agreement is historic in covering the EU electrical sector, valued at approximately $28 billion, permanently under the Code. This sector has been closed to U.S. suppliers for nearly four decades. The U.S.-EU MOU, signed on May 25, 1993, gave U.S. suppliers access to this market, but only temporarily for two years. Two years is a very short period in the heavy electrical sector.

As a result of this agreement, we also got coverage of over $50 billion in EU central government procurement, $23 billion in EU subcentral procurement of goods and $700 million in procurement by EU ports. According to data developed by the independent consulting firm of Deloitte Touche, the total value of EU coverage under the Code will exceed $100 billion annually in bidding opportunities.

In addition to procurement by U.S. executive branch agencies, the United States agreed to cover 37 states, the Federal power authorities and several subcentral government utilities under the Code. U.S. coverage of subcentral governments and utilities was based on the voluntary commitment of these jurisdictions to be included in the agreement. In addition to the approximately $20 billion credited in the agreement to U.S. investor-owned electrical utilities, U.S. coverage under the Code will total approximately $80 billion.

On a purely bilateral basis, we also agreed that two additional states and seven cities would treat EU suppliers no less favorably than non-state or non-local U.S. suppliers. This commitment will not be subject to Code procedures or dispute settlement.

Status of Negotiations with the EU on Telecommunications Procurement

Ending the discrimination in Europe applied to our telecommunications equipment was a top priority of these negotiations. As you know, the U.S. market is completely open to foreign firms; indeed, foreign-owned firms supplied 54 percent of our central office switching market in 1992.

Despite the fact that our market is open, the European Union demanded other, unrelated, concessions in exchange for opening its telecommunications market. Central to these demands was the elimination of all Buy America programs associated with Federal funds granted to our states and cities for mass transit, highways, airport improvement and wastewater projects, among others. We were unwilling to agree to these demands, which we considered unjustified given the European Union's access to our telecommunications market.

We certainly have not given up on obtaining non-discriminatory access to the European telecommunications market. This is a critical industry to the United States, and the imbalance of opportunities in the United States and the European Union remains unacceptable to us. In that connection, I'd like to make a few points:

- First, the sanctions we imposed in May of 1993 under Title VII of the 1988 Trade Act remain in place.
- Second, four EU countries have assured us that we will receive non-discriminatory access to their markets: Germany, Greece, Spain, and Portugal.
- Third, we do intend to re-engage the European Union on telecom. We have not set a date; however, we are looking for appropriate dates to restart discussions within the coming months.
- Fourth, we have restarted our interagency process to evaluate our options in light of continued European Union refusal to open this market. We intend to consult with Congress on this matter as well.

Other Developments

In last year's Title VII report we identified Japan for its discriminatory practices in construction. I am happy to report that we were able to successfully resolve this issue with Japan in January of this year. The Japanese government unilaterally opened its construction market and agreed to consult with us on an annual basis on progress made. We have also started implementation of the NAFTA Government Procurement Chapter, which

opens the Mexican government procurement market for the first time. We will be following Mexican and Canadian implementation closely to ensure that the full potential benefits flow to U.S. firms.

The Impact of the Agreement on Government Revenues

It is extremely difficult to quantify the exact effect of the new Code agreement on U.S. government revenues, but we are certain that the agreement can only increase these revenues. There will be no lifting or easing of any revenue-raising measures and procurement budgets should fall as a result of the agreement since competition among bidders on U.S. government contracts will increase.

Conclusion

The Administration this year achieved several breakthroughs in negotiations on government procurement that had proven very elusive for many years. After nearly seven years of negotiations, the United States and other countries concluded a new, hugely-expanded GATT Government Procurement Code. As part of this new Code, the United States and European Union reached agreement on permanent coverage of one of our highest priority sectors--the heavy electrical sector. Title VII has been useful in realizing these goals. We plan to continue to use Title VII and other trade policy tools in the coming year with the objective of completing a full panoply of trade agreements on government procurement in the areas we have highlighted in this year's report and in past reports. This Administration's goal is to have virtually made Title VII obsolete through the conclusion of such agreements by the time of the scheduled sunset of Title VII in 1996.

PRESS BRIEFING
with
six print reporters

AMBASSADOR MICKY KANTOR
United States Trade Representative

Paris, France
June 6, 1994

AMBASSADOR KANTOR: I just want to get together, and not only talk about this week but the future. There are a number of issues and implementation, not only of WTO but of the ratification by various countries--including the United States--of the Uruguay Round, and other kinds of concerns we all face as we try to expand trade and build a world economy and support a little growth and stem the tide of recession, which has really plagued Europe and Japan to a great degree. In the United States, of course, we have had enormous progress economically. We have created over three million jobs since January of 1993, and unemployment dropped to 6 percent--it would have even been lower if we used the old statistics. One of the most interesting aspects of the unemployment statistics is that they would have been even lower still had not a number of people who had been discouraged and quit seeking work now have come back into the labor force so the news is even better than it appears on the surface.

Q: Is there going to be a jobs report released at this meeting?

KANTOR: Yes.

Q: What do you hope to get from that? Are there some recommendations that you would support?

KANTOR: Well, the United States has tried to spur not only thought but discussion as well as movement in terms of growing jobs -- not only through the developed world but the developing world as well. There were a series of interesting conversations, a couple of which were very important -- with the President and President Delors, as you recall, on the President's last trip to Europe, on the problems of labor rigidities in Europe vs. the flexible approach of the United States. Yet we're looking at how to implement a re-employment program. We all seek technology, the convergent technology and a globalized economy, creating huge opportunity and, of course, great challenges. Whereas our parents, or even our generation, may have been able to secure and hold and continue to have one job through our entire careers, our children, our grandchildren, will change jobs a number of times just because of a

dynamic economy, and the spread of economic and real growth and power throughout the world. That combined with technology means we'll have to have continuing education, training, placement, and revision of how we think of jobs, which is new challenge for this generation, and one which I think certainly the President is well aware of, but also Secretary Bentsen and Secretary Reich and Chairman of the Counsel of Economic Advisors Tyson have done a lot of thinking about. We are committed to not only to health care reform, welfare reform, but a re-employment program that makes sense for U.S. workers. So as the Europeans are trying to become more flexible in their work force, which I think is critical, we're looking at how we deal with technological changes and the globalization of the economy moving into the next century.

Q: On the specific issues of trade, could you give us an idea of what your objectives are in the next few days, and what bilaterals you will do?

KANTOR: Well we'll have a number of bilaterals, beginning with Minister Longuet tonight. I'll spend some time with Roy McLaren of Canada, here; we spoke by phone in London. Unfortunately Foreign Minister Kakisawa of Japan could not attend because of the Diet session and their attempt to pass or deal with a budget situation. I'll have a meeting with Ambassador Matsunaga, who is representing the Foreign Minister. I'll also have meetings with the New Zealand Prime Minister as well, of course, with Sir Leon Brittan and with Gunther Rexrodt of Germany. There will be a number of issues on agenda, not the least of which is the preparatory committee of the WTO and its agenda, ratification of the Uruguay Round and timing, and of course how to continue to expand markets, continue to make sure trade remains open. And I'm sure there'll be some discussion about Japan, China, China's accession or attempt to accede to the WTO, and so on. I'm sure those will be on the Agenda as well.

Q: And with Mr. Matsunaga, will you be discussing some specific proposals?

KANTOR: There have been meetings of our officials this last week in Tokyo as a follow-up to our meetings in Washington, where we re-engaged the framework talks. I don't know if he has any specific proposals but, frankly, given the fact that our officials are still meeting, I wouldn't expect there would be any announcements or any agreements here in Paris. I spoke with Foreign Minister Kakisawa before I left Washington; we had an interesting conversation. We're, of course, going to try to get together at the end of this month, when the Diet session has ended, in order deal with whatever issues are facing us with regard to the framework situation, both macroeconomic and sectoral.

Q: Is Naples a deadline or a target date?

KANTOR: We don't have any target dates or deadlines. What we do have, of course, is dates which we are going to have to address. One is June 30. We put off by 60 days any decision on the Title VII, which involves U.S. trade laws concerning unfair treatment of U.S. products in terms of government procurement. That will involve telecommunications and medical equipment, both of which are covered by the framework. We of course are hopeful we can address those issues in the framework and, therefore, will not have to address them under Title VII.

The second date, of course, is the proposed meeting between Prime Minister Hata and President Clinton surrounding the G-7 talks at Naples. Whether or not we have a number of agreements, or any agreements, at that time is not as critical as our ability to make progress in these four priority areas and begin to address new areas of the framework as we proceed ahead.

Then, of course, we have to make decisions by September 30, with regard to Super 301. It's a procedural mechanism which requires the United States Trade Representative to make decisions whether or not there are priority foreign country practices which amount to unfair trade, and have a substantial effect upon U.S. trade interests.

Q: Earlier today in Tokyo, Under Secretary Garten was quoted as saying "there is considerable hope that U.S and Japan can overcome their disputes in telecommunications." Do you echo that assessment?

KANTOR: Of course. We would never re-engage a framework had we not had considerable hope that we could overcome our differences. Frankly, the agreement that we reached just 10 days ago in Washington was extremely helpful in terms of the Japanese accepting the idea that macroeconomic stimulus is of considerable importance. Second, that the goals of the framework substantially increase access for and sales of foreign competitive goods was the goal of each of these sectors. And that we agreed, of course, that objective criteria, quantitative and qualitative, will be used to measure progress. All of those, of course, reiterate our interpretation of the framework and are important to both countries as we move forward.

Q: There has been more progress in qualitative, rather than quantitative, if I understood correctly ...

KANTOR: That is not necessarily so.

Q: Oh. Because I saw reports suggesting that there had been a great narrowing of differences on qualitative. Are there any specific areas where the differences have been narrowed or disappeared?

KANTOR: Yes.

Q: What are those?

KANTOR: I'm not going to tell you. We're in the middle of negotiations. But yes, the answer is yes.

Q: On both sides?

KANTOR: On both sides. Qualitative and quantitative. Now, that doesn't mean all the differences have been eliminated. [interrupted by journalist's arrival] No, I don't say that in jest. Obviously we're in the middle of negotiations. I'm willing to say we've made progress. I'm not going to go into the details. That's not helpful.

Q: OK, but on both sides both quantitative and qualitative?

KANTOR: Yes, both. And in terms, frankly, remember each of these sectors -- this is a broad way to approach it -- has three parts to it.

One, you have the "goal." And we've agreed on the goal of each of the sectors: substantial increase of access and sales of foreign competitive goods and services. That's one.

Two, you have both deregulatory measures and other measures which will open up whatever sector you're referring to.

And, third, of course you have to measure progress. And that's where the objective criteria come into play.

And of course we've made it quite clear as we have said, I can't tell you how many times, including the President of the United States said it five times in his press conference on February 11th, we are not seeking numerical targets or market share. They have nothing to do with the objective criteria.

Q: Are the Japanese buying off on this now, Mr.. Kantor? I mean in Marrakesh there was talk of progress being made. Have they come to accept the idea that at least to monitor progress ....

KANTOR: We reached agreement in Washington, that is exactly what we reached agreement on. So the answer is yes. And that's what broke the 'log jam,' if you want to call it that, or broke the grid lock.

And I've got to say that Prime Minister Hata, Foreign Minister Kakisawa, and Mr. Hayashi deserve tremendous credit for their leadership and their willingness to be flexible. Our talks in Marrakesh, Prime Minister Hata's conversation with President Clinton by phone on the 9th of May, my conversation with Foreign Minister Barshefsky on the 13th of May--I had four subsequent conversations with the Foreign Minister--Mr. Hayashi's work with Ambassador Barszewski were all very productive. And I think the Japanese government and their leadership deserve tremendous credit.

Q: Changing the subject slightly, I was wondering if we could talk a little bit about ratification of GATT and U.S. powers. Where do we stand at this point? Does there seem to be headway being made by the Administration?

KANTOR: One, we've begun mark up in both House and Senate, as you know. Two, the President has make it clear that he wants this ratified prior to the August recess. Now, the date of that is uncertain now. I've heard anything from the 11th to the 15th of August. I think a lot of that will depend on issues other than the Uruguay Round. Three, we have a bipartisan dialogue going on regarding the most difficult issue and that is how to "pay" for the round. Let me explain that, most of you understand it, but let me explain it for the purposes of what you're doing. Under the 1990 Budget Agreement, we are required to offset any reductions in revenues regardless of their impact on the budget or on revenues; that means we have to use a static budget concept. Two studies have been done that indicate clearly that for every dollar of tariff cuts under the Uruguay Round, we'll receive about three dollars in income to the federal government, which means we have a net plus, if this were a dynamic budget review in terms of affecting budget deficit or revenues of the federal government. But we can't count those dynamic gains. So we're going to have to find in offsets for about 13-to-14-billion dollars over five years. Given the cuts the President has made, which resulted in a 40% decline in our budget deficit in the United States, it is a challenge. However, both Republican and Democrat leadership in both bodies -- House and Senate -- are willing to work with the Administration to try to find the requisite offsets. We had the same challenge in the NAFTA, and until three weeks before the vote were unable to find that money. But at the right time the leadership in both parties came together and found both budget cuts and enhancements of fees and other revenues in order to offset the cost of the NAFTA. I am hopeful that we can do the same thing here. It is the major challenge that we have with regard to ratifying the Uruguay Round.

Q: How much of a distraction, may not be the right word, but how much of a ..... is the health care legislation? Is there any conflict there? I mean are there any problems, for example, when you lookk at new areas of revenue raising or spending cuts? Is the politics of not wanting to disturb potential allies on health care holding you back in terms of getting an agreement on this 13 or 14 billion?

KANTOR: Frankly, they're consistent. Those who may be concerned about health care reform one way or the other are in great support of the Uruguay Round, but are beginning to see the connection between the ability to grow the U.S. economy and to keep our recovery going and the reform of our health care system, which keeps us competitive.

Second, the Round will be supported by both political parties; therefore it will add to the bipartisan spirit of the Congress a proceed towards approving health care reform. Those two factors come together and make it a positive situation with regard to both being considered at the same time.

Q: Rather a direct question, could you handicap the chances of passage of the Uruguay Round?

KANTOR: I don't do that. I think there is a growing recognition in both parties that the Round is not only critical to the growth of our economy and in creating high skilled jobs in the United States but is as important to spur global growth and help with the recovery in Europe, as well as in Japan. And it will also create tremendous confidence in both the developing countries and the newly-industrialized countries and all of our abilities to continue to pursue a more open trading policy. We are convinced that these factors are making for strong majorities in both parties convinced that the Round is effective for those purposes.

Q: Do you expect to take any heat while you're here this week? Over the importance of getting this thing ratified this year?

KANTOR: I'm hoping to convince others they should do the same; we have moved quite strongly. This President has been the world le in terms of trade. He re-engaged the Uruguay Round; it was his that we should have a market access agreement in Tokyo. He aggressively sought out world leaders in the last two weeks of the negotiations last year, as you recall, right before December 15, in order to complete the Round. He's made it clear he's going to seek and obtain ratification of the round this year. And we're hoping the Europeans can overcome their difficulties, that they're having right now in terms of the Court of Justice and the concerns over how it is to be ratified procedurally, and that others will follow suit. I don't think anyone need worry about this President who led the fight for the North American Free Trade Agreement against opposition in his own party, and who was successful in bringing all the major-leaguers of Asia together for the Asian-Pacific Economic Cooperation Forum, and built a trade investment framework around that, who re-engaged and led the struggle to finally come to a conclusion in the Uruguay Round after seven-and-one-half years of pain and blood and sweat and tears. He was able to work with our European counterparts to reach the largest government procurement agreement in world history on April 15. We've reached more agreements with Japan in opening sectors from July 1993 until May 1994, a key period of time in American history or Japanese history. No one need worry about this President's commitment to opening markets and growing more and more world trade.

Q: Do you expect to have any serious discussions on some of the new areas or on some of the service sector areas, which were not covered by the Uruguay Round? Aircraft discussions perhaps?

KANTOR: They're ongoing. Shipbuilding discussions are ongoing. Telecommunications. There are a number of discussions that are ongoing. Yes, we will continue to do that. We've already had some as you know. They are difficult areas. They always have been. But I am confident that there is, with this growing realization, that technology and global growth and macroeconomic policies and the need to build markets outside of our own economies is so strong, that everyone will put aside their narrow differences and begin to cooperate as we did during the Uruguay Round discussions in order to reach these agreements. I'm not discouraged at all. I'm very hopeful.

Q: Do you see any need to renegotiate the bilateral commercial aircraft subsidy agreement, as some in Europe have called for?

KANTOR: No. That is supposed to be multi-lateralized, as you know, under the agreement.

Q: What's the likelihood that's going to happen?

KANTOR: Well, you might ask the Europeans.

Q: A couple of questions about the WTO. I don't know if the U.S. has made public who they favor to lead the organization.

KANTOR: We haven't.

Q: Any idea of when you may come up behind somebody, can you give us some indication?

KANTOR: We'll talk to all those who are interested, we'll listen carefully, and we'll talk to our allies, friends, trading partners, and colleagues. At the appropriate time we'll come to a consensus as to who that should be.

Q: For the United States, could the time frame be the autumn?

KANTOR: It's like love, we'll know it when we see it.

Q: Do you think Mr. Salinas might make a good Director General of the WTO?

KANTOR: There are a number of people. President Salinas is one of the most important world leaders of this generation. He has done a magnificent job in Mexico. There are a number of people who are qualified to take over the World Trade Organization. They have major shoes to fill in the departure of Peter Sutherland, who did a magnificent job in shepherding the Round in those last critical months. But, number one, I don't know if President Salinas has made any candidacy formal or not -- I've only heard rumors as you have. Number two, I don't who else might be available for that job. Number three, obviously we're going to consult with our trading partners as to their views before we make any decision.

Q: What is on the agenda of Mr. Brittan now that agreement on the outstanding issue from the Marrakesh meeting--procurement--was reached?

KANTOR: We will talk about telecom to some degree. We will talk about audiovisual to some degree. We will talk about the site of the new WTO. We will talk about the various people who have been rumored to be interested in heading the WTO.

Q: Regarding telecommunications, is there any reason to believe there might be some progress in the near future?

KANTOR: I am not sure when we will make progress. I am sure we will. I don't expect any agreements to be reached here for a number of reasons, not the least which is just the press of time and the inability to cut out a substantial amount of time as we had in Marrakesh to really get into great detail.

Q: So the site for the WTO is Geneva? It isn't the "slam-dunk" the way people think it is.

KANTOR: We'll see Geneva has made a proposal; there's another proposal on the table from Germany.

Q: Has Stockholm....?

KANTOR. I have not seen that one. Everybody has a self interest. But I will be talking to Sir Leon about that as well, as well as to Minister Longuet about that, and to Roy McLaren and a number of other people, just to get their views.

Q: Does the U.S. have a favorite person?

KANTOR: No. We just want to see what others' reactions are. I think the Geneva proposal is quite a generous one as is the Bonn proposal. We want to look at both.

Q: How is the Geneva proposal better than the status quo?

KANTOR: Well, without going into detail, there are a number of things that have been offered that are helpful in terms of the budgetary considerations and the physical site availability and so on.

Q: As long as we are on the WTO, can you say something about China, and its prospects for joining the WTO?

KANTOR: It's up to China. We and others have made it very clear that China has obligations to meet the standards established under the Uruguay Round, including items such as national treatment, protection of intellectual property and market access and a number of other areas. We have worked very hard with the Chinese to be helpful in their attempted accession. There is a Chinese delegation in Washington now, as we are speaking, working with USTR personnel and attempting to address those issues. But as I say it's up to the Chinese; they are in control of their ability to change law procedures, regulations, or enforcement, in order to meet the relevant standards.

LUZZATTO: We should probably wind up.

Q: Could I just ask you one question about the high glucose corn syrup dispute with Mexico and just to know if you had any contact with your opposite number in Mexico on this.

KANTOR: Yes.

Q: Has it given you an assurance that no agreement exists between government and industry?

KANTOR: There has been a lot of discussion. We are not completely satisfied that there is not an agreement. I will see Jaime Serra Puche here, and that will be part of our discussion.

Q: You mean it's not an agreement, there is not...

KANTOR: We are not completely satisfied that there's not an agreement or understanding or some relationship there between ...

Q: When will you be seeing him?

KANTOR: It's on Wednesday at 10:30.

LUZZATTO: I have got the schedule.

KANTOR: I think it's Wednesday at 10:30. Please don't quote me on that. I think that's right.

LUZZATTO: We will be over at the OECD, so if you need anything, you can contact me there.

Q: I have just one more question, if nobody else has any. I take it the U.S. and Canada still have a disagreement over wheat. Has that been resolved?

KANTOR: The U.S.-Canada trade relationship is the largest trade relation between any two countries in the entire world. Generally it works not only smoothly but perfectly. In goods alone we are talking about 200 billion dollars a year. If only 3 to 5 percent of it is in dispute at any one time, that's 6 to 10 billion dollars. Therefore, any dispute, no matter how rare, looks like a major concern. We have had disputes in the past, like over beer, and we have resolved that. We have had other disputes that we have come to conclusions and resolved, and we will address these disputes as well. We have now concerns over wheat, over peanuts, over sugar, over dairy, over eggs, over poultry, over lumber, over provincial sales taxes; there are a number of things that we have concerns over that we are discussing. But we will work our way through it.

LUZZATTO: Thank you.

Summary of the
Testimony to the House Ways and Means Committee
Ambassador Michael Kantor
United States Trade Representative
June 10, 1994

INTRODUCTION

- Mr. Chairman, thank you very much. I appreciate the opportunity to be here today to discuss with you the Uruguay Round agreement and how it affects U.S. sovereignty.

- The broadest, most comprehensive trade agreement in history, the Uruguay Round builds a new -- and better -- foundation for the global trading system. It contains a major reduction or elimination of tariff and non-tariff barriers, and a new set of trading rules suitable for the global economy as we approach the 21st century.

- The Round is a good deal for U.S. workers and companies. It helps us to create jobs, foster economic growth, and forge a global trading system that is more free *and* fair.

- Make no mistake about it, this was a bipartisan effort. We were able to build on the work of our predecessors Presidents Reagan and Bush, and Trade Representatives Brock, Yeutter and Hills, and the steadfast, bipartisan support of members of Congress from both parties.

- The Uruguay Round both caps off and epitomizes the Post-World War II record of U.S. leadership and bipartisan cooperation toward the goal of more open markets and expanded trade, which has led to a half century of unprecedented global growth. We led the effort to complete the Round. Now, we must lead the effort to implement the Round and make it work to the benefit of all people. Failure to ratify the Uruguay Round would greatly undermine U.S. global leadership, and deny U.S. workers and businesses of major economic opportunities.

- In recent weeks, however, concerns have been expressed that the Uruguay Round agreement and the creation of the World Trade Organization (WTO), may infringe on U.S. sovereignty. This hearing today offers an excellent occasion to clear the air on this important and legitimate issue.

- The Clinton Administration believes strongly in the importance of vigilantly protecting and enhancing U.S. sovereignty. Raising questions about this issue is proper and helpful. We should be concerned with how trade agreements affect U.S. sovereingty.

the public.

- Recently, I have raised strong objections to the lack of due process provided in connection with the recent decision in the Tuna/Dolphin case. I have written Peter Sutherland, the Director-General of the GATT, and requested an open GATT Council meeting to conduct a full review of the procedural aspects of the proceedings and to permit non-governmental organizations to participate in this review.

- On this sovereignty question, I would urge you to study carefully the views of a range of thoughtful commentators.

- Professor John Jackson, author of the landmark treatise, *World Trade and The Law of the GATT*, testified to the Senate Finance Committee:

> It is doubtful that the WTO provides any additional institutional power to that effectively exercised by the GATT, and indeed, WTO clauses provide some additional checks and balances against misuse of authority. . . . A careful examination of the WTO Charter leads me to conclude that the WTO has no more real power than that which existed for the GATT under previous agreements...

- Joe Cobb, former Chief Economist for the Senate Republican Policy Committee and Minority Staff Director for the Joint Economic Committee of Congress, who now holds the John M. Olin chair at the Heritage Foundation, has written:

> The creation of the World Trade Organization as a permanent rulemaking assembly for nations eager to expand exports is an historic achievement...Without this uniform system of international trade law and the new rules in the Uruguay Round agreement, including the enforcement provisions, the U.S. would find it much harder to continue its economic progress into the 21st century.

- Judge Robert Bork, now at the American Enterprise Institute has written:

> The sovereignty issue, in particular, is merely a scarecrow. Under our constitutional system, no treaty or international agreement can bind the United States if it does not wish to be bound...Congress should be reluctant to renege on an agreement except in serious cases, but that is a matter of international comity and not a loss of sovereignty.

Specific Provisions in the WTO Agreement

Article IX: Decision-Making

- Article IX of the WTO Agreement requires the WTO to continue the practice of decision-making by consensus that is currently followed under the GATT. This provision is important as the first codification of a GATT practice.

- On **interpretations**, if the attempt to reach a decision by consensus on the interpretation of a provision of one of the agreements is unsuccessful, the interpretation can be adopted by a vote of three-fourths of all members (not merely those voting). (Article 9:2 of the WTO Agreement.) The current GATT requirement is a majority of those voting.

- On **waivers**, the WTO eliminates the possibility that nations could use this provision to escape from their obligations.

- For example, if an agreement includes a transition period or staged implementation and the Member requesting the waiver has not implemented the obligation, that waiver can be granted only on the basis of consensus. (Article 9:3 footnote 4 of the WTO.) Thus, a country must implement these provisions before it can seek a waiver. In other cases under the WTO, a waiver may be granted by a vote of three-fourths of all Members (Article 9:3 of the WTO). Again a higher threshold than in the GATT. (GATT Article 25:5.)

Article X: Amendments

- The United States must agree to substantive changes in our rights and obligations for those changes to apply to us. (Article 10:3) Key provisions, such as most-favored-nation obligations, amendment and decision-making rules can only be made when all WTO members agree to them. (WTO Article 10:2) Similarly, any changes to the DSU can be made only by consensus with no recourse to voting. (WTO Article 10:8.)

- While non-substantive changes in the agreement can be made based on a vote of two-thirds of the members, there must be a prior vote of three-fourths of the members that this change does not affect substantive rights and obligations. (Article 10:5).

DISPUTE SETTLEMENT PROCESS

- The Uruguay Round agreement creates an improved dispute settlement system that will significantly enhance our ability to enforce U.S. rights under that agreement. Improvements include stringent time limits on each stage of the process, improved transparency, a new right of appeal,

market such as ours.

- The Administration will use WTO dispute settlement in the many cases that we bring to enforce our rights under the Uruguay Round agreements. In other areas, we will continue to exercise our right to act unilaterally under section 301 and to choose whether to implement dispute settlement recommendations.

U.S. TRADE LAWS PRESERVED INTACT

- The Uruguay Round will not impair the effective enforcement of U.S. trade laws, especially Section 301 and our antidumping and countervailing duties laws. Our trade laws will continue to be our most important and effective response to dumping and subsidies that injure U.S. industries.

- As a result of the Uruguay Round agreements, Section 301 will be even more effective than it has been in past in addressing foreign unfair trade barriers. We have an improved dispute settlement system with tight time periods for action, panel reports that cannot be blocked by one party and the right of cross-sectoral retaliation. These changes correct deficiencies in the old system and mean that when we bring a successful challenge, we will have the leverage to insist that the offending government remedy its violations.

- Furthermore, the Uruguay Round agreements will substantially enhance the ability of the United States to use Section 301 successfully to pursue unfair foreign practices in the areas of trade in services and the protection of intellectual property rights. These areas will be subject to the disciplines of a multilateral trade agreement for the first time and the DSU permits "cross-retaliation." For example, when the United States successfully challenges a violation of the TRIPs Agreement, the defending government will know that unless the matter is resolved the United States can take equivalent counter-action under Section 301 against that country's exports of goods to the United States.

- Some countries have tried to claim that the WTO will restrict the ability of the United States to use Section 301. They base this claim on the requirement in the DSU that a country must have recourse to the its rules and procedures when its seeks to redress a violation of the WTO. There is, however, absolutely no basis for such a claim. Since 1979, Section 301 has contained the requirement that the Trade Representative resort to the dispute settlement provisions of the GATT if a Section 301 investigation involved a GATT agreement. Furthermore, the Trade

ability to create high wage jobs, is linked to our ability to open markets and expand trade. The Uruguay Round makes trade a two-way street, while fostering growth here at home, and around the world.

- From time to time, we will get into disputes with other countries. They will challenge our trade practices and we will challenge theirs. But that does not mean we lose our sovereignty. It does mean that we need a strong, effective and fair dispute settlement process.

- We must ask ourselves this question: Will we engage in the world, or will we withdraw behind walls of fear? Rejecting the Uruguay Round would end fifty years of the United States leading global growth through expanded trade, and deprive U.S. workers and companies of vast economic opportunities. Embracing the Round means the United States leads the world on a path of increased prosperity into the next century. And the nations that join the WTO -- especially the United States -- will reap the benefits of the global economy, without losing sovereignty. Thank you very much.

Testimony to the Senate Commerce Committee
Ambassador Michael Kantor
United States Trade Representative
June 16, 1994

THE BENEFITS OF THE URUGUAY ROUND

INTRODUCTION

Mr. Chairman, thank you very much. I appreciate the opportunity to be here today to discuss with you the Uruguay Round agreement and how it will benefit U.S. commerce.

Mr. Chairman, last December in Geneva, the United States took the lead in completing the Uruguay Round, bringing seven years of negotiations to a successful conclusion. On April 15th, 111 nations signed the agreement, paving the way for vitally needed global economic growth.

The broadest, most comprehensive trade agreement in history, the Uruguay Round builds a new -- and better -- foundation for the global trading system. It contains major reductions or elimination of tariff and non-tariff barriers, and a new set of trading rules suitable for the global economy as we approach the 21st century. These rules aid key sectors of our economy that are growing and becoming more important for U.S. competitiveness.
The Round will cut foreign tariffs on manufactured products by over one third, the largest reduction in history. The Round will 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.

In addition, the Uruguay Round agreement establishes rules of trade for key sectors of our economy that are growing and becoming more important for U.S. competitiveness. The intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software gain new protection against piracy in world markets. The Round also ensures open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction. Finally, at a time that U.S. exports to developing countries are becoming an increasingly important area of economic opportunity, the Round ensures that developing countries live by the same trade rules as developed countries and that there will be no free riders.

This agreement helps our largest exporters, like aerospace and computer companies, and benefits our fastest growing exporters, like chemical products and electronics. And it helps small businesses by reducing paperwork, simplifying or eliminating import licensing requirements, and harmonizing customs procedures.

The Uruguay Round plays to our strengths as the world's largest trading country, exporter and most productive economy. It opens foreign markets to an unprecedented degree at precisely the time when our companies and workers have honed their competitive edge. It will create thousands of additional high-wage, high-skill jobs for U.S. workers in the coming decade. For these reasons, the Uruguay Round agreement has received broad support from the U.S. private sector.

President Clinton is gratified that this Administration had the opportunity to help conclude this historic agreement, but make no mistake about it, this was a bipartisan effort. We were able to build on the work of our predecessors Presidents Reagan and Bush, and Trade Representatives Brock, Yeutter and Hills, and the steadfast, bipartisan support of members of Congress from both parties.

Indeed, the Uruguay Round both caps off and epitomizes the Post-World War II record of U.S. leadership and bipartisan cooperation toward the goal of more open markets and expanded trade, which has led to a half century of unprecedented global growth.

The United States led the effort to complete the Round. Now, we must lead the effort to implement the Round and make it work to the benefit of all people. Failure to ratify the Uruguay Round promptly would greatly undermine U.S. global leadership, and deny U.S. workers and businesses of major economic opportunities.

Careful consideration of the Agreement, the history of practice in the multilateral trading system, and our overall economic interests lead to the conclusion that acceptance of this Agreement is in the interest of the United States.

It is critical to global and U.S. economic growth that we move ahead to implement the results of the Uruguay Round. The Clinton Administration intends to introduce the legislation to implement the Uruguay Round, work with the Congress and muster bipartisan support to see the Round implemented this year. The Uruguay Round agreement is scheduled to enter into force on January 1, 1995; as global leaders the United States has the responsibility to approve this agreement on time. The Uruguay Round agreement is ambitious and far-reaching, and consequently the implementing legislation will also be a major undertaking. I appreciate very much the work that the members of this body along with their staffs already have done in drafting the legislation that will implement the Round. I, along with others in this Administration, am committed to reviewing the legislation in as much depth as members want. For that reason, I will now spend a few minutes describing some of the ways in which the Uruguay Round agreements will benefit U.S. workers, producers and consumers.

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:

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

-- 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, and Furniture;

-- Deep cuts ranging from 50 to 100 percent on important electronics items (semiconductors, computer parts, semiconductor manufacturing equipment) and on scientific equipment by major U.S. trading partners;

-- Harmonization of tariffs by developed and major developing countries in the chemical sector at very low rates (0, 5.5 and 6.5 percent); and

-- Vastly increased scope of tariff 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, in sensitive sectors for the United States, will be phased-in over a period of up to ten years.

AGRICULTURE

The Uruguay Round agreement on agriculture strengthens long-term rules for agricultural trade and assures the reduction of 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 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 already has 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.

SANITARY AND PHYTOSANITARY MEASURES (INCLUDING FOOD SAFETY STANDARDS)

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 for in paragraph 7 of Article 5." Paragraph 7 of Article 5 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 no "downward harmonization" of S&P measures is required under the agreement, the U.S. obtained an explanatory footnote to paragraph 3 of Article 3, 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.

Furthermore, we believe that U.S. sanitary and phytosanitary measures are not more trade-restrictive than required, taking into account technical and economic feasibility. The U.S. does not seek through its sanitary and phytosanitary measures to provide extra trade

protection.

TECHNICAL BARRIERS TO TRADE

The Agreement on Technical Barriers to Trade (TBT) improves the rules regarding 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 requires the use by governments of international standards, when these are effective and appropriate. At the same time it provides that the general obligation to use international standards will not result in downward harmonization.

TEXTILES AND CLOTHING

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

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-out 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 percent. 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 phase-out until they become members of the WTO.

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.

Among the most important aspects of the new Agreement are:

- Addition of an explicit standard of review that will make it more difficult for dispute settlement panels to second-guess U.S. antidumping determinations;

- Removal of the anti-circumvention provision which would have weakened existing U.S. anti-circumvention law;

- Modification of a rigid sunset provision that would have required near-automatic termination of antidumping orders after five years;

- Addition of express authorization for the ITC's practice of "cumulating" imports from different countries in determining injury to a domestic industry;

- 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.

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-cost 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) subsidies which are actionable if they cause adverse trade effects; and (3) 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. Government assistance to meet environmental requirements is non-actionable to the extent that it is limited to a one-time measure equivalent to not more than 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 development or production support provided by other countries is not protected. 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 all WTO members decide to continue them in current or modified form. In other words, we have a veto. If we are dissatisfied with how the non-actionable provisions have been applied, we will not agree to their continuation.

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 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:

- protecting computer programs as literary works and databases as compilations;
- granting owners of computer programs and sound recordings the right to authorize or

prohibit the rental of their products;

- 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

- 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:

- product and process patents for virtually all types of inventions, including pharmaceuticals and agricultural chemicals;

- meaningful limitations on the ability to impose compulsory licensing, particularly on semiconductor technology; and

- a patent term of 20 years from the date the application is filed.

As for **trademarks**, the Agreement:

- requires trademark protection for service marks;

- enhances protection for internationally well-known marks;

- prohibits the mandatory linking of trademarks; and

- 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.

SOVEREIGNTY

In recent weeks some have expressed concern that the Uruguay Round agreement and the creation of the World Trade Organization (WTO), may infringe on U.S. sovereignty. I would like to take a few moments to clear the air on this important and legitimate issue.

Mr. Chairman, the Clinton Administration believes strongly in the importance of vigilantly protecting and enhancing U.S. sovereignty. Raising questions about this issue is proper and helpful. We should be concerned with how trade agreements affect U.S. sovereignty.

However, it is the conclusion of the Clinton Administration that the Uruguay Round agreement and the WTO do not infringe on U.S. sovereignty. Numerous trade experts and other thoughtful commentators from all points on the political spectrum have agreed. In fact, by creating jobs and fostering economic growth in this country, the Uruguay Round strengthens our competitiveness, and ***enhances*** U.S. sovereignty.

- The WTO does not affect the sovereignty of the U.S. to pass its own laws, to enforce existing laws, or to set its own environmental or health standards. Only the U.S. Congress has the authority to change U.S. law.

- The U.S. will benefit from the new dispute settlement procedures, which will prevent countries from blocking adverse panel reports. As the world's leading exporter, we need an effective remedy against foreign unfair trade barriers. The new dispute settlement system is precisely what Congress instructed U.S. negotiators to obtain.

- The WTO will continue the GATT tradition of operating by consensus. The substantive provisions of the WTO can be amended only by consensus. No change in the substantive rights and obligations of the U.S. can occur unless the U.S. agrees to accept it.

- The U.S. will continue to be able to use Section 301, antidumping and countervailing duty laws to address unfair trade practices and enforce our rights. The Administration is committed to continue to open markets for U.S. goods and services abroad.

U.S. TRADE LAWS PRESERVED INTACT

The Uruguay Round will not impair the effective enforcement of U.S. trade laws, especially Section 301 and our antidumping and countervailing duties laws. In particular, our trade laws will continue to be our most important and effective response to dumping and subsidies that injure U.S. industries.

As a result of the Uruguay Round agreements, Section 301 will be even more effective than it has been in past in addressing foreign unfair trade barriers. We have an improved dispute settlement system with tight time periods for action, panel reports that cannot be blocked by one party and the right of cross-sectoral retaliation. These changes correct deficiencies in the old system and mean that when we bring a successful challenge, we will have the leverage to

insist that the offending government remedy its violations.

Furthermore, the Uruguay Round agreements will substantially enhance the ability of the United States to use Section 301 successfully to pursue unfair foreign practices in the areas of trade in services and the protection of intellectual property rights. These areas will be subject to the disciplines of a multilateral trade agreement for the first time and the DSU permits "cross-retaliation." For example, when the United States successfully challenges a violation of the TRIPs Agreement, the defending government will know that unless the matter is resolved the United States can take equivalent counter-action under Section 301 against that country's exports of goods to the United States.

Some countries have even tried to claim that the WTO will restrict the ability of the United States to use Section 301 because it requires a member to abide by the DSU rules and procedures when it seeks to redress a violation of the WTO. There is however absolutely no basis for such a claim. Since 1979 Section 301 has required the Trade Representative to resort to the dispute settlement provisions of the GATT if a section 301 investigation involved a GATT agreement. The DSU will therefore make no changes in the way the United States conducts Section 301 investigations.

Section 301 will also remain fully available to address unfair practices that are not covered by the WTO or GATT or that are committed by non-WTO members. As in the past, such investigations will not involve recourse to multilateral dispute settlement procedures. Moreover, the mere fact that the Uruguay Round agreements treat a particular subject matter -- such as intellectual property rights -- does not mean that the Trade Representative must initiate DSU proceedings in every Section 301 investigation involving that subject matter. In the event that the actions of the foreign government in question fall outside the disciplines of those agreements, the Section 301 investigation would proceed without recourse to DSU procedures.

There is no basis for concern that the Uruguay Round agreements in general, or the DSU in particular, will make future Administrations more reluctant to apply Section 301 sanctions that may be inconsistent with U.S. trade obligations because such sanctions could engender DSU-authorized counter-retaliation. Just as the United States may now choose to take Section 301 actions that are not GATT-authorized, governments that are the subject of such actions may choose to respond in kind. That situation will not change under the Uruguay Round agreements. The risk of counter-retaliation under the GATT has not prevented the United States from taking unauthorized actions in connection with such matters as semiconductors, pharmaceutical, beer, and hormone-treated beef.

CONCLUSION

We live in an interdependent world with a globalized economy. Trade now represents over a quarter of our economy. In 1992, over 7 million workers in the U.S. owed their jobs to merchandise exports, and an additional 3.5 million owed their jobs to exports of services. On average, every billion dollars of merchandise trade exports results in 16-17 thousand new jobs here at home; jobs that pay, on average, 17 percent higher than the U.S. average wage.

As a mature economy, our future growth, and our ability to create high wage jobs, is linked to our ability to open markets and expand trade. We must continue to reduce trade barriers in our historic trading partners such as Europe and Japan, and we must open markets and expand trade in dynamic emerging economies in Asia and Latin America. The Uruguay Round creates a foundation for doing that. It makes trade a two-way street, while fostering growth here at home, and around the world.

From time to time, we will get into disputes with other countries. They will challenge our trade practices and we will challenge theirs. But that does not mean we lose our sovereignty. It does mean that we need a strong, effective and fair dispute settlement process.

We must ask ourselves this question: Will we engage in the world, or will we withdraw behind walls of fear? Rejecting the Uruguay Round would end fifty years of the United States leading global growth through expanded trade, and deprive U.S. workers and companies of vast economic opportunities. Embracing the Round means the United States leads the world on a path of increased prosperity into the next century. And the nations that join the WTO -- especially the United States -- will reap the benefits of the global economy, without losing sovereignty. Thank you very much.

Statement to the House Ways and Means Committee
Ambassador Michael Kantor
July 14, 1994

THE IMPORTANCE OF THE URUGUAY ROUND

Mr. Chairman, it is a pleasure to appear before you today. I appreciate the hard work you, your staff and the other members of this committee have done in the last several weeks to prepare the implementing legislation for the Uruguay Round agreement. All of the members of this committee, along with your staffs, have worked with myself and the staff at USTR with grace, good humor and an extraordinary level of bipartisan cooperation on this issue. We appreciate it very much and look forward to working with you in the next few weeks.

The Fast Track process reflects the great tradition of the balance of powers in our Constitution. International commerce is within the province of the Congress, while foreign affairs are within the province of the Executive Branch. The Fast Track process ensures that we maintain that balance.

It ensures that the Executive Branch is held accountable for its actions in trade by the Congress, and that the two branches work together with the kind of bipartisan cooperation we have experienced with this Committee in the last few weeks.

We should all be pleased with the progress we have made so far in the Subcommittee on Trade drafting the legislation and identifying and resolving problem areas. Now it is time to move into the full committee to resolve the remaining issues, and complete the drafting as we look forward to introducing the legislation and voting on it later this year.

I am aware of the other important items before this committee, particularly health care. That is a difficult schedule to complete, and makes me all the more grateful for the hard work that has been accomplished so far. But we must work together and move forward.

It is our responsibility as the world's largest economy, and largest trading nation, to implement the Round as quickly as possible. Whenever I speak to one of my counterparts in another country, the first question I am asked is, "When will the United States implement the Round?" The whole world is waiting to follow our lead.

The United States led the Uruguay Round effort from the start. It was begun by President Reagan, negotiated by President Bush, and completed by President Clinton. Failure to implement the Round on

time would greatly diminish U.S. global leadership and affect the global economy. At the same time, the Administration is asking for Fast Track authority so that we can continue the momentum of Uruguay Round and open new markets around the globe.

In the aftermath of World War II, the United States led the world on a path of increased interdependence and trade expansion. We made a decision to engage in the world, and not withdraw as we did after World War I or repeat the disastrous mistake of the Smoot-Hawley Act. We led in the creation of international institutions that fostered growth and stability and met the challenges of those times. Institutions such as the GATT lowered trade barriers and wrote rules that led to increased trade and interdependence. A half century of global prosperity is the legacy of our leadership during the post World War II reconstruction, and during the Cold War.

Senator Moynihan, in a very eloquent speech on the floor of the Senate on Tuesday, described the Round "as the culmination of sixty years of American trade policy pursued with remarkable consistency and bipartisanship from the time of President Roosevelt."

Now, in the post-Cold War era, at a time of tremendous changes in the world, the need to continue our global economic leadership is greater then ever. This is no time to stand on the sidelines and watch the global economy pass us by, and U.S. standards of living decline. Like our predecessors did after World War II, we must create the institutions that will help us meet the challenges of our time.

The Uruguay Round is not a favor we are doing for the world. It is in our economic interest. It will foster growth in this country and help us to create jobs. This is not an abstract or theoretical debate. It affects the over 7 million U.S. workers who owe their jobs to merchandise exports or the 3.5 million who owe their jobs to service exports. It affects the thousands of businesses that are competing and winning in the global economy.

We are the most productive and competitive nation in the world. From tractors to software, U.S. products are prized around the globe. In the last decade, businesses around the country have regained their competitive edge, and we are poised for a period of success in the global economy.

Five years ago, Chrysler was in desperate financial straits; today Chrysler exports Jeeps to Japan, and minivans to Mexico.

Not just big firms will benefit from the Round. K.D. Dids, a small minority-owned South Bronx manufacturer of specialized clothing for dancers, has seen its exports sales grow to over 25 percent of it's total sales. Its largest orders now come from

Germany, Japan and the Netherlands and its exports sales have helped its employment grow from 20 to almost 40 people in the last two years. Lower tariffs will help these sales grow even faster.

A recent article in *Business Week* described the great economic rebound in the Midwest. Allen-Bradley Co., a 91-year-old manufacturing company based in Milwaukee has built several new assembly lines for solid-state circuit boards. Sales are now growing at a 43 percent compounded rate and 30 percent of Allen-Bradley's sales are overseas, compared with 5 percent in the mid-1980s. Another company, Health-Mor Inc, in Cleveland makes high-priced vacuum cleaners and sells in 42 countries.

As we join these businesses in meeting the challenges of this new era, three principles will help guide us.

The first principle is that our economic security and our national security are now inextricably linked.

In an increasingly interdependent world, we will engage other countries through trade, increased investment and finance. We need a global trading system that ensures all countries are playing by the same rule book.

As a result of efforts to reform their economies and embrace democracy, nations around the globe are exploding with growth. It is in the national interest of the United States to bring these nations into the global trading system, and ensure they play by the rules.

The global economy we helped create needs our full participation to continue fostering growth; and we need the international economy to help us create jobs and forge a prosperous and stable world.

The second principle is even in a global economy, our nation's economic strength begins at home.

Opening markets and expanding trade is a critical part of a sound economic policy, which includes reforming education worker retraining, fighting crime and changing welfare, investing in infrastructure and technology, and insisting that every American has private health care coverage which can never be taken away.

The third principle is that the global trading system includes opportunities and responsibilities for all nations.

The global economy presents tremendous opportunities but trade must be a two-way street.

The United States emerged from World War II with our industrial and technological base intact, and those of our advanced nations in ruins. Consequently, we dominated the world economy as no nation will ever dominate it again. Fully 40% of the world's GDP came from the United States.

We could afford to help rebuild the economies of Europe and Japan; it was in our interest as well as theirs for us to do so; history has validated the wisdom of that policy.

We could also afford to enter into the international trading system, and open our market to the products of the world, without obtaining comparable commitments from others.

But now, Europe and Japan are economic powerhouses as well. Countries in Latin America and Asia are exploding with growth. With a global economy which offers tremendous opportunities, trade must be a two way street. The same rules must apply to everyone and we all must accept certain obligations.

For the United States, our foremost responsibility is to implement the Round and lay the groundwork for future trade agreements.

The importance of the Uruguay Round is made clear by four points which reflect these three principles.

First, opening markets and expanding trade are critical to our economy.

Increased trade is essential to our ability to raise standards of living here and create high wage jobs. Once our economy was self-contained. Now we are increasingly interdependent with the global economy. In 1970, the value of trade equaled 14 percent of our GDP. By 1993, that number had doubled. A conservative estimate puts that figure at 36 percent in 2010. With trade an increasingly important part of the U.S. economy, the Uruguay Round is the right agreement at the right time for the United States.

Every billion dollars of merchandise trade exports results in 16-17 thousand new jobs here at home -- with higher than average wages. A vast array of workers rely on exports for their livelihoods -- and need the Uruguay Round.

Any number of examples could be cited to drive home my point -- but let me try this one. This Whitney Houston CD, the soundtrack of "The Bodyguard", has sold 28 million copies in markets around the world. Recorded music is a $31 billion dollar industry -- not counting all the ancillary industries it 'multiplies' through. Last year, industry sales in the United States topped $10 billion, and sales in the rest of the world reached over $21 billion.

Over 60% of that $21 billion in industry foreign sales was of product made by Americans. This Whitney Houston CD was made in a plant in Huntsville, Alabama where hundreds of workers guided it from a single, studio recording to the product bought by 28 million consumers the world over. The factory in Huntsville includes sales and marketing employees, customer service reps, sound engineers working with technical specs and laser equipment, technicians operating machines that mold and punch the discs, technicians operating machines that apply polycarbonate linings, disc colorists, paint mixers and silkscreeners, graphic artists who make the insert cards, packers who put the discs into their plastic cases, boxers, loading dock operators, production coordinators, back office personnel. And I haven't even touched on the pre-production and post-production stages in which U.S. workers -- our musicians, writers, mixers, studio producers, technical advisors, wholesale and retail sales clerks, to name a few, made their contribution. These are real people, and real jobs.

As a mature economy, the United States must open new markets to foster growth. We have four percent of the world's population: future economic opportunities will occur in countries with the other 96 percent.

The Uruguay Round contains the largest tariff reduction in history. As the Department of Treasury reported, this amounts to a $750 billion global tax cut.

Tariff cuts across the board average 40 percent. In several sectors in which the U.S. is highly competitive, they are higher. Pharmaceutical tariffs go to zero with the "Quad" countries -- Canada, Japan, and the European Union. The global average reduction is 70 percent.

U.S exports of construction machinery reached about $4.3 billion in 1993. Tariff reductions will average 83 percent in this critical sector and go to zero in major export markets.

Exports of medical equipment, which totaled $8.1 billion in 1993 will benefit from an average 70 percent cut, and zero tariffs in major export markets.

The United States already has among the lowest tariffs in the world. Now we are ensuring that U.S. workers and businesses compete on a level playing field.

The Uruguay Round agreement establishes rules of trade for key sectors of our economy that are growing and becoming more important for U.S. competitiveness. The intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software gain new protection from piracy in world markets. These rules are critical because knowledge-based

industries are the industries where we can expect future high-wage/high-skill jobs. Those workers in Huntsville that help produce the Whitney Houston CD need strong rules to protect the production of those records.

As an example of what can happen if we don't have rules to protect intellectual property, I have here a number of bootlegged and pirated CDs. These are unauthorized recordings that have been turned into CDs. These CDs I hold here include recordings of Crosby, Stills, Nash and Young from Hungary; the Eagles from France, Bruce Springsteen from Italy, the Band from Italy, and the Beach Boys from Italy. The artists are not receiving any royalties and U.S. workers, in Huntsville or elsewhere, are denied economic opportunities. The Uruguay Round will help stop the recording, reproduction and distribution of these CDs. This is what is at stake with the Uruguay Round.

The Round reforms rules of trade in agriculture, benefiting U.S. farmers. The Department of Agriculture estimates agricultural income could be $8.6 billion greater in 2005 with the Uruguay Round.

It ensures open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction. Finally, at a time that U.S. exports to developing countries are becoming an increasingly important area of economic opportunity, the Round ensures that developing countries live by the same trade rules as developed countries and that there will be no free riders.

The benefits will be felt across the board from our largest exporters, like aerospace and computer companies, to our fastest growing exporters, like chemical products and electronics. And it helps small businesses by reducing paperwork, simplifying or eliminating import licensing requirements, and harmonizing customs procedures.

The benefits of the Round will be felt both through higher standards of living and the creation of millions of additional high-wage, high-skill jobs for U.S. workers in the coming decade. 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.

Critics of the Round have made numerous charges about it. Contrary to their claims, the WTO does not adversely affect the sovereignty of the U.S. to pass its own laws, to enforce existing laws, or to set its own environmental or health standards. Only the U.S. Congress has the authority to change U.S. law.

The Uruguay Round agreement will *not* require the United States to adopt lower international food safety standards; *will* permit the

United States to continue to reject food imports that the United States considers to be unsafe; and will permit states to maintain stricter food safety standards than the federal government.

New standards, sanitary and phytosanitary agreements protect the flow of trade against abusive rules and also clearly protect the right of countries, including state and local governments to set their own non-discriminatory levels of protection of health and environment. Downward harmonization is not acceptable under this agreement.

The fact is, with the economic growth that will stem from increased trade, with a strengthened dispute settlement process, and with written assurance of decision making by consensus, the Uruguay Round enhances U.S. sovereignty.

Second, economies are now globalized.

Businesses start up using capital from New York, London and Bonn. They create a product with parts from Seoul, Buenos Aires and Detroit. They insure, market, and advertise with firms based in Paris or Los Angeles. They try to sell their products around the globe and they compete against other firms doing the same thing.

This global economy will not disappear. We must harness these forces to the benefit of all Americans. We must ensure American workers are competing on a level playing field. The Uruguay Round creates a set of rules that allows them to do so.

Third, the economic growth that results from the Round will spread around the globe.

Middle classes will grow around the globe, with new purchasing power to buy U.S. goods. This will happen most strikingly in those countries that have begun to reform their economies and embrace democracy.

As they have loosened the internal controls on their economies and joined the global trading system, these nations are exploding with growth -- and trade with the United States.

The Asia Pacific region has the fastest growth in the world. East Asia is the number one export market for U.S. products. U.S. trans-Pacific trade was 50 percent more than our trans-Atlantic trade in 1992.

Latin America is the second fastest growing economic region. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market.

disciplines is the bedrock of the GATT/WTO system. In proceeding with China's accession, the viability and vitality of the multilateral trading regime must take precedence and China must be held to the same rigorous standard that all new applicants to the GATT/WTO will be held. By the same token, as is the case with other applicants, we are prepared to demonstrate the appropriate flexibility.

China has set an ambitious deadline for completing the accession process. China has stated that it wants to be an original member of the WTO. The pace of accession depends, in large part, on China and the commitments that it is willing to undertake as an important member of the multilateral trading system. We are not interested in setting artificial deadlines, we just want to get it right. And, we intend to work intensively with China to do just that.

The United States — and certainly other contracting parties — have concerns about China's commitment to some basic GATT obligations. Contracting party concerns include full transparency of laws and regulations — as well as uniform application of these laws and regulations in the provinces — national treatment, granting foreign firms trading rights and assuring that foreign exchange is not used as a trade barrier. China must commit to the progressive liberalization of its services markets, submit a schedule on agriculture, and protect intellectual property rights.

If China accedes to the GATT/WTO on anything less than solid commercial terms, or without firm commitments to take further reform measures, not only will the United States be hurt, but our partners will be economically disadvantaged. Nor will our goal of seeing China better integrated into the world trade system be achieved. Therefore, in addressing China's protocol, we intend to identify each issue that needs to be addressed, and work to achieve realistic, pragmatic solutions.

Conclusion

In conclusion, while the Administration opposes HR 4590, it is strongly supportive of — and has put forward a solid agenda for — the improvement of human rights in China.

As for trade, the Administration proposes to move forward in our efforts to establish a mutually beneficial, reciprocal trade relationship. We have an historic opportunity to expand our trade relations with China and to help create hundreds of thousands of high wage jobs here in the United States through increased exports. We have a great stake, not only from a global, strategic perspective, but also from a domestic perspective, in opening China's markets and ensuring that China plays by the rules. We will make every effort to see that this happens.

These trends will continue. These two areas, along with other economies in transition will experience the fastest growth in the world in the next decade. U.S. exports to Asia, excluding Japan are expected to reach $248 billion by 2010. In Latin America, the figure is $232 billion. These so-called "big emerging markets" will experience a $971 billion increase in imports by 2010.

These nations are poised for rapid growth at a time that the Uruguay Round opens their markets and binds them to international trading rules.

Fourth, the Uruguay Round levels the playing field.

I often speak of "single undertaking," the great accomplishment of the Round. The Uruguay Round brings all nations into the global trading system, with the full set of rights and obligations that entails. Before the Uruguay Round, between 27 to 45 countries were signatories to the five codes relating to various barriers in the GATT. With the Uruguay Round, 123 countries are signatories for all five codes.

We have bound the developing countries, these very same countries where potential growth is so great, into the global trading system. That eliminates the "free rider" problem which existed in the GATT. The Uruguay Round substantially reduces non-tariff barriers and binds them to international trade rules for the first time. The Round brings them into the global trading system and creates a foundation on which to increase trade with these countries.

Increased trade with these countries also supports transitions to democracy and social progress.

Mr. Chairman, we face tough issues ahead, and many hours of hard work resolving those concerns. Perhaps the toughest problem involves establishing new Fast Track authority. We are requesting this authority because we need to maintain the momentum of the Uruguay Round and continue U.S. leadership in establishing an interdependent, prosperous and stable world.

I understand that our proposed negotiating objectives on the environment and workers rights have caused concern. Some believe that these objectives go too far; others say that they are too modest. We believe that these are important issues which must be addressed as the trading system develops, and that together we can build a broad-based consensus on how to approach them. But we should not lose sight of what is at stake in this discussion of fast track negotiating authority.

We are asking for this authority not only for ourselves, but for future administrations. This Administration picked up the Uruguay Round negotiations which were begun by others, and future

Administrations may do the same for negotiations begun by this one. It is imperative, therefore, that we gain the authority to negotiate, and continue the Fast Track process which has worked so well in the past. We must work together, consult with each other and hold each other accountable as we continue to exert U.S. leadership in the global economy.

The potential for economic opportunities through trade with the new emerging economies, as well as our historic trading partners in Europe and Japan, are tremendous. The combination of rapid economic growth, population and labor force growth, and the unleashing of their economic potential with the transition to democracy and market economies will result in enormous opportunities for U.S. workers and companies.

The Uruguay Round lays the groundwork for increased trade through the agreement itself, and eventual bilateral and regional arrangements. All of us here today are building a foundation for prosperity for others in years to come.

I am confident that, together, we can successfully prepare the implementing legislation for the Round, establish a sensible Fast Track authority and face the tough challenge of fostering growth, creating jobs, and building a prosperous 21st century.

Chart 1
Developing Countries Will See the Fastest Growth (1992-2000) in Their Labor Forces and in Their Populations --This Means More Consumers

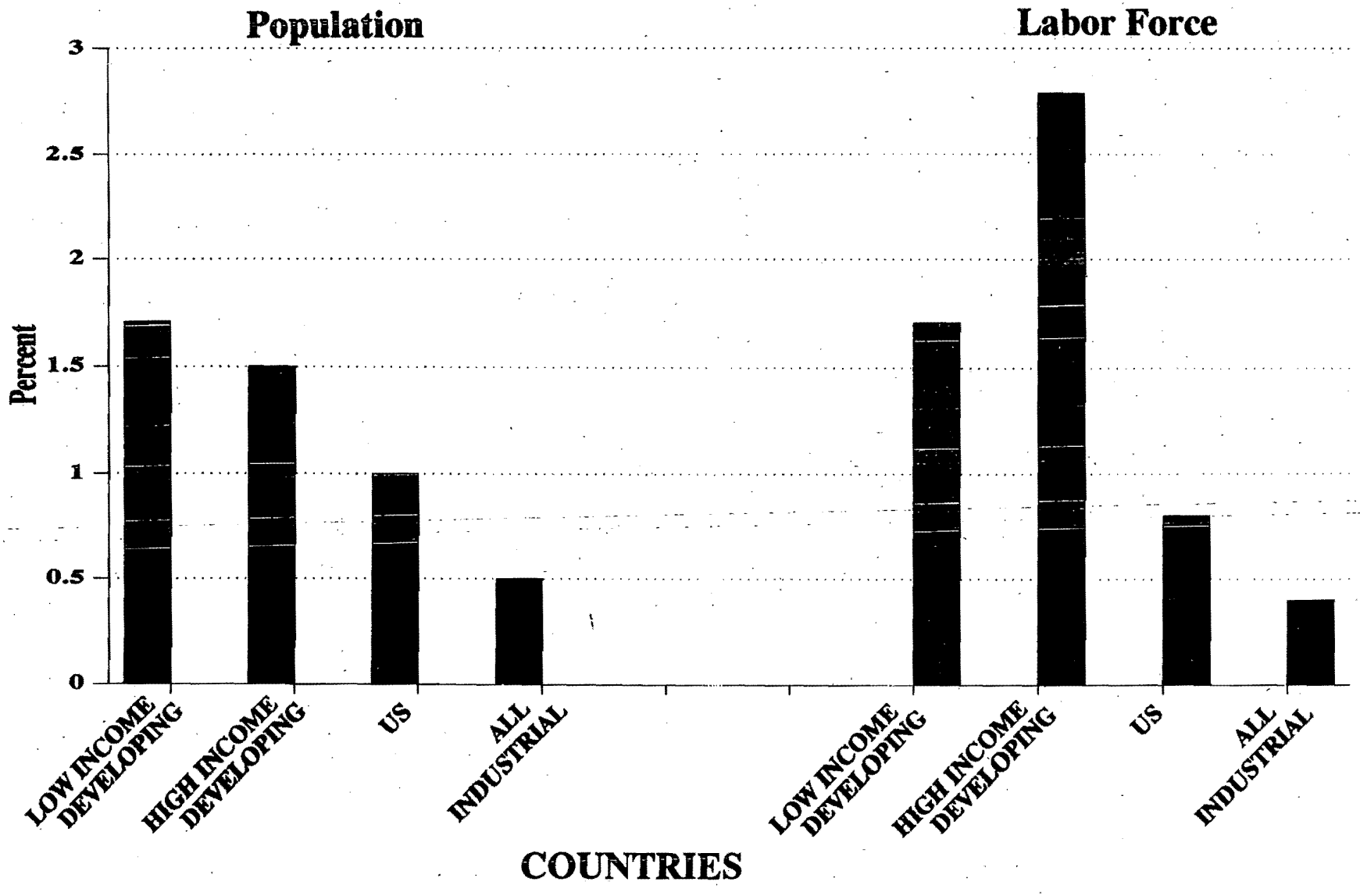
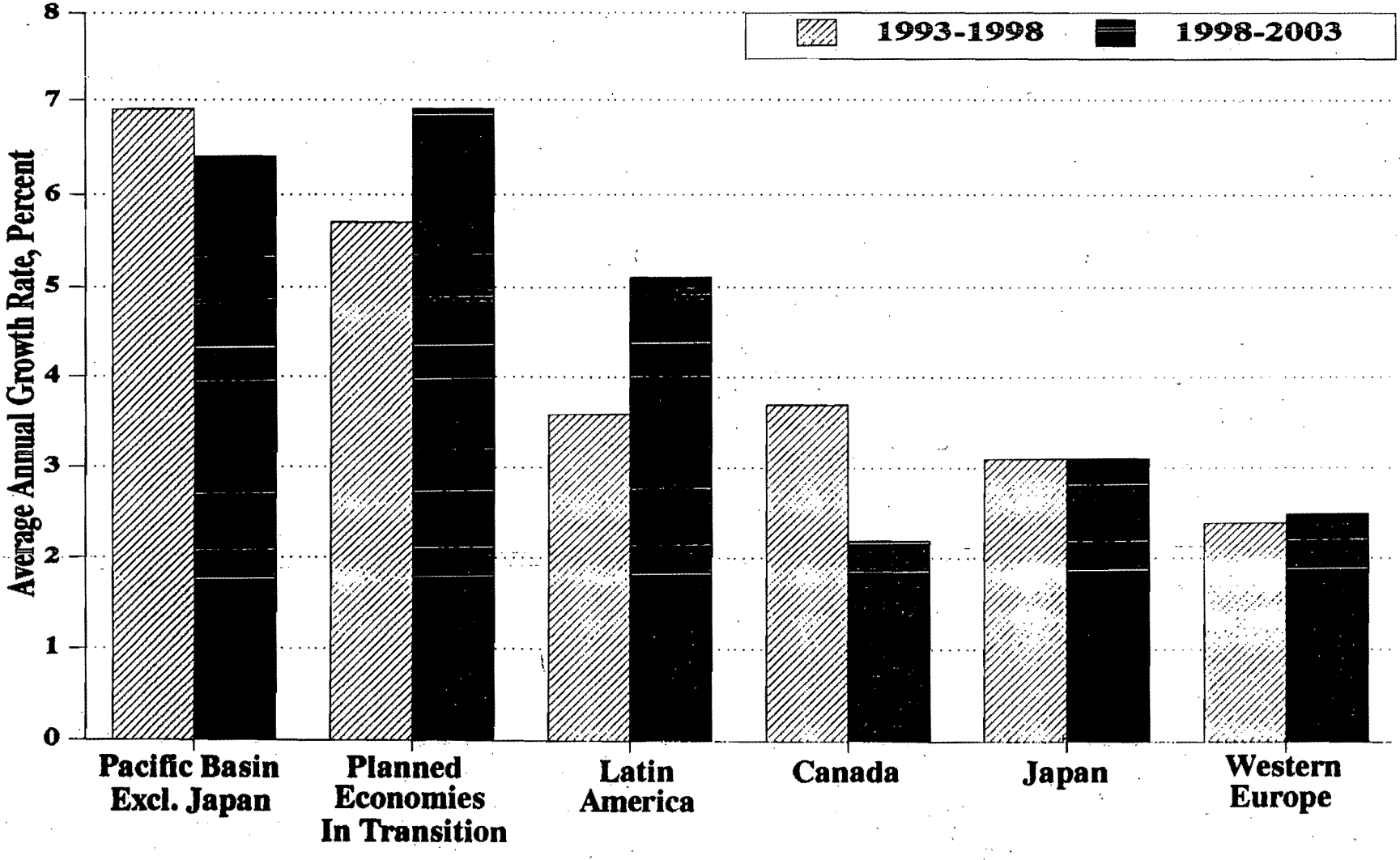


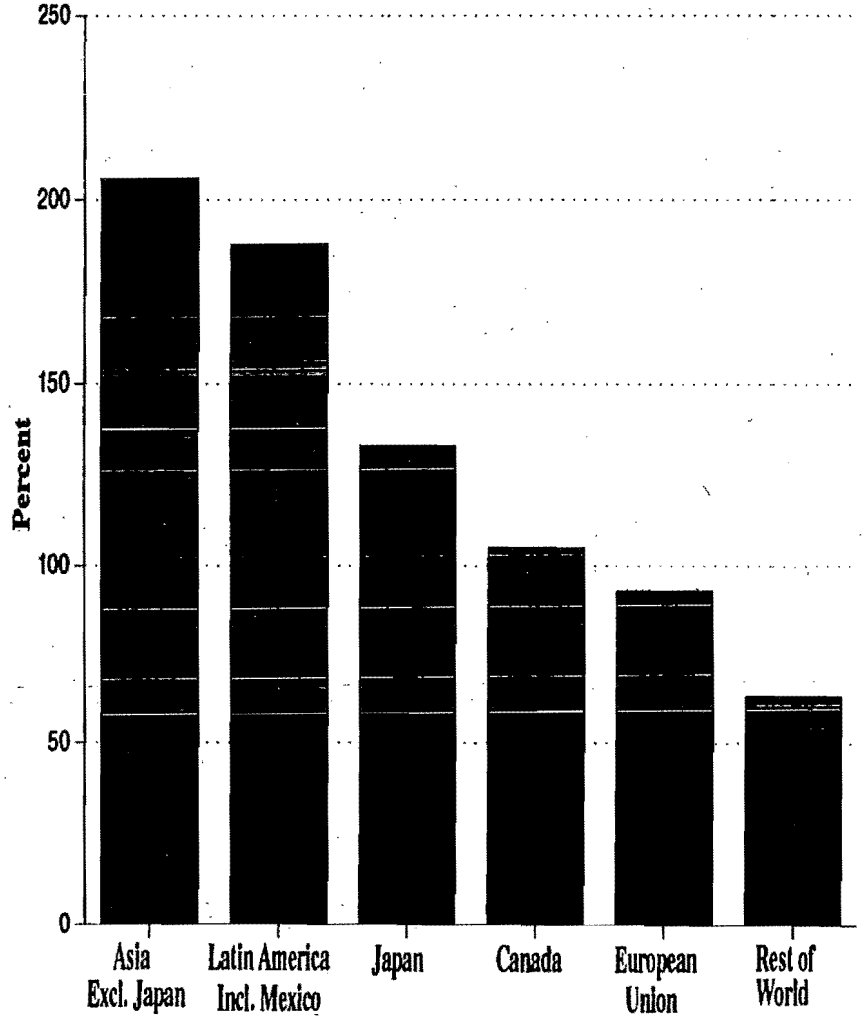
CHART 2
ASIA, LATIN AMERICA, AND FORMER COMMUNIST COUNTRIES WILL LEAD GDP GROWTH



Source: DRI/McGraw Hill estimates.

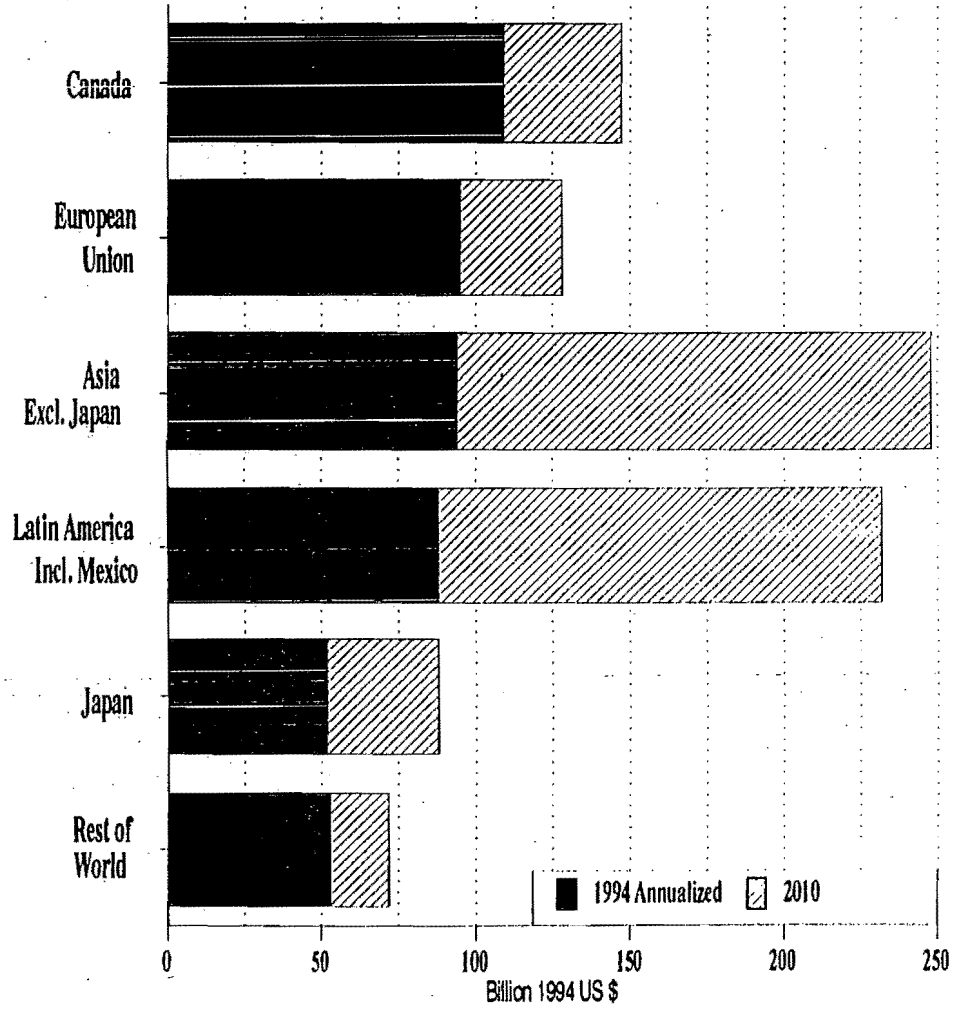
CHART 3
ASIAN AND LATIN AMERICAN COUNTRIES ARE THE FASTEST GROWING CONSUMERS OF US PRODUCTS

US MERCHANDISE EXPORT GROWTH: 1985-1994



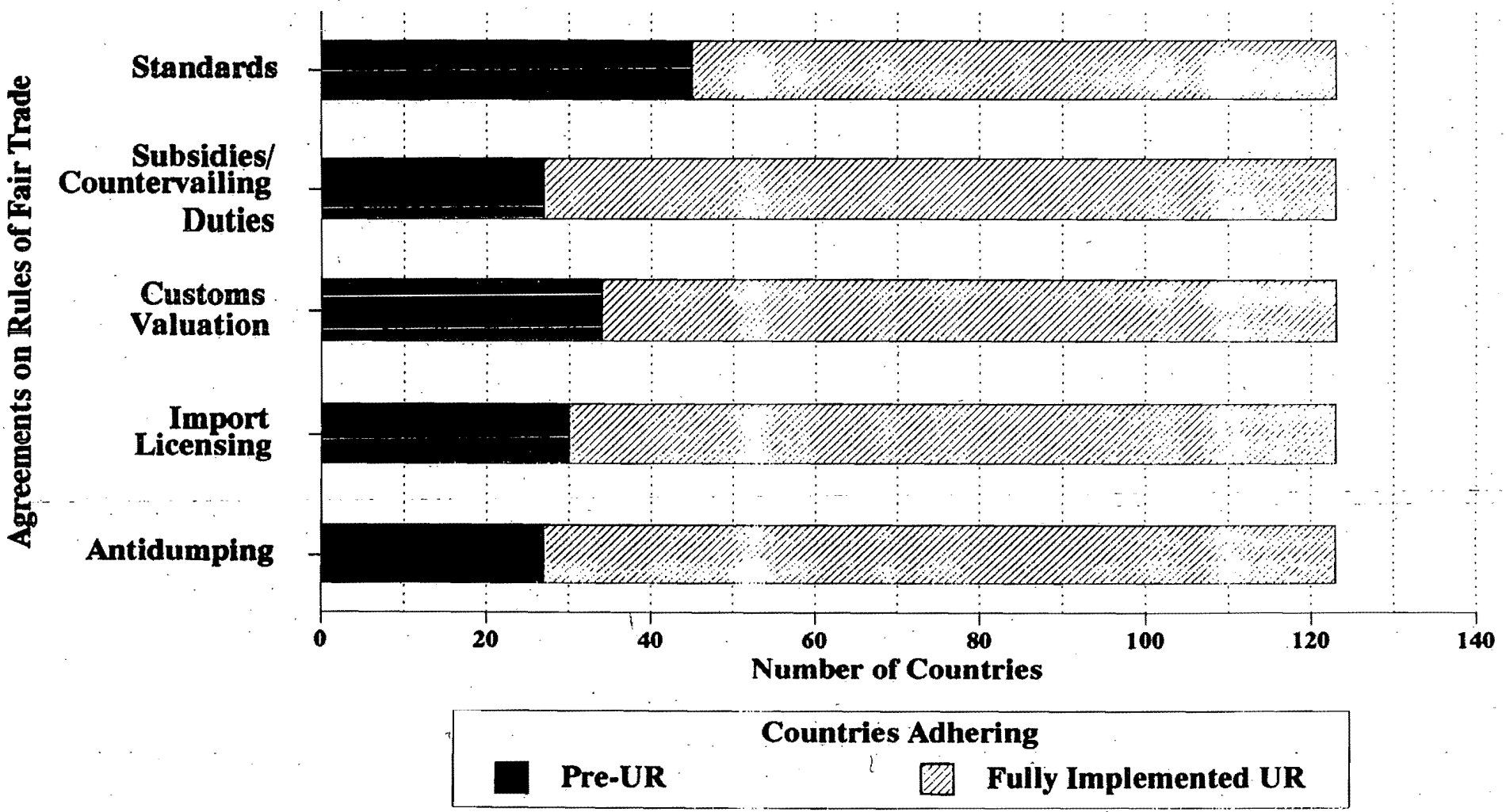
*Based on US Government estimates of growth in foreign export markets and the assumption that US share of those markets remains constant.

CURRENT AND PROJECTED* EXPORTS[O]



[O]Merchandise exports are estimated to be $491 billion in 1994. They are projected to rise to $915 billion in 2010 in constant 1994 dollars and $1,133 billion in current dollars, based on historic trends in export price inflation.

CHART 4
FOR THE FIRST TIME, URUGUAY ROUND MEMBERS HAVE TO PLAY BY THE SAME BASIC RULES OF FAIRNESS IN TRADE*



*Uruguay Round binds all GATT/WTO countries to major codes on non-tariff barriers for the first time.

Statement
Ambassador Michael Kantor
National Governors' Association Meeting
July 18, 1994

I am pleased to appear here today with these Governors in support of the Uruguay Round. The support of the National Governors' Association was critical to the successful passage of the North American Free Trade Agreement and I look forward to working with them and Congress to pass the Uruguay Round implementing legislation.

Governors are strong voices for open markets because they are on the front lines of the effort to create jobs and foster growth. They interact with businesses and workers daily whose success depends on our ability to have effective trade agreements, which create new markets and level the playing field. These Governors know the question is not whether we compete and win in the global economy, but how.

Governors know that expanding trade is critical to our economy.

Governors know that a vast array of workers rely on exports for their livelihoods -- and need the Uruguay Round. Every billion dollars of merchandise trade exports results in 16-17 thousand new jobs here at home -- with higher than average wages.

Governors know that we are increasingly interdependent with the global economy. In 1970, the value of trade equaled 14 percent of our GDP. By 1993, that number had doubled. A conservative estimate puts that figure at 36 percent in 2010.

Governors know that, as a mature economy, the United States must open new markets to foster growth. We have four percent of the world's population: future economic opportunities will occur in countries with the other 96 percent.

Governors know that the Uruguay Round is the right agreement at the right time for the United States. It is the largest, most comprehensive trade agreement in history.

The Uruguay Round contains the largest tariff reduction in history. As the Department of Treasury reported, this amounts to a $750 billion global tax cut.

It establishes rules of trade for key sectors of our economy that are growing and becoming more important for U.S. competitiveness. And at a time that developing countries are reforming their economies, embracing democracy, and are poised for rapid growth in the coming years, the Uruguay Round binds them to international trade rules for the first time.

We are working with the Congress now to prepare the implementing legislation for the Uruguay Round and are committed to mustering the bipartisan support to pass it on time. It is our responsibility as the world's largest economy, and largest trading nation, to implement the Round as quickly as possible. The rest of the world is waiting to follow our lead to build a new and better global trading system.

But the Uruguay Round is not a favor we are doing for the world. It is in our economic interest. It will create hundreds of thousands of high-paying U.S. jobs and will enhance U.S. competitiveness.

With the help of our nation's Governors, we will build a foundation for prosperity for others in years to come. Together, we will face -- and meet -- the tough challenge of fostering growth, creating jobs, and building a prosperous 21st century.

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SUMMARY OF THE FOURTH *CHINA FORUM* SHOW:CHINA U.S./ TRADE
BROADCAST TIME: 9:00AM TO 10:00AM, MONDAY, SEPTEMBER 26, 1994
COORDINATORS: JOHN HARBAUGH, BETTY TSEU
HOSTS: JACKIE LUO (JLUO),HUCHEN ZHANG (HCZ)
PRODUCER: SENG HO
Guest: (1)Mickey Kantor, United States Trade Representative; (2) Jason Yin, Professor of Corporate Strategy and International Trade, Seton Hall University, New Jersey.
Other sources: (1)Inserts from Robert Holleyman, president of Business Software Alliance; (2) Inserts from Shen Rengan, Deputy Chief, Bureau of Property rights, P.R.C.
Participating correspondent: Kelu Chao, VOA Hong Kong

CHINA FORUM OPENING THEME (0:43")

MC:Greetings. Instructions on how to tune in the program which is simulcast through satellite. Introduce special guest Mickey Kantor. Since Kantor has to go to White House for a meeting at nine thirty, We change the regular lincup of the program. We'll interview Mickey Kantor first, then we'll have ten minutes international news. In the later half of the program, we'll have an international trade expert and our correspondent in Hong Kong discuss some of the Sino-American trade issues.
MC: Mr. Kantor, welcome to our show. My first question is: right now the United States and Japan are undergoing fiece negotiation, do you think the two countries will be able to reach an agreement by September 30th?
Kantor: We are both making maximum effort. We discussed a lot of issues, including maket access, insurance, telecommunication, auto product. I'm not pessimistic , not optimistic. I'm realistic. You have to be realistic in negotiations. Japanese realized that closing market is not of benefit to itself. We hope we don't have to excise our trade laws. The Japanese officials have made great effort. I hope we can make some progress this week.
MC: Let's look at a broader picture, How do you see the U.S. interest in the Asian Pacific reagion's economic development?
Kantor: President has made it his highest priority in the economic and trade policy. The Asian Pacific Economic Council is an organization we work closely with. We will travel to Indonesia this November to attend the APEC meeting. We hope we could reach some agreement in tarrif reduction, harmonizing standard, simplify custom procedures and etc.
MC: During that meeting , President Clinton will meet Chinese President Jiang Zemin, what do you expect they are going to discuss about?
Kantor:We would like to discuss many topics, strategic, political and economic. My focus is on economic issues. I convened last year's APEC meeting. During that meeting, we have made some progress in opening the Chinese market, but to little avail in opening China's agriculture market . We also have great concern in China's intellectual property rights infringement. Last year in China, 75 million Compact Disk were illegally copied and some of them were exported to other countries. This caused great loss to America. The American market is completely open. We hope China will do the same thing. We are negotiating with China about its bid for GATT membership.

09-30-94 04:48PM FROM B-ASSOCIATE DIRECTOR TO 93957226 P002

MC: Chinese Foreign Minister Qian Qichen is currently in New York attending the United Nation's General Assemble. He is going to meet President Clinton,what are they going to talk about? Are you going to meet him?
Kantor: Some of the details are to be worked out. Our goal is to let Chinese government know some of the great concerns of the U.S. government. China should open its market . We hope to help China to achieve that. China is a big market. The U.S. and China should work together. We insist China should carry its responsibility. This is for mutual benefit .
MC: Mr. Kantor, you just mentioned about China's bid for GATT membership. Do you think China will have a chance to enter GATT by the end of this year?
Kantor: That's up to China. To be fair, China has to shoulder its responsibility, to open its market to competitors.
MC: The United States has proposed some conditions for China's membership. China says it's still a developing country and it should be granted some privileges during the transition period. What do you think of that?
Kantor: There are some areas where the United States and China can reach a compromise. But there are some areas we cann't make compromises. These are the basis for our relationship. We have mutual responsiblities. China is protecting some of its industries, not allowing products from any other countries. China should make improvements in openning its agriculture market, its intellectual property rights, and investment. This is of benefit to both China and U.S.. In human history, no country can develop its economy by closing its doors. The United States is opening its market to China, we hope China can do the same thing.
MC: China think U.S.'s support for its bid for GATT membership is very important. Do you think the United States will go ahead and support its bid by the end of the year?
Kantor: It's up to China. If China wants to take its responsibility, it will have our support. If not, it's hard for the U.S. to support China. But we'll continue to work very hard with our Chinese partners. We hope China can make some progress.
MC: The U.S. Commerce Secretary has just visited China. How do you think the *Comercial Diplomacy* of the U.S. will succeed with China ?
Kantor: Mr. Brown has been very successful in working with many countries. My role is to reach trade agreement. Mr. Brown is helping U.S. companies get access to foreign market.
MC: Mr. Kantor, since we only have one minute left, I want to know how you think China is doing so far in terms of intellectual rights protection.
Kantor: We hope China can make some progress. We are constantly meeting with our Chinese partners. Intellectual property rights protection is to China's own benefit. It will help attracting foreign investment. I believe Chinese governemnt understand this. But on the other hand, the United States will abide by its trade laws.
MC: Mr. Kantor, thank you, hope you can make the White House meeting on time.We'll be back after ten minutes international news.

MUSIC BRIDGES

INTERNATIONAL NEWS

MC: Welcome back to our show. In this half hour, we are going to talk to our studio guest Jason Yuan, who is an associate professor of international trade and corporate strategy in Seton Hall

University. Mr. Yin, Mr. Kantor talked about China's intellectual property rights infringement. The U.S. has put China on the Priority list and it will sanction China if China couldn't make significant progress in this area by the end of the year. Has the U.S. pressure worked?

Jason Yin: Yes, China has enacted many laws to protect the intellectual property rights. Actually the law enactment has almost been completed. But the problem for China is the enforcement of the law. China doesn't have many lawyers who specialized in this field. Most of the Chinese people lack the sense of intellectual property rights.

MC: Participating today's discussion is our Hong Kong correspondent Kelu Chao, Kelu has interviewed some Chinese officials in charge of intellectual property rights protection. Kelu, has the Chinese government stepped up their effort in this matter?

Kelu Chao: According to Chinese Bureau of Property rights Deputy Chief Shen Rengan, China has made great effort in improving the intellectual property rights protection in the government level, but he admitted that there is still some difficulties in enforcing the laws.

MC: Business Software Alliance, representing many software companies in the U.S., filed a suit against software piracy in China last June. But they told us that they got little cooperatation from Chinese government.

Kelu Chao: I have asked one lawyer in Hong Kong, who specialized in intellectual property rights infringement suits. He told me that the fastest way is to get the government to issue administrative order to stop piracy, because getting compensation for punitive damages is extremely hard and slow.

MC: There are a lot of street vendors in Hong Kong, who sell CD and softwares in very cheap prices, Is that right?

Kelu Chao: Yes, 100 dollars can buy up to 30 computer games in some places. D

MC:Thank you, Kelu. Now, we come back to our studio guest Jason Yin. Mr. Yin, the intellectual property rights issue is one of the conditions for the U.S. to support China's GATT membership. China wants very much to enter GATT by the end of the year, is the support from the U.S. critical?

Jason Yin: The U.S. has been an very important memeber throughout the GATT history. Without its support, it's almost impossible for China to reenter GATT.

MC: China says it's a developing country and wants to have some transition time to meet the membership requirements. Is there any precedent like this?

Jason Yin: Yes. I think it's reasonable for China to demand some time. Actually Mr. Kantor has realized this in his interview earlier. China is a big country. It's not easy to change overnight. The Uraguay around and the Tokyo around have specifically allowed this trasition period.

MC: But then why the United States insist China conform to the membership requirement.

Jason Yin: That's because the U.S. thinks in some areas, China is qualified as a developed country.

MC: What do you think China is, a developed country, or a developing country?

Jason Yin: There are many standards. In certain industries, China could level with developed countries. But in general, China is far from a developed country. Such as its income per capita.

MC: Could trade surplus be used as a mearsurement for the country's degree of development?

Jason Yin: No. China has trade surplus with the U.S. But china has trade deficit with some other countries.

MC: If China becomes a memeber of GATT, will the U.S. benefit from that?

09-30-94 04:48PM FROM B-ASSOCIATE DIRECTOR TO 93931220 P004

Jason Yin: GATT is an international organization which equally benefit all the members. The memebers conform to fair rules of competion. It's not a favor by one country to another. China is a huge market. If the U.S. can open China market, this will help the U.S. to pull itself out of recession.
MC: The U.S. has different opinions from Japan and European countries on whether to support China's bid for GATT membership, why is that?
Jason Yin: This has to do with the United Stats's own economic interest.
MC: The U.S. has set a deadline for China to improve its intellectual rights protection. It's the end of this year. Do you think China is able to meet the requirement by that time?
Jason Yin: It depends on the specific requirement the U.S. set for China.
MC: In the history of U.S. trade sactions, how many countries on the Priority list were actually sactioned by the U.S.?
Jason Yin: Only a few, but the sactions were all very mild. By the end of year, if the U.S. ever goes ahead and sanction China, the sanction will at most be very mild, in my opinion .
MC: Thank you very much.

AUDIENCE MAIL OPENING MUSIC: (20")

JLUO & HCZ: discussing a fax from one audience who asked Mickey Kantor two questions concerning U.S. China trade
Discussing a telephone conversation with a listener who was interested in the previous China Forum program on "Chinese state enterprises bankruptcy"
Promo for audience mail and live telephone interaction

AUDIENCE MAIL CLOSING MUSIC: (20")

HCZ: promo for next week's program
JLUO: Thanks for listenning this time. We'll see you later
HCZ: Good night.
CHINA FORUM CLOSING THEME (45")

09-30-94 04:48PM FROM B-ASSOCIATE DIRECTOR TO 93957226 P005

Statement by
Ambassador Michael Kantor
October 1, 1994

Today I am announcing the results of current negotiations with the Japanese on measures to open their market to foreign competitive goods and services under the Framework Agreement reached last year.

The negotiations, which began after the Framework agreement in July, 1993, and reached an impasse in February, have today produced four important market opening agreements. Japan has agreed to changes in macroeconomic policy, which should spur its demand for imported goods and services. We have also reached agreements in the areas of government procurement of telecommunications, including NTT procurement, and medical technology procurement; and insurance. We have also agreed to a set of principles on flat glass, which would be embodied in an agreement by October 31.

We did not, however, reach agreement in the critical sectors of autos and auto parts, which despite some recent progress, still constitute two-thirds of the U.S. bilateral deficit with Japan. Consequently, the President has instructed me to announce that USTR will initiate a 301 investigation of the Japanese auto parts market, focusing on the 'aftermarket' for replacement parts, where the regulatory barriers to foreign competition are particularly acute.

President Clinton has demonstrated an extraordinary commitment to opening markets and expanding trade. He led the effort to pass the NAFTA, which is already producing dramatic results for workers on both sides of the border. He is expanding trade with APEC. And, of course, he led the effort to complete the Uruguay Round of the GATT and is now working with Congress to approve it. He has used all of his tools -- multilateral or regional agreements, bilateral negotiations, and our trade laws -- to open foreign markets. He understands that increasing trade is critical to our ability to create jobs. We will continue to work with the Japanese government to lower their trade barriers and raise standards of living for both nations.

This Administration already has a strong record of accomplishment in its trade relationship with Japan. We have concluded numerous agreements over the last 18 months. We have opened Japan's rice market, harmonized chemical tariffs, reduced copper tariffs and reached a market access agreement during our Uruguay Round negotiations. And we have reached new bilateral agreements in the construction, cellular telephone and intellectual property areas, and opened Japan's market to U.S. apples.

First, Japan has announced it will make important macroeconomic reforms, marking progress towards meeting one commitment under the Framework agreement. The Government of Japan has recently announced a comprehensive tax reform package which will extend a $55

billion cut in personal income taxes, and has decided to delay any offset of the lost revenues until April, 1997. This, along with a sustained increase in Japan's public expenditures, and a commitment to consider new expenditures in October, will help stimulate growth in domestic demand and will translate into substantial new opportunities for American exporters.

Second, we have reached three agreements in the Framework's so-called "priority" sectors concerning the Japanese government's procurement practices -- these are in government telecommunications procurement, NTT procurement, and medical technology procurement.

Most importantly, in the government procurement agreement the Japanese government has committed to a set of objective criteria which will ensure a tangible, concrete, results-oriented agreement. Japan is committed to making continuing progress in value and share of procurement leading to a significant increase in access and sales, and has agreed to use recent trends to evaluate the progress made.

The Government Telecommunications and NTT Procurement Agreements

The Nature of the Problem in Japan's Telecommunications Procurement Market

Foreign telecom suppliers report similar, chronic problems selling competitive products in Japan's procurement market:

- It is often difficult or impossible to get information about upcoming procurements in time to compete meaningfully for bids.
- The technical specifications are often tailored to favor Japanese manufacturers.
- The rules for judging competitive bids are not always spelled out.

By the time the requests for proposals are actually issued, the business is, in effect, already guaranteed to particular Japanese suppliers. A handful of Japanese companies have approximately 95% of the market.

Without the means to verify whether the agreements are producing results, U.S. telecommunications manufacturers have had very little success in Japan, despite the fact that our products lead the world in telecommunications.

There are two telecommunications procurement agreements:

- The first applies to the procurements of telecommunications products and services by Japanese Government agencies
- The second applies to purchases by Nippon Telegraph and Telephone Corporation (NTT), the largest telephone company in Japan, which is 65%

government-owned.

I. Government Telecommunications Procurement Agreement

The Japanese Government market is important. Government agencies already buy more than $2 billion of telecom equipment per year. How the Government treats what is directly under its control sets the tone for the rest of the country.

This market will expand dramatically as Japan modernizes its government communications systems in the coming years.

What Japan Will Do Under the Telecommunications Procurement Agreement

The Government of Japan has committed to provide **more detailed information, earlier in the process** for each year's procurements.

At several points in the procurement process, suppliers will be invited to comment on **all** aspects of the planned purchases, including the technical specifications, technology, and budgets for the systems to be purchased – all **before** the request for proposals is finalized.

For technical specifications, the Government of Japan will look first to **international** standards, where they are available, and then give **full consideration to de facto international standards**, ensuring that products and standards widely used worldwide will have a fair chance in Japan.

The Government of Japan will institute **modern "overall best-value" bid evaluation systems**, to ensure that contracts are awarded to the best suppliers and products, and everyone knows the basis for the decision.

The Government of Japan will **reduce** the number of **sole-source contracts**, which in the past have tended to go only to Japanese firms.

II. The NTT Procurement Agreement

This agreement concerns NTT, Nippon Telegraph and Telephone. This market is critically important, and **by itself** represents about $9 billion per year in telecom equipment purchases, or about **half of the telecommunications equipment market in Japan.** NTT is the local telephone company for all Japan, and also operates domestic long-distance telephone service. A $60 billion per year company, by far the largest telephone company in Japan, NTT is 65% government owned.

Since 1980, we have had a procurement agreement with the Government of Japan, to ensure that foreign companies have a fair chance to sell their equipment to NTT.

Although this agreement has in the past increased sales of foreign products to NTT and NTT has made major efforts to expand its purchases of top-quality foreign products, those sales have grown very slowly, despite the competitiveness of US and many other countries' products.

Foreign sales to NTT still represent only a tiny fraction of NTT's total procurements, and less than half those sales are of high-tech telecommunications products. After 12 years experience under the agreement, total foreign sales to NTT reached $1 billion for the first time only this year.

What NTT Will Do Under the NTT Procurement Agreement

NTT has committed to additional improvements in its procurement system similar to those already described for the Japanese Government agencies.

US firms can count on:

- Better information earlier in the process;
- Multiple opportunities to shape the requests for proposals before they are issued;
- Technical specifications that will not exclude them.

U.S. firms can also count on an aggressive US. Government implementation strategy, based on three elements:

- Regular and close cooperation with industry on the implementation of the quantitative and procedural elements of the agreement;
- Regular internal governmental monitoring of experience under the agreement, based upon the industry consultations and the reporting provisions of the agreement;
- Consultations with the Government of Japan as needed to ensure that this agreement meets the parties' expectations.

In the end, it is this Administration's strong expectation that this Agreement will continue to demonstrate successes, and that U.S. firms' sales to NTT will rise to become comparable to their performance in other telecommunications markets. In some industry sectors, recent trends have been encouraging; in others, disappointing. With the continuing cooperation of the Government of Japan and NTT in seeking the best in telecommunications products, I am confident that U.S. participation in this important and expanding market will continue to grow rapidly.

Benefits Resulting from the Telecommunications Agreement

- There is nothing theoretical about this. These agreements mean real market opportunities:

- For the Government agencies, US and foreign suppliers will be able to supply many products, including:

  - Data communications systems
  - Computer networking equipment
  - Mobile communications systems
  - Private network systems, and much more

- For NTT, our companies will be able to provide:

  - Switching equipment
  - Telephone transmission equipment
  - Networking equipment
  - Cellular telephone and PCS equipment, **and virtually everything a modern telephone company needs to operate.**

Who Gains in the US as a Result of the Two Telecommunications Procurement Agreements

- Many of the US-based firms that will find new markets in Japan now are already famous in telecommunications: AT&T, Motorola, Northern Telecom, IBM, DSC Corporation, Raychem, STS, and Varian are just a few of them.

- This means **more jobs in the US in industries that already employ more than 200,000 American workers** and manufacture more than $35 billion worth of telecommunications equipment here at home.

- Success in telecommunications produces gains for other industries -- computers, semiconductors, high-performance materials, microelectronics, software, and much more.

- Telecommunications is the future, and these agreements position us to play our part in Japan.

III. The Medical Technology Procurement Agreement

The Nature of the Problem in Japan's Medical Technology Procurement Market

- The overall size of the Japanese medical technology market for 1992 (latest available figures) was about $13 billion. The size of the government market is roughly 20% of the overall market, or about $2.6 billion.

- U.S. producers dominate the world market. They account for about 52% of global medical technology sales. European producers account for 28%. Japanese producers account for just 18%.

- The U.S. has a 40% share in the European Community, 75% in Canada, 55% in Australia, and 65% in Mexico.

- **Despite this global dominance, the U.S. share of the total Japanese market was only about 23% in 1992.**

What Japan Will Do Under the Medical Technology Procurement Agreement

- The medical technology agreement represents an important step forward in the ability of foreign firms to sell medical technology products to customers in Japan's public sector. The agreement should give U.S. medical technology companies improved access to Japan's $2.6 billion government procurement market.

- The agreement requires the use of open and transparent procurement procedures for all procurements above a certain threshold.

- The agreement also provides for the minister of each entity to direct their procuring officials to consider positively foreign medical technology and services.

- For the first time, medical technology procurement decisions for purchases above the agreement threshold will be made on the basis of "overall greatest value," instead of the current minimum price system. Equipment cost will be calculated on a life-cycle basis. A lower level threshold will be phased in over time.

  This means that the highly sophisticated medical technology products manufactured by foreign firms will not be automatically excluded because of initial price. The technical excellence of those products, and the value they provide over the long term, will now be taken into account.

- Also for the first time, the agreement requires government hospitals in Japan to make public information about their purchases regardless of value. Each hospital will publish, on annual basis, information on the top ten medical technology products it plans to purchase during the upcoming year. This important information had not previously been readily available.

- The agreement also contains both a comprehensive complaint mechanism and procedures for dealing with unfair bids. In an accompanying exchange of letters, we have received assurances from the Government of Japan that it will provide adequate budgets -- and therefore sales opportunities -- for the purchase of medical technology products.

- All of the procedures will be in effect on November 1, 1994.

Benefits Resulting from the Medical Technology Procurement Agreement

- **The medical technology agreement also means jobs for U.S. workers. Industry estimates that each U.S. worker produces about $150,000 in medical devices each year.**

- **If the U.S. could reach 40% of the Japanese government market, it would mean total sales of about $1 billion -- an increase of about $440 million over current sales to the government market in Japan. And this could mean thousands of new jobs for U.S. workers.**

- The U.S. sells a variety of medical technology products in Japan. Leading products include in vitro diagnostic reagents, tubes and catheters, artificial joints and bones, diagnostic X-ray apparatus and related supplies, pacemakers, magnetic resonance imaging equipment, and clinical chemical testing apparatus.

- The Japanese Government will now procure these products under the open and competitive procedures set forth in the new medical technology arrangement.

- Many of these products are bought by government teaching hospitals in Japan. Japanese medical students become familiar with the products during the course of their study. Their familiarity with U.S. equipment may lead to even greater private sector sales in the future as many of those doctors enter private practice.

The United States and Japan have also today agreed to a landmark trade agreement in insurance.

IV. The Insurance Agreement

The Nature of the Problem in Japan's Insurance Market

Japan has the world's second largest insurance market with approximately $320 billion dollars in premium income. In the past, foreign insurance companies' penetration of this huge market has been limited to about 3%. However, foreign insurance companies, including Japanese companies, have enjoyed access in the United States and major European markets ranging from approximately 10 to 33%.

The limited access by foreign firms stems from a combination of barriers such as an opaque regulatory system, exclusionary purchasing practices associated with old interconnected corporate structures called *keiretsu*, and obstacles in the distribution system. These market access problems are well recognized in Japan and around the world.

Foreign companies in Japan traditionally had to contend with opaque government regulation fostered by Japanese laws which are written very generally, as well as informal and unpublished "guidance" issued to private companies by Japanese bureaucrats.

- As a result, foreign companies are unable to know specific requirements in advance, and have no basis to be certain that they are being treated according to the same standards as Japanese companies.

- This means that Japanese regulators using their discretionary powers are able to arbitrarily require foreign insurance companies to meet a variety of conditions and requirements, such as coordinating their product applications with Japanese insurance companies. This runs counter to the principles of fair competition and market access.

- In addition to these transparency problems, Japan's regulatory system stifles product innovation and competition based on rates.

  - Such rigid regulatory approach severely restricts foreign companies' ability to gain entry into the market because product innovation is the core competitive advantage of many foreign firms.

What Japan Will Do Under the Insurance Agreement

- In the Insurance Agreement reached today, the Government of Japan committed, among other things, to enhance the transparency of its regulatory system, provide important procedural protection, introduce specific liberalization measures, and strengthen its antitrust-competition policy.

- The Agreement enables foreign insurance companies already active in Japan to build on the progress made to date, as well as allow current players and newcomers to take advantage of new business opportunities created by the Agreement.

- The Government of Japan agreed to compile, publish, and make publicly available standards for approval of licenses and new products, and put administrative guidance in writing.

- In addition, in order to ease the strong hold of its regulatory officials, the Government of Japan agreed to introduce a notification system for large commercial insurance in which companies will be allowed to introduce products by simply "notifying" the regulators instead of going through the prior approval process.

- The Government of Japan further agreed to implement a three stage deregulation plan on insurance product and rate approval which includes, among other things, easing insurance rate restrictions applicable to large commercial fire insurance, and expanding the "file and use" approval system for key products.

- The Government of Japan also agreed to introduce the broker system to diversify, and to promote competition in, insurance distribution channels.

- In order to make certain that the competition rules are followed, the Government of Japan agreed to strictly enforce the Anti-Monopoly Act (AMA) in the insurance sector and review AMA exemptions stipulated in the insurance business law by Fiscal Year 1995. The Japan Fair Trade Commission, which oversees competition, will also conduct a study of the Japanese insurance market.

- In order to implement its reform in a fair and balanced way so that the reform process cannot be used to discriminate against foreign firms, the Government of Japan committed to avoid any radical change in the business environment of the so-called third sector--the sector where foreign companies are strong--(e.g. personal accident, medical, hospital, and nursing-care insurance) until meaningful and substantial liberalization takes place in the life and non-life sector of the Japanese insurance market.

- The Agreement provides for a follow-up process to review progress and compliance by using results-oriented standards called objective criteria, both quantitative and qualitative. The United States expects to hold twice a year follow-up consultations with Japan during the first three years of the Agreement, and annually thereafter.

- As quantitative indicators the two Governments will review the change and rate of change in: (1) the **number and ratio of approvals** for new or modified products and rates; (2) the **value of premiums** by foreign insurance providers in Japan; and (3) the **market share** of total insurance premiums for foreign insurance companies in Japan.

- The two Governments will also use, as qualitative indicators, standards such as whether the Ministry of Finance is: (1) promptly and fairly reviewing product applications; (2) making the standards transparent and available; and (3) providing meaningful and fair opportunities for foreign insurance companies in Japan to be informed of, comment on, and exchange views with Ministry of Finance officials regarding insurance reform.

Benefits Resulting from the Insurance Agreement

- The U.S. industry predicts that the new Agreement can lead to increase in foreign premiums earnings of nearly $1 billion over the next several years.

- The Administration selected insurance as one of the priority sectors under the U.S.-Japan Framework Talks because the Government of Japan was in the process of implementing a major reform--first in 50 years--of its insurance system in Japan.

- The insurance industry--sometimes referred to as a "lubricant of commerce"--plays an important role in the U.S. economy and U.S. companies' global operations. The availability of competitive U.S. commercial insurance products enables, for example, medical equipment or aircraft manufacturers to develop and test new products while managing the liability risks involved.

- In addition, increasing foreign access in financial markets like the insurance market in Japan may indirectly have additional benefits in the long run in changing how Japan has traditionally done its business.

- Facing foreign competition, Japanese insurance companies--which allocate their investments as much on the basis of business group membership as on where the highest returns lie--would be less inclined to provide financing to troubled Japanese firms in their *keiretsu* or corporate groups.

- Such a development could challenge existing corporate alignments. As this happens, there will be greater opportunities for foreign companies, including manufacturing firms, to compete in Japanese markets as purchasing decisions are increasingly made on the basis of price, quality, and service rather than on *keiretsu* ties.

The U.S. and Japan also agreed upon a set of principles to open the Japanese flat glass market, which has been essentially closed to foreign suppliers for the entire post-war period.

V. The Flat Glass Agreement

The Nature of the Problem in Japan's Flat Glass Market

Japan's $4.5 billion flat glass market, the second largest in the world, is dominated by an oligopoly of three large producers with separate, de-facto exclusive, and tightly controlled distribution systems.

The three Japanese Glass manufacturers, Asahi Glass Company, Ltd, Nippon Sheet Glass, and Central Glass Company, supply 95-97% of the Japanese market, either through production in Japan or imports from their subsidiaries or affiliates abroad.

Since the late 1960's, these three producers have maintained steady market shares, and have changed prices, capacity and product mix in near lock-step.

Evidence of an uncompetitive market structure in Japan abounds. Glass prices in Japan have remained substantially above world prices, despite the lack of any quality or technology advantages by the Japanese producers.

Japan's own Fair Trade Commission (JFTC) has recognized that this distribution system restricts market access and raises concerns about anti-competitive practices: Its 1993 report on this market states that:

> "In the Japanese market for flat glass, highly concentrated with three manufacturers practically dominating the market, all three of them have adopted a parallel marketing setup mostly composed of de facto exclusive agents. This would seem to be one of the factors that discourages suppliers other than these three manufacturers to access the market. At the same time, it would seem to have the aspect of facilitating oligopolistic concerted conduct among the three manufacturers."

The problem with getting U.S. glass into the Japanese market is not with the price or quality of U.S. glass. Raw U.S. flat glass imported into Japan is priced 20 to 30 % lower than Japanese glass. U.S. glass makers are competitive in all types of glass, but particularly in advanced technology products such as insulated, coated, and safety glass.

Even though American flat glass makers are globally competitive -- with market shares exceeding 25% in Europe and Latin America -- the U.S. has less than 1% of Japan's $4.5 billion market after 25 years of effort. Indeed all foreign suppliers only have 3% of the Japanese market.

The problems in the market are reflected in the difficulty of reaching a final agreement. The U.S. and Japan have agreed to a set of principles, and will seek to finalize an agreement based on those principles within 30 days.

Sec. 301 Action on Regulations Concerning the Aftermarket for Auto Parts in Japan

The automotive sector is the largest single sector and the most complex element of our trade relationship with Japan. Our bilateral automotive trade deficit with Japan is expected to reach $36.5 billion dollars by the end of 1994: $23.9 billion in vehicles; $12.6 billion in parts. This represents over 60% of our projected overall bilateral trade deficit with Japan.

Since July 1993, we have been negotiating with the Government of Japan on three fronts: sales of vehicles in Japan; sales of original equipment parts in Japan and to Japanese transplants in the United States; and deregulation of the market for replacement parts in Japan. Despite our intensive efforts, the Government of Japan has not agreed to our market access requests, including significant deregulation of the aftermarket for parts. Major barriers remain which limit the ability of U.S. and other non-Japanese vehicle and parts manufacturers to market their products in Japan and to Japanese owned companies in the United States.

We have decided to initiate a Sec. 301 action which focuses on a clearly identifiable problem which is indisputably within the power of the Government of Japan to change: the regulatory barriers to sales in the aftermarket for foreign replacement parts in Japan. **Simply put, if you need to replace a part in your car in Japan, it is nearly impossible to purchase a non-Japanese part. Many vague and complicated Japanese regulations make it nearly impossible for competitive foreign auto parts producers to break into the market, and add to the growing U.S. auto parts deficit with Japan. The foreign share of the Japanese replacement parts market is only 2.6%, while the U.S. share is 1.2%. By comparison, the import share of the aftermarket in the United States is 47%, and the import share of the European Union aftermarket is 21.6%.**

It is important to note that we are not citing the entire auto parts sector, nor practices relating to the sales of completed cars. In these areas we intend to make additional progress as soon as possible. What we have taken is a limited and targeted action against a particularly clear barrier to sales by foreign companies.

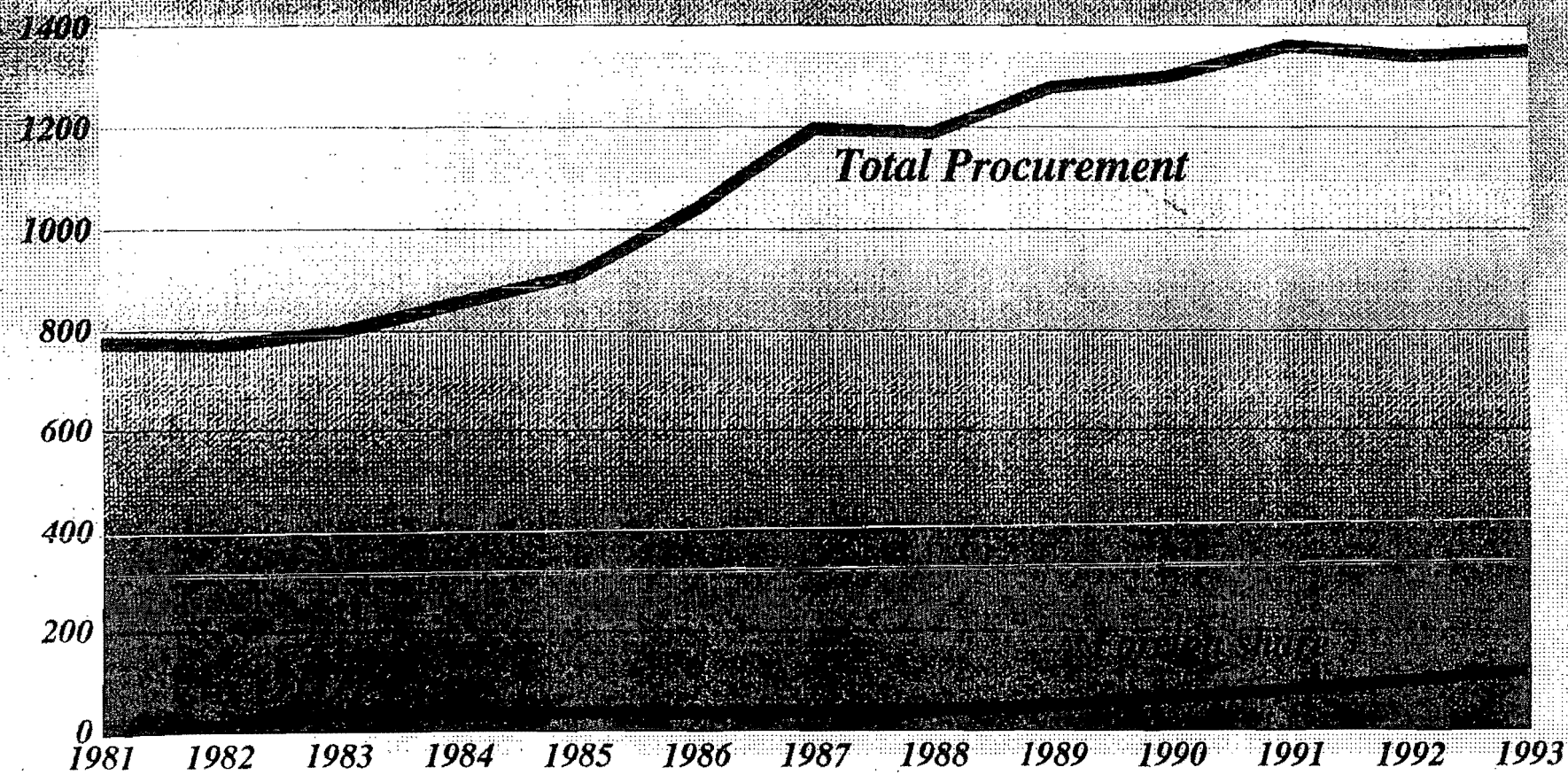
The Japanese Government has justified the regulations in the aftermarket on the grounds of safety or environmental considerations. Of course the United States government would never object to regulations whose true purpose was the protection of safety and the environment. But, in fact, many of these regulations have the effect of protecting Japanese parts suppliers by channeling repairs to Japanese dealerships and to other highly regulated garages (called "certified garages") -- facilities which can be counted on to use Japanese parts almost exclusively.

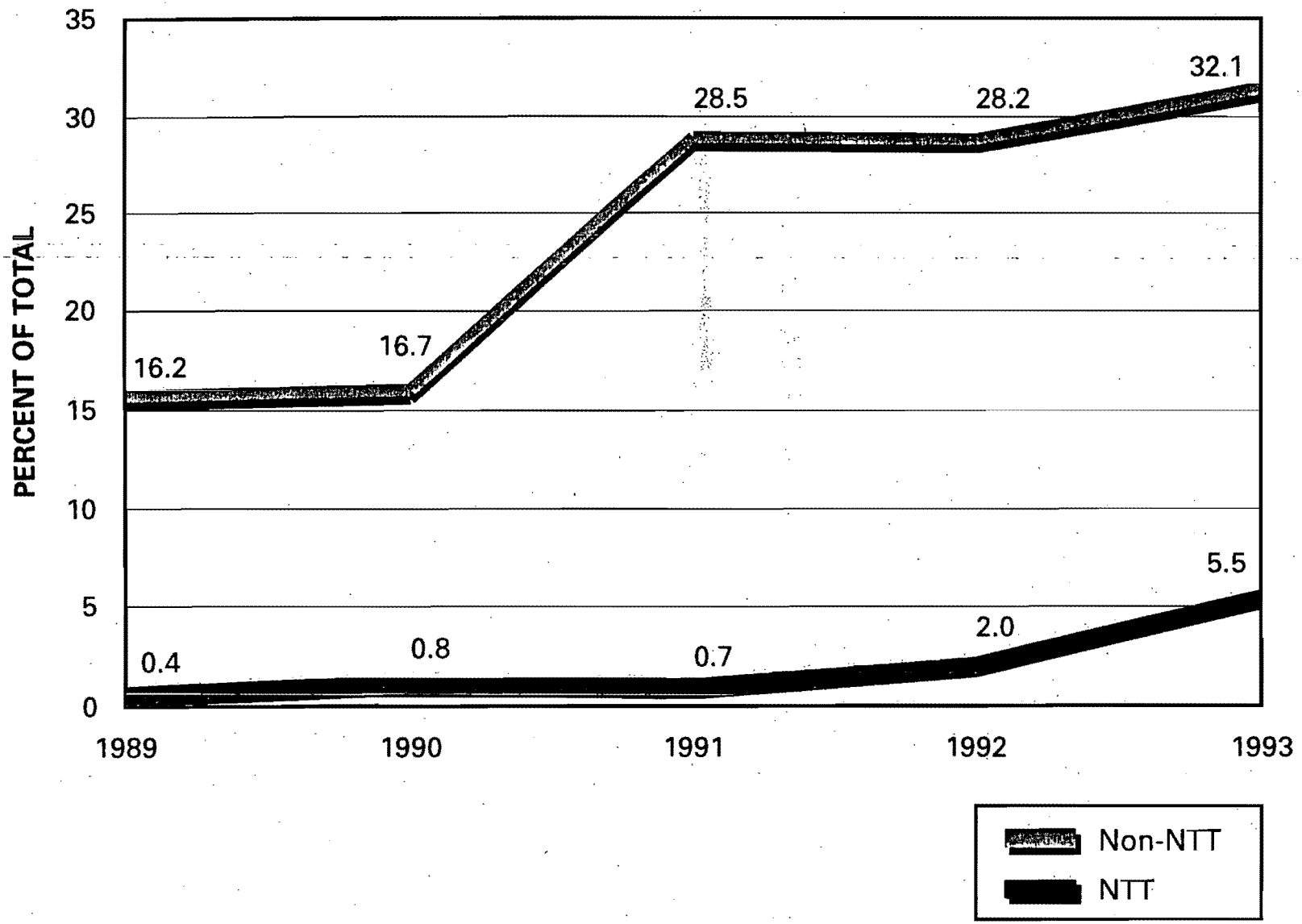
For example, even replacement of a shock absorber can be done only in a certified garage. This requirement limited the sales of competitive U.S.-made shock absorbers in Japan for nearly 20 years. Other examples of foreign replacement parts which are effectively denied access to the Japanese aftermarket include replacement of alternators and brake pads.

Incidentally, the Japanese consumer also pays dearly for these regulations. In the U.S. you can get a shock absorber replaced for about $250, including labor; in Japan it costs about $600 for the same repair.

In the following months it is our intention to continue negotiations with Japan on all aspects of our automotive trade.

Foreign Share of Total Procurements



Source: NTT
All figures in billions of Yen.

COMPARATIVE MARKET SHARES FOR FOREIGN SALES OF FIBER OPTIC TELECOMMUNICATIONS CABLE TO NTT VERSUS NON-NTT CUSTOMERS IN JAPAN