

*Testimony to the Committee on Ways and Means
Subcommittee on Trade
Ambassador Rufus Yerxa
Deputy U.S. Trade Representative
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THE URUGUAY ROUND

Introduction

Mr. Chairman, it is a pleasure to be here today to discuss with you the Uruguay Round agreement, which sets the stage for a more competitive and prosperous nation in the coming years and into the next century. I look forward to working with you this spring as we prepare the legislation that will implement the Round, which I hope the Congress will approve.

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

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

President Clinton led the effort to reinvigorate the Uruguay Round and to break the gridlock, which had stalled the negotiations despite seven years of preparation and another seven years of negotiations. The Administration believes that the Uruguay Round agreement, when implemented, will justify the years of hard work and frequent disappointment that has marked the seven-year negotiating process. It is the largest, broadest trade agreement in history and is shaped to the strengths of the U.S. economy.

The United States is uniquely positioned to benefit from the Uruguay Round trade agreements and the new world trade system it will create. U.S. workers will gain from significant new employment opportunities and additional high-paying jobs associated with the increased production for export. U.S. companies will gain from significant opportunities to export more agricultural products, manufactured goods and services. U.S. consumers will gain from greater access to a wider range of lower priced, higher quality goods and services. As a nation, we will compete; and we will prosper.

The Agreement will enhance the competitiveness of U.S. industries in both domestic and export markets.

The antidumping issue was fiercely debated in Geneva. We were committed to maintaining the strength of U.S. antidumping laws, and we made it clear that we would not accept an agreement that eroded the key protections of our antidumping law. For many nations in Geneva, however, rolling back U.S. antidumping laws was one of the highest priorities.

In preparation for the completion of the Uruguay Round negotiations, Members of Congress and U.S. industries identified several issues that would have to be addressed to make the so-called Dunkel Draft Antidumping Agreement acceptable to the United States, including: standard of review, anti-circumvention, sunset, union and employee standing, and cumulation.

As of December 1, 1993, there was neither any support for U.S. proposals to improve the Dunkel Draft nor any set procedure for consideration of such proposals other than the assertion that changes would be made only by consensus -- a virtually impossible condition. Notwithstanding these circumstances, our negotiators were successful in attaining our objectives.

- o We succeeded in winning agreement to an explicit standard of review, perhaps the most important benefit of the agreement. The provision, based on our drafting, acknowledges that there may be more than one permissible interpretation of the agreement or facts and requires panels to defer to permissible interpretations by WTO members.
- o We removed the Dunkel Draft anti-circumvention provision. Because there is no explicit reference to anti-circumvention in the text of the agreement, it does not inhibit the application of current U.S. anti-circumvention provisions. The Dunkel Draft contained an anti-circumvention provision that would have significantly weakened existing U.S. protections against the circumvention of antidumping and countervailing duty orders.
- o We were able to greatly improve the "sunset" provision so that antidumping and countervailing duty orders will not terminate automatically after five years if there is a reasonable likelihood that the lifting of the order would harm the industry. In contrast, the Dunkel Draft would have required virtually automatic termination of antidumping and countervailing duty orders after five years.
- o The final text recognizes the existing right of unions to file and support antidumping and countervailing duty petitions and defines the degree of support required for

initiating an investigation. The lack of such definition under the existing Codes left U.S. initiation practices vulnerable to challenge.

- o We added a provision expressly authorizing the ITC's practice of "cumulating" imports from different countries in determining injury to a domestic industry. Although the Dunkel Draft included such a provision in the Subsidies Agreement, the absence of a cumulation provision in the Antidumping Agreement would have created an unnecessary uncertainty and opportunities for challenge.
- o We also were able to correct several "technical errors" in the Dunkel Draft Antidumping Agreement concerning sales at below cost, price averaging, calculation of dumping margins, and the measurement of negligible import volumes.

In addition to these changes, there are other important aspects of the final Antidumping Agreement that make it a good agreement for the United States. One such aspect is the transparency and due process requirements proposed by the United States at the beginning of the Uruguay Round and accepted in their entirety. As a result of the Agreement, U.S. exporters will have defined rights to be notified of and participate in antidumping proceedings, to access information, and to judicial review. These new requirements will benefit U.S. exporters by significantly 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.

The Antidumping Agreement will require some changes in existing antidumping law. These changes, however, will not jeopardize our ability to combat injurious, unfair trade practices. At the same time they will have the significant benefit of adding valued predictability to all antidumping practices, and protecting 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 sets forth (for the first time in the GATT) the definition of a subsidy and the conditions which must exist in order for a subsidy to be actionable. U.S. rules on "specificity" and U.S. countervailing duty practice with respect to the specificity of sub-

national subsidies are now internationally approved. The Agreement extends and clarifies the 1979 Subsidies Code's list of prohibited practices. It also introduces a presumption of serious prejudice for subsidies greater than 5 percent or subsidies provided for debt forgiveness or to cover operating losses.

Countervailing duty rules have been made more precise, and the effectiveness of the U.S. countervailing duty law and practice have been preserved. For the first time there is international acceptance of U.S. "benefit-to-the-recipient" calculation methodologies.

Multilateral subsidy disciplines will be introduced for developing countries (another first). The value of this should not be discounted. Given that the Uruguay Round package will be accepted as a "single undertaking," all WTO Members will be subject to a framework for the elimination of their export subsidies.

All of these provisions will work to the advantage of U.S. industries which rely on export markets but which face subsidized competition.

The Agreement does set out three types of government assistance which are non-actionable where specific, strict criteria are satisfied:

- (1) assistance for disadvantaged regions (the criteria explicitly prevent targeting aid to companies or industries);
- (2) assistance to adapt existing plant and equipment to new environmental requirements; and
- (3) assistance for basic industrial research and pre-competitive development activity.

With regard to the "green light" safe harbor for government R&D assistance, let me start by noting that the United States Government provides more R&D assistance to industry than any other country.

The 1991 Uruguay Round Draft Final Act on subsidies would not have provided green light safe harbor protection to important existing programs having broad bipartisan support, including:

- o Cooperative Research and Development Agreements (CRADA's) in the Department of Energy and other agencies,
- o the Partnership for a New Generation of Vehicles,

- o the Advanced Technology Program at NIST.
- o Sematech.
- o biomedical research and commercialization at NIH,
- o NASA's aeronautics programs, and
- o the Technology Reinvestment Project and other cost-shared dual use programs of the Defense Department's Advanced Research Project Agency (ARPA).

These programs support and create thousands of jobs across the country. They enhance our ability to stay on the leading edge of technology. Without the assurance of freedom from countervailing duty actions or dispute settlement in Geneva, many of our industries would not be willing to engage in such cooperative research. We as a country would be the loser.

In response to the urgent concerns of our science and technology community and a bipartisan group of Members of Congress, we sought incremental changes to the 1991 Uruguay Round Draft Final Act to increase our ability to promote government-sponsored research programs. The final text of the Subsidies Agreement reflects the structure of existing, longstanding, bipartisan U.S. technology programs.

Only two operative changes were made to the 1991 Uruguay Round Draft Final Act. The permissible levels of government assistance (50% of basic industrial research and 75% of "pre-competitive activity") were not selected at random. Rather, they reflect the level of assistance provided in U.S. programs. This also is true of the choice of the first non-commercial prototype as the cut-off for the green light safe harbor. This cut-off will ensure that we will be able to continue to provide the type of R&D support which we already provide while ensuring that other countries cannot provide development or production subsidies free from countervailing duty actions or dispute settlement in Geneva.

The Administration succeeded in molding the R&D green light safe harbor to fit existing U.S. technology programs, while excluding the type of development and production assistance which other countries typically grant.

This provision will not be a loophole:

- (1) The criteria for entitlement to claim green light coverage are clear and limiting.
- (2) The only way to secure green light status is to get the approval of the Subsidies Committee. I can assure you that this Administration intends to

scrutinize all requests for green light status very carefully. (A country is not required to notify a program to the Committee, but if it does not, it does not get green light status).

- (3) Even if the Committee grants green light status, it will be rescinded where a particular R&D program leads to production which causes serious adverse effects to another WTO Member.
- (4) In addition, the Agreement requires the Subsidies Committee to review the R&D provision after 18 months. This will give us an opportunity to correct any deficiencies that have come to light.
- (5) Then, there is the ultimate safety valve-- both the non-actionable subsidy provisions and the provisions establishing a rebuttable presumption of serious prejudice expire automatically after 5 years unless we agree that they should stay in effect.

With these five safety valves, I do not believe there is the potential of a loophole. Indeed, I believe we struck the appropriate balance between strict subsidies discipline and protecting the cooperative government-industry partnerships which have existed for years in the United States.

Aircraft

We got a strong result on the issues crucial to the aircraft and aerospace industries, which produce the largest trade surplus (\$28 billion in 1993) of any sector. Aircraft trade issues were contentious throughout the negotiations because the European Union sought to exclude aircraft entirely from the disciplines of the new Uruguay Round Subsidies Agreement. Instead, the EU appeared intent on having a revised Agreement on Trade in Civil aircraft entirely supersede any new subsidies agreement for aircraft products.

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

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

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

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

Conclusion

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

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

Testimony to the House Committee on Small Business
Ambassador Rufus Yerxa
Deputy U.S. Trade Representative
April 26, 1994

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**THE URUGUAY ROUND:
GROWTH FOR THE WORLD, JOBS FOR THE U.S.**

Introduction

Mr. Chairman, thank you very much. It is a pleasure to be here today to discuss with you the Uruguay Round agreement, which sets the stage for a more competitive and prosperous nation in the coming years and into the next century. I look forward to working with you this spring as we prepare the legislation that will implement the Round, which I hope the Congress will approve.

Mr. Chairman, on December 15, 1993, 117 countries concluded a major agreement to reduce barriers blocking exports to world markets (in agriculture, manufactured goods, and services) as well as to create fairer, more comprehensive, more effective, and more enforceable trade rules. In order to assure the efficient and balanced implementation of the agreements reached, they also created a new World Trade Organization (WTO). On April 15, we joined with other participants in the Uruguay Round in the formal signing of the agreement in Marrakesh, Morocco.

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

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

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

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

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

An essential element in this strategy is to expand and open foreign markets. Expanding trade is critical to our ability to compete in the global economy and create high-wage jobs. That is why the President focused so much attention in 1993 on the Uruguay Round, the North American Free Trade Agreement, the Japan Framework, and the Asia Pacific Economic Cooperation conference.

The U.S. economy is now an integral element of the global economy. Over a quarter of the U.S. economy is dependent on trade. Where we once bought, sold and produced mostly at home, we now participate in the global marketplace. By expanding our sales abroad, we create new jobs at home and we expand our own economy.

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

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

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

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

Our trade policy is guided by a simple credo. We want to expand opportunities for the global economy, but insist on a similar responsibility from other countries. Trade is a two way street. After World War II, when the American economy dominated the world, we opened ourselves up, to help other countries rebuild. It was one of the wisest steps this country ever took, but now we cannot have a one way trade policy. The American people won't support it and the Administration won't stand for it.

For other nations to enjoy the great opportunities here in the U.S. market, they must accept the responsibility of opening their own market to U.S. products and services. Ultimately, it is in their own self interest to do so, because trade fosters economic growth and create jobs.

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

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

We did not accomplish everything we wanted to in the Uruguay Round. But, the final result is very positive for U.S. producers and companies. It helps us to bolster the competitiveness of key U.S. industries, to create jobs, to foster economic growth, to raise our standard of living and to combat unfair foreign trade practices. The agreement will give the global economy a major boost, as the reductions in trade barriers create new export opportunities, and as the new rules give businesses greater confidence that export markets will remain open and that competition in foreign markets will be fair.

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

The Uruguay Round

The Uruguay Round is the right agreement at the right time for the United States. It will create hundreds of thousands of high-wage, high-skill jobs here at home. Economists estimate that the increased trade will pump between \$100 and \$200 billion into the U.S. economy every year after the Round is fully implemented. A study by DRI/McGraw Hill estimated that the net U.S. employment gain (over and above normal growth of employment in the economy) will be 1.4 million jobs by the tenth year after implementation.

This historic agreement will:

- cut foreign tariffs on manufactured products by over one third, the largest reduction in history;
- protect the intellectual property of U.S. entrepreneurs in industries such as pharmaceuticals, entertainment and software from piracy in world markets;
- ensure open foreign markets for U.S. exporters of services such as accounting, advertising, computer services, tourism, engineering and construction;
- greatly expand export opportunities for U.S. agricultural products by reducing use of export subsidies and by limiting the ability of foreign governments to block exports through tariffs, quotas, subsidies, and a variety of other domestic policies and regulations;
- ensure that developing countries live by the same trade rules as developed countries and that there will be no free riders;

- establish an effective set of rules for the prompt settlement of disputes, thus eliminating shortcomings in the current system that allowed countries to drag out the process and to block judgments they did not like;
- create a new World Trade Organization (WTO) to implement the agreements reached; and
- open a dialogue on trade and environment.

This agreement will not

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

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

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

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

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

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

productive in the world and reduced tariffs will enable these workers to compete on a more level playing field.

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

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

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

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

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

For example, our semiconductor industry is a driving force for U.S. technology advances and competitiveness. These products affect nearly every aspect of our lives and are incorporated in many of the goods traded internationally. The TRIPS agreement is the first international agreement that places stringent limits on the grant of patent compulsory licenses

for this critical technology. Under TRIPs, this industry's patents and layout designs can not be used for commercial purposes without the permission of the patent or design owner.

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

DISPUTE SETTLEMENT

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

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

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

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

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

THE SUBSIDIES AGREEMENT AND RESEARCH AND DEVELOPMENT SUBSIDIES

The Subsidies Agreement Provides the Strictest Subsidies Discipline Ever

The Subsidies Agreement establishes a three-class framework for the categorization of subsidies and subsidy remedies:

- (1) the "red light" category for prohibited subsidies;
- (2) the "yellow light" category for actionable subsidies which are subject to dispute settlement under the WTO in Geneva and countervailable unilaterally under domestic laws if they cause adverse trade effects; and
- (3) the "green light" category for protected subsidies which are non-actionable and non-countervailable if they are structured according to criteria intended to limit their potential for distortion.

The strict new disciplines and effective new dispute settlement system of the Subsidy Agreement will apply to all 117 members of the World Trade Organization. This is a vast improvement on the Tokyo Round Subsidies Code, which has only 27 signatories.

The strengthening of multilateral disciplines and clarification of terms, combined with speedier and binding dispute settlement, will make multilateral subsidy remedies significantly more "user-friendly" than in the past. This will help U.S. industries that must increasingly rely on global markets, as well as the U.S. market, to maintain their competitiveness.

The R&D Provision Will Not Be a Loophole

Other countries will **not** be able to use the R&D provision to provide production subsidies in the guise of research assistance. The Subsidies Agreement establishes clear rules and strong disciplines designed to avoid the potential that government assistance to R&D will significantly harm U.S. commercial interests. The criteria for entitlement to claim green light coverage are clear and limiting. Assistance may cover only:

- (1) those personnel and consultancy costs (and associated overhead) exclusively relating to permissible R&D; and
- (2) the cost of instruments, equipment, buildings and land (a) which relate exclusively to permissible R&D and (b) which can never be used for commercial activity.

The prescribed way to secure green light status is to earn the approval of the Subsidies Committee after it reviews the subsidy notification to determine if the criteria for green light status are met. To do this, a country must notify the program for which it seeks such status, providing whatever information Members of the Committee believe necessary. I can assure you that this Administration intends to scrutinize very carefully all requests by other countries for green light status. (A country may choose not to notify programs that meet the green light criteria. If a program that is not notified is later challenged in a countervailing

duty action or WTO dispute settlement in Geneva it still will be immune from sanction if it is found to conform with the green light criteria).

Even if the Committee grants green light status to a program, it can be stripped whenever it is established that a particular R&D program has resulted in production which causes serious adverse effects to the competing industry of another World Trade Organization member. In addition, the Agreement requires a review of the R&D provision after 18 months with a view to making all necessary modifications to improve the operation of the provision. This will give us an opportunity to correct any deficiencies that have come to light.

The 1991 Draft Final Act Text on Subsidies Would Not Have Provided Green Light Safe Harbor Protection to Important Existing U.S. R&D Programs

The United States has been, and continues to be, the greatest supporter of industrial research in the world. In 1991, for example (the most recent year for which comparative data are available), the U.S. spent one-third more on R&D than Japan, the former West Germany, the United Kingdom and France combined. Where one looks solely at non-defense R&D spending, that of the U.S. still exceeded that of Japan, Germany, and the United Kingdom combined.

Over the last several years these programs, for which there is a long history of bipartisan support, have contributed to the promotion of America's competitiveness.

The text of the 1991 Uruguay Round Draft Final Act on subsidies would not have provided so-called "green light" safe harbor protection from countervailing duty investigations or GATT dispute settlement proceedings for important existing U.S. R&D programs, such as:

- o the Advanced Technology Program at NIST (FY94 funding is \$200 million);
- o the Technology Reinvestment Project (FY94 funding is \$554 million) and other cost-shared dual use programs of the Defense Department's Advanced Research Projects Agency (ARPA); and
- o Cooperative Research and Development Agreements (CRADA's) in several agencies, notably the Technology Transfer Initiative of the Department of Energy (FY94 funding in DOE for CRADA's is \$225 million).

Together, these programs support and create thousands of jobs across the country. They enhance our ability to stay on the leading edge of technology— a step ahead of our competition. Without the assurance of freedom from countervailing duty actions or dispute settlement in Geneva, many of our industries would not be willing to engage in cooperative research programs with the Government. This would frustrate development of the technologies of tomorrow and stifle competitiveness. We as a country would be the loser.

The Final Text of the Subsidies Agreement Reflects the Structure of Existing U.S. Technology Programs

In response to the urgent concerns of our science and technology community and Members of Congress from both parties, we sought incremental changes to the 1991 Uruguay Round Draft Final Act to increase our ability to protect government-sponsored research programs. We succeeded. The changes made to the Subsidies Agreement's provisions governing R&D (which we drafted) protect the nature and level of ongoing U.S. Government assistance in R&D activities. These changes were made in order to provide greater certainty that existing U.S. technology programs and the firms which participate in them would not be subjected to unwarranted trade harassment by our trading partners. What we achieved was the reversal of a situation in which only foreign R&D programs would have been protected by new subsidy rules.

Let me repeat, because it is very important-- the final R&D provisions protect the type of technology programs the U.S. currently has, while excluding the type of development and production assistance which other countries typically grant. U.S. support of technologies relevant to competitive industrial performance and economic growth is mostly in the form of R&D funding. Other countries customarily use a whole range of technology policies in support of industry. For example, Japan and EU member states (e.g., France and Germany) have used government procurement quite extensively to support selected industrial sectors. Very large success-dependent loans have been the principle subsidy mechanism for Airbus. Other typical forms of foreign industrial support include quasi-public leasing companies that buy high tech equipment from domestic manufacturers and lease it at below-market rates to domestic users. (Japan has several such systems).

Only two operative changes were made to the 1991 Uruguay Round Draft Final Act:

- (1) The cut-off for activity which can be supported by the government within the green light safe harbor was expanded slightly-- going from immediately before creation of any prototype to allowing involvement in the creation of the first non-commercial prototype; and
- (2) the permissible level of government assistance was increased from 50% of basic industrial research to 75% and from 25% of applied research to 50% of what is now called "pre-competitive development activity" (i.e., up to the first non-commercial prototype).

The protected levels of government assistance were not selected at random. Rather, they reflect the level of assistance provided in U.S. programs. This also is true of the choice of the first non-commercial prototype as the cut-off for the green light safe harbor. This cut-off will ensure that we will be able to continue to provide the type of R&D support which we already provide while ensuring that other countries cannot provide development or production subsidies free from countervailing duty actions or dispute settlement in Geneva.

I believe we struck the appropriate balance between strict subsidies discipline and protecting the cooperative government-industry partnerships which have existed for years in the United States. The Subsidies Agreement does not promote competitive subsidization. Rather than stimulating higher levels of subsidization, it provides clearer and improved rules of the road to prohibit or discipline subsidies.

Conclusion

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

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