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2001 TRADE POLICY AGENDA AND 2000 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE 2001 TRADE POLICY AGENDA AND 2000 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM, PURSUANT TO 19 U.S.C. 2213(a)

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To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2001 Trade Policy Agenda and 2000 Annual Report on the Trade Agreements Program.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 6, 2001.*

2001 Trade Policy Agenda
and
2000 Annual Report

of the President of the United States
on the Trade Agreements Program

Foreword

The 2001 Trade Policy Agenda and 2000 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). The document includes, in Chapter II, the Annual Report on the World Trade Organization as required by Sections 122 and 124 of the Uruguay Round Agreements Act. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. These agreements afford increased market access or reduce foreign barriers and other trade distorting policies.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report, which was written by USTR staff. The Office of the U.S. Trade Representative gratefully acknowledges the contributions of the Environmental Protection Agency, the Departments of Agriculture, Commerce, Health and Human Services, Justice, Labor, and State.

March 2001

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LIST OF FREQUENTLY USED ACRONYMS

AD	Antidumping
AGOA	African Growth and Opportunity Act
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
ATPA	Andean Trade Preferences Act
BIA	Built-In Agenda
BIT	Bilateral Investment Treaty
BOP	Balance of Payments
CACM	Central American Common Market
CARICOM	Caribbean Common Market
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CFTA	Canada Free Trade Agreement
CITEL	Telecommunications division of the OAS
COMESA	Common Market for Eastern & Southern Africa
CTE	Committee on Trade and the Environment
CTG	Council for Trade in Goods
CVD	Countervailing Duty
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
EU	European Union
EFTA	European Free Trade Association
FTAA	Free Trade Area of the Americas
FOIA	Freedom of Information Act
GATT	General Agreement on Tariffs and Trade
GATS	General Agreements on Trade in Services
GDP	Gross Domestic Product
GEC	Global Electronic Commerce
GSP	Generalized System of Preferences
GPA	Government Procurement Agreement
IFI	International Financial Institution
IPR	Intellectual Property Rights
ITA	Information Technology Agreement
LDBDC	Least Developed Beneficiary Country
MAI	Multilateral Agreement on Investment
MERCOSUL/MERCOSUR	Southern Common Market
MFA	Multifiber Arrangement
MFN	Most Favored Nation
MOSS	Market-Oriented-Sector-Selective

MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
NAFTA	North American Free Trade Agreement
NEC	National Economic Council
NIS	Newly Independent States
NTR	Normal Trade Relations
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
ROU	Record of Understanding
SADC	Southern African Development Community
SPS	Sanitary and Phytosanitary Measures
SRM	Specified Risk Material
TAA	Trade Adjustment Assistance
TABD	Trans-Atlantic Business Dialogue
TACD	Trans-Atlantic Consumer Dialogue
TAEVD	Trans-Atlantic Environment Dialogue
TALD	Trans-Atlantic Labor Dialogue
TBT	Technical Barriers to Trade
TEP	Transatlantic Economic Partnership
TIFA	Trade & Investment Framework Agreement
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
TRIMS	Trade Related Investment Measures
TRIPS	Trade Related Intellectual Property Rights
UNCTAD	United Nations Conference on Trade & Development
URAA	Uruguay Round Agreements Act
USDA	U.S. Department of Agriculture
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
VRA	Voluntary Restraint Agreement
WAEMU	West African Economic & Monetary Union
WTO	World Trade Organization

THE PRESIDENT'S TRADE POLICY AGENDA

I. Overview and the 2001 Agenda

I am pleased to submit to the Congress the Trade Policy Agenda for 2001 and the 2000 Annual Report of the President of the United States on the Trade Agreements Program.

The United States faces key decisions about the future course of our trade policy. Just as the World War II generation forged a bipartisan consensus that sustained successful trade expansion throughout the Cold War, we must build a new consensus to promote open markets for trade in the decades to come. I know that accomplishing this goal has drawn intense interest and creative ideas from many quarters, and I want to work with the Congress to mobilize broad support for freer trade.

There have been some encouraging developments in the area of open trade, including Congress's important actions last year on the enhancement of the Caribbean Basin Initiative, the passage of the African Growth and Opportunity Act, and the granting of permanent normal trading relations to China. Nevertheless, there also have been setbacks. When the House of Representatives voted in 1998 to deny the President trade negotiation authority, it marked the first time the Congress had ever rejected granting this authority. And the failure to launch the multilateral trade talks in Seattle in December 1999 handed a high-profile victory to the opponents of free trade, global competition, and economic opportunity.

The erosion of a consensus on free trade is dangerous. The enactment in 1930 of the Smoot-Hawley bill, which imposed protectionist tariffs on over 20,000 individual items, had a devastating impact on the American – and world – economy. It can take decades to undo protectionist measures. As Federal Reserve Chairman Alan Greenspan has pointed out, growth in trade as a share of the world economy over the past half-century has only recently managed to reverse the losses from the protectionism and wars in the first half of the 20th century.

The Bush administration is strongly committed to a trade policy that will remove trade barriers in foreign markets, while further liberalizing our market at home. Trade is not a "you win, I lose" proposition. By generating growth, trade multiplies the purchasing power of our trading partners. That benefits our partners, but it also benefits American businesses, farmers, workers, and consumers. Trade is a classic "win-win" proposition.

The Bush administration will work hand-in-hand with Congress to negotiate lower barriers to trade around the world. The Executive-Congressional partnership has a rich tradition, and I intend to respect it by consulting regularly with members of the House and Senate. I especially look forward to working with Senators Charles Grassley and Max Baucus, chairman and ranking member of the Finance Committee, and Representatives Bill Thomas and Charles Rangel, chairman and ranking member of the Ways and Means Committee.

There are three principal reasons why further trade liberalization is important to the American people, and the American economy.

First, expanded trade – imports as well as exports – improves the well-being of Americans. Exports accounted for over one-quarter of U.S. economic

growth over the last decade and support an estimated 12 million American jobs. In the American agricultural sector, one in three acres are planted for export purposes, and last year American farmers sold more than $50 billion worth of agricultural products in foreign markets. Export-related jobs pay 13 to 18 percent more than other jobs.

It is no coincidence that the longest period of economic growth in U.S. history, with levels of non-inflationary full employment beyond the forecasts of any economist, came in the aftermath of trade-liberalizing measures like the North American Free Trade Agreement and the Uruguay Round agreement that created the World Trade Organization. Expanding global trade and expanding economic growth in the United States are achieved in concert. One strengthens and reinforces the other.

Trade also leads to more competitive businesses, more choices of goods and inputs, and lower prices. This is of particular benefit for lower-income Americans. Their purchases of items such as food and clothing, which carry higher costs when there is import protection, represent a higher level of their spending than it does for upper-income Americans. Lower prices mean a paycheck goes further at the supermarket and the department store. Trade barriers, by contrast, are an invisible tax on what families and businesses buy.

Second, as President Bush has stated, free trade is about freedom. Economic freedom creates habits of liberty and habits of liberty create expectations of democracy. President Bush recently made an historic visit to Mexico where he met with President Fox, the first president elected from the opposition since that nation's revolution. It is no accident that after Mexico embraced the opening of its economic system, as embodied in NAFTA, it was drawn to a democratic opening as well.

Third, expanded trade affects our nation's security. The crises of the first 45 years of the last century were inextricably linked with hostile protectionism and national socialism. Communism could not compete with democratic capitalism, because economic and political freedom creates dynamism, competition, opportunity, and independent thinking. Today, Colombia is waging a battle to defend the rule of law against groups that finance their terror through drug trafficking. One of the tools Colombia needs is a renewed and robust Andean Trade Preferences Act.

I recognize, however, that the benefits of open trade can only be achieved if we build public support for trade at home. To do so, we must enforce, vigorously and with dispatch, our trade laws against unfair practices. In the world of global economics, justice delayed can become justice lost. We also need to do a better job of monitoring compliance with trade agreements and insisting on performance by our trade partners. I will not hesitate to use the full power of U.S. and international law to defend American businesses and workers against unfair trading practices.

America does not open its markets as a favor to others. They are open because we do not want to incur the self-imposed economic damage that other countries have created for themselves. If we were to imitate the trade policies of some of our more restrictive trade partners, the United States would not be the major economy with the greatest competitiveness and highest per capita income.

The economic benefits derived from open markets extend to all countries, but there are other non-economic benefits as well. The history of the past century shows that as less-developed countries have grown wealthier, they have also become more sensitive to workers' rights and environmental protection. When countries open markets, they also open their societies to ideas about private and civic causes – including labor movements and environmental protection. Home-grown efforts to promote these causes, with outside assistance, are more likely to be self-sustaining and to plant local roots. Free trade can also help emerging democracies and promote respect for the rule of law, as is happening in Central and Eastern

Europe.

For economic growth to take root, there must be an openness to buying and selling goods on the world market. As former Mexican President Ernesto Zedillo has observed, "What is now clear from the historical evidence of the last century is that in every case where a poor nation has significantly overcome its poverty, this has been achieved while engaging in production for export markets and opening itself to the influx of foreign goods, investment and technology; that is, by participating in globalization."

Just as we explain how and why trade benefits emerging markets, we need to show the American people how and why it benefits the domestic market. I appreciate that change can be very difficult, even frightening. We need to help people to adapt and to benefit from change – whether prompted by trade, technology, e-commerce, or new business models. A successful trade policy over the long term should be accompanied by better schools, worker adjustment assistance, tax policies that enable people to keep and save more of their paychecks, and reforms of Social Security and Medicare so older Americans have a safer retirement.

The economies of every American state are transforming, with an increasing number of American businesses – large and small – linked to the global economy. Secretary of Commerce Don Evans and I want to tap the support of these businesses for open trade. In turn, we'll try our best to deliver for America's farmers, service providers, high-tech workers and intellectual property providers, small businesses, and highly-productive manufacturing industries.

Central to our trade agenda is reestablishing the bipartisan Executive-Congressional negotiating partnership that has accomplished so much. Therefore, I and my colleagues will consult with the Congress on a regular basis. One of our top priorities is to reestablish trade promotion authority for the President, based on the fast track precedent, with the broadest possible support. In the absence of this authority, other countries have been moving forward with trade agreements while America has stalled. We cannot afford to stand still or be mired in partisan division while other nations seize the mantle of leadership of trade from the United States. This would be a missed opportunity – indeed, an historic mistake.

In considering this grant of trade promotion authority, I will also urge the Congress to give the President more leverage by broadening our negotiating options. I want to be able to tell my counterparts that we are willing to negotiate if they are serious about eliminating barriers, yet also make clear that America will look elsewhere if they delay – that the United States will move forward, and it is up to them to decide to join us or be left behind.

On April 20th, President Bush will attend the Summit of the Americas meeting in Quebec City. He has emphasized that to set a new course for this hemisphere, he needs to hold out the prospect in Quebec City that new trade promotion authority is on its way. One of the goals of this administration will be to forge free trade with all the nations of our hemisphere through the Free Trade Area of the Americas (FTAA) and other agreements, such as the current negotiation of a comprehensive free trade agreement with Chile. The opportunities are great. Brazil, for example, has the largest economy in Latin America, and our trade policy must reflect this. As President Bush has noted, "America is right to welcome trade with China – but we export as much to Brazil."

Of course, America's trade and economic interests extend far beyond this hemisphere. We want to launch a new round for global trade negotiations, emphasizing a key role for agriculture. We will seek to negotiate regional and bilateral agreements to open markets around the world. There are opportunities in the Asia Pacific region, including a free trade agreement with Singapore. Further reforms in the Middle East and Africa need our encouragement. That is why we support a free

trade agreement with Jordan and the exploration of further trade liberalization with Africa. As India reforms its economy and taps its great potential, we should explore ways to achieve mutual benefits. And vitally important, I will seek to work with the European Union as well as its candidate members in Central and Eastern Europe and other European States, both to fulfill the promise of a trans-Atlantic marketplace already being created by private business investment and trade, as well as to reinvigorate, improve, and strengthen the WTO processes.

The United States currently has an unparalleled opportunity to shape the international trading order. But we are in danger of being left behind. There was a time when U.S. involvement in international trade negotiations was a prerequisite for them to succeed. That is no longer true. Indeed, other countries are writing the rules of the international trading system as they negotiate without us. In the long run, that hurts American businesses and farmers, as they will find themselves shut out of the many preferential trade and investment agreements negotiated by our trading partners.

The European Union has free trade agreements with 27 countries, and 20 of these agreements have been signed since 1990. Just last year, the European Union and Mexico - the second-largest market for American exports - entered into a free trade agreement. The European Union is also negotiating free-trade agreements with the Mercosur countries and the Gulf Cooperation Council. And while there are approximately 130 free trade agreements in force globally, the United States is a party to just two: one is with Canada and Mexico (NAFTA), and the other with Israel.

America's absence from the proliferation of trade accords hurts our exporters. To cite just one example, while U.S. exports to Chile face an eight percent tariff, the Canada-Chile trade agreement frees Canadian imports of this duty.

If other countries go ahead with free trade agreements and the United States does not, we must blame ourselves. We have to get back into this game and take the lead. We are certainly in a position to do so. Indeed, the United States will be pursuing a number of regional free trade agreements in the years ahead, though not to the exclusion of global talks and the WTO process. The fact that the United States can move on multiple fronts increases our leverage in the global round, just as the Clinton administration used the North American Free Trade Agreement and the APEC summit to help squeeze the European Union to complete the Uruguay Round of GATT.

I would like the United States to move on multiple fronts because the message I want to send to the world is that the United States is willing to negotiate; we are willing to open if they open. But if others are too slow, we will move without them. Our economy is so attractive, and the model of our private sector is so appealing, that people will come to us if we are accessible and resolute.

The past half-century has produced prosperity and opportunity beyond the greatest expectations of its supporters. But this period has also been dedicated to recovering the losses of the first 50 years, the disaster of the Depression and two wars. Many people fail to recognize just how economically integrated the world was in 1900 and what we lost by making the wrong choices early in the century.

The United States must not make the same errors. Free trade produces unambiguous economic benefits, but there are even more fundamental reasons why it is important. Openness, which is a basic principle underlying free trade, remains at the heart of America's political identity. It helps us to face the future by changing and growing; it creates a dynamism that gives cohesion and shared purpose to our society; and it helps safeguard two of the country's most cherished values: liberty and freedom.

Robert B. Zoellick
United States Trade Representative
March 1, 2001

THE PRESIDENT'S 2000 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

II. World Trade Organization

Overview[1]

The WTO was established in 1995 as an outgrowth of the Uruguay Round of multilateral trade negotiations conducted under the auspices of the General Agreement on Tariffs and Trade (GATT). The GATT is one of the pillars of the post-World War II system of international institutions created under U.S. leadership which has been so successful in promoting global economic growth, increased standards of living and strengthening international security over the past half-century. The WTO's creation takes this system one step forward by providing a coherent institutional apparatus to direct and oversee implementation of the agreements concluded during the Uruguay Round, as well as a forum in which further international trade liberalization may be pursued. The results of the Uruguay Round negotiations substantially expanded and reinforced the multilateral trading system by reforming and liberalizing agricultural and textiles trade, strengthening dispute settlement procedures and extending new rules to trade in services and the protection of intellectual property rights. The WTO also builds upon the structure of the previous GATT system by ensuring that all WTO Members ultimately assume all of the rights and obligations of all of the multilateral agreements, irrespective of a country's stage of development. This facilitates the beneficial impact that adherence to WTO rights and obligations can play in advancing various Members' economic reform and development programs, while guaranteeing that the commitments undertaken are of mutual and balanced advantage to all Members of the trading system.

The WTO faced a number of challenging questions about its mission, direction and internal organization at the outset of last year. While a relatively new organization, the WTO has quickly had to come to grips with fundamental decisions over how best to fulfill its basic policy aims in the light of a diverse and growing membership and the ever more complex interface of trade policy with other policies and issues of concern to the broader civil society. Over the course of 2000, the United States worked actively with its WTO partners to identify and address these concerns with the dual aim of resolving individual problems while strengthening the WTO's capacity to manage these challenges more effectively in the years to come. By year's end, much progress had been accomplished, yet additional work was clearly needed to ensure that the rules-based trading system continues to lend meaningful and dynamic impetus to increased prosperity, sustainable development and market-based reforms throughout the world. Competing concerns about the implications of "globalization" and the need to fashion a substantive and consensus-based response provided the context for much of the WTO's efforts to meet its challenges. As a result, considerable attention was directed towards: (1) making the institution more transparent and internally responsive; (2) identifying immediate steps to enhance the system's benefits for its poorest and most marginalized participants; (3) providing support and impetus to the

[1]This Chapter and Annex II to this report are provided pursuant to the reporting requirements contained in sections 122 and 124 of the Uruguay Round Agreements Act.

commencement of mandated negotiations in services and agriculture; (4) and ensuring that responsible steps were being taken to address the concerns of all Members regarding the implementation of existing WTO rules and commitments.

Under the leadership of the General Council, the WTO resolved many of the concerns voiced by its newer and smaller Members that internal WTO procedures and consultation processes had failed to keep all Members adequately informed about and included in the development of issues and work programs. Improvements in this area should also help to increase the overall transparency of the organization and its ability to respond to concerns and questions voiced by outside stakeholders. Nevertheless, further progress remains to be achieved in making the WTO more accessible to, and better understood by, the broader public, which will be critical both to refining and fulfilling the WTO's future mission.

The collective efforts of numerous WTO Members, including the United States, also improved the commercial and economic stake of poorer countries in the trading system through the expansion of unilateral trade preference programs. These expansions allow the least-developed countries and others to enjoy greater access to foreign markets for many of the products in which they are most competitive. Enactment of the U.S. Trade and Development Act of 2000, which opens the door to increased opportunities for our trading partners in sub-Saharan Africa and the Caribbean Basin, represented an important contribution to this effort. Moreover, the sound progress made last year in advancing the previously mandated negotiations on agricultural reform and services liberalization also served to illustrate the widespread interest of WTO Members – rich and poor – to secure real benefits from further market-opening initiatives.

This focus on the future was suitably balanced by attention to the present. Over the past several years, particularly as transition periods provided for developing countries under several WTO agreements have approached expiration, there has been a heightened concern among all Members that adequate attention and resources be dedicated to resolution of implementation problems under various agreements. While differences remain in certain areas as to which solutions are the most appropriate, WTO Members were unified in their commitment to tackle these problems in a serious manner and, where possible, to settle upon pragmatic, case-by-case solutions that provided support to implementation efforts without detracting from the substance of WTO obligations. In this regard, particular success was recorded in such areas as customs valuation obligations and in the work of the responsible subsidiary bodies, such as the Committee on Technical Barriers to Trade.

By the end of the year, the decisions taken by WTO Members in furtherance of the organization's vast and varied program of work was testimony to the belief of those Members in the value of the system and to its continued vitality and effectiveness. Similarly, the expansion of WTO membership in the past year to 140 Members reflects the faith and commitment of economies at all levels of development that integration into the rules-based trading system of the WTO remains one of the best guarantors of future growth and stability.

A consensus has not yet emerged on an agenda for a new round of multilateral trade negotiations. Last year's report discussed points of disagreement concerning the scope and content of that agenda, including in the areas of agriculture; implementation; market access and the extent to which new negotiations should address non-agricultural as well as agricultural goods. In addition, questions existed whether there should be new negotiations on investment and competition policy; the inclusion of trade and the environment among negotiating issues; the reopening of WTO rules in areas such as standards, intellectual property rights and trade remedies; and whether or how to address trade

and labor as an issue in the WTO. Many of these issues remain unresolved. However, the real progress made by Members during 2000 to reinvigorate the ongoing work of the WTO should help to encourage further constructive exchanges and reflections on these issues and, hopefully, set the stage for the development of a consensus on a new round.

In the following pages, we review the active program of work that has been pursued by the various WTO councils and committees in the past year, as well as provide a look forward to the challenges that lie ahead in 2001. In November of this year, the trade ministers of WTO Members will reconvene in Doha, Qatar, for their fourth biennial ministerial conference to assess developments in the organization and chart a course for further work. Members will be consulting actively with one another and with their domestic constituents over the course of this year to fashion a vigorous and relevant agenda for this ministerial and the WTO more generally.

A. Implementation

WTO Members accord a high priority to the effective implementation of agreements concluded under WTO auspices – ranging from agreements achieved in the Uruguay Round and subsequently in areas such as Basic Telecommunications, Financial Services and Information Technology. Operationally, each of the agreements is supported by a Council or Committee, with final oversight provided by the WTO General Council. At each of their meetings since the WTO was created, ministers have reinforced the priority they attach to implementation and the responsibilities of the General Council for monitoring and compliance. At their 1998 ministerial meeting, ministers instructed the General Council to include implementation as a central issue in the development of the agenda for the 1999 Seattle Ministerial Conference. This was done: (1) to ensure that the negotiations in agriculture and services mandated at the conclusion of the Uruguay Round would be initiated on schedule in 2000; (2) to address emerging concerns with respect to implementation of the vast set of agreements resulting from the Uruguay Round; and (3) to provide an opportunity to consider whether the implementation issues warranted further negotiations in areas not covered by the built-in agenda.

The implementation issue remained unresolved after the Seattle Ministerial Conference, although the negotiations on the built-in agenda have proceeded as noted elsewhere in this chapter. Accordingly, early in 2000, Members agreed to establish a series of Special Sessions of the General Council to give greater prominence to the outstanding concerns on implementation, in particular to deal with issues that might benefit from greater technical cooperation or attention by Members. Formal meetings of the General Council meeting in Special Session were convened in May, June, October and December. Numerous informal consultations were conducted by the Chairman of the General Council. An inventory of specific concerns identified by certain developing countries prior to the Seattle Ministerial provided the benchmark for discussions, but the work was not limited to these concerns.

The debate about implementation that occurred as part of the Seattle preparatory process and continued through 2000 reflected differences among WTO Members over the operation, pace and direction of the WTO. It revealed the concern of some Members, particularly poorer countries, that implementation of existing agreements was more complex than originally envisioned. This was brought into sharp focus with the completion under many Agreements of transition periods provided to developing country Members to phase in adherence to WTO rules (e.g., in the areas of trade-related intellectual property rights (TRIPS), trade-related investment measures (TRIMS), and customs valuation). The discussions brought to light two sometimes competing, sometimes overlapping objectives. Some Members sought to use the process to seek improved compliance with WTO obligations,

and/or to ensure practical aid and support from the system for doing so. Other Members sought to use the process to call into question the reasonableness of the obligations imposed by the Agreements, and to seek a "rebalancing" of those obligations and/or a delay in pursuing new liberalization and negotiations.

The General Council's examination frequently confirmed that some Members lacked sufficient institutional capacity to fully overcome their implementation problems; this was particularly the case in customs valuation, where responsible plans and work programs were developed to address the problems on a case-by-case basis. In other areas, such as standards, the implementation discussion provided an opportunity for the responsible committees to identify and adopt improvements to the operation of their Agreements. Finally, in areas like trade remedies and textiles, some Members preferred to focus on proposals for selective changes to agreements. There was no consensus to approve such changes or, for that matter, to support negotiations aimed at a broader range of issues.

On a positive note, the General Council's review revealed that a tremendous amount of support and activity had already been undertaken by both individual Members and the WTO Secretariat to tackle pressing needs in the area of technical cooperation and assistance. The United States took the opportunity to highlight its major contributions to technical cooperation valued at $650,000 over the year, including assistance in the areas of customs valuation and standards. Beyond noting these commitments, and furthering Members' understanding of the scope and nature of issues being addressed, the review also yielded several important clarifications by the General Council designed to facilitate management and resolution of these issues. The Council's decision of December 15, 2000, is included in Annex II. The following pages outline the progress to date in the various councils and committees, as well as identify the outstanding issues in each Agreement. The information detailed in this chapter confirms that while implementation remains a concern of all WTO Members, the system works continually at resolving problems and improving performance. In certain areas, the discussion also reveals that remaining issues may be best addressed, through further negotiation, provided there is consensus.

Prospects for 2001

Implementation will continue to be an important feature of the WTO's on-going work program, including the work of the individual committees. The United States has encouraged WTO Members to continue to pursue their legitimate implementation concerns in these bodies as the best means to secure practical, tangible progress. As the course of work proceeds this year, the committees will be asked to assess the state of implementation and to identify areas requiring further attention. The United States intends to participate actively in view of the importance of effective compliance to the realization of U.S. interests in the multilateral system..

B. Built-In Agenda Negotiations in Agriculture and Services

At the core of the WTO's agenda this year will be negotiations mandated by the Uruguay Round to pursue further agricultural reform and liberalization in services. Early in 2000, Members established time frames for tabling proposals in both areas and conducted a rigorous program of special sessions of the Committee on Agriculture and the Council for Trade in Services (CTS) throughout 2000. The stage is set in both areas to move from the conceptual issues of framing negotiations to focusing on the details of securing reform and liberalization. By the end of March 2001, Members will need to set a course for the negotiations in the coming year.

Agriculture: The WTO provides multilateral disciplines on agricultural trade policies and serves as a forum for further negotiations on agricultural trade reform. The Uruguay Round Agreement on Agriculture provided the framework for further negotiations, leaving

Members the task of focusing on subsidy reductions and improvements to market access. The WTO is uniquely situated to advance the interests of U.S. farmers and ranchers. Through WTO rules, U.S. producers and exporters are able to impose disciplines on other large agricultural producing and consuming nations simultaneously. For example, absent a WTO agreement on agriculture there currently would be no limits on EC subsidization or firm commitments for access to the Japanese market. Through the built-in agenda negotiations, America has the best hope to open important markets for U.S. farm products and reduce subsidized competition.

Developing countries, particularly members of the Cairns Group[2], look to the negotiations as the best means of enhancing their economic performance and participation in the global economy. In the first three years of the implementation of the Uruguay Round, developing countries' export growth accelerated, with an annual increase of 7.2 percent for 1994-97 versus 6.1 percent for 1990-94. Agricultural exports of developing countries expanded more rapidly than those of the developed countries in the period after the conclusion of the Uruguay Round. Developing countries' share of world agricultural exports, which had increased from 40 to 41.5 percent between 1990 and 1994, reached 42.5 percent in 1998.

With the first stage of negotiations nearly complete (including the tabling of twenty-four proposals by Members), the next phase of negotiations will focus on developing reform modalities -- general approaches to reducing protection and support, and creating new disciplines on trade-related agricultural policies. The three main areas for improvements are export subsidy discipline, market access and domestic support. Specific negotiating time lines were not established by the Uruguay Round. However, the expiration of the agricultural "peace clause" at the end of 2003, and continued domestic farm reform efforts in the United States, Europe, and other countries will intensify pressure on WTO Members to move the negotiations forward to achieve meaningful reform.

Export Subsidies. The current Agreement places limits on the use of export subsidies. Products that had not benefitted from export subsidies in the past are banned from receiving them in the future. Where countries had provided export subsidies in the past, the future use of export subsidies has been capped and reduced. Currently, the European Union accounts for over 90 percent of global annual spending on agricultural export subsidies. A number of countries, including the United States and some developing countries, have called for the new negotiations to eliminate export subsidies. A number of countries have also called for stricter disciplines on other export programs, including export credits, food aid, and privileges enjoyed by state trading enterprises.

Market Access. The current Agreement set agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into simple tariffs. Quotas, discriminatory licensing, and other such measures are now prohibited. Also, all agricultural tariffs have been reduced from earlier levels and "bound" in the WTO; a decision by a member to impose tariff rates above a binding would violate WTO obligations. Creating a "tariff-only" system for agricultural products is an important advance, yet tariffs on agricultural products around the world remain too high. Additionally, administrative difficulties with tariff-rate quota systems continue to impede international trade of food and fiber products. Substantial tariff reductions and reform of administrative systems are a key feature of a number of negotiating proposals submitted in

[2]Current Cairns Group Members are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, Uruguay.

2000. The U.S. proposal focuses on reducing high tariffs, an outcome that would benefit U.S. producers who generally have less tariff protection than producers in other countries. The United States also has proposed tightening disciplines on the administration of tariff-rate quotas, expanding access under tariff-rate quotas, simplifying tariff systems, and reducing the trade-distorting potential of state trading enterprises. Members of the Cairns Group of exporting countries and some developing countries have focused their proposals on substantial tariff reductions in developed country markets.

Domestic Support. Governments have the right to support farmers if they so choose. However the Agriculture Agreement encourages such support to be provided in a manner that causes minimal distortions to production and trade. The Agreement caps and reduces trade-distorting domestic supports that a Member can provide to its farmers but allows criteria-based "green box" policies that can support agriculture while minimizing distortions to trade. The U.S. proposal calls for reducing the level of trade-distorting support and establishing a ceiling on trade-distorting support that applies equally to all countries proportionate to the size of their agricultural economy. This proposal will reduce unfair competition in world markets and eliminate disparities resulting from unequal levels of support provided in the base period. Some other WTO Members have called for elimination of all trade-distorting support and a cap on the "green box" non-trade-distorting support.

Negotiating Proposals: Twenty-four proposals were submitted during the year, (all of these papers can be accessed by the public from the WTO web site at http://www.wto.org). The United States tabled the first comprehensive proposal on June 23, and a proposal on tariff-rate quota reform on November 13. The Cairns group of exporting countries has tabled four proposals, one each on export competition, domestic support, market access, and export restrictions.

An *ad hoc* group[3] of developing countries have submitted three proposals on special and differential treatment, domestic support, and market access. The European Community has submitted a comprehensive proposal and four narrower proposals on animal welfare, domestic support, food quality, and export competition. Japan, Switzerland and Mauritius also submitted comprehensive proposals. Canada has submitted proposals on market access and domestic support. The ASEAN group and a group of small island developing states[4] have submitted proposals on special and differential treatment. A group of transition economies[5] moving from centrally-planned economies submitted two papers on domestic support and market access. Swaziland submitted a proposal on market access. In addition, discussion papers have been submitted by the United States on domestic support, by a group of import-sensitive countries on non-trade concerns, by a group of Latin American countries on export subsidies and food security, and by Argentina on non-trade concerns.

[3]The ad hoc group of developing countries includes: Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka, El Salvador, India, and Nigeria; (not all countries endorse all proposals).

[4] Dominica, Jamaica, Mauritius, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

[5] Albania, Bulgaria, Croatia, the Czech Republic, Estonia, Georgia, Hungary, the Kyrgyz Republic, Latvia, Lithuania, Mongolia, Slovak Republic and Slovenia; (not all countries endorse all proposals).

Key Elements of U.S. Proposals for Agricultural Reform

Tariffs and TRQs. Comprehensive reductions in tariffs and increases in tariff-rate quota quantities, without exception.

Export Subsidies. Elimination of export subsidies.

Domestic Support. Simplification of the current structure by creating two categories of support: non-trade distorting measures that are not subject to limits and trade-distorting measures that would be subject to reductions.

Disparities. Reduction of disparities in tariffs and domestic support between countries, a key domestic concern. Establishment of a common trade-distorting domestic support limit based on a fixed proportion of the value of national agricultural production.

State Trading Enterprises. Disciplines the activities of import and export state trading enterprises, including ending their monopoly privileges.

New Technologies. Flags the importance of addressing trade barriers to products of new technology, including biotechnology, but does not suggest specific disciplines.

State Trading Enterprises. Disciplines the activities of import and export state trading enterprises, including ending their monopoly privileges.

New Technologies. Flags the importance of addressing trade barriers to products of new technology, including biotechnology, but does not suggest specific disciplines.

Export Restrictions. Strengthens disciplines on export restrictions to increase the reliability of global food supply.

Special and Differential Treatment. Provides special consideration to the concerns of the poorer WTO WTO Mem WTO Members to ensure the agreement is appropriate for their circumstances.

Services: Pursuant to the mandate provided in the Uruguay Round, in 2000, Members embarked upon new, multisectoral services negotiations under Article XIX of the General Agreement on Trade in Services (GATS). The Council for Trade in Services, meeting in special session, serves as the negotiating body.

The services negotiations are critically important to the U.S. economy. Services are what most Americans do for a living. Service industries account for nearly 80 percent of U.S. employment and GDP. U.S. exports of commercial services (i.e., excluding military and government) were $255 billion in 1999, supporting over 4 million services and manufacturing jobs in the United States. Cross-border trade in services accounts for more than 25 percent of world trade, or about $1.4 trillion annually. U.S. services exports have more than doubled over the last 10 years, increasing from $118 billion in 1989 to $255 billion in 1999. U.S. services compete successfully worldwide. In 1999, major export markets for U.S. services include the European Union ($85 billion), Japan ($30 billion), and Canada ($21 billion). At $13 billion, Mexico is presently the largest emerging market for exports.

Services are important to an efficient economy. They include essential infrastructure systems like telecommunications, finance, energy services, transportation, and distribution; professional services like accounting, law, architecture, and engineering; and environmental services such as sewage, refuse disposal, sanitation and exhaust gas reduction services.

Negotiating Proposals: With the start of the mandated services negotiations, WTO Members reached early agreement on a work program through March 2001. The "roadmap" called for WTO Members to submit negotiating proposals and proposals related to the conduct of the negotiations by a notional deadline of December 2000. The United States submitted the first comprehensive negotiating proposal in July 2000.

To complement and elaborate on the U.S. July submission, the United States, in December

2000, presented more specific views on interests and objectives in 11 individual service sectors:

- accountancy services
- audiovisual and related services
- distribution services
- education and training services
- energy services
- environmental services
- express delivery services
- financial services
- legal services
- telecommunications, value-added network, and complementary services
- tourism services

In addition, the United States presented more specific views regarding one GATS "mode of delivery" (movement of natural persons).

The July and December submissions are available on USTR's website. Other countries have followed with negotiating proposals of their own. At a March 2001 stocktaking, the CTS is expected to pave the way for focused discussion of each of these proposals.

The GATS. The GATS is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. Its objective is to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership, while at the same time maintaining regulators' ability to meet legitimate objectives. Trade in services includes economic activities whose outputs are other than tangible goods, such as banking, insurance, securities, telecommunications, distribution services (retail and wholesale trade), computer and related services, advertising, professional services, private education and training, private health care, audiovisual and tourism services.

The GATS consists of a framework agreement that lays out the general obligations for trade in services in much the same way that the General Agreement on Tariffs and Trade does for trade in goods. Most-favored-nation treatment (MFN), market access, and national treatment are three of the important principles included in the general framework of the GATS. Thus, the GATS provides a legal framework for addressing barriers to trade and investment in services, and it includes specific commitments by WTO Members to restrict their use of those barriers. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for Trade in Services oversees implementation of the GATS and reports to the General Council.

All Members of the WTO are signatories to the GATS framework agreement and have made sector-specific commitments pertaining to national treatment, market access, and MFN treatment. Ministerial Decisions at the conclusion of the Uruguay Round had called for negotiations on further liberalization in, *inter alia*, the financial services and basic telecommunications sectors, the results of which entered into force in 1999 and 1998, respectively, as well as a work program in professional services, which completed its work with respect to accountancy in 1999.

Key Elements of the U.S. Proposals for Services

Following is an explanation of the importance of the 12 detailed services negotiating proposals to the United States and to the GATS negotiations. These documents are available at http://www.ustr.gov/sectors/services/docsvcs.html.

Accountancy

The proposal is designed to make it easier for accountants and accounting firms to serve clients in other countries, as this profession becomes increasingly globalized. It would address citizenship and prior residency requirements for licensing, and would strengthen the Accountancy Disciplines, adopted by the WTO in 1998, which

are scheduled to become effective after this set of negotiations. The proposal addresses market access and national treatment obstacles, which were not addressed under the mandate of the WTO Working Party on Professional Services, which developed the Disciplines.

International revenues of accounting firms amount to tens of billions of dollars and are growing annually. Two million accountants are employed worldwide. Accounting firms create job opportunities in virtually all countries; they assist manufacturers and businesses in developing and maintaining cost-effective operations and in preparing tax returns and financial statements.

Audiovisual and related services

The proposal is intended to provide a framework for future negotiations in the WTO that will contribute to the continued growth of this sector by ensuring an open and predictable environment that recognizes public concern for the preservation and promotion of cultural values and identity. Today's audiovisual sector has changed significantly during the last 10 years. New technologies stimulate the growth and development of audiovisual services and products from around the globe and offer consumers worldwide access to a multitude of entertainment and information services.

As part of the explosion in information technology that has taken place in the past decade, audiovisual services, too, play their role in fostering a nation's economic development, both through the spread of information and ideas and by fostering investment in a nation's advanced communications infrastructure. Electronically delivered audiovisual products and services, for example, which increase use of the network, are helping to create an environment that will encourage investment in the digital networks of tomorrow.

Distribution services

This proposal addresses barriers faced by wholesalers, retailers, and other distribution companies in operating supply chains internationally (e.g., restrictions on real estate purchases, store location, etc.). It requests countries that have not yet taken commitments in this sector to match the U.S. Uruguay Round commitments (no limitations on market access or national treatment) or to formulate an offer addressing identified obstacles in this sector. It also proposes that all Members undertake additional commitments relating to regulation in this sector (e.g., provide transparency of domestic laws and regulations; provide an opportunity for service providers to meet with local officials and community representatives to discuss location of facilities).

Efficient distribution is an essential feature in the infrastructure of modern economies. Supply chains from manufacturers to wholesalers, retailers, franchisers, direct sellers, and marketers provide consumers with a wide selection of products and reasonable prices, important factors in improving the quality of life. These companies consistently produce large numbers of jobs and income opportunities both directly and in other ancillary services, such as transportation, packaging, logistics management, and information technology. Retailers and wholesalers are among the largest employers in a number of countries.

Education and training services

This proposal addresses barriers to market access and national treatment for suppliers of education and training services, both cross-border and at facilities abroad. The proposal would be limited to higher (tertiary) education, adult education, and training, and would not apply to primary and secondary schools. It would not seek to displace public education systems, but rather would supplement them and provide opportunities for suppliers to make their services available to students in other countries. The intent is to help

upgrade knowledge and skills through these educational and training programs, while respecting each country's role in administering public education.

Specialized education and training is needed in many countries, particularly in high-tech fields. Such education is becoming more important in the development and operation of modern economies. Hundreds of thousands of foreigners visit the United States each year to study at our educational institutions. U.S. balance of payments receipts from incoming students amount to some $9 billion annually. In addition, receipts from training services add another $400 million a year. This does not include the receipts of a growing number of branches and other ventures established overseas by U.S. educational service providers. The most popular courses offered by these establishments are business administration, management and leadership training, language training, and computer and information technology education, some of which are delivered by a combination of classroom discussion and interactive internet sessions ("distance learning").

Energy services

Energy services involve a wide range of activities, from exploration of energy resources to transmission and distribution of energy, to marketing and trading of energy, to services promoting the clean and efficient use of energy and other services necessary to obtain, convert, and deliver an energy resource to consumers.

Liberalization of energy services is a priority for the United States in the current round of services negotiations. Broad market openings in the sector are fundamental to the economic health of both developed and developing countries. The energy services initiative offers developing countries the opportunity to save hundreds of billions of dollars through enhanced efficiencies in energy development and usage, as well as to provide energy to the roughly 2 billion people today that do not have access to commercial power.

During the last major round of trade negotiations, the Uruguay Round, little attention was paid to energy services. This was partly because, at the time, most service functions were performed "in-house" by state-owned or regulated oil companies and power generation utilities that controlled the whole production and distribution chain. Today, deregulation and privatization have led to an unbundling of energy services activities and the development of a $600 billion energy services sector.

The U.S. proposal calls on WTO Members to assure nondiscriminatory access to foreign energy service providers across the entire value-chain of energy services. Equally important, the U.S. proposal suggests that WTO Members consider how best to create an appropriate regulatory environment for energy services so that opaque or discriminatory regulatory practices do not undermine commitments to open markets to foreign service providers.

Environmental services

The benefits of services that prevent, reduce, or correct environmental degradation are increasingly seen as important to ensure that environmental problems are adequately addressed and that future problems are prevented or limited. Liberalization in this sector will benefit all countries, not only developed economies that often have the technology to compete in this industry. We are increasingly aware that the trans-boundary effects of many environmental issues make this sector important to both developing and developed countries. The reduction of barriers to the provision of environmental services will enhance competitive forces ensuring that technology advances are better dispersed and provided at more affordable rates. This will ensure greater access to these services for all countries.

At the same time, liberalization in these sectors must not impair the ability of governments to impose performance and quality controls on environmental services and to otherwise ensure that service providers are fully qualified and carry out their tasks in an environmentally sound manner.

Express delivery services

This proposal addresses barriers faced by express delivery companies in providing integrated services from pick-up to end user delivery. It seeks the adoption of a separate classification for express delivery services and requests countries to undertake commitments on market access and national treatment. It also proposes that all Members undertake additional commitments relating to regulation in this sector (e.g., provide transparency of domestic laws and regulations; provide an opportunity for service providers to meet with local officials and community representatives to discuss location of facilities).

The world market for express delivery services, estimated at over $50 billion, is projected to grow rapidly over the next several years, partly driven by the increasing use of online purchasing by businesses and consumers, as well as the need for vendors to match the speed of electronic ordering with rapid physical delivery. Consumers benefit not only from the speed of delivery but from the lower costs resulting from efficiencies of operation. Express delivery service providers employ tens of thousands of people worldwide. These services have become an important feature of a modern, efficient economy.

Financial services

Financial services liberalization – which includes insurance, banking, securities, asset management, pension funds, financial information, financial advisory activity, and other financial services – enhances and strengthens capital market efficiency, bolsters financial sector stability, stimulates innovation, and provides consumers with the broadest range of services at the lowest cost. The United States is one of the world's most competitive suppliers of financial services. In 1997, in the insurance sector, U.S.-owned affiliates' sales in foreign markets reached $ 47.2 billion. The United States is also a world leader in providing cross-border insurance services. Even excluding core deposit-taking and lending business, U.S. banking and securities firms recorded cross-border exports of $13.9 billion in 1998, and recorded comparable sales via their affiliates abroad. Growth of the U.S. financial services sector in overseas markets also stimulates demand for a wide range of other U.S. services, including telecommunications, professional services, and computer and related services.

A strong and vibrant financial sector is particularly important for emerging economies to provide a strong basis for their trade in a diverse range of goods and services. Ambitious commitments for financial services also make countries more attractive destinations for investment in e-commerce networks and associated technologies. In short, liberalization of financial services, when implemented in conjunction with transparent and strong regulatory regimes, is one of the most important catalysts of economic and trade growth.

The United States proposal on financial services establishes benchmarks for further financial services liberalization including: (1) commitments constituting fundamental liberalization; and (2) commitments on transparency and other principles for regulation.

Legal services

With the acceleration of world economic integration, law firms have become increasingly important in advising clients on a variety of business matters, including mergers and acquisitions with foreign companies and business contracts involving multiple jurisdictions. Negotiations on legal services will enable WTO Members to examine liberalization opportunities

with regard to market access and national treatment barriers. This examination should focus on liberalization opportunities regarding commercial presence, citizenship and residency requirements for licensing, scope of practice, association of foreign-qualified lawyers with local lawyers, and association of foreign-partner law firms with local law firms. Negotiations should include other relevant modes of supply, including the movement of personnel.

In many respects, lawyers and law firms pave the way for international trade and investment and they are regarded as a part of the infrastructure of commerce. For the United States, balance of payments receipts for legal services amount to roughly $2.5. billion annually.

Telecommunications, value-added network, and complementary services

WTO Members seeking to benefit from the growth opportunities provided by an increasingly "networked" global economy will need to attract extensive private investment to build the infrastructure of telecommunications and computer facilities. The WTO and its Members can play a key role in stimulating such investment by:

- ensuring market access and national treatment for providers of both network infrastructure and key service sectors that use this infrastructure;
- implementing the Basic Telecommunications Reference Paper commitments that promote competition in basic telecommunications; and,
- consistent with Article VI of the GATS, avoiding unnecessary restrictions on services offered by competitive suppliers.

To achieve this goal the United States proposed, in conjunction with sector-specific negotiations, a negotiating framework that elicits commitments in both basic and value-added telecommunications services, as well as complementary services that could be integrated into network transactions such as distribution services, express delivery services, computer services, advertising services, and certain financial services. Such a package will ensure that the opportunity to build and fully utilize networks is supported by WTO disciplines, encouraging investment and the broadest possible development of services that are flourishing through the efficiencies of networked transactions.

Worth $650 billion in 1997, the global telecommunications market is now rapidly approaching one trillion dollars in annual sales. Before the agreement came into force, only 17 percent of the world's top 20 global markets were open to U.S. firms; now, measured by annual sales, U.S. companies have access to over 95 percent of global telecommunications markets, according to the International Telecommunications Union.

By the end of 2000, spending on telecommunications equipment and services was estimated at $983 billion in Canada, Mexico, Western and Eastern Europe, Latin America, and the Asia-Pacific region combined. Spending on telecommunications transport services, equipment, and support services will soar to $1.8 trillion in 2003 at a 16.7 percent compound annual growth rate. U.S. manufacturers are expected to garner $45 billion -- that is 12.7 percent -- of the estimated $345 billion that will be spent on telecommunications equipment in 2003.

According to 1999 statistics, e-commerce generated over $171 billion in revenue. Forty-four percent of U.S. companies are selling online; 36 percent more indicated that they will do so by the end of 2000. According to industry estimates, internet advertising generated $1.92 billion in 1998, double the 1997 figure.

Tourism services

This proposal focuses on hotels as a sub-sector of tourism. It builds on a proposal by three developing countries on tourism, which is currently under discussion in the GATS Council. It requests countries that have not yet taken commitments with respect to hotels to match the U.S. Uruguay Round commitments (no limitations on market access or national treatment) or to formulate an offer based on a list of obstacles in this sector (e.g., limitations on foreign investment or on purchase of real estate; discriminatory treatment of parties in a joint venture, etc.). It also proposes that all Members undertake additional commitments relating to travelers and international conferences to promote expansion of international tourism.

Tourism, broadly defined, is regarded as the world's largest industry and one of the fastest-growing, accounting for over one-third of the value of total worldwide services trade. The labor-intensive nature of the industry makes it a major source of employment, especially in remote and rural areas. Tourism ranks in the top five export categories for 83 percent of countries, according to the World Tourism Organization, and is the leading source of foreign exchange in at least one in three developing countries. Tourism generates not only employment but retail sales and tax revenues. With annual receipts in excess of $75 billion and payments of over $50 billion, the United States is the world's leading exporter and importer of tourism services. The hotel industry is a most important part of the tourism industry with worldwide revenues estimated at $253 billion.

Movement of natural persons

An important component of U.S. competitiveness in the services sector is human capital – skilled managers and professionals involved in the delivery of services in foreign markets. Too often, however, companies face regulatory hurdles in moving personnel to foreign locations This proposal would apply across all services sectors, recognizing that movement of natural persons is relevant to all services sectors. The proposal highlights the temporary nature of this GATS mode of supply – WTO Members undertake no obligations with respect to permanent entry or stay of individuals as service suppliers – and the role that access to information and regulatory transparency can play in ensuring full implementation of GATS commitments in this area.

C. Dispute Settlement Body

1. The Dispute Settlement Understanding

The Understanding on Rules and Procedures Governing the Settlement of Disputes ("Dispute Settlement Understanding" or "DSU"), which is annexed to the WTO Agreement, provides a mechanism to settle disputes under the Uruguay Round Agreements. Thus, it is key to the enforcement of U.S. rights under these Agreements.

The DSU is administered by the Dispute Settlement Body (DSB), which includes representatives of all WTO members. The DSB is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB and authorize retaliation. The DSB makes all its decisions by "consensus." Annex II at the end of this chapter provides more background information on the WTO dispute settlement process.

Dispute Settlement Body Actions in 2000

The DSB met 23 times in 2000 to oversee disputes and to take care of tasks such as electing Appellate Body members and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear

that panelists may be drawn from either the public or private sector and must be "well-qualified," such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. The Secretariat maintained a roster of non-governmental experts since 1985 for GATT 1947 dispute settlement, which was available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information to be submitted by roster candidates, to aid in evaluation of candidates' qualifications and to encourage appointment of well-qualified candidates who would have expertise in the subject matters of the Uruguay Round Agreements. In 2000, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

The present WTO panel roster appears in the background information at the end of this chapter. The list in the roster notes the areas of expertise of each roster member (goods, services and/or TRIPS).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and on December 3, 1996, adopted the *Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes*. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2000.

The Rules of Conduct were designed to elaborate on the ethical standards built into the DSU, and to maintain the integrity, impartiality and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts. The Rules of Conduct also provide parties to a dispute an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the URAA, which directed the USTR to seek conflicts of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also (1) arbitrators; (2) experts participating in the dispute settlement mechanism (e.g., the Permanent Group of Experts under the Subsidies Agreement); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chairman of the Textile Monitoring Body ("TMB") and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings or observations under the Agreement on Textiles and Clothing; and (5) support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure-based system. Examples of the types of information that covered persons must disclose are set forth in Annex 2 to the Rules, and include the following: (1) financial interests, business interests, and property interests relevant to the dispute in question; (2) professional interests; (3) other active interests; (4) considered statements of personal opinion on issues relevant to the dispute in question; and (5) employment or family interests.

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body, with members serving four-year terms, except for three initial appointees determined by lot whose terms expire at the end of two years. At its first

meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members, who took their oath on December 11, 1995, were: Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Professor Claus-Dieter Ehlermann of Germany, Dr. Said El-Naggar of Egypt, Justice Florentino Feliciano of the Philippines, Mr. Julio Lacarte Muró of Uruguay, and Professor Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on 11 December 1997. On October 27, 1999 and November 3, 1999, the DSB agreed to renew the terms of Messrs. Bacchus and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Dr. El-Naggar and Professor Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Professor Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. The names and biographical data for the Appellate Body members are included in Annex II.

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued revision of the Working Procedures, providing for a two-year term for the first Chairman, and one-year terms for subsequent Chairmen. Mr. Lacarte Muró, the first Chairman, served until February 7, 1998; Mr. Beeby served as Chairman from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairman from February 7, 1999 to February 6, 2000; and Mr. Feliciano's term as Chairman will run from February 7, 2000 to February 6, 2001.

In 2000, the Appellate Body issued ten reports, of which seven involved the United States as a party and are discussed in detail below. The three other reports concerned Canada's measures affecting the automotive industry, Brazil's export financing program for aircraft and Canada's measures affecting exports of civilian aircraft. The United States participated in all three of these proceedings as an interested third party.

Prospects for 2001

In 2001, we expect that the DSB will continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. DSB Members will continue to consider reform proposals in 2001.

2. Dispute Settlement Activity in 2000

During its first six years in operation, 219 requests for consultations (25 in 1995, 40 in 1996, 50 in 1997, 40 in 1998, 30 in 1999, and 34 in 2000) concerning 168 distinct matters were filed with the WTO. During that period, the United States filed 56 requests for consultations and received 46 requests for consultations on U.S. measures. A number of disputes commenced in earlier years that continued to be active in 2000. What follows is a description of those disputes in which the United States was either a complainant or a defendant during the past year.

a. Disputes Brought by the United States

In 2000, the United States continued to be one of the most active users of dispute settlement in the WTO. This section includes brief summaries of dispute settlement activity in 2000 with respect to those cases in which the United States was a

complainant. These cases involve a variety of different WTO-inconsistent trade barriers maintained by several different governments. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in many instances, the United States has been able to achieve satisfactory outcomes invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel procedures.

Argentina—Patent and test data protection for pharmaceuticals and agricultural chemicals

On May 6, 1999, the United States filed a consultation request challenging Argentina's failure to provide a system of exclusive marketing rights for pharmaceutical products, and to ensure that changes in its laws and regulations during its transition period do not result in a lesser degree of consistency with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement"). Consultations were held on June 15, and on July 27, 1999. On May 30, 2000, the United States expanded its claims in this dispute to include new concerns that arose as a result of Argentina's failure to fully implement its remaining TRIPS obligations that came due on January 1, 2000. These concerns include Argentina's failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals and agricultural chemicals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability. Consultations were held July 17, 2000. Additional consultations were held November 29, 2000.

Australia—Measures affecting imports of fresh, chilled or frozen salmon

Australia banned imports of fresh, chilled, or frozen salmon from Canada and the United States, allegedly for the protection of fish health, even though a draft risk assessment found in 1995 that there was no risk of transmitting fish disease from imports of dead, eviscerated fish. The United States alleged that this practice was inconsistent with numerous requirements of the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). On May 11, 1999, the United States requested a panel. The panel was established on June 16, 1999, but the United States requested that its proceedings be suspended pending the outcome of a case brought by Canada regarding the same measure. Canada prevailed in its challenge, and on May 17, 2000, Canada and Australia settled the dispute by reaching an agreement that will benefit U.S. exporters as well.

Australia—Prohibited export subsidies on leather

On June 21, 2000, the United States resolved its dispute with Australia regarding subsidization of Australia's sole exporter of automotive leather. Under a bilateral settlement agreement, the subsidy recipient agreed to a partial repayment of the prohibited export subsidy it received, and the Australian Government committed that it will exclude this industry from current and future subsidy programs, and provide no other direct or indirect subsidies.

The agreement is the result of a WTO case brought by the United States in 1998, when Australia, after consultations with the United States, excluded its automotive leather industry from two export subsidy programs, but then compensated its automotive leather exporter by means of a $30 million grant. The United States alleged, and the dispute settlement panel agreed, that this grant was a *de facto* export subsidy and had to be withdrawn. Australia announced in September 1999 that it had complied with the WTO ruling by requiring the recipient to repay less than 27 percent of the grant, which it called the prospective portion. At the same time, Australia announced a new loan subsidy to the exporter's parent company. In response, the

original WTO panel was reconvened at the request of the United States. The panel concluded that Australia had failed to comply with the panel's recommendations and rulings because the repayment was insufficient and the new loan subsidy nullified even that insufficient repayment. Following this decision, the United States and Australia began exploring a mutually satisfactory resolution of this matter.

Belgium—Rice imports

Belgian customs authorities disregarded the actual transaction values of rice imported from the United States from July 1, 1997 to December 31, 1998, in computing the applicable customs duties. The United States believes that this failure to use transaction values contravenes Belgium's WTO obligations. By not using transaction values to compute customs duties Belgium has assessed duties on rice that are higher than the levels provided for in the "Schedule of Specific Commitments of the European Communities and Their Member States." Belgium's administration of its tariff regime for rice, moreover, has contributed to substantial uncertainty regarding the rate of duty that will be applicable to shipments of imported rice. On October 12, 2000, the United States requested consultations with Belgium regarding this matter, and consultations were held November 30, 2000.

Brazil—Customs valuation

The United States requested consultations on May 31, 2000, with Brazil regarding its customs valuation regime. U.S. exporters of textile products reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. In practice, this system works to prohibit the import of products with declared values below the established minimum prices. This practice appears inconsistent with Brazil's WTO obligations, including those under the Agreement on Customs Valuation. The United States participated as an interested third party in a dispute initiated by the EU regarding the same matter, and decided to pursue its own case as well. The United States held consultations with Brazil on July 18, 2000.

Brazil—Patent protection

Although Brazil has a largely WTO-consistent patent regime that has been in place for some time, there remains a longstanding difference of views between the United States and Brazil over a narrow provision in the TRIPS Agreement that the United States considers Brazil to be violating because it requires patent owners to manufacture their products in Brazil in order to maintain full patent rights. Having been unable to resolve this difference over the past five years, the United States decided to resort to WTO dispute settlement procedures and on May 31, 2000, requested consultations with Brazil. Consultations were held June 29, 2000. Additional consultations were held December 1, 2000, and thereafter the United States requested the establishment of a panel.

Canada—Export subsidies and tariff-rate quotas on dairy products

The United States prevailed on its claim that Canada was providing subsidies to exports of dairy products without regard to its Uruguay Round commitment to reduce the quantity of subsidized exports, and was maintaining a tariff-rate quota on fluid milk under which it only permitted the entry of milk in retail-sized containers by Canadian residents for their personal use. On August 12, 1998, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Professor Tommy Koh, Chairman; Mr. Guillermo Aguilar Alvarez and Professor Ernst-Ulrich Petersmann, Members. On May 17, 1999, the panel issued its report upholding U.S. arguments by finding that Canada's export subsidies are inconsistent with the Agreement on Agriculture, and that Canada's practice of restricting the import of milk to retail-sized containers imported by Canadian residents is

inconsistent with its obligations under the GATT 1994. On October 13, 1999, the Appellate Body issued its report upholding the panel's finding that Canada's export subsidies are inconsistent with its GATT obligations. The panel and Appellate Body reports were adopted by the Dispute Settlement Body ("DSB") on October 27, 1999. On December 22, 1999, the parties reached agreement on the time period for implementation by Canada. Under this agreement, Canada was to implement the DSB's recommendations and rulings in stages; Canada has already implemented on some measures, and was to complete full implementation no later than January 31, 2001. While Canada has eliminated one of the export subsidies subject to the DSB findings, all of its exporting provinces have instituted substitute measures that appear to duplicate most of the elements of the export subsidies which they replace. Information regarding the new measures indicates that only exporters have access to milk at prices that are below domestic market levels in Canada. Therefore, the United States announced that it would request that the panel be reconvened to review Canada's compliance.

Canada—Patent protection term

The United States prevailed in this dispute, in which the United States argued that the Canadian Patent Act is inconsistent with the TRIPS Agreement. The TRIPS Agreement obligates WTO members to grant a term of protection for patents that runs at least 20 years from the filing date of the underlying application, and requires each Member to grant this minimum term to all patents existing as of the date of application of the Agreement to that Member. Under the Canadian Patent Act, patents issued on the basis of applications filed before October 1, 1989, are granted a term of only 17 years from the date on which the patent is issued. The United States initiated this dispute on May 6, 1999. The panel was established on September 22, 1999, and on October 22, 1999, the Director-General composed the panel as follows: Mr. Stuart Harbinson, Chairman; Mr. Sergio Escudero and Mr. Alberto Heimler, Members. In its report, circulated on May 5, 2000, the panel agreed with the United States that Canada's law fails to provide the patent term guaranteed by TRIPS. On September 18, 2000, the Appellate Body affirmed the panel's rulings. The DSB adopted the reports of the panel and Appellate Body on October 12, 2000. The United States has asked an arbitrator to determine the reasonable period of time for Canada to comply.

Denmark—Measures affecting the enforcement of intellectual property rights

The United States used the dispute settlement procedures in this case to encourage legislative action by Denmark to implement its TRIPS obligations. The TRIPS Agreement requires that all WTO Members provide provisional relief in civil intellectual property rights enforcement proceedings. After numerous consultations with the United States in 1997 and 1998, the Government of Denmark agreed to form a special committee to consider amending Danish law to provide this type of remedy. The committee concluded its work in May 2000, and we expect Denmark to move toward amendment of its law expeditiously. We continue to monitor Denmark's progress on this issue.

EU—Beef Hormone ban

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. On July 2, 1996, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Mr. Thomas Cottier, Chairman; Mr. Jun Yokota and Mr. Peter Palecka, Members. The panel in the case found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"), and that the ban is not based on science, a risk assessment, or relevant international standards. Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy

the requirements of the SPS Agreement. The Appellate Body also found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

Because the EU did not comply with the recommendations and rulings of the DSB by May 13,1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU, the value of which represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be $116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products. While discussions with the EU to resolve this matter have continued, to date no resolution has been achieved. On November 3, 2000, the EU notified the WTO of its plans to make permanent the ban on one hormone, oestradiol.

EU—Regime for the importation, sale and distribution of bananas

The United States, along with Ecuador, Guatemala, Honduras, and Mexico, successfully challenged the EU banana regime under WTO dispute settlement procedures. The regime was designed, among other things, to take away a major part of the banana distribution business of U.S. companies. On May 29, 1996, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. Stuart Harbinson, Chairman; Mr. Kym Anderson and Mr. Christian Häberli, Members. On May 22, 1997, the panel found that the EU banana regime violated WTO rules; the Appellate Body upheld the panel's decision on September 9, 1997. At the request of the complaining parties, the compliance period was set by arbitration and expired on January 1, 1999. However, on January 1, 1999, the EU adopted a regime that perpetuates the WTO violations identified by the panel and the Appellate Body. The United States sought WTO authorization to suspend concessions with respect to certain products of the EU, the value of which is equivalent to the nullification or impairment sustained by the United States. The EU exercised its right to request arbitration concerning the amount of the suspension and on April 6, 1999, the arbitrators determined the level of suspension to be $191.4 million. On April 19, 1999, the DSB authorized the United States to suspend such concessions, and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $191.4 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products. Meanwhile, discussions with the EU to resolve this matter have continued.

EU—Protection of trademarks and geographical indications for agricultural products and foodstuffs

EU Regulation 2081/92, as amended, does not provide national treatment with respect to geographical indications for agricultural products and foodstuffs; it also does not provide sufficient protection to pre-existing trademarks that are similar or identical to such geographical indications. The United States considers this measure inconsistent with the EU's obligations under the TRIPS Agreement. The United States requested consultations regarding this matter on June 1, 1999. Consultations were first held July 9, 1999; most recently consultations were held November 28, 2000.

India—Import quotas on agricultural, textile and industrial products

The United States prevailed in its challenge to India's import restrictions on more than 2,700 tariff items. These restrictions are no longer justified under the balance-of-payments ("BOP") exceptions of the GATT 1994. On February 20, 1998, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. Celso Lafer, Chairman; Prof. Paul Demaret and Prof. Richard Snape, Members. On April 6, 1999, the panel circulated its report, finding that India's quantitative restrictions on imports violate the WTO Agreement, and rejecting India's claim that its BOP situation justified them. The Appellate Body confirmed the panel's determination on August 23, 1999. The DSB adopted the panel and Appellate Body reports at its meeting on September 22, 1999. The United States and India agreed that India would implement the DSB's recommendations and rulings by April 1, 2000 for approximately 73 percent of the tariff items at issue in this case, and by April 1, 2001 for the remaining items. The liberalization due on April 1, 2000, took place on time. The United States continues to monitor developments until full implementation.

India—Measures affecting the motor vehicle sector

In order to obtain import licenses for certain motor vehicle parts and components, India requires manufacturing firms in the motor vehicle sector to achieve specified levels of local content, to neutralize foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period, and to limit imports to a value based on the previous year's imports. Considering these requirements inconsistent with India's obligations under the GATT 1994 and the Agreement on Trade-related Investment Measures ("TRIMS Agreement"), the United States requested consultations on June 2, 1999. Consultations were held July 20, 1999. The matter remained unresolved following consultations and, on May 15, 2000, the United States requested the establishment of a panel. A panel was established on July 27, 2000, and on November 17, 2000, that panel was merged with a panel established at the request of the EU regarding the same matter. On November 24, 2000, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. John Weekes, Chairman; Ms. Gloria Peña and Mr. Jeffrey Waincymer, Members.

Ireland and EU—Measures affecting the grant of copyright and neighboring rights

In this dispute, the United States used WTO dispute settlement consultations to encourage Ireland to take further steps to implement its TRIPS obligations. Ireland had not yet comprehensively revised its copyright law to implement the TRIPS Agreement. Examples of TRIPS inconsistencies include the absence of rental rights for sound recordings and the lack of "anti-bootlegging" provisions. After consultations with the United States, Ireland committed in February 1998 to accelerate its implementation of comprehensive copyright reform legislation, and agreed to pass a separate bill, on an expedited basis, to address two particularly pressing enforcement issues. Consistent with this agreement, Ireland enacted legislation in July 1998 raising criminal penalties for copyright infringement and addressing other enforcement issues. On July 10, 2000, Ireland passed its comprehensive copyright legislation. Subsequently, Ireland agreed to implement this legislation by the end of December 2000. Based on these developments, the parties agreed on November 6, 2000, that a mutually satisfactory solution has been reached.

Korea—Taxes on alcoholic beverages

This case, which joined complaints by the United States and the EU, concerns Korean excise tax rates that discriminate in favor of the Korean distilled spirit soju and against whisky and other Western-type distilled spirits. On May 23,

1997, the United States requested consultations. On October 16, the DSB established a single panel to consider both the EU and U.S. complaints against Korea. On December 5, 1997, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. Åke Lindén, Chairman; Professor Frédéric Jenny and Mr. Carlos da Rocha Paranhos, Members. The final panel report, circulated on September 17, 1998, found that Korea's liquor taxes violate Article III:2 of GATT 1994. The Appellate Body confirmed this finding on January 18, 1999. The reports were then adopted on February 17, 1999. Korea confirmed to the DSB its commitment to meet its obligations under the WTO with respect to this matter, and an arbitrator determined that Korea had to comply by January 31, 2000. To comply with the rulings, the Korean Government has harmonized tax rates on Korean and imported alcoholic beverages and has reduced taxes on imports of U.S. whisky by 28 percentage points.

Korea—Measure affecting government procurement

Practices applied by Korea in the procurement for construction of the new Inchon International Airport project favor Korean firms over foreign firms. The United States argued that these practices, including the use of domestic partnering, short deadlines and certain licensing requirements, are inconsistent with the Agreement on Government Procurement ("GPA"). Korea did not deny the inconsistencies of its practices, but instead argued that the entities procuring for this airport project are not covered under its GPA obligations. Because the two governments could not come to an agreement after two years of discussions, the United States asked a panel to examine this issue. A panel was established on June 16, 1999, and on August 30, 1999, the panel was composed with the consent of the parties as follows: Mr. Michael D. Cartland, Chairman; Ms. Marie-Gabrielle Ineichen-Fleisch and Mr. Peter-Armin Trepte, Members. On May 1, 2000, the panel circulated its final report, finding that the GPA does not cover this particular project. The panel report was adopted on June 19, 2000.

Korea—Measures affecting imports of fresh, chilled, and frozen beef

The United States prevailed in this dispute, which challenged Korea's regulatory scheme that discriminates against imported beef by confining sales of imported beef to specialized stores, limiting the manner of its display, and otherwise constraining opportunities for the sale of imported beef. In addition to the regulatory scheme, the United States contends that Korea imposes a markup on sales of imported beef, limits import authority to certain so-called "super-groups" and the Livestock Producers Marketing Organization ("LPMO"), and provides domestic support to the cattle industry in Korea in amounts that cause Korea to exceed its aggregate measure of support as reflected in Korea's WTO schedule. The United States alleged that these restrictions are inconsistent with the GATT 1994, the Agreement on Agriculture, and the Import Licensing Agreement. Consultations were held March 11-12, 1999, and a panel was established on May 26, 1999. Australia also requested a panel on the same measures, and the two disputes were consolidated. On August 4, 1999, the following panelists were selected, with the consent of the parties, to review the U.S. and Australia claims: Mr. Lars Anell, Chairman; Mr. Paul Demaret and Mr. Alan Matthews, Members. The final panel report, released on July 31, 2000, found Korea in violation of its WTO obligations. Korea appealed the panel's rulings on September 11, 2000. On December 11, 2000, the Appellate Body upheld the panel on all significant issues.

Mexico—Antidumping investigation of high fructose corn syrup from the United States

On January 28, 2000, a WTO panel ruled that Mexico's imposition of antidumping duties on U.S. imports of high fructose corn syrup

("HFCS") was inconsistent with the requirements of the Antidumping Agreements in several respects. The panel, which was composed on January 13, 1999, with the consent of the parties, included: Mr. Christer Manhusen, Chairman; Mr. Gerald Salembier and Mr. Edwin Vermulst, Members. Mexico had begun this antidumping investigation based on a petition by the Mexican sugar industry. The United States successfully demonstrated that Mexico's threat of injury determination and imposition of provisional and final antidumping duties was flawed. Mexico did not appeal, and the panel report was adopted on February 24, 2000. On April 10, Mexico agreed to implement the panel recommendation by September 22, 2000. On September 20, 2000, Mexico announced that it has conformed to the panel's recommendations and rulings by redetermining that there was a threat of injury to the domestic sugar industry and maintaining the subject antidumping duties, while at the same time determining that the provisional amounts paid from June 26, 1997, to January 23, 1998, would be refunded with interest. The United States, however, disagrees that such action results in full implementation of the panel's recommendations and rulings. Therefore, on October 12, 2000, the United States requested that the panel be reconvened to examine this matter. The panel was established for this purpose on October 23, 2000, with Mr. Paul O'Connor replacing Mr. Vermulst, who no longer was available to serve.

Mexico—Measures affecting trade in live swine

On July 10, 2000, the United States requested consultations with Mexico regarding Mexico's October 20, 1999, definitive antidumping measure involving live swine from the United States as well as sanitary and other restrictions imposed by Mexico on imports of live swine weighing more than 110 kilograms. The United States considers that Mexico made a determination of threat of material injury that appears inconsistent with the Antidumping Agreement, and that other actions by Mexico in the conduct of its investigation are also in violation of the Agreement. In addition, the United States considers that, by maintaining restrictions on the importation of live swine weighing 110 kilograms or more, Mexico was acting contrary to its obligations under the Agreement on Agriculture, the SPS Agreement, the Agreement on Technical Barriers to Trade ("TBT Agreement"), and the GATT 1994. Consultations were held September 7, 2000. Subsequent to the consultations, Mexico issued a protocol which is designed to allow a resumption of U.S. shipments of live swine weighing 110 kilograms or more into Mexico. At about the same time, Mexico self-initiated a review of its threat of injury determination based on information, including a shortage of slaughter hogs, that suggests that market conditions have changed substantially in Mexico.

Mexico—Measures affecting telecommunications services

On August 17, 2000, the United States requested consultations with Mexico regarding its commitments and obligations under the General Agreement on Trade in Services (``GATS") with respect to basic and value-added telecommunications services. The U.S. consultation request covered a number of key issues, including the Government of Mexico's failure to (1) maintain effective disciplines over the former monopoly, Telmex, which is able to use its dominant position in the market to thwart competition; (2) ensure timely, cost-oriented interconnection that would permit competing carriers to connect to Telmex customers to provide local, long-distance, and international service; and (3) permit alternatives to an outmoded system of charging U.S. carriers above-cost rates for completing international calls into Mexico. Prior to such consultations, which were held on October 10, 2000, the Government of Mexico issued rules to regulate the anti-competitive practices of Telmex (Mexico's major telecommunications supplier) and announced significant reductions in long-distance interconnection rates for 2001. Nevertheless, given that Mexico still had not

fully addressed all U.S. concerns, the United States, on November 10, 2000, filed a request for establishment of a panel as well as an additional request for consultations on Mexico's newly issued measures.

Philippines—Measures affecting trade and investment in the motor vehicles sector

On May 24, 2000, the United States requested consultations with the Philippines regarding measures affecting trade and investment in the motor vehicle sector (*i.e.*, automobiles, motorcycles and commercial vehicles). Among other things, the measures require producers to incorporate specified amounts of locally-produced inputs, precluding the purchase of U.S. parts. There is also a requirement that imports be balanced in an amount related to a company's foreign exchange earnings. These measures substantially restrict the sale of U.S. motor vehicle parts and inhibit the free flow of trade and investment, which appear to violate the TRIMS Agreement. Under WTO rules, the Philippines was required to remove these measures by January 1, 2000, but recently requested an extension of five years pursuant to the TRIMS Agreement to bring these measures into WTO compliance. Consultations were held July 12, 2000. On October 12, 2000, the United States requested the establishment of a panel; a panel was established on November 17, 2000.

Romania—Minimum import prices

The United States requested consultations on May 31, 2000, with Romania regarding its customs valuation regime, which uses officially-established prices for imported products such as clothing, various agricultural products, including poultry, and certain types of distilled spirits. This appears to violate Romania's obligations under the Customs Valuation Agreement, the GATT 1994, the Agreement on Textiles and Clothing, and the Agreement on Agriculture. Consultations were held July 13, 2000, and efforts to reach a mutually satisfactory solution are continuing.

b. Disputes Brought Against the United States

Section 124 of the URAA requires *inter alia* that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO, each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2000 with respect to those cases in which the United States was a defendant.

United States—Measures relating to the importation of shrimp and shrimp products

India, Malaysia, Pakistan, and Thailand challenged U.S. restrictions on imports of shrimp and shrimp products harvested in a manner harmful to endangered species of sea turtles. A dispute settlement panel, agreed upon by the parties on April 15, 1997, and consisting of Mr. Michael Cartland (Chairman), and Mr. Carlos Cozendey and Mr. Kilian Delbrück (Members), found that the U.S. import restrictions were inconsistent with WTO rules. The United States appealed, and on October 12, 1998, the Appellate Body partially reversed the panel's ruling. The Appellate Body confirmed that WTO rules allow WTO Members to condition access to their markets on compliance with certain policies such as environmental conservation, and agreed that the U.S. "shrimp-turtle law" was a permissible measure adopted for the purpose of sea turtle conservation. The Appellate Body also found that WTO rules permit panels to accept unsolicited amicus briefs from non-governmental organizations. The Appellate Body, however, found fault with certain aspects of the U.S. implementation of the shrimp-turtle law. The reports were adopted on November 6, 1998. On November 25, 1998, the United States informed the DSB of its intention to implement the recommendations and rulings of

the DSB in a manner consistent not only with WTO obligations but also with the firm commitment of the United States to protect endangered species of sea turtles. The United States and the complaining parties reached agreement on an implementation period of 13 months from the date of adoption of the reports. Upon completion of the implementation period in December 1999, the United States notified the DSB that it had completed implementation of the Appellate Body report by modifying the implementation of the shrimp-turtle law in accordance with the recommendations of the DSB. On October 23, 2000, Malaysia requested that the original panel examine whether the United States had fully implemented the DSB's recommendations, and the panel was reestablished for that purpose. As of January 1, 2001, the panel proceeding was still pending.

United States—Antidumping measures on DRAMs from Korea

Korea challenged the Department of Commerce's antidumping review of dynamic random access memory ("DRAM") semiconductors from Korea, alleging that Commerce's decision not to revoke the antidumping order was inconsistent with the Antidumping Agreement and the GATT 1994. The panel consisted of Mr. Crawford Falconer (Chairman) and Mr. Meinhard Hilf and Ms. Marta Lemme (Members). The final panel report was circulated on January 29, 1999. While the panel rejected almost all of Korea's claims, it found that, technically, the "not likely" standard in Commerce's regulations did not meet the requirements of Article 11.2 of the Antidumping Agreement. The panel report was adopted on March 19, 1999, and neither side appealed. In accordance with the period for implementation negotiated with Korea, the United States implemented the ruling of the DSB by November 19, 1999. Korea disagreed that the United States had fully implemented the ruling and on April 6, 2000, Korea requested that the panel be reconvened to examine U.S. implementation. Following the revocation of the DRAMS antidumping order under U.S. "sunset review" procedures, the parties agreed that this development constituted a mutually satisfactory solution regarding this matter, thereby resulting in the termination of the dispute on October 20, 2000.

United States—Foreign Sales Corporation ("FSC") tax provisions

The EU challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the Subsidies Agreement, and that they violate the export subsidy provisions of the Agreement on Agriculture. A panel was established on September 22, 1998. On November 9, 1998, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Crawford Falconer, Chairman; Mr. Didier Chambovey and Mr. Seung Wha Chang, Members. The panel found that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, and also violates U.S. obligations under the Agreement on Agriculture. The panel did not make findings regarding the FSC administrative pricing rules or the EU's import substitution subsidy claims. The panel recommended that the United States withdraw the subsidy by October 1, 2000. The panel report was circulated on October 8, 1999 and the United States filed its notice of appeal on November 26, 1999. The Appellate Body circulated its report on February 24, 2000. The Appellate Body upheld the panel's finding that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, but, like the panel, declined to address the FSC administrative pricing rules or the EU 's import substitution subsidy claims. While the Appellate Body reversed the panel's findings regarding the Agreement on Agriculture, it found that the FSC tax exemption violated provisions of that Agreement other than the ones cited by the panel. The panel and Appellate Body reports were adopted on March 20, 2000, and on April 7, 2000, the United States announced its intention to respect its WTO obligations. On November 15,

2000, the President signed legislation that repealed and replaced the FSC provisions, but the EU has claimed that the new legislation fails to bring the US into compliance with its WTO obligations.

In anticipation of a dispute over compliance, the United States and EU reached agreement in September 2000 on the procedures to review U.S. compliance with the WTO recommendations and rulings. Pursuant to a request approved by the WTO, the deadline for U.S. compliance was changed from October 1, 2000, as recommended by the panel, to November 1, 2000. The procedural agreement also outlined certain procedural steps to be taken after passage of US legislation to replace the FSC. The essential feature of the agreement provides for sequencing of WTO procedures as follows: (1) a panel will determine the WTO-consistency of FSC replacement legislation (the parties retain the right to appeal); (2) only after the appeal process is exhausted will arbitration over the appropriate level of retaliation be conducted if the replacement legislation is found WTO-inconsistent. With few exceptions, the time frames set forth in the Dispute Settlement Understanding for such adjudications are reflected in this agreement. Pursuant to the procedural agreement, on November 17, the EU requested authority to impose countermeasures and suspend concessions in the amount of $4.043 billion. On November 27, the United States objected to this amount, thereby referring the matter to arbitration (which will be suspended pending a review of the legislation's WTO-consistency). On December 7, the EU filed a request for establishment of a panel to review the legislation, and that panel was established on December 20, 2000. As of January 1, 2001, that panel proceeding was still pending.

United States—1916 Revenue Act

Title VII of the Revenue Act of 1916 (15 U.S.C. §§ 71-74, entitled "Unfair Competition"), often referred to as the Antidumping Act of 1916, allows for private claims against, and criminal prosecutions of, parties that import or assist in importing goods into the United States at a price substantially less than the actual market value or wholesale price. On April 1, 1999, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Johann Human, Chairman; Mr. Dimitrij Grčar and Mr. Eugeniusz Piontek, Members. On January 29, 1999, the panel found that the 1916 Act is inconsistent with WTO rules because the specific intent requirement of the Act does not satisfy the material injury test required by the Antidumping Agreement. The panel also found that civil and criminal penalties in the 1916 Act go beyond the provisions of the Antidumping Agreement. The panel report was circulated on March 31, 2000. Separately, Japan sought its own rulings on the same matter from the same panelists; that report was circulated on May 29, 2000. On the same day, the United States filed notices of appeal for both cases, which were consolidated into one Appellate Body proceeding. The Appellate Body report, issued August 28, 2000, affirmed the panel reports. This ruling, however, has no effect on the U.S. antidumping law, as codified in the Tariff Act of 1930, as amended. The panel and Appellate Body reports were adopted by the DSB on September 26, 2000. On November 17, 2000, the EU and Japan requested arbitration to determine the reasonable period of time by which the United States should comply with the panel's recommendations and rulings. As of January 1, 2001, that arbitration proceeding was still pending.

United States—Section 110(5) of the Copyright Act

As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act provides that certain retail establishments may play radio music without paying royalties to songwriters and music publishers. The EU claimed that, as a result of this exception, the United States is in violation of its TRIPS obligations. Consultations with the

EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director-General composed the panel as follows: Ms. Carmen Luz Guarda, Chair; Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The panel issued its final report on June 15, 2000, and found that one of the two exemptions found in section 110(5) is inconsistent with the United States' WTO obligations. The panel report was adopted by the DSB on July 27, 2000, and the United States has informed the DSB of its intention to respect its WTO obligations. On October 23, 2000, the EU requested arbitration to determine the reasonable period of time by which the United States should comply with the panel's recommendations and rulings. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator.

United States—Import measures on certain products from the EU

In this dispute the EU challenged increases in U.S. Customs bonding requirements on certain imports from the EU, alleging violations of the Dispute Settlement Understanding ("DSU") and of the GATT 1994. The United States had increased bonding requirements to preserve its ability to collect any increased duties which might ultimately be authorized by the DSB as a result of the EU's failure to comply with the DSB's recommendations and rulings in the dispute involving *Bananas* (see description above). The measures at issue in this dispute were discontinued on April 19, 1999. Nevertheless, consultations were held on April 21, 1999, and a panel was established on June 16, 1999. On October 8, 1999, the Director-General composed the panel as follows: Mr. Hugh McPhail, Chairman; Mrs. Leora Blumberg and Mr. Peter Palečka, Members. On July 17, 2000, the panel issued its report, concluding that the United States acted prematurely when it changed its bonding requirements, but rejecting the EU claim that the tariffs now in place as a result of the *Bananas* dispute are not consistent with WTO procedural requirements. The EU appealed this portion of the panel report on September 12, 2000. On December 11, 2000, the Appellate Body rejected this appeal, and upheld the panel's finding that the tariffs now in place were not affected by this dispute. No action is required of the United States in response to this report.

United States—Measures affecting textiles and apparel

This dispute has been resolved through consultations. On May 23, 1997, the EU requested consultations concerning U.S. rules of origin for textile and apparel products provided for in section 334 of the Uruguay Round Agreements Act. The EU request stated that these rules adversely affect exports of EU fabrics, scarves and other flat products to the United States; it cited possible incompatibility with the Agreement on Textiles and Clothing ("ATC"), the Agreement on Rules of Origin, GATT 1994, and the TBT Agreement. On July 15, 1997, the EU and United States reached agreement on a settlement under which the United States agreed to introduce changes to its rules of origin legislation. However, this legislation was not enacted, and the EU again requested consultations on November 19, 1998. Consultations were held on January 15, 1999, and later the two sides reached an agreement to settle this case on August 16, 1999. A legislative proposal to implement that settlement was included in the Trade and Development Act of 2000, which was enacted on May 18, 2000.

United States—Sections 301 -310 of the Trade Act of 1974

The United States prevailed in this dispute, in which the EU challenged sections 301-310 of the Trade Act of 1974, especially sections 304 to 306, alleging that the law does not allow the United States to comply with the DSU. Consultations were held on December 17, 1998, and a panel was established on March 2, 1999. The Director-General, at the request of the EU, composed the panel on March 31, 1999, as

follows: Mr. David Hawes, Chairman; Mr. Terje Johannessen and Mr. Joseph Weiler, Members. On December 22, 1999, the panel circulated its report rejecting the EU complaint. The panel concluded that the U.S. law was not inconsistent with U.S. WTO obligations, and it found nothing to contradict evidence that the United States has in fact acted in accordance with its WTO obligations in every Section 301 determination involving an alleged violation of U.S. WTO rights. The panel concluded that neither the EU nor the third parties to the dispute had demonstrated otherwise. The EU decided not to appeal and the panel report was adopted on January 27, 2000.

United States—Definitive safeguard measure on imports of wheat gluten from the European Communities

By Presidential Proclamation 7103 of May 30, 1998, the United States imposed safeguard measures in the form of a quantitative limitation on imports of wheat gluten from the EU, Australia, and other countries. On March 17, 1999, the EU requested consultations concerning this safeguard measure, asserting that it is in violation of the Agreement on Safeguards, the Agreement on Agriculture, and the GATT 1994. Consultations were held on May 3, 1999. A panel was established July 26, 1999. On October 11, 1999, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Wieslaw Karsz, Chairman; Ms. Usha Dwarka-Canabady and Mr. Alvaro Espinoza, Members. Subsequently, Mr. Maamoun Abdel-Fattah replaced Mr. Karsz as Chairman, with the consent of the parties. The panel report was released on July 31, 2000. The panel found that certain aspects of the U.S. measure were inconsistent with WTO rules. The United States filed its notice of appeal on September 26, 2000. On December 22, 2000, the Appellate Body issued its report, reversing the panel's conclusion on causation, the key issue in the case, thereby upholding the U.S. causation test in Section 201 of the Trade Act of 1974. However, the Appellate Body ruled against the United States on two issues.

United States—Section 211 Omnibus Appropriations Act

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questions the consistency of Section 211 with the TRIPS Agreement, and it requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU the WTO Director-General composed the panel on October 26, 2000, as follows: Mr. Wade Armstrong, Chairman; Mr. François Dessemontet and Mr. Armand de Mestral, Members. As of January 1, 2001, that panel proceeding was still pending.

United States—Safeguard measure on imports of fresh, chilled, or frozen lamb

On July 22, 1999, the United States imposed a safeguard measure on imports of lamb meat from New Zealand and Australia, pursuant to section 203 of the Trade Act of 1974. New Zealand and Australia requested consultations on July 16 and July 23, 1999, respectively, claiming violations of the GATT 1994 and the Agreement on Safeguards. Consultations were held August 26, 1999. A panel was established on November 18, 1999, and the two cases have been consolidated. On March 21, 2000, the following panelists were selected with the consent of the parties: Prof. Tommy Koh, Chairman; Prof. Meinhard Hilf and Mr. Shishir Priyadarshi, Members. The panel issued its report on December 21, 2000, finding certain aspects of the U.S. safeguard measure to be inconsistent with WTO rules, and the United States announced its intention to appeal the negative aspects of the panel's report.

United States—Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom

In this dispute the EU challenged several administrative reviews conducted by the Department of Commerce with respect to the countervailing duty order imposed on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom, alleging violations of the Subsidies Agreement. The EU claimed that the Department of Commerce improperly decided that the benefit of subsidies received by government-owned British Steel Corporation continued after privatization. Consultations were held on July 29, 1998, and a panel was established February 17, 1999, the panel consisting of Mr. Ole Lundby (Chairman) and Mr. Paul O'Connor and Mr. Arie Reich (Members). The panel report, circulated on December 23, 1999, found that the Department of Commerce had imposed countervailing duties on U.S. imports of leaded bars in violation of the Subsidies Agreement. In reaching its conclusion, the panel determined that the Department of Commerce had to reassess whether pre-privatization subsidy benefits continue to exist after a company is sold to new owners. The United States appealed, and on May 10, 2000, the Appellate Body affirmed the panel findings. The Appellate Body and panel reports were adopted on June 7, 2000. However, the countervailing duty order in question was revoked by operation of law, on January 1, 2000, under the Department of Commerce's "sunset review" procedures.

United States—Anti-dumping measures on stainless steel from Korea

The Government of Korea alleged that several errors were made by the U.S. Department of Commerce and the USITC in the preliminary and final determinations of *Stainless Steel Plate in Coils from Korea*, dated January 20, 1999, and June 8, 1999, respectively. Korea claims that these errors resulted in improper findings and deficient consultations as well as the imposition, calculation and collection of antidumping margins which are incompatible with the obligations of the United States under the Antidumping Agreement and the GATT 1994. On October 14, 1999, Korea requested the establishment of a panel. A panel was established on November 18, 1999, and on March 24, 2000, the panel was constituted with the consent of the parties as follows: Mr. José Antonio S. Buencamino, Chairman; Mr. G. Bruce Cullen and Ms. Enie Neri de Ross, Members. The panel accepted some of Korea's arguments, finding that Commerce's treatment of local sales, unpaid sales, and multiple averaging periods was inconsistent with the WTO Anti-Dumping Agreement. However, the United States prevailed in its defense of some of Korea's key claims.

United States—Anti-dumping measures on certain hot-rolled steel products from Japan

Japan contends that the preliminary and final determinations of the Department of Commerce and the USITC in their antidumping investigations of certain hot-rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claims that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 1999, the Director-General composed the panel as follows: Mr. Harsha V. Singh, Chairman; Mr. Yanyong Phuangrach and Ms. Lidia di Vico, Members. As of January 1, 2001, the panel proceeding was still pending.

United States—Section 337 of the Tariff Act of 1930

The EU has complained about Section 337 of the Tariff Act of 1930 on both national treatment and TRIPS grounds. In response to the last

GATT panel report finding certain aspects of Section 337 inconsistent with the U.S. national treatment obligations under Article III of GATT 1947, the United States implemented a number of amendments to Section 337 in the Uruguay Round Agreements Act. The amendments modified certain U.S. Department of Commerce and USITC procedures that the panel had identified as denying national treatment. Consultations on the amended version of Section 337 were held on February 28, 2000.

United States—Transitional safeguard measure on combed cotton yarn from Pakistan

Pakistan contends that a March 17, 1999, transitional safeguard measure applied by the United States on combed cotton yarn from Pakistan is inconsistent with U.S. obligations under the Agreement on Textiles and Clothing ("ATC"). Specifically, Pakistan considers that the U.S. measure does not meet the requirements for transitional safeguards as set forth in Article 6 of the ATC, particularly with respect to the identification of the domestic industry at issue and the attribution of serious damage to imports from Pakistan. The WTO Textiles Monitoring Body ("TMB") reviewed this matter during 1999. When the matter was not resolved in the TMB, on April 3, 2000, Pakistan requested the establishment of a panel, which was established on June 19, 2000. On August 30, 2000, the following panelists were selected with the consent of the parties: Mr. Wilhelm Meier, Chairman; Mr. Carlos Antônio da Rocha Paranhos and Mr. Virachai Plasai, Members. As of January 1, 2001, the panel proceeding was still pending.

United States–Measures Treating Export Restraints as Subsidies

On May 19, 2000, Canada requested consultations with the United States about U.S. government statements regarding treatment of a restriction on exports of a product as a countervailable subsidy to other products (those made by using or incorporating the restricted product), if the domestic price of the restricted product is affected by the export restriction. The United States agreed to consult with Canada, notwithstanding Canada's failure to identify a "measure" in its request for consultations. Consultations were held on June 15, 2000. Canada then requested the establishment of a panel on August 4, 2000, identifying a provision of the U.S. countervailing duty statute and "US practice thereunder" as the challenged measures. A panel was established on September 11, 2000. On October 23, 2000, the following panelists were selected with the consent of the parties: Mr. Michael Cartland, Chairman; Mr. Scott Gallacher and Mr. Richard Plender, Members. As of January 1, 2001, the panel proceeding was still pending.

United States—Section 306 of the Trade Act of 1974 and amendments thereto

On June 5, 2000, the EU requested consultations with the United States regarding section 306 of the Trade Act of 1974, as amended by section 407 of the Trade and Development Act of 2000 (Public Law 106-200). Also known as the "Carousel" amendment, section 407 directs the USTR to periodically revise the list of products subject to suspension of WTO concessions as a result of a country's non-compliance with recommendations and rulings made pursuant to a dispute settlement proceeding. The EU considers the amendment to be inconsistent with the DSU, the WTO Agreement, and the GATT 1994. Consultations were held on July 5, 2000.

United States—Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea

On June 13, 2000, Korea requested consultations regarding safeguard measures imposed by the United States on imports of circular welded carbon quality line pipe. These measures were proclaimed by the United States on February 18, 2000, and introduced on March 1, 2000. Korea argues that such measures are inconsistent with the Agreement on Safeguards and the GATT 1994. Consultations were held July 28, 2000.

On September 14, 2000, Korea requested the establishment of a panel. A panel was established on October 23, 2000.

United States—Antidumping measures and countervailing measures on steel plate from India

India contends that the Department of Commerce made several errors in its final determinations regarding certain cut-to-length carbon quality steel plate products from India, dated December 13, 1999 and affirmed on February 10, 2000. India also argues that the USITC made errors with respect to the negligibility, cumulation, and material injury caused by such products. India claims that these errors were based on deficient procedures contained in the U.S. antidumping and countervailing duty laws, and thus raised questions concerning the obligations of the United States under the Antidumping Agreement, the GATT 1994, the Subsidies Agreement, and the Agreement Establishing the WTO. India requested consultations with the United States regarding this matter on October 4, 2000. Consultations with India were held November 21, 2000.

United States—Countervailing duty measures concerning certain products from the European Communities

On November 13, 2000, the EU requested WTO dispute settlement consultations in 14 separate U.S. countervailing duty proceedings covering imports of steel and certain other products from member states of the EU, all with respect to the Department of Commerce's "change in ownership" (or "privatization") methodology that was challenged successfully by the EU in a WTO dispute concerning leaded steel products from the UK. Consultations were held December 7, 2000.

United States—Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany

Also on November 13, 2000, the EU requested dispute settlement consultations with respect to the Department of Commerce's countervailing duty order on certain corrosion-resistant flat rolled steel products from Germany. In a "sunset review", the Department of Commerce declined to revoke the order based on a finding that subsidization would continue at a rate of 0.54 percent. The EU alleges that this action violates the Subsidies Agreement, asserting that countervailing duty orders must be revoked where the rate of subsidization found is less than the 1 percent *de minimis* standard for initial countervailing duty investigations. The United States and the EU held consultations pursuant to this request on December 8, 2000.

United States—Safeguard measures on imports of line pipe and wire rod from the European Communities

On December 1, 2000, the EU requested consultations with the United States regarding safeguard measures imposed by the United States on imports of circular welded carbon quality line pipe and on wire rod. The EU argues that these measures are inconsistent with the Agreement on Safeguards and the GATT 1994. The EU also claims that certain aspects of the underlying U.S. safeguards legislation – Sections 201 and 202 of the Trade Act of 1974 – and Section 311 of the NAFTA Implementation Act prevent the United States from respecting certain provisions of the Agreement on Safeguards and the GATT 1994. Consultations were scheduled for January 26, 2001.

United States—Continued Dumping and Subsidy Offset Act of 2000 ("Byrd Amendment")

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and

Subsidy Offset Act of 2000 (19 USC 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies that filed the antidumping and countervailing duty petitions. Consultations were scheduled for February 6, 2001.

United States—Countervailing duties on certain carbon steel products from Brazil

On December 21, 2000, Brazil requested consultations with the United States regarding U.S. countervailing duties on certain carbon steel products from Brazil, alleging that the Department of Commerce's "change in ownership" (or "privatization") methodology, which was ruled inconsistent with the WTO Subsidies Agreement when applied to leaded steel products from the UK, violates the Subsidies Agreement in this situation as well.

Implementation of the WTO Agreements

A. General Council Activities

Status

The WTO General Council is the highest decision-making body in the WTO and meets on a regular basis during the year. It exercises all of the authority of the Ministerial Conference, which is required to meet once every two years. The General Council and Ministerial Conference consist of representatives of all WTO Members. Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the agreements for consideration by Members, and grant waivers of obligations. All accessions to the WTO must be approved by the General Council or the Ministerial Conference.

Technically, meetings of both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are meetings of the General Council convened for the purpose of discharging the responsibilities of the DSB and TPRB.

Three major categories of bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights. The Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trading Arrangements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council. A number of subsidiary bodies report through the Council for Trade in Goods or the Council for Trade in Services to the General Council. Ambassador Kare Bryn of Norway served as Chairman of the General Council in 2000.

The General Council uses both formal and informal processes to conduct the business of the WTO. In addition, informal groupings, which generally include the United States, can play an important role in consensus building. Special sessions of the General Council were convened to address matters concerning implementation of WTO Agreements.

Major Issues in 2000

The General Council met 10 times in 2000 in regular session and 10 times in special session. In 2000, the General Council has had an oversight role over the progress of the built-in negotiations on agriculture and services, and approved the Secretariat's cooperation agreements with the World Customs Organization and International Telecommunications Union.

The following other issues figured prominently in General Council activities:

Transparency: Following the Seattle ministerial, the General Council Chairman initiated an informal consultative process to review the level of transparency in Members' conduct of WTO business among themselves as well as the extent to which the WTO interrelates with the public. With respect to the first, there were extensive discussions on whether current WTO processes were sufficiently transparent to permit the participation of all Members, particularly with respect to the preparatory process for ministerial meetings. After review, the consensus among Members was that no fundamental institutional changes should be made at this time. However, the review has confirmed Members' strong desire for decision making in the WTO to continue to be based on consensus and that decision making procedures be inclusive and transparent to all Members. The review of the WTO's relations with the public began in earnest in the fall. Members credited the Secretariat's information and outreach activities (including its upgraded website and continued seminars and symposia with the public) as critical tools in the continued dissemination of information on WTO activities.[6] In that context, the General Council has taken under consideration the modification of its 1996 decision on WTO document availability. Although the vast majority of WTO documents have now been made publicly available, several Members, including the United States, urged that certain critical documents, such as panel reports and substantive background notes, be made available on a more timely basis. A U.S. paper submitted in October also proposed other steps for improving WTO transparency in the short term, including designating some WTO meetings as open to the public.[7] Although the proposals concerning access to documents enjoy a wide degree of support among WTO Members, many WTO Members have resisted other efforts that they perceive as threatening the successful government-to-government nature of the organization.

Waivers of Obligations: As part of the annual review required by Article IX of the WTO Agreement, the General Council considered reports on the operation of a number of previously agreed waivers, including those applicable to the United States concerning the Caribbean Basin Economic Recovery Act, the Andean Trade Preferences Act, and preferences for the Former Trust Territory of the Pacific Islands. Unless otherwise decided, these waivers are valid until the expiration dates specified in each. The General Council also approved several other waivers, as described in the section on the Council on Trade in Goods (CTG). Annex II contains a detailed list of waivers currently in force.

Accessions: The General Council, acting on behalf of the Ministerial Council, approves the

[6] Details on WTO transparency and outreach activities are set forth on pp. 15-17 of the Annual Review of the Director General, Overview of Developments in the International Trading Environment. WTO Document WT/TPR/OV/6, November 22, 2000.

[7] Following on a March 28, 2000 *Federal Register* notice, seeking public comments for the Mandated Multilateral Trade Negotiations on Agriculture and Services in the WTO and Priorities for Future Market Access Negotiations on Non-Agricultural Goods, USTR solicited public comments via a *Federal Register* notice on June 8, 2000, on U.S. objectives and proposals for improving the functioning of the WTO, particularly with respect to its outreach efforts and the transparency of its operations. USTR also sought comments on whether and how the WTO might undertake activities to ensure that the social, environmental and development dimensions of continued trade liberalization are adequately addressed.

final terms of accession to the WTO for new Members, after these terms are agreed by the working parties established by the Council to conduct the negotiations. In 2000, the accession terms for Albania, Croatia, Oman, and Lithuania were approved by the Council by consensus. In addition, the Council established working parties for the accessions to the WTO for Cape Verde and Yemen. Additional details are discussed below in the section entitled "Accession to the World Trade Organization."

Global Electronic Commerce: At the direction of the General Council, the WTO made important strides in the promotion of e-commerce in the course of 2000. At its final meeting in December, a majority of Members broadly endorsed critical principles on e-commerce that will enhance the ongoing work of the WTO. The mandate and work program originated in the 1998 Ministerial Declaration on e-commerce, in which WTO Members pledged to support "duty-free cyberspace," ensures that electronic transmissions remain free from tariffs. The Council action in 2000 lays the foundation for further WTO attention to e-commerce in the years ahead. In developing these principles, the United States and its trading partners have ensured that the trading system provides comparable treatment for electronic business as it does for conventionally traded commerce. This will enable governments, businesses and consumers around the world to use new telecommunications infrastructure and new technologies such as the internet to engage in international trade.

A majority of WTO Members have stated their support for the following principles and action on e-commerce: (1) the relevance of existing WTO agreements to electronic commerce; (2) the importance of applying liberal multilateral rules and principles to this sector, avoiding unnecessarily restrictive measures; (3) the recognition of the tremendous potential of e-commerce and the internet to contribute to infrastructure capacity building and market access, particularly for developing countries; and (4) at a meeting in early 2001, the General Council will explore ways to pursue its work, either through an ad hoc task force or special session of the General Council, to examine certain issues affecting e-commerce such as the classification of certain digital products.

Review of U.S. Jones Act Exemption: To the extent that U.S. laws collectively known as the Jones Act provide preferential treatment to ships built in the United States, the United States has required an exemption from its obligations under the GATT. The Jones Act provisions were grandfathered under the GATT 1947, and a special exemption for them was included in the GATT 1994. The only condition necessary for the maintenance of this exemption is the continued existence of the mandatory U.S. non-conforming legislation, although any amendment to a Jones Act provision would not be eligible for the exemption to the extent it increased its inconsistency with certain GATT requirements. In 2000, as prescribed by the GATT 1994, the General Council continued its five-year review of the need for the exemption, which began in 1999. The United States explained why the exemption is still needed, and engaged in an extended question-and-answer process with other WTO Members.

Capacity-building Through Technical Cooperation: The General Council resolved at the beginning of the year to adopt a supervisory role in ensuring that capacity- building in developing countries (i.e., modernizing their government operations to permit effective implementation of the WTO Agreements) is accelerated through technical assistance. For its part, the United States pledged $650,000 to the WTO Global Trust Fund for Technical Assistance to provide training courses for African countries and develop computer training modules for in-country training.

Prospects for 2001

The General Council will continue its important role in overseeing implementation of the WTO Agreements, pursuing the built-in agenda negotiations on agriculture and services, expanding the current program of work for the WTO, and coordinating preparations for the 4th Ministerial Conference that will be held at the end of 2001 in Qatar. Management of the WTO, in terms of its outreach efforts with the public, consultations with Members, and its work with other institutions on capacity- building, will feature prominently in the Council discussions over the next year. The Council will likely meet at least quarterly to discharge its functions.

The requirement for ministerial meetings was established in the Uruguay Round to assure regular, political-level review by ministers of the operation of the WTO, similar to practice of other international organizations. Ministerial Conferences were convened in Singapore (1996), Geneva (1998), and Seattle (1999), with differing agendas and results. The Council discussions during the course of 2001 will culminate with preparations for the next ministerial conference, which at a minimum will take stock of the work programs and negotiations to date. The General Council, which acts on behalf of the Ministerial Conference, has the authority to add issues to the WTO's agenda, whether it is for a work program or negotiations. The informal processes on transparency and oversight of the work program on electronic commerce will also feature importantly in the Council's work.

Prior to the establishment of the WTO in 1995, annual meetings of GATT Contracting Parties were convened with representatives from capitals generally at the subcabinet level, and only held at the ministerial level to launch or conclude negotiations. Part of the logic behind this change from the GATT was the fact that with the creation of the WTO, Members had created a permanent negotiating forum to achieve trade liberalization. The Financial Services Agreement, the Basic Telecommunications Services Agreement, the Information Technology Agreement and the built-in agenda negotiations underway are examples of how the WTO has evolved into a permanent negotiating body.

B. Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of 12 committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing Procedures, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing Measures, Technical Barriers to Trade and Trade-related Investment Measures (TRIMS)) in addition to the Textiles Monitoring Body (TMB), the Working Party on State Trading, and the Working Party on Preshipment Inspection). In 2000, the CTG held five formal meetings.

Major Issues in 2000

As the central oversight body in the WTO for all agreements related to trade in goods, the CTG primarily devoted its attention to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for airing initial complaints regarding actions taken by individual Members with respect to the operation of agreements. Many of these were resolved by interested Members through consultations, although some were subsequently pursued through the Dispute Settlement Body.

In addition, two major issues were extensively debated in the CTG in 2000:

Request for TRIMS Extensions: Article 5 of the WTO Agreement on Trade Related Investment Measures (TRIMS) required developing countries to eliminate certain measures by

January 1, 2000. However, the CTG can extend the transition period for the elimination of inconsistent measures for countries that demonstrate particular difficulties implementing the agreement. Nine countries (Argentina, Chile, Colombia, Malaysia, Mexico, Pakistan, Philippines, Romania and Thailand) made requests for such an extension. (See the section of this report on the Committee on TRIMS for more details on this Agreement). At least one of the requesting Members had not properly notified the relevant measures in accordance with the requirements of Article 5.1 of the Agreement. TRIMS not properly notified under Article 5.1 never had coverage under the agreement and are thus not eligible for an extension. In addition, one Member made a request for an extension after the January 1, 2000 expiration date, which also precludes an extension. Informal consultations were held in 1999 and 2000 to explore the means of addressing and resolving the requests. It was clear throughout the consultations in 2000 that each request had to be addressed on a case-by-case basis. The United States had engaged in several consultations to find a way to support legitimate requests for extension in the CTG, including renewed support in the General Council in May 2000 for consultations in accordance with Article 5.3 of the TRIMS Agreement. The Chairman of the CTG held consultations and the matter was addressed in the CTG in July, October and November 2000. However, some requesting Members took positions preferring a combined approach which would force the CTG to approve all requests regardless of their merit or the interests of other Members concerned about the maintenance of WTO-inconsistent measures beyond the five years originally provided for developing countries. The United States consistently maintained that while solutions were desirable, they could not be pursued in such a manner as to extract *de facto* extensions and compromise Member rights under other WTO agreements, including the Dispute Settlement Understanding (DSU). In this regard, the United States has exercised its DSU rights in the case of the Philippines. (See section of this report on dispute settlement for more details on this dispute). The discussions on these extensions will continue in the year 2001.

Waivers: The CTG approved the extension of several waivers, including those related to the implementation of the Harmonized System and renegotiations of tariff schedules, waivers for trade preferences by Turkey and the EU to the Western Balkans, and a waiver with regard to the implementation of the Agreement on Customs Valuation by Uruguay. A list of waivers currently in force can be found in Annex II. In April 2000, the EU requested a waiver for the interim trade provisions of its new ACP-EC "partnership" agreements, which have replaced the preferences of the Lomé Convention. The request is still pending.

Prospects for 2001

The CTG will continue to be the focal point for the agreements in the WTO dealing with trade in goods. One issue that Members are likely to raise in the course of preparation for the next meeting of the Ministerial Conference will be whether to reorganize the Councils in a way to eliminate the CTG, allowing the General Council to assume oversight responsibilities. Outstanding waiver and TRIMS requests will also be further examined.

1. Committee on Agriculture

Status

The WTO Committee on Agriculture oversees the implementation of the Agreement on Agriculture and provides a forum for WTO Members to consult on matters related to provisions of the Agreement. In many cases, the Committee resolves problems without needing to refer them to WTO dispute settlement. The Committee also has responsibility for monitoring the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the

Reform Program on Least-Developed and Net Food-Importing Developing Countries.

Major Issues in 2000

The Committee held four formal meetings in March, June, September and November to address ongoing issues related to the implementation of the Agreement on Agriculture. The Committee also met in special session to begin negotiations on continuing the reform process in agriculture.

During its meetings, the Committee reviewed progress on the implementation of commitments negotiated in the Uruguay Round. This review was undertaken on the basis of notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments. For the November meeting, the Committee gave specific priority to implementation and monitoring of the Decision on Least Developed and Net Food Importing Developing Countries.

Over 260 notifications were subject to review in the year 2000. The United States actively utilized the notification exercise to raise specific issues concerning the operation of Member's agricultural policies. For example, the United States raised questions concerning elements of Canada's domestic support programs, the export subsidy amounts associated with the European Communities' inward processing arrangements for dairy products, and the amount of product entered under tariff-rate quotas in Norway. The Committee also proved to be an effective forum for raising more general issues concerned with agricultural trade policy. For example, the United States identified concerns with South Korea's application of import tariffs for a variety of agricultural commodities in excess of bound rates, import restrictions by Venezuela that were disrupting grain, oilseed and dairy imports, the use by Turkey and Panama of import permits and other restrictions to impede imports of a variety of commodities, Turkey's use of export subsidies for grain, and Indonesia's import ban on poultry parts.

On a number of occasions, U.S. intervention in the Committee led to immediate corrective action by the countries concerned. For example, U.S. pressure on Hungary regarding restrictive import policies for beef products resulted in Hungary's decision to open a special quota for high-quality North American beef. Questions directed to Korea regarding its annual rice import requirements led to improvements in that country's administration of its tariff rate quota commitments.

At its November meeting, the Committee also initiated discussions on the implementation of Article 10.2 of the Uruguay Round Agriculture Agreement, as requested by the October 18, 2000 Special Session of the General Council. Article 10.2 of the Agriculture Agreement requires that "Members undertake to work toward the development of internationally agreed disciplines to govern the use of export credits, export credit guarantees..." The discussions on export credits that were mandated under Article 10.2 have taken place in the OECD. The results of the discussion were reported to the General Council, and this activity will be an agenda item at future meetings of the Committee.

Prospects for 2001

The United States will continue to make full use of Committee meetings to ensure timely notification, transparency and enforcement of Uruguay Round commitments as they relate to export subsidies, market access, domestic support or any other trade-distorting practices by WTO Members. In addition, the Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on least-developed and net food-importing developing countries as indicated in the Agreement on Agriculture.

1. Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) sets forth detailed rules and disciplines prescribing the manner and basis on which Members may take action to offset the injurious dumping of products imported from another Member. Implementation of the Agreement is overseen by the Antidumping Committee, which operates in conjunction with two subsidiary bodies, the Ad Hoc Group on Implementation and the Informal Group on Anti-circumvention.

The Ad Hoc Group is an active body which focuses on practical issues and concerns relating to implementation. Based on papers submitted by Members on specific topics for discussion, the work of the Ad Hoc Group permits Members to develop a better understanding of the similarities and differences in their policies and practices for implementing the terms of the Agreement. Where possible, the Ad Hoc Group endeavors to develop draft recommendations on the topics it discusses which it forwards to the Antidumping Committee for consideration. To date, the Committee has adopted two Ad Hoc Group recommendations, on pre-initiation notifications under Article 5.5 of the Agreement and, in May of 2000, on the periods used for data collection in investigations of dumped imports and of injury caused or threatened to be caused by such imports.

At Marrakesh in 1994, Ministers adopted a Decision on Anti-circumvention directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anti-circumvention. As per the framework, the Informal Group held meetings in May and November 2000 to discuss the topics of "what constitutes circumvention" and "what is being done by Members confronted with what they consider to be circumvention."

Major Issues in 2000

The Antidumping Committee's work remains an important venue for reviewing Members' compliance with the detailed provisions in the Antidumping Agreement, improving mutual understanding of those provisions, and providing opportunities to exchange views and experience on Members' application of antidumping remedies.

In 2000, the Antidumping Committee held two regular meetings, in May and November, as did the Ad Hoc Group on Implementation and the Informal Group on Anti-circumvention. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Committee also reviewed the reports that the Agreement requires Members to provide of their preliminary and final antidumping measures and actions taken in each case over the preceding six months.

Among the more significant activities undertaken in 2000 by the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention are the following:[8]

[8] In addition to the matters described here, during the Committee's November 2000 meeting a number of other WTO Members expressed concern about enactment in the United States of the so-called "Byrd amendment" (H.R. 4461/P.L. 106-387), which was attached as a rider to the fiscal year 2001 agriculture appropriations bill and provides for the apportionment of revenue stemming from duties collected under an AD/CVD order to the members of the domestic industry which filed the petition or supported the initiation of the proceeding. On December 22, Australia, Brazil,

Notification and Review of Antidumping Legislation: To date, 62 Members of the WTO have notified that they currently have antidumping legislation in place, while 24 Members have notified that they maintain no such legislation. In 2000, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by Argentina, Australia, Chile, Estonia, India, Kyrgyz Republic, Malaysia, Thailand and Turkey. In addition, the Committee continued its review (for the most part via a written question and answer procedure) of the previously notified legislation of the EU and the United States. Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Committee meetings. Follow-up questions posed by other Members with respect to the United States continued to focus on the U.S. Department of Commerce's regulations for sunset review procedures.

Notification and Review of Antidumping Actions: In 2000, 26 WTO Members notified antidumping actions taken during the latter half of 1999, whereas 28 Members did so for the first half of 2000. (By comparison, 36 Members notified that they had not taken any antidumping actions during the latter half of 1999, while 27 Members notified that no actions were taken in the first half of 2000). These actions, in addition to outstanding antidumping measures currently maintained by WTO Members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion.

Ad Hoc Group on Implementation: The Ad Hoc Group held two rounds of multi-day working meetings in May and October/November 2000. At these sessions, the Group continued its review and discussion of six topics approved by the Antidumping Committee in 1999, *i.e.*, (i) practical issues and experience in applying Article 2.4.2 of the Agreement; (ii) termination of investigations under Article 5.8 in cases of *de minimis* import volume; (iii) practical issues and experience in cases involving cumulation under Article 3.3; (iv) practical issues and experience with respect to questionnaires and requests for information under Article 6.1 and 6.1.1; (v) practical issues and experience in providing opportunities for industrial users and consumer organizations to provide information under Article 6.1.2; and (vi) practical issues and experience in conducting "new shipper" reviews under Article 9.5. In addition, the Group considered two draft recommendations, on the period of data collection for antidumping investigations and on the contents of preliminary affirmative determinations. The Group reached a consensus in May on the recommendation concerning the period of data collection, which was then adopted by the Committee, also at its May meeting. No agreement has yet been reached on the draft recommendation concerning the contents of preliminary affirmative determinations, but progress was made at both the spring and fall meetings on a number of aspects of the draft and it was agreed to continue work on this topic in the next year.

The Ad Hoc Group continues to serve as an active venue for concrete work regarding the practical implementation of WTO antidumping provisions. It offers important opportunities for Members to examine issues and candidly exchange views and information across a broad range of topics. It has drawn a high level of participation by Members and, in particular, by capital-based experts and officials of AD administering authorities, many of whom are eager to obtain insight and information from their peers. Since the inception of the Ad Hoc Group, the United States has submitted papers on most topics, and has been an active participant at all meetings. Implementation concerns and questions stemming from each Member's own administrative experience or from observing the

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Chile, the EU, India, Indonesia, Japan, Korea, and Thailand jointly requested dispute settlement consultations with respect to this law.

practices of others are equally addressed. While not a negotiating forum in either a technical or formal sense, the Ad Hoc Group serves a vitally important role in promoting improved understanding of the Agreement's provisions and exploring options for "best practices" among AD administrators.

Informal Group on Anti-circumvention: The Antidumping Committee's establishment of the Informal Group on Anti-circumvention in 1997 marked an important step towards fulfilling the Decision of Ministers at Marrakesh to refer this matter to the Committee. At its two meetings in 2000, the Informal Group on Anti-circumvention continued its useful discussions on the subject of "what constitutes circumvention" and, at the same time, proceeded to consider the second item in the agreed framework concerning "what is being done by Members confronted with what they consider to be circumvention." With respect to the latter item, Members submitted papers outlining scenarios based on factual situations faced by their investigating authorities, and exchanged views on how their respective authorities might respond to such situations. Moreover, those Members, such as the United States, which have legislation intended to address circumvention, responded to inquiries from other Members as to how such legislation operates and the manner in which certain issues may be treated.

Prospects for 2001

Work in 2001 will proceed in all of the areas that the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anti-circumvention addressed this past year. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This on-going review process in the Committee is important to ensuring that antidumping laws around the world are properly drafted and implemented, thereby contributing to a well-functioning, liberal trading system. As notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other countries which should assist them in better understanding the operation of such laws and to take them into account in commercial planning.

The preparation by Members and review in the Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2001. The 1996 decision of the WTO General Council to liberalize the rules on the restriction of WTO documents has resulted in these reports also becoming accessible to the general public, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II). This has been an important development in promoting improved public knowledge and appreciation of the trends in and focus of all WTO Members' antidumping actions.

The discussions in the Ad Hoc Group on Implementation will, if anything, play an increasingly important role as more and more Members enact laws and begin to apply them. The special implementation review exercise conducted over the last year by the General Council underscores the sharp and widespread interest in clarifying understanding of the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Ad Hoc Group, as that is the setting best suited to provide the kind and degree of technical and administrative insight needed to shed light on important nuances and to offer practical alternatives for solving problems. Indeed, it is only in the Antidumping Committee and the Ad Hoc Group that Members can devote the considerable time and resources needed to conduct a responsible examination of these questions. For these reasons, the United States

will continue to rely upon the Ad Hoc Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss not only the laws as written, but also the operational practices which Members employ to implement them.

The work of the Informal Group on Anti-circumvention will also continue to be pursued in 2001, according to the framework for discussion which Members agreed. Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision of the Ministers at Marrakesh, who expressed the desirability of achieving uniform rules in this area as soon as possible.

3. Committee on Customs Valuation

Status

The purpose of the WTO Agreement on Customs Valuation is to ensure that the valuation of goods for customs purposes, such as for the application of duty rates, is conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the Agreement has become an increasingly important issue for U.S. exporters and a priority in the negotiations for all countries in the process of acceding to the WTO. Provisions that allowed for delayed implementation of the Agreement expired for nearly one-third of the WTO membership in the course of 2000. This brought increased attention to the important issue of implementation and compliance.

Major Issues in 2000

The Agreement is administered by the WTO Committee on Customs Valuation, which met formally six times in 2000. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO). In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection which was adopted by the General Council, the Committee on Customs Valuation also provided a forum for reviewing the operation of various Members' preshipment inspection regimes and the implementation of the WTO Agreement on Preshipment Inspection.

Achieving universal adherence to the Agreement on Customs Valuation has been a longstanding important objective of the United States, dating back more than twenty years. The Agreement was initially negotiated in the Tokyo Round, but its acceptance was voluntary as a "code," until mandated as part of membership in the WTO. The WTO Agreement on Customs Valuation has provided special transitional measures for developing country Members, providing additional time to bring their respective regimes into compliance with the provisions of the Agreement.

Since the completion of the Uruguay Round and the resulting dramatic growth in trade combined with the continuing shift to a faster-moving manufacturing and distribution environment, issues pertaining to the conduct of trade transactions, such as customs valuation determinations, are increasingly viewed as important systemic matters. U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology products – have experienced difficulties related to the conduct of customs valuation regimes outside of the disciplines set forth under the WTO Agreement on Customs Valuation. Generally they are related to arbitrary and inappropriate "uplifts" in the transfer prices that are ultimately used by the importing country for the application of tariffs. If unchecked, the use of arbitrary and inappropriate 'uplifts' in the valuation of goods by importing countries when applying tariffs can result in an unwarranted doubling or tripling of duties, undermining market access opportunities gained through tariff reductions.

Experience also demonstrates that the implementation of the Agreement often represents a first concrete and meaningful step taken by developing countries toward reforming their customs regimes, and ultimately moving to a rules-based border environment for conducting trade transactions. Because implementation of the Agreement precludes the use of arbitrary customs valuation methodologies, an additional positive result is to diminish what is often the genesis of much corruption by customs officials. For all of these reasons, as part of an overall strategic approach to trade facilitation, the United States has taken an aggressive leadership role at the WTO on matters related to customs valuation.

At the end of the Uruguay Round, many developing country Members opted for recourse under the provisions of the Agreement for delayed application for up to five years from January 1, 1995, or the date of entry into force of the WTO Agreement. For 30 of these Members, the expiration of this five year delay meant an implementation deadline of January 1, 2000, while for others the expiration of the five year delay was set at various dates throughout 2000 and into 2001.

Members with 2000 Deadlines for Implementation of the WTO Customs Valuation Agreement

Members with Deadline of January 1, 2000

Bangladesh, Brunei, Darussalam, Chile, Malta, Costa Rica, Côte d'Ivoire, Israel, Malaysia, Bahrain, Myanmar, Philippines, Uganda, Venezuela, Gabon, Kuwait, Mauritius, Nigeria, Pakistan, Senegal, Singapore, Ghana, Honduras, Indonesia, Uruguay, Kenya, Paraguay, Sri Lanka, Thailand, Tanzania, Zambia.

Members with Deadline on Various Dates during 2000

Dominican Republic, Jamaica, Tunisia, Cuba, Colombia, El Salvador, Central Africa Republic, Djibouti, Togo, Mali, Mauritania, Burkina Faso, Egypt, Guatemala, Burundi, Nicaragua, Bolivia, Madagascar, Cameroon.

While many developing country Members undertook timely implementation of the Agreement, the Committee continued throughout 2000 to address individual Member requests for either a transitional reservation for implementation methodology, or for a further extension of time for overall implementation. Working with key trading partners, the United States led consultations on each request, which resulted in the development of a detailed decision tailored to the situation of each Member. Each decision included an individualized benchmarked work program toward full implementation, along with reporting requirements and specific commitments on other implementation issues important to U.S. export interests.

Of the Members with deadlines during 2000, implementation is reported for 19 Members. Six developing country Members implemented the Agreement through transitional reservations granted by the Committee, while 15 developing country Members with deadlines in 2000 were granted extensions by the Committee. These extensions were generally 12 months in duration, with certain least developing country Members granted extensions up to 24 months in duration. The situation of the remaining Members with 2000 deadlines is being addressed through further Committee consultations.

In this manner, the Committee's work throughout 2000 was hallmarked by a cooperative focus among all Members toward practical methods to address specific problems of individual Members, and thereby was advancing a key WTO role in ensuring greater economic stability. As part of its problem-solving approach, the

Committee continued to take an active role in exploring how best to ensure effective technical assistance, and in 2000, it gradually began a shift toward including meeting post-implementation needs of developing country Members.

Prospects for 2001

The Committee's work in 2001 will include a review of the relevant implementing legislation and regulations submitted by newly-implementing Members, along with addressing requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time. The Committee also will continue to provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Agreement, to ensure that such Members' customs valuation regimes do not utilize arbitrary or fictitious values, such as "minimum reference prices."

4. Committee on Import Licensing

Status

The Agreement on Import Licensing Procedures establishes rules for all WTO Members that use import licensing systems to regulate their trade. Its aim is to ensure that the procedures used by Members in operating their import licensing systems do not in themselves form barriers to trade, to increase the transparency and predictability of such regimes, and to create disciplines to protect the importer against unreasonable requirements or delays associated with the licensing regime. While the Agreement's provisions do not directly address the WTO consistency of the underlying measures that licensing systems regulate, they establish the base line of what constitutes a fair and non-discriminatory application of the procedures. The Agreement covers both "automatic" licensing systems, which are intended only to monitor imports, not regulate them, and "non-automatic" licensing systems where certain conditions must be met before a license is issued. Governments often use non-automatic licensing to administer import restrictions for quotas and tariff-rate quotas or to administer safety or other requirements (e.g., for hazardous goods, armaments, antiquities, etc.). Requirements for permission to import that act like import licenses, such as certification of standards and sanitary and technical regulations, are also subject to the rules of the Agreement.

Major Issues in 2000

The Committee on Import Licensing was established to administer the Agreement and monitor compliance with the mutually agreed rules for the application of these widely used measures. It does this by reviewing initial or follow-up information on import licensing requirements that WTO Members are required to submit on a regular basis. The Committee meets twice a year to review these submissions, to receive questions from Members on the licensing regimes described, and to address specific observations and complaints concerning Members' licensing systems. While not a substitute for dispute settlement procedures, these consultations on specific issues allow Members to clarify problems and resolve possible potential problems before they become disputes.

At its meetings in April and October 2000, the Committee reviewed initial or revised notifications or completed questionnaires on procedures followed in 48 WTO Members (including EU Member States). The United States submitted written questions on a number of the notifications in order to clarify the nature of the procedures and to verify that the legislation notified met the procedural requirements of the Agreement. The Committee also continued discussion on Brazil's import licensing procedures, conducted its third biennial review of

the implementation and operation of the Agreement, and considered how the number and frequency of notifications by Members could be increased.

As import licensing procedures have become more widely used, e.g., in the administration of tariff rate quotas applied to agricultural imports and of standards certification systems, more WTO dispute settlement cases have involved their proper application.

Prospects for 2001

The question of licensing has already emerged as an issue in the built-in agenda negotiations on agriculture. Improvements needed in agriculture may raise the issue of whether the Agreement should also be strengthened. In recent years, compliance with the notification and other transparency requirements of the Agreement has become a preoccupation of the Committee, which has increased its efforts to encourage timely submission of notifications. Submissions for the April 2001 meeting are coming in at a greater rate than last year. In addition, acceding Members commit to supply basic information on their licensing regime, including the texts of relevant legislation and answers to a standard questionnaire upon accession or shortly thereafter. These efforts are likely to result in an increased number of submissions for Committee review during 2001. The Committee will continue to be the point of first contact in the WTO for Members with complaints or questions on the licensing regimes of other Members, and additional attention will be given to the disciplines in this area as negotiations proceed in agriculture, particularly in the administration of tariff rate quotas. In particular, Members that use licensing to operate their TRQs on agricultural tariff lines should be encouraged to provide the basic transparency required by the WTO Agreement.

5. Committee on Market Access

Status

WTO Members established the Committee on Market Access in January 1995, consolidating the work of the Committee on Tariff Concessions and the Technical Group on Quantitative Restrictions and other Non-Tariff Measures from the GATT 1947. The Committee on Market Access supervises the implementation of concessions on tariffs and non-tariff measures (where not explicitly covered by another WTO body, e.g., the Textiles Monitoring Body (TMB)) agreed in negotiations under WTO auspices. The Committee also is responsible for future negotiations and verification of new concessions on market access in the goods area.

Major Issues in 2000

During 2000, WTO Members continued implementing the ambitious package of tariff cuts agreed in the Uruguay Round with the Committee having responsibility for verifying that implementation is proceeding on track. The Committee held four formal and eleven informal meetings in 2000 to discuss the ongoing review of WTO tariff schedules to accommodate updates to the Harmonized System (HS) tariff nomenclature; the WTO Integrated Data Base; and procedures for finalizing consolidated schedules of WTO tariff concessions in current HS nomenclature.

Updates to the Harmonized System (HS) nomenclature. In 1993, the Customs Cooperation Council (now known as the World Customs Organization, or WCO) agreed to approximately 400 sets of amendments to the HS, which were to enter into effect on January 1, 1996. These amendments resulted in changes to the WTO schedules of tariff bindings. In keeping with their WCO obligations, most WTO Members have implemented the HS96 changes in their national customs nomenclature. The Committee previously had developed procedures

for identifying possible effects on the scope of WTO tariff bindings due to the HS96 updates. Members have the right to object to any proposed nomenclature affecting bound tariff items on grounds that the new nomenclature (as well as any increase in tariff levels for an item above existing bindings) represents a modification of the tariff concession. Unresolved objections can trigger a GATT 1994 Article XXVIII process.

Most WTO Members were unable to carry out the procedural requirements related to the introduction of HS96 changes in WTO schedules prior to implementation of those changes. Accordingly, since 1996 successive waivers have been granted by decisions of the General Council until the implementation procedures can be finalized. The majority of WTO Members have completed theprocess, but 25 Members[9] continue to require waivers. The current waiver expires on April 30, 2001, at which time issues related to the adoption of HS96 are expected to be completed. The Committee also examined issues related to the transposition and renegotiation of the schedules of certain Members which had adopted the HS in the years following its introduction on January 1, 1988. Technical assistance is being provided to some Members to assist in the transposition of their pre-Uruguay Round schedules into the HS and in the preparation of documents required for the HS96 updates.

The Committee also began to discuss the next set of WCO amendments, which are scheduled to take effect on January 1, 2002 (HS2002). Drawing from the experience of HS96, the Committee initiated discussion on an electronic verification procedure that will facilitate and shorten the process of reviewing and approving the 373 proposed amendments under HS2002.

Integrated Data Base (IDB): The Committee addressed issues concerning the IDB, which is to be updated annually with information on tariffs, trade data and non-tariff measures maintained by WTO Members. The U.S. objectives are to achieve full participation in the IDB by all WTO Members and, ultimately, to develop a method to make the trade and tariff information publicly available. In recent years, the United States has taken an active role in pushing for a more relevant database structure with the aim of improving the trade and tariff data supplied by WTO Members.

In 1997, the Committee agreed to a complete restructuring of the IDB from a mainframe environment to a personal computer-based system (PC IDB). The Committee also recommended that all WTO Members be mandated to supply tariff and trade information on an annual basis. After review by the Council on Trade in Goods, the General Council adopted the Decision in July 1997, with initial implementation to occur beginning in December 1997. During 2000, the Committee held several informal meetings focused on improving IDB participation and identifying technical assistance needs. As a result, participation has continued to improve: as of October 2000, 74 Members and two acceding countries had provided IDB submissions. As a next step, the Committee agreed to hold a series of meetings to be held by region in early 2001 to further examine the problems of remaining IDB non-participants and identify solutions towards achieving full participation.

Consolidated schedule of tariff concessions (CTS). The Committee continued its work to establish a PC-compatible structure for tariff and trade data. The CTS will facilitate the Committee's ongoing work to establish electronically each Member's consolidated "loose-leaf" schedule of tariff concessions. This

[9]Argentina, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Costa Rica, Egypt, El Salvador, Honduras, Guatemala, Iceland, Israel, Malaysia, Maldives, Mexico, Morocco, New Zealand, Norway, Pakistan, Panama, Paraguay, Switzerland, Thailand, Uruguay, Venezuela.

highly technical task is essential in order to generate an up-to-date schedule in current tariff nomenclature of the tariff bindings for each WTO Member that reflects Uruguay Round tariff concessions, HS96 updates to tariff nomenclature and bindings, and any other modifications to the WTO schedule (e.g., participation in the Information Technology Agreement). The Committee reviewed the work of the Secretariat, which through a technical assistance project is facilitating the preparation of loose-leaf schedules for developing countries. These schedules are targeted for completion in the first quarter of 2001. The target for developed countries was the end of 2000.

The Committee also reviewed and agreed to an electronic format for identifying agricultural commitments. This information will be integrated into Members' consolidated schedules. The Secretariat also is facilitating the creation of these tables for developing countries, while developed countries are finalizing their own tables. The entire consolidated schedules, including the agricultural commitments, are targeted for dissemination among Members by the middle of 2001. The CTS will be the vehicle for conducting future tariff negotiations in the WTO, such as the mandated negotiations on agriculture that are underway and any new negotiations on non-agricultural tariffs.

Prospects for 2001

The ongoing work program of the Committee, while highly technical, will ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format so that any new negotiations on goods market access can be performed with greater efficiency. Much of the work program will be completed in 2001, so as to provide the tariff schedules and data needed for the ongoing negotiations on agriculture and possible negotiations on non-agricultural market access. The Committee will finalize its work on the electronic schedules of consolidated tariff bindings, with the aim of disseminating the schedules of each Member by the middle of the year. Committee efforts to secure updated data on applied tariffs and trade through the integrated database also will intensify. While access to the IDB currently is restricted to Members, as a part of a broader effort to improve transparency in the WTO, the United States will work with Members to improve public access to this important commercial information.

In addition to finalizing the HS96 updates, the Committee will develop procedures to facilitate the adoption of updates to the harmonized tariff nomenclature in 2002 and begin to submit amended schedules for review and approval by Members. The United States will seek to ensure that the new HS2002 procedures will be electronically-based, transparent and easy to implement, in order to minimize disruptions to any ongoing negotiations on tariffs (e.g., in agriculture).

6. Committee on Rules of Origin

Status

The objective of the WTO Agreement on Rules of Origin is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. In addition to setting forth disciplines related to the administration of rules of origin, the Agreement provides for a work program of negotiations that is to result in multilateral harmonization of rules of origin used for non-preferential trade regimes. The negotiations are more complex than originally envisioned, making their conclusion in the original 3-year time frame of 1998 an unrealistic deadline. These negotiations are continuing.

The Agreement established a WTO Committee on Rules of Origin to oversee the work program on harmonization. The Committee has also served as a forum to exchange views on notifications by Members concerning their national rules of origin, along with those relevant

judicial decisions and administrative rulings of general application. The Agreement also established a Technical Committee on Rules of Origin in the World Customs Organization to assist in the harmonization work program.

Major Issues in 2000

The WTO Committee on Rules of Origin met formally eight times in 2000, and also conducted numerous informal consultations and working party sessions related to the harmonization work program negotiations. As of the end of 2000, 72 WTO Members had made notifications concerning non-preferential rules of origin, and 75 had made notifications concerning preferential rules of origin.

The Committee continued to be focused on conducting the work program aiming toward multilateral harmonization of nonpreferential rules of origin. The Committee work proceeded in accordance with a work program developed at the beginning of 2000, setting out a schedule of meetings along with an agreed-upon sequence for addressing the myriad of issues. The Committee has been assisted in this work by the Technical Committee on Rules of Origin that was established at the World Customs Organization under the terms of the Agreement. In June 1999, the Technical Committee finished this phase of its work, forwarding to the WTO Committee several hundred product-specific issues that could not be resolved on a technical basis. Throughout 2000, the WTO Committee on Rules of Origin continued to address several important and complex issues of broad application to the harmonization work program, including undertaking important work toward a common understanding as to the implications of applying harmonized rules consistent with the rights and obligations under other WTO agreements. Despite the sheer volume and magnitude of complex issues which must be addressed for literally hundreds of unique specific products, significant progress has been made toward completion of this effort.

U.S. proposals for the WTO origin harmonization work program are developed under the auspices of a Section 332 study being conducted by the U.S. International Trade Commission pursuant to a request by the U.S. Trade Representative. The proposals are formulated utilizing the input received from the private sector, with ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the WTO Committee on Rules of Origin. Representatives from several U.S. government agencies are actively involved in the WTO origin harmonization work, including the U.S. Customs Service, the U.S. Department of Commerce, and the U.S. Department of Agriculture.

Prospects for 2001

The harmonization work program will continue to be conducted through a sector-by-sector approach, in accordance with a work program again developed by the Committee at the close of 2000. The work will continue on the development of product-specific rules by focusing primarily on methodologies involving change in tariff classification, although, where appropriate, the work program has also been giving consideration to other possible requirements beyond a change of tariff classification methodology. In accordance with a decision taken by the General Council's Special Session in December 2000, the Committee will expedite its efforts toward completing the harmonization work program by the end of 2001, also ensuring results that are sound from both a technical and policy standpoint. Progress in the harmonization work program will remain contingent on obtaining appropriate resolution of several important and complex issues concerning the overall structure and operation of the harmonized rules, as well as their future application consistent with the rights and obligations under other WTO agreements.

Virtually all issues and problems cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices that result in non-transparency, discrimination, and a lack of certainty. Attention will continue to be given to the implementation of the Agreement's important disciplines related to transparency, which are recognized elements of what are considered to be "best customs practices." The Agreement on Rules of Origin provides important disciplines for conducting preferential and non-preferential origin regimes--such as the obligation to provide binding origin rulings upon request to traders within 150 days of request.

7. Committee on Safeguards

Status

The Committee on Safeguards was established to administer the WTO Agreement on Safeguards. The Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994. Effective safeguards rules are important to the viability and integrity of the multilateral trading system. Armed with the assurance that they can act quickly to help industries adjust to temporary import surges, the availability of a safeguards mechanism provides WTO Members a flexibility they otherwise would not have to open their markets to international competition. At the same time, WTO safeguards rules ensure that such actions are of limited duration and are gradually less restrictive over time.

The Agreement on Safeguards incorporates into WTO rules many concepts embodied in U.S. safeguards law (i.e., section 201 of the Trade Act of 1974, as amended). The Agreement requires all WTO Members to use transparent and objective procedures when taking emergency actions to prevent or remedy serious injury to domestic industry caused by increased imports.

Among its key provisions, the Agreement:

- requires a transparent, public process for making injury determinations;
- sets out clearer definitions of the criteria for injury determinations;
- requires safeguard measures to be steadily liberalized over their duration;
- establishes an eight year maximum duration for safeguard actions, and requires a review and determination no later than the mid-term of the measure;
- allows safeguard actions to be taken for three years without the requirement of compensation or the possibility of retaliation; and,
- prohibits so-called "grey area" measures, such as voluntary restraint agreements and orderly marketing agreements, which had been utilized by countries to avoid GATT disciplines and which adversely affect third-country markets. Measures of this type in existence when the Agreement entered into force were required to be phased out over four years.

Major Issues in 2000

During its two meetings in 2000, the Committee continued its review of Members' laws, regulations and administrative procedures, based on notifications required by Article 12.6 of the Agreement. The Committee reviewed new or amended legislative texts from Chile, Ecuador, the Kyrgyz Republic, Latvia, Thailand and Venezuela. As of early November 2000, 39 Members had notified the Committee of their domestic safeguards legislation, and 48 other Members notified that they had no such specific legislation.

The Committee noted that all notified pre-existing measures covered by Articles 10 and 11 of the Agreement had been phased out by January 1, 2000. Nigeria had notified, in 1998, that its import prohibitions on wheat flour, sorghum, millet, gypsum and kaolin were "pre-existing Article XIX measures." At the fall 2000 meeting, Nigeria undertook to update the Committee on the status of these measures as soon as possible.

The Committee reviewed Article 12.1(a) notifications of the initiation of and reasons for an investigatory process relating to serious injury or threat thereof from: Argentina (motorcycles), Chile (tires, wheat, wheat flour, sugar, edible vegetable oils, cotton and synthetic socks, and UHT liquid and powdered milk), Ecuador (matches), Egypt (fluorescent lamps and powdered milk), India (white and yellow phosphorous, gamma ferric oxide and magnetic iron oxide, and methylene chloride), Korea (garlic), Morocco (bananas), El Salvador (pork and rice), the United States (line pipe, crab meat and extruded rubber thread), and Venezuela (cold-rolled steel, hot-rolled steel, and tires).

The Committee reviewed Article 12.1(b) notifications of a finding of serious injury or threat thereof caused by increased imports from: Argentina (footwear); Brazil (toys); Chile (wheat, wheat flour, sugar, and edible vegetable oils); the Czech Republic (sugar); Egypt (fluorescent lamps); India (acetone); Korea (garlic); Latvia (swine meat); and the United States (steel wire rod and line pipe).

The Committee reviewed Article 12.1(c) notifications of a decision to apply a safeguard measure from: Argentina (footwear), Brazil (toys), Chile (wheat, wheat flour, sugar, and edible vegetable oils), the Czech Republic (sugar), Egypt (fluorescent lamps), India (acetone and phenol), Korea (garlic), Latvia (swine meat) and the United States (line pipe, steel wire rod and wheat gluten). The Committee received notifications from Chile (wheat, wheat flour, sugar, edible vegetable oils, tires and cotton socks), India (white/yellow phosphorous), the Slovak Republic (swine meat), the United States (crabmeat) and Venezuela (cold-rolled steel and hot-rolled steel) of the termination of a safeguard investigation with no safeguard measure imposed. The Committee also reviewed a notification from the United States on the results of the mid-term review of the safeguard measure on wheat gluten.

The Committee reviewed Article 12.4 notifications of the application of a provisional safeguard measure from: Chile (wheat, wheat flour, sugar, edible vegetable oils, synthetic socks and liquid UHT and powdered milk) Egypt (powdered milk), and Korea (garlic).

The Committee also received some additional notifications shortly before the end of the reporting period, which will be reviewed in the year 2001, including from Chile (investigation of synthetic socks), Colombia (termination of investigation of taxis), Egypt (provisional measure on milk powder), the Slovak Republic (initiation of investigation on cane or beet sugar), United States (termination of investigation on extruded rubber thread) and Venezuela (provisional measure on matches).

At the November 2000 meeting, the Committee agreed to have the Chairman consult informally on the desirability of the Committee establishing a venue for discussing matters concerning the application of the Safeguards Agreement.

Prospects for 2001

The Committee's work in 2001 will continue to focus on the reviews of safeguard actions that have been notified to the Committee and on the notification of any new or amended safeguards laws. The Chairman of the Committee will also hold an informal meeting, in early February 2001, to determine whether or not there is a need for the Committee to discuss issues concerning the application of the Safeguards Agreement, and

if such discussion should address procedural or substantive issues.

8. Committee on Sanitary and Phytosanitary Measures

Status

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes rules and procedures to ensure that sanitary and phytosanitary measures address legitimate human, animal and plant health concerns, do not arbitrarily or unjustifiably discriminate between Members' agricultural and food products, and are not disguised restrictions on international trade. SPS measures protect against risks associated with plant or animal borne pests and diseases, additives, contaminants, toxins and disease-causing organisms in foods, beverages, or feedstuffs. The Agreement requires that, with the exception provided in Article 5.7, such measures be based on science and developed through systematic risk assessment procedures. At the same time, the SPS Agreement preserves every WTO Member's right to choose the level of protection it considers appropriate with respect to SPS risks.

The Committee on SPS Measures is a forum for consultation on the implementation and administration of the Agreement, including discussions of specific measures Members perceive to violate the Agreement, and the exchange of information on implementation of the Agreement. It also provides a venue for discussions of the Agreement's provisions relating to transparency in the development and application of SPS measures, special and differential treatment, technical assistance, and equivalence.

Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate as observers, in accordance with guidance agreed to by the General Council. Representatives of a number of international organizations are invited to attend meetings of the Committee as observers: the Food and Agriculture Organization (FAO), the World Health Organization (WHO), the FAO/WHO Codex Alimentarius Commission, the FAO International Plant Protection Convention Secretariat (IPPC), the International Office of Epizootics (OIE), the International Organization for Standardization (ISO) and the International Trade Center (ITC).

Major Issues in 2000

Article 5.5 Guidelines: During 2000, a major focus of the Committee was completion of the guidelines called for in Article 5.5 of the Agreement. Article 5.5 calls for the Committee to develop guidelines for Members' use to "avoid arbitrary or unjustifiable distinctions in the levels" of protection they "consider to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on trade." Since 1996, the Committee has conducted informal consultations aimed at developing a consensus on the provisions and use of these guidelines. The United States was an active participant in these consultations, working to ensure that the guidelines do not compromise its sovereign rights and to further ensure that WTO Members base their SPS measures on science. The Committee approved final guidelines in July.

Implementation Issues: At the November 10-11, 1999 Committee meeting, several developing country Members called on the Committee to discuss the implementation of specific provisions of the Agreement including special and differential treatment, technical assistance and equivalence provisions at meetings in 2000. At each meeting in 2000, one of these issues was discussed and the United States submitted papers on technical assistance (G/SPS/GEN/181) and equivalence (G/SPS/GEN/212) as part of those discussions, which were not conclusive and will continue in 2001.

Biotechnology : In view of the increasing trade in agricultural and food products derived from modern biotechnology and the number of international fora addressing biotechnology, the United States emphasized to WTO Members that the provisions of both the SPS Agreement and Agreement on Technical Barriers to Trade (TBT) apply to international trade in these products. The United States submitted a paper (G/SPS/GEN/186) drawing attention to notifications to the SPS Committee and TBT Committee from WTO Members of their proposals regarding food and agricultural biotechnology products. The paper also encouraged all Members to notify proposals related to food and agricultural biotechnology to the appropriate WTO committee; the United States submitted a similar paper to the TBT Committee (G/TBT/W/115). The United States noted in these papers that, as of June 10, 2000, 15 WTO Members had submitted 48 notifications: 24 notifications to the SPS Committee and 24 notifications to the TBT Committee. In addition, representatives from the Codex Alimentarius Commission and the International Plant Protection Convention (IPPC) reported on the respective work of their organizations regarding agricultural and food products derived from biotechnology. The United States emphasized the importance of the work related to biotechnology underway in these organizations and encouraged WTO Members to participate in the work of these organizations.

Risk Assessment: The Agreement requires Members to base SPS measures on a science-based risk assessment. With the aim of increasing understanding and use of risk assessments, the WTO, with support from the United States, sponsored a workshop on risk assessment in June. The workshop demonstrated the fundamentals of risk analyses, described the links between risk analyses and the disciplines of the SPS Agreement, identified the work in this area by the three standard setting organizations referenced in the Agreement (Codex, IPPC, and OIE), and shared information on risk analyses among Committee members.

Transparency: The SPS Agreement provides a process whereby WTO Members can obtain information on other Members' proposed SPS regulations and control, inspection, and approval procedures, and the opportunity to provide comments on those proposals before implementing Members make their final decisions. These transparency procedures have proved extremely useful in preventing trade problems associated with SPS measures. The United States continued to press all WTO Members to establish an official notification authority, as required by the Agreement, and to ensure that the Agreement's notification requirements are fully and effectively implemented. Each Member is also required to establish a central contact point, known as an inquiry point, to be responsible for responding to requests for information or making the appropriate referral. This inquiry point circulates notifications received under the Agreement to interested parties for comment.

The SPS inquiry point for the United States is:

U.S. INQUIRY POINT

Office of Food Safety and Technical Services
Attention: Carolyn F. Wilson
Foreign Agricultural Service
U.S. Department of Agriculture
AG Box 1027
Room 5545 South Agriculture Building
14th and Independence Avenue, S.W.
Washington, DC 20250-1027

Telephone:	(202) 720-2239
Fax:	(202) 690-0677
email:	ofsts@fas.usda.gov

Prospects for 2001

The Committee will continue to monitor implementation of the Agreement by WTO

Members. The number of specific trade concerns raised in the Committee appears to be increasing and the Committee has been a useful forum for Members to raise issues and then work bilaterally to resolve specific trade concerns. The number of disputes in this area is evidence of the importance which Members place on the effective operation of the Agreement.

In 2001, the United States expects the Committee to continue discussions on technical assistance, special and differential treatment, and equivalence. To date, developed countries have submitted most of the papers and the United States will be encouraging developing country Members to participate more actively in both formal meetings and informal consultations to identify improvements. The Committee will also consider criteria for admitting intergovernmental organizations as observers to SPS Committee meetings. Finally, the Committee will continue to monitor the development of international standards, guidelines and recommendations by standard setting organizations. The Committee will seek to identify areas where the development of additional or new standards would facilitate international trade and provide this information to the appropriate standard setting organization for consideration.

9. Committee on Subsidies and Countervailing Measures[10]

Status

The Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action – to address subsidized trade that causes harmful commercial effects. The Agreement nominally divides subsidy practices among three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted, non-actionable (green light) subsidies. Export subsidies and import substitution subsidies are prohibited. All other subsidies are permitted, yet are also actionable (through CVD or dispute settlement action) if they are (i) "specific", *i.e.*, limited to a firm, industry or group thereof within the territory of a WTO Member and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another WTO Member. At present, the only non-actionable subsidies are those which are not specific, as defined above.

Prior to 2000, Article 8 of the Agreement provided that certain limited kinds of government assistance granted for industrial research and development (R&D), regional development, or environmental compliance purposes would also be treated as a non-actionable subsidy so long as such assistance conformed to the applicable terms and conditions set forth in Article 8. In addition, Article 6.1 of the Agreement provided that certain other subsidies, referred to as dark amber subsidies, could be presumed to cause serious prejudice. These were: (i) subsidies to cover an industry's operating losses; (ii) repeated subsidies to cover a firm's operating losses; (iii) the direct forgiveness of debt (including grants for debt repayment); and (iv) when the *ad valorem* subsidization of a product exceeds five percent. If such subsidies were challenged on the basis of these dark amber provisions in a WTO dispute settlement proceeding, the subsidizing government would have the burden of showing that serious prejudice had *not* resulted from the subsidy. However, as explained in last year's report, a mandatory review was conducted in 1999 under Article 31 of the Agreement to determine whether to extend the application of these provisions beyond December 31 of that

[10] For further information, see also the Joint Report of the United States Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to the Congress*, February 2001.

year. Because a consensus could not be reached among WTO Members on whether or the terms by which these provisions might be extended beyond their five-year period of provisional application, they expired on January 1, 2000.[11]

Major Issues in 2000

The Committee held two regular meetings in 2000. In addition to its routine activities concerned with reviewing and clarifying the consistency of WTO Members' domestic laws, regulations and actions with Agreement requirements, the Committee continued to accord special attention to the matter of general subsidy notifications and the process by which such notifications are made to and considered by the Subsidies Committee. In this regard, at its regular meeting in May 2000, the Committee decided to take several actions to address the poor and declining state of compliance with subsidy notifications, including deciding to revive its Working Party on Subsidy Notifications in an effort to find a long-term solution to the problem. The Committee also concluded its mandated review of the operation of Article 27.5/27.6 of the Agreement, and selected a new member for its Permanent Group of Experts. Further information on these various activities is provided below.[12]

Review and Discussion of Notifications: Throughout the year, Members submitted notifications of: (i) new or amended CVD legislation and regulations; (ii) CVD investigations initiated and decisions taken; and (iii) measures which meet the definition of a subsidy and which are specific to certain recipients within the territory of the notifying Member. Notifications of CVD legislation and actions, as well as updating subsidy notifications, were reviewed and discussed by the Committee at both of its regular meetings. In reviewing notified CVD legislation and subsidies, the Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the Agreement.

To date, 51 Members of the WTO (counting the EU as one) have notified that they currently have CVD legislation in place, while 32 Members have notified that they maintain no such legislation. Among the notifications of CVD laws and regulations reviewed in 2000 were those of Argentina, Australia, Chile, Estonia, India,

[11] Pursuant to section 282(c)(5) of the Uruguay Round Agreements Act of 1994 (URAA), USTR submitted a report to the Congress on June 30, 2000, identifying the provisions of U.S. law which were enacted to implement these provisions and which "should be repealed or modified" due to the lack of a decision by the Subsidies Committee to extend their application beyond 1999. This report is available for review at: http://www.ustr.gov/wto/goodsub.html. As set forth in section 251 of the URAA, the green light provisions of U.S. CVD law corresponding to Article 8 of the Agreement automatically expired on July 1, 2000, in light of the fact that the provisions of Article 8 no longer had force.

[12] In addition to the matters described here, at the Committee's November 2000 meeting a number of other WTO Members expressed concern about enactment in the United States of the so-called "Byrd amendment" (H.R. 4461/P.L. 106-387), which was attached as a rider to the fiscal year 2001 agriculture appropriations bill and provides for the apportionment of revenue stemming from duties collected under an AD/CVD order to the members of the domestic industry which filed the petition or supported the initiation of the proceeding. On December 22, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand jointly requested dispute settlement consultations with respect to this law.

Kyrgyz Republic, Malaysia, Thailand and Turkey.[13] As for CVD measures, seven WTO Members notified CVD actions taken during the latter half of 1999, whereas seven Members also notified actions taken in the first half of 2000. The Committee reviewed actions taken by Australia, Canada, Chile, the EU, Egypt, South Africa and the United States. With respect to subsidy notifications, the Committee continued its examination of new and full notifications submitted for 1998, as well as updating notifications submitted for 1997, 1999 and 2000. The table contained in Annex II of this report shows the WTO Members whose subsidy notifications were reviewed by the Committee in 2000.

As of January 1, 2001, when membership in the WTO had reached 140, only 49 Members had submitted new and full subsidy notifications for 1998, while 35 and 25 Members, respectively, had submitted updating notifications for the 1999 and 2000 periods. Notably, 44 Members have never made a subsidy notification to the WTO, although three of these acceded to the WTO only in the fourth quarter of 2000 and none account for a significant share of world trade. In view of the ongoing difficulties experienced by Members, including the United States, in meeting the Agreement's subsidy notification obligations, the Committee took several actions in 2000 aimed at improving the situation. First, it urged that any Member having outstanding subsidy notifications should take the steps needed to come into compliance with its obligations as soon as possible before the end of 2000. Second, it suggested that Members with more than one notification outstanding could make a single "best efforts" notification covering all the preceding time periods for which a notification was due, placing the greatest emphasis on supplying information in relation to the most recent periods. Third, it reconvened the Working Party on Subsidy Notifications to take a fresh look at the notification problems confronting Members and develop possible long-term solutions for the Committee's consideration. The working party met on the margins of the regular fall Subsidies Committee meeting and, as initial steps: (i) authorized the Secretariat to circulate a questionnaire to Members inquiring about the specific problems they face in making notifications; and (ii) authorized the Chairperson to pursue direct contact with individual Members that have not yet made a notification.

Review of the Operation of Article 27.5/27.6: Article 27.5 and 27.6 of the Agreement provide that a developing country which has reached 3.25 percent of world trade in a given product over two consecutive years must accelerate the phase-out of its export subsidies on that product. The product scope is defined as a section heading of the Harmonized System nomenclature, and application of this provision can be triggered either by a notification made by the developing country or a computation done by the WTO Secretariat at the request of another Member. Pursuant to Article 27.6, the Subsidies Committee began reviewing the operation of this provision at the end of 1999, but decided to conclude the review at its May 2000 meeting in large part because the provisions had never been invoked and there was no concrete experience by which to judge their operation. The Committee agreed to reconsider this issue, however, in the future should any Member so request – and, as explained below, the Committee will, in fact, examine these provisions further in 2001.

Permanent Group of Experts: Article 24 of the Agreement directs the Committee to establish a

[13] The Committee also continued its review of the previously notified legislation of the EU and the United States although, in keeping with WTO practice, the bulk of the review took place in the Antidumping Committee. Follow-up questions posed to the United States continued to focus on the U.S. Department of Commerce's regulations for sunset review procedures.

Permanent Group of Experts (PGE), "composed of five independent persons, highly qualified in the fields of subsidies and trade relations." The Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the Agreement; (ii) to provide, at the request of the Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a WTO Member, a "confidential" advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. (To date, the PGE has not yet been called upon to perform any of the aforementioned duties.) Article 24 further provides for the Committee to elect the experts to the PGE, with one of the five experts being replaced every year. At its May 2000 meeting, the Committee chose Mr. Hyung-Jin Kim, nominated by Korea, to replace Canadian member Robert Martin, whose term of office had expired earlier in the spring. Another PGE member, Mr. A. V. Ganesan of India, resigned his membership, effective May 18, 2000, prior to the end of his term. Consultations are ongoing on whom should replace Mr. Ganesan.

Subsidies to the Fisheries Sector: At its May 2000 meeting, the Committee had an exchange of views concerning the issue of trade-distorting and environmentally harmful subsidies to the fisheries sector, initiated at the request of Iceland in regard to responses submitted by the EU on its 1999 updating subsidies notification. Iceland, supported by the United States and some other Members, suggested that the Committee take up as an ongoing agenda item consideration of the fishery subsidies issue, with a focus on the technical and legal dimensions of the issue (as distinct from the "political" context which, Iceland pointed out, had been the context for discussions in the Committee on Trade and the Environment). Among the options for further work, Iceland suggested that the Committee could: (i) undertake to identify fishery subsidies, including those which were trade distorting and/or a cause of overcapacity and overfishing; (ii) consider which Subsidies Agreement disciplines could apply to fishery subsidies and which may need to be clarified/strengthened in order to deal more effectively with such practices; and (iii) explore the extent to which fishery subsidies with adverse effects could be identified. Although several Members were not prepared to agree to this proposal as an ongoing Committee work program, it was acknowledged that any Member could place an item on the Committee's agenda and a number of Members expressed interest in holding further discussions of these issues. The United States, Iceland and a number of other Members had proposed negotiations in this area as part of the WTO's preparations for its 1999 Ministerial Conference.

Prospects for 2001

In 2001, the Subsidies Committee will continue and, likely, intensify its attention to implementation issues in a variety of respects. First, as noted above, the United States will continue to work with others to try to identify ways to rationalize the burdens of subsidy notification for all WTO Members without diminishing transparency or taking away from the other substantive benefits of the notification obligation. Second, the United States will continue to participate actively in the review of other WTO Members' CVD legislation and actions, and will bring to Members' and the Committee's attention any concerns which may arise about such laws or actions, whether in general or in the context of specific proceedings.

Certain implementation issues will also be taken up in the Committee as a direct result of decisions taken by the General Council in its implementation review exercise conducted in 2000 (see discussion of activities undertaken by

the General Council in 2000).[14] Specifically, pursuant to the decisions reached by the General Council at its special session of December 15, 2000, the Committee will "examine, as an important part of its work:

- all issues relating to Articles 27.5 and 27.6 of the ... Agreement, including the possibility to establish export competitiveness on the basis of a period longer than two years; [and]
- the issues of aggregate and generalized rates of remission of import duties and of the definition of 'inputs consumed in the production process', taking into account the particular needs of developing country Members."

The United States intends to participate actively and constructively in this examination with a view towards arriving at practical solutions to any legitimate implementation problems which may be identified, consistent with sustaining and strengthening WTO subsidy disciplines. In line with these same principles, the United States is also prepared to engage in any preparatory work that the Committee may decide to begin in anticipation of possible future requests by developing country Members that the Committee approve an extension of their transition periods for the phase-out of export subsidies.[15]

[14] Among its December 15 decisions, the General Council "called upon the Director-General to take appropriate steps, in accordance with WTO usual practice, to rectify the omission of Honduras from the list of Annex VII(b) countries ... [t]aking into account the unique situation of Honduras as the only original Member of the WTO with a GNP per capita of less than US$1000 [per annum] that was not included in Annex VII(b) to the Agreement". Annex VII to the Agreement identifies two specific groups of developing countries – the least-developed countries as designated by the United Nations and other specified WTO Members which had annual per capita GNP levels of less than $1000 at the time that the Annex was drafted. These countries receive treatment more generous than that given to other developing countries with respect to both export subsidy obligations and the application of CVD rules. Over the past several years, a number of developing countries have raised concerns about the scope and operation of Annex VII. While there is no justification for arbitrarily expanding the scope of this Annex, in terms of either countries covered or the exceptions provided from normal Agreement rules and disciplines, some legitimate questions have been raised about the manner in which Annex VII may have operated or been interpreted. The clarification of Honduras's inclusion is one such issue, and the United States is prepared to engage in additional discussions about other aspects of this Annex which may deserve attention and possible clarification, recognizing that the eventual elimination of export subsidies should be a goal shared by all WTO Members.

[15] Article 27.2 of the Subsidies Agreement in general gives developing country Members an additional eight years from the date of entry into force of the Agreement (*i.e.*, January 1, 1995) in which they may use export subsidies. Therefore, the export subsidy transition period for most developing country Members expires on January 1, 2003. Although the United States and other Members have asked certain developing countries to report on the status of their phase-out plans during the review of general subsidy notifications, little information has typically been supplied in response. Notwithstanding that Article 27.4 stipulates that individual requests for extension need not be made until January 1, 2002, the Agreement does prescribe that these subsidies are to be phased out "in a progressive manner" and within a shorter period where "the use of such . . . subsidies is inconsistent with [a country's] development needs." Given this, there may be grounds for the Committee to

10. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary product standards, mandatory technical regulations, and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The Agreement applies to a broad range of industrial and agricultural products, though sanitary and phytosanitary (SPS) measures and specifications for government procurement are covered under separate agreements. It establishes rules that help to distinguish legitimate standards and technical regulations from protectionist measures. Standards, technical regulations and conformity assessment procedures are to be developed and applied on a non-discriminatory basis, developed and applied transparently, and should be based on international standards and guidelines, when appropriate.

The TBT Committee[16] serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussions and/or presentations concerning specific standards, technical regulations and conformity assessment procedures maintained by a Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on Member government practices related to implementation of the Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: A key opportunity for the public resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and conformity assessment procedures, and to provide written comments for consideration on those proposals before they are finalized. The Members are also required to establish a central contact point, known as an

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consider during the course of 2001 how it intends to take up extension requests which may be made under these provisions and/or whether there is a need for a special reporting and monitoring process to facilitate export subsidy phase-outs.

[16]Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed by the General Council. Representatives of a number of international intergovernmental organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA) and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis, pending final agreement by the General Council on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

inquiry point, which is responsible for responding to requests for information on technical requirements or making the appropriate referral.

U.S. Inquiry Point

National Center for Standards and Certification Information
National Institute of Standards and Technology (NIST)
100 Bureau Drive, Stop 2150
Gaithersburg, MD 20899-2150

Telephone:	(301) 975-4040
Fax:	(301) 926-1559
email:	ncsci@nist.gov

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point. NIST maintains a reference collection of standards, specifications, test methods, codes and recommended practices. This reference material includes U.S. government agencies' regulations, and standards of U.S. private standards-developing organizations and foreign national and international standardizing bodies. The inquiry point responds to all requests for information concerning federal, state and private regulations, standards and conformity assessment procedures. Upon request, NIST will provide copies of notifications of proposed regulations from foreign governments received under the TBT Agreement to interested parties in the United States. NIST also serves as the notification authority for the United States and identifies proposals and prepares notifications on behalf of U.S. agencies. NIST will also provide information on central contact points for information maintained by other WTO Members. On questions concerning standards and technical regulations for agricultural products, including SPS measures, the NIST refers requests for information to the U.S. Department of Agriculture, which maintains the U.S. inquiry point under the Sanitary and Phytosanitary Agreement.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/...." Notifications by Members of proposed technical regulations and conformity assessment procedures which are available for comment are issued as "G/TBT/Notif./..." (followed by a number).[17] Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the Committee meetings are issued as "G/TBT/M/..." (followed by a number). Submissions by Members (e.g., statements; informational documents; proposals; etc.) and other working documents of the Committee are issued as "G/TBT/W/..." (followed by a number). As a general rule, written information provided by the United States to the Committee is provided on an "unrestricted" basis and available to the public on the WTO's website.

Major Issues in 2000

The TBT Committee met five times in 2000. At the meetings, the Committee addressed implementation of the Agreement, including an exchange of information on actions taken by Members domestically to ensure implementation and ongoing compliance. A number of Members used the Committee meetings to raise concerns about specific technical regulations which affected, or had the potential to affect, trade

[17]Beginning in 2000, the number of notifications of proposed technical regulations and conformity assessment procedures will be changed to read: *G/TBT/N* (which stands for "notification")/*USA* (which, in this case stands for the United States of America; three letter symbols will be used to designate the WTO member originating the notification)/*X* (where "x" will indicate the numerical sequence for that country).

adversely and were perceived to create unnecessary barriers to trade. For example, in 2000, the United States continued to express concerns with draft European Commission Directives on Waste from Electrical and Electronic Equipment (WEEE) and on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (notified as G/TBT/Notif.00/310); an early draft directive on batteries and accumulators; the Commission's reliance on an IEC standard which is under revision to control for low frequency emissions under its EMC Directive; and, a notification (G/TBT/Notif.00/428) concerning mandatory egg labeling requirements in Europe. The United States also used a meeting of the Committee to raise questions and alert other WTO Members to potential concerns with restrictive origin requirements in the *"Protocols to the Europe Agreements"* under negotiation by the Commission (see G/TBT/W/152). The United States also raised concerns regarding the transparency of Japan's safety regulations for small craft boat engines. The United States compiled information on notifications relating to bio-engineered products under the TBT Agreement (G/TBT/W/115), as well as the Agreement on Sanitary and Phytosanitary Measures (SPS) (G/SPS/GEN/186), to emphasize to WTO Members that the provisions of both agreements were relevant to international trade in bio-engineered products.

The Committee conducted its fifth Annual Review of the Implementation and Operation of the Agreement based on background documentation contained in G/TBT/8, and its Fifth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on background documentation contained in WTO TBT Standards Code Directory, G/TBT/CS/1/Add.4 and G/TBT/CS/2/Rev.6. Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.7.

Second Triennial Review of the Agreement: The primary focus of the Committee in 2000 was the work program arising from its First Triennial Review of the Operation and Implementation of the Agreement (G/TBT/5, completed in 1997) and the culmination of subsequent discussions, workshops and proposals in the conclusion of the Second Triennial Review (see G/TBT/9). The review provided the opportunity for WTO Members to review and discuss all of the provisions of the Agreement, which facilitated a common understanding of the rights and obligations. The review, which was concluded in November, highlighted issues of implementation and a number of areas for further consideration by the Committee. In July, 2000, the Committee convened a Workshop on Technical Assistance and Special and Differential Treatment in the context of implementation of the TBT Agreement to promote information exchange and in-depth consideration of the practical issues facing developing and least-developed WTO Members in implementing the Agreement and with a view toward clarifying technical assistance needs. A complete listing of the proposals which were under consideration as well as summaries of the various workshops which were held are contained in G/TBT/9 along with the Second Triennial Review itself. The following briefly summarizes the Second Triennial Review:

- *Implementation and Administration of the Agreement by Members (Article 15.2):* Discussion focused on the Members' obligation to submit statements containing information on domestic implementation of the Agreement. The Committee recognized that there was no single model bureaucratic or administrative structure that all countries should follow, but that it would be useful for Members to have in place a national policy concerning TBT matters that would involve relevant government agencies (regulatory, as well as trade agencies), private sector standardizing and conformity assessment

bodies nd other interested parties. The Committee also recognized that developing the information required by the Statement was a useful tool for officials responsible for overseeing domestic implementation. Given that only 77 Members had submitted their Statement on Implementation, the Committee would continue to exchange information and seek practical solutions where obstacles had prevented their timely submission.

The Committee agreed to continue its exchange of information on good regulatory practice for the preparation, adoption and application of technical regulations.

The Committee also noted the General Council discussions on implementation issues, particularly those related to the participation of developing country Members in international standardization activities. It noted this issue was relevant to the range of topics under consideration by the Committee in the Triennial Review as well as ongoing Committee work and it would continue to inform the General Council of developments. Implementation issues facing developing countries were an integral part of the discussions in the Triennial Review.

- *Notifications and Procedures for Information Exchange:* The Committee highlighted the importance for product suppliers and other interested parties of obtaining early information on proposals for new technical regulations and conformity assessment procedures, providing comments on them while still in draft, and having those comments considered before a final rule is adopted and agreed that the procedural aspects of notification should be the subject of ongoing review. Particular attention was drawn to the need to coordinate at the national and sub-national levels and to ensure all authorities were aware of the rights and obligations under the Agreement. Taking into account the results of a survey on electronic capabilities, the Committee agreed to work toward greater use of the internet to provide texts of documents that had been the subject of notifications to facilitate their timely review and the submission of comments. It was also acknowledged that the use of information technology could facilitate communications with interested parties domestically on developments in international standardization and could facilitate participation at the international level. The Committee noted that in some cases a lack of human, financial and infrastructure impeded the ability of a Member to establish an inquiry point and/or ensure its effective functioning and acknowledged that regional cooperation and information exchange could be useful.

- *International Standards, Guides and Recommendations:* The Committee acknowledged that the Agreement accords significant emphasis on the development and use of international standards for preventing unnecessary trade barriers. It recognized, however, that trade problems could arise through, *inter alia*, the absence of international standards or their non-use due to possible outdated content. In November 1998 the WTO held an "Information Session of Bodies Involved in the Preparation of International Standards" to improve Committee Members' understanding of the procedures by which international standards are developed and the ongoing activities of these bodies, and to enhance these

bodies' awareness of the ongoing discussions on international standards in the TBT Committee. The Committee noted that a diversity of bodies were involved in the preparation of international standards -- intergovernmental or non-governmental; specialized in standards development or involved also in other related activities – and that different approaches and procedures were adopted by them. Nevertheless, the obligation under the TBT Agreement for Members to use international standards was the same. Recognizing that for purposes of the TBT Agreement and the prevention of unnecessary obstacles to trade, it was important that all interested parties should have the opportunity to participate in the elaboration and adoption of international standards; i.e., that such bodies should operate on the basis of open, impartial and transparent procedures that afforded an opportunity for consensus among all interested parties. As a result of the Triennial Review, the Committee adopted a Decision containing a set of principles it considered important for international standards development (e.g., transparency, openness, impartiality and consensus) and urged Members and their standardizing bodies to consider them in relation to their participation in international bodies. The Committee also agreed to continue its information exchange with international bodies, and to exchange information in the Committee on how equivalency could facilitate trade in the absence of international standards. The Committee agreed that certain developing country constraints on participation in international standardization deserved ongoing attention within international and regional standardizing bodies. The Committee also urged Members facing problems of participation to undertake national consultations to assess and prioritize areas of interest so that assistance by other Members and/or the Committee could be better targeted.

- *Conformity Assessment Procedures:* The Committee discussed the growing concern with the restrictive effect on trade of multiple testing, certification and other conformity assessment procedures. In June 1999, it held a "Symposium on Conformity Assessment Procedures" to develop an improved understanding of the issues. The Symposium enabled Committee members to learn from the perspectives and experience of a broad range of experts on the use of conformity assessment procedures for business transactions in the marketplace and as a tool to promote regulatory compliance. Information was obtained on agreements and arrangements which are evolving to facilitate trade and reduce compliance costs. In addition, members have continued to provide information on their national experience and practice.

  The Committee noted the existence of different mechanisms to facilitate the acceptance of conformity assessment results, e.g., mutual recognition agreements for conformity assessment to specific regulations; in the voluntary sector, cooperative arrangements between domestic and foreign conformity assessment bodies; the use of accreditation to qualify conformity assessment bodies; government designation; unilateral recognition of results of foreign conformity assessment; and reliance on supplier's declaration of conformity and developed an indicative list to illustrate the variety of approaches and as a basis for further discussions. The use of relevant international standards and guides was recognized as

a useful benchmark of technical competence. Capacity building and technical assistance needs were also reviewed.

- *Technical Assistance and Special and Differential Treatment:* In addition to the discussions under the specific topics above, the Committee considered the results of its Workshop on Technical Assistance and Special and Differential Treatment held in July 2000, and recognized the importance of ensuring that solutions were targeted at the specific priorities and needs identified by individual or groups of developing country Members. This called for effective coordination at the national level between authorities, agencies and other interested parties to identify and assess priority infrastructure needs of a specific Member. The Committee recognized work under the Integrated Framework for Least Developed Countries and the need for coordination and cooperation between donor Members and organizations, and between the Committee, other relevant WTO bodies, and other donor organizations. The Committee agreed to continue to exchange information on assistance provided by Members, as well as to examine the specific needs of Members for assistance. In order to enhance the effectiveness of technical assistance and cooperation, the Committee agreed to develop a demand-driven technical cooperation program beginning with the identification and prioritization of needs by developing countries, and working with other relevant international and regional organizations. The Committee agreed to assess progress made in the context of the Third Triennial Review.

- *Labeling:* The Committee noted that concerns regarding labeling were raised frequently at meetings of the Committee during discussions on implementation and stressed that such requirements should not become disguised restrictions on trade.

Prospects for 2001

The Committee will continue to monitor implementation of the Agreement by WTO Members. The number of specific trade concerns raised in the Committee appears to be increasing and the Committee has been a useful forum for Members to raise concerns and facilitate bilateral resolution of specific concerns. In 2001, the United States expects continued attention to issues relating to technical assistance and implementation of the Agreement by developing country Members in particular. It is likely that there will be greater attention given to labeling issues as well as the exchange of information on good regulatory practice for the development and adoption of technical regulations.

11. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (TRIMS) prohibits investment measures that violate the GATT Article III obligations to treat imports no less favorably than domestically produced products, or the GATT Article XI obligation not to impose quantitative restrictions on imports. The Agreement thus expressly requires eliminations of measures such as those that require or provide benefits for the incorporation of local inputs in the manufacturing process ("local content requirements"), or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns ("trade balancing requirements"). It also includes an illustrative list of measures that violate its requirements. The Agreement requires that any such measures existing as of the date of

entry into force of the WTO (January 1, 1995) be notified and eventually eliminated. Developed countries were required to bring notified measures into conformity by January 1, 1997. Developing countries had until January 1, 2000, and least developed countries have until January 1, 2002.

Major Issues in 2000

The TRIMS Committee held one meeting which was limited to discussion of technical and organizational issues such as notifications under Article 6.2 of the Agreement. Under Article 6.2, Members with non-conforming TRIMS must provide a notification to the WTO regarding the publications in which information on such measures can be found. There still remain several countries that have not properly met this requirement.

The key TRIMS issues related to Article 5.3, which outlines the process for granting an extension of the transition periods for developing countries and Article 9, which describes a mandated review of the Agreement, are both required topics for discussion in the Council for Trade in Goods (CTG) rather than in the TRIMS Committee. Future meetings of the Committee will also provide the opportunity to address violations of the agreement's prohibition on certain measures.

Prospects for 2001

In addition to ensuring full compliance with the obligations under Article 6.2, the Committee will be expected to continue to support the TRIMS-related discussions that remain unfinished in the CTG. Decisions will need to be made regarding the extension requests under Article 5.3 of the Agreement and greater focus is expected on the Article 9 review.

Developing countries have expressed the need for the review to consider the question of relief from the obligations of the Agreement for development reasons. On the other hand, Article 9 is also an opportunity for Members to consider provisions that might strengthen the Agreement's objectives to reduce the trade-restrictive and distorting effects of investment measures and to facilitate international investment. The guidance provided by the CTG will dictate the approach taken in future meetings of the TRIMS Committee.

12. Textiles Monitoring Body

Status

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing (ATC), supervises the implementation of all aspects of the Agreement. In 2000, TMB membership was composed of appointees and alternates from the United States, the EU, Japan, Canada/Norway, Czech Republic/Turkey, Costa Rica, Thailand, Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Each TMB member serves in a personal capacity.

The ATC succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All Members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year, time-limited arrangement which provides for the gradual integration of the textile and clothing sector into the WTO and provides for improved market access and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

The United States has implemented the Agreement on Textiles and Clothing in a manner in which ensures that the affected U.S. industries and workers as well as U.S. importers and retailers have a gradual, stable and predictable regime under which to operate during the quota

phase-out period. At the same time, the United States has aggressively sought to ensure full compliance with market opening commitments by U.S. trading partners, so that U.S. exporters may enjoy growing opportunities in foreign markets.

Under the ATC, the United States is required to "integrate" products which accounted for specified percentages of 1990 imports in volume over three stages during the course of the transition period, that is, to designate those textile and apparel products for which it will henceforth observe full GATT disciplines. Once it has "integrated" a product into the GATT, a WTO Member may not impose or maintain import quotas on that product other than under normal GATT procedures, such as Article XIX. As required by Section 331 of the Uruguay Round Agreements Act, the United States selected the products for early integration after seeking public comment, and published the list of items at the outset of the transition period, for purposes of certainty and transparency. The integration commitments for stages 1 and 2 were completed in 1995 and 1998. The list may be found in the *Federal Register*, volume 60, number 83, pages 21075-21130, May 1, 1995.

Also keyed to the ATC "stages" is a requirement that the United States and other importing members increase the annual growth rates applicable to each quota maintained under the Agreement by designated factors. Under the ATC, the weighted average annual growth rate for WTO Members' quotas increased from 4.9 percent in 1994 to 5.7 percent in 1995 and 7.3 percent in 2000.

Article 5 of the ATC requires that Members cooperate to prevent circumvention of quotas by illegal transshipment or other means. The United States has actively worked with trading partners to improve cooperation and information sharing, and concluded a new agreement with Hong Kong to this end. The United States has also established a Textile Transshipment Task Force at the U.S. Customs Service to improve enforcement of textile quotas at U.S. borders and has tightened enforcement actions vis-a-vis other trading partners where an improved bilateral agreement was not possible.

Major Issues in 2000

Safeguard Restraints: A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause or threaten to cause serious damage to domestic industry. Actions taken under the safeguard are automatically reviewed by the TMB. In 2000, the TMB reviewed a safeguard action taken by Argentina on imports of five fabric categories from Pakistan. The TMB found that Argentina had not demonstrated serious damage or actual threat thereof with respect to four of the fabric categories but did find serious damage for the fifth category. The TMB also reviewed a safeguard action taken by Argentina on imports of three fabric categories from Korea. The TMB found that Argentina had not demonstrated serious damage or actual threat thereof with respect to two of the categories but did find serious damage for the third category.

In another matter, in 1996 as part of an agreement settling a transshipment dispute with Pakistan, the U.S. imposed a new restraint on imports of man-made fiber bed sheets from Pakistan. In 2000, Pakistan brought a complaint to the TMB claiming that this new restraint violated the provisions of the ATC. The case was withdrawn from the TMB after consultations between the United States and Pakistan resulted in a mutually satisfactory solution.

Notifications and Other Issues: A considerable portion of the TMB's time was spent reviewing notifications made under Article 2 of the ATC dealing with textile products integrated into normal GATT rules and no longer subject to the provisions of the ATC. WTO Members wishing to retain the right to use the Article 6 safeguard mechanism were required in 1998 to submit a list of products comprising at least 17 percent by

trade volume of the products included in the annex to the ATC. A number of these notifications were defective for various reasons and in a number of cases the TMB's review carried into 2000. The TMB expressed concern that a number of countries which announced their intention to retain the right to use Article 6 safeguards failed to make the required integration notification. On its own initiative, the TMB raised the issue of a new restraint on category 352/652 (underwear), as reported in the U.S. *Federal Register*, with the United States and Turkey. The United States and Turkey provided the TMB with a joint communication containing information concerning this restraint. The TMB concluded that the parties had not provided the TMB enough information about the agreement establishing this restraint to allow it to determine if the restraint was in conformity with the provision of the ATC. TMB documents are available on the WTO's web site: http://www.wto.org. Documents are filed in the Document Distribution Facility under the document symbol "G/TMB." The TMB's annual report to the General Council for 2000 appears as document G/L/318.

Prospects for 2001

The United States will continue to monitor compliance by trading partners of market opening commitments, and will raise concerns regarding these commitments in the TMB or other WTO fora, as appropriate. The United States will also pursue further market openings, including in the negotiation of new Members' accessions to the WTO. In addition, the United States will continue to respond to surges in imports of textile products which cause or threaten serious damage to U.S. domestic producers. The United States will also continue efforts to enhance cooperation with U.S. trading partners and improve the effectiveness of customs measures to ensure that restraints on textile products are not circumvented through illegal transshipment or other means.

13. Working Party on State Trading

Status

Article XVII of GATT 1994 requires governments to place certain restrictions on the behavior of their trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires governments to ensure that these "state trading enterprises, (STE)," act in a manner consistent with the general principle of non-discriminatory treatment; e.g., to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines. To address the ambiguity regarding which types of firms fall within the scope of "state trading enterprises," agreement was reached in the Uruguay Round on "The Understanding on the Interpretation of Article XVII." It provides a working definition and instructs Members to notify all firms in their territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

A WTO working party was established to review the notifications and their adequacy and to develop an illustrative list of relationships between governments and state trading entities, and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities.

The Uruguay Round ensured, for the first time, that the operation of agricultural state trading entities would be subject to international scrutiny and disciplines. Agricultural products were effectively outside the disciplines of GATT 1947, thereby limiting the scrutiny of state trading entities since many state trading entities direct trade in agricultural products. For example, the lack of tariff bindings on most agricultural products in most countries also limited the scope

of GATT 1947 disciplines that could be brought to bear on state trading entities (e.g., importing state trading entities could capriciously adjust the import duty and/or domestic mark-up on imported products.)

The WTO Agreement on Agriculture marked an important step in bringing the activities of agricultural state trading entities under the same disciplines that apply to industrial products. All agricultural tariffs (including tariff-rate quotas) are now bound. While further work is needed on the administration of tariff-rate quotas, bindings do act to limit the scope of state traders to manipulate the tariff import system. Likewise, the disciplines on export competition, including value and quantity ceilings on export subsidies, apply fully to state trading entities. U.S. agricultural producers and exporters have expressed concerns about the operation of certain state trading entities, particularly single-desk importers or exporters of agricultural products.

Major Issues in 2000

New and full notifications were first required in 1995 and, subsequently, every third year thereafter, while updating notifications are to be made in the intervening years, indicating any changes. By November 2000, new and full notifications for 1995 were received from 59 Members and for 1998 from 33 Members. Since 1996, Members have submitted 116 updating notifications.

The working party held two formal meetings; one in July and one in November 2000, to review Member notifications and to continue work on the illustrative list. During the year, the working party reviewed 49 notifications, including eleven new and full notifications. At both formal meetings, the Chairman made statements concerning the need for timely compliance with notification requirements. At the July meeting of the working party, it was decided that the Chairman would write to the 53 Members who had yet to make a state trading notification and urge them to do so. Most of those Members are small, developing countries.

Prospects for 2001

The three areas of discipline in the WTO Agreement on Agriculture – market access, export competition and domestic support – provide the basis on which to pursue further reform in the mandated negotiations on agriculture. Several countries identified issues to be addressed in the negotiations related directly to measures used by state trading entities, such as in tariff-rate quota administration or export competition. The working party will contribute to the ongoing discussion of these and other state trading issues, including through its review of new notifications and its examination of what further information might be appropriate to notify to enhance transparency of state trading entities. In anticipation of more detailed negotiations on agriculture during the year, the working party also will intensify efforts to improve the notification record.

C. Council for Trade in Services

Status

The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership. The Agreement provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for

Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council.

Major Issues in 2000

The major activity of the Council this year has been pursuit of the Built-In-Agenda (BIA) negotiations which are described at the outset of this chapter. In addition to the BIA, the CTS is conducting three previously-agreed reviews. The GATS requires two of these reviews – a review of exemptions from most-favored-nation treatment that WTO Members entered upon joining the WTO, and a review of the exclusion of most air transport services from the scope of the GATS.

As stipulated in the GATS, the MFN exemptions review provided an opportunity for countries to provide information on "whether the conditions which created the need for the exemption still prevail." In response to questions posed by a small number of other WTO Members including Australia, the European Communities, Hong Kong, Japan, and Korea, the United States explained the policy, statutory, or other reasons for U.S. MFN exemptions, and further explained that the relevant conditions still existed. Most other WTO Members provided comparable explanations as well.

The air transport review, required in the GATS Annex on Air Transport Services, will continue into 2001, and is looking at "developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector." While a small number of countries have advocated changes to the current exclusion, to date the United States has taken the position that bilateral and plurilateral venues outside the WTO have proven to be effective in promoting U.S. interests in this sector.

The third review, regarding the status of basic telecommunications accounting rates under GATS MFN provisions, was provided in the course of the basic telecommunications negotiations and will continue into 2001. The United States has agreed with the view that Members should continue to refrain from challenging the MFN-consistency of accounting rates.

Separately, at the initiative of the United States, the CTS took steps to improve access to "inquiry points" and "contact points" that countries established pursuant to Articles III and IV, respectively, and is considering steps to improve review of preferential free trade agreements for their consistency with countries' GATS obligations.

Prospects for 2001

WTO Members have agreed to use the March 2001 CTS meeting for a "stocktaking" of progress to date in the first phase of the negotiations. More importantly, the March meeting will consider how best to move forward in the second phase of the negotiations.

The CTS will take up formal discussion of U.S. and other negotiating proposals beginning with its March meeting as well. These discussions will mark the start of the more substantive phase of the negotiations.

1. Agreement on Basic Telecommunications Services

Status

The WTO Agreement on Basic Telecommunication Services, which came into force in February 1998, opened over 95 percent of the world telecommunications market, by revenue, to competition. The range of services and technologies covered by the agreement is vast – from submarine cables to satellite systems, from broadband data to cellular services, from business networks based on the internet to technologies designed to bring low-cost access for under-served rural communities. The

majority of WTO Members have made regulatory as well as market access commitments, ensuring adherence to a multilateral framework for promoting competition in this sector. Although Brazil, the Philippines, and Papua New Guinea have made such commitments, they are still in the process of ratifying the accord.

Through the Agreement on Basic Telecommunications Services, the United States has largely succeeded in shaping an international consensus, unthinkable five years ago, that telecommunications monopolies must be replaced with competitive markets for any economy to enjoy the benefits of the digital era.

Accordingly, WTO Members around the world are rewriting rules to permit effective competition and to promote the growth of new markets. The results have exceeded our trading partners' expectations: usage of telecommunications networks has increased as prices have dropped, fueling new services and introducing new efficiencies throughout economies. With demand for advanced services, including the internet, not being met by traditional suppliers, new entrants willing to innovate with different technologies are creating markets that simply would not have developed had control of other nations' networks remained in the hands of monopolists.

As a result of this Agreement, U.S. firms have invested billions of dollars abroad, extending their networks, bringing down the cost of communications for U.S. consumers and businesses, and laying the infrastructure for global electronic commerce. The experience U.S. firms have gained in developing competitive markets in the United States has provided an enormous advantage in these newly opened markets, allowing them to bring to these markets the same innovation and efficiency U.S. consumers have long enjoyed. Opening foreign markets has had immediate benefits for U.S. consumers and businesses as well. Prices for calls to several competitive markets differed little from domestic long-distance prices. For instance, calls to Canada now cost the same as those within the U.S., and those to the UK, Germany, and Japan are as low as seven to eleven cents, close to domestic long distance rates.

Growth in demand for international voice and data services, especially for the internet, has led to massive investments in submarine cable and the development of new radio-based mobile systems. These new infrastructures will provide quantum increases in transmission capacity. Lower prices made possible by this increased capacity are in turn fueling further demand for telecommunications services, setting the stage for global growth worth several hundreds of billions of dollars in this sector over the next five years.

Often overlooked is the fact that the growth in new services stimulated by open markets has stimulated a boom in equipment sales. U.S. manufacturers have been major beneficiaries in the growth of a global market for telecommunications equipment, which is projected to grow at an average annual rate of 15 percent to reach over $400 billion in 2001. This spending is largely dedicated to investment in new networks, or upgrades to existing networks, driven by competitive pressures.

Major issues in 2000

In 2000, the Agreement's pro-competitive policies led to deep reductions in end-user prices for international and other services around the world, and to the explosion in global capacity made available for internet and other services. Investment opportunities increased dramatically in developed countries due to the Agreement's open-market requirements. Governments have recognized the value of reducing the governmental role in the supply of telecommunications services, and have continued to divest shares in government-owned operators – including in Germany, Greece, Israel, Japan, Korea, Norway and Taiwan.

Newly-acceding WTO Members also made broad-based telecommunications commitments in 2000. In addition, a number of current Members liberalized further (e.g., Hong Kong, Korea, Singapore, India) to keep pace with the global competition for investment in this sector. Dominica also ratified the Basic Telecommunications Agreement.

The United States addressed implementation problems in Canada, Germany, Israel, Japan, Mexico, Peru, South Africa, and the UK through ongoing bilateral consultations, using WTO disciplines as the framework for resolving market access issues. The United States also employed WTO dispute settlement procedures where appropriate, notably in regard to telecommunications trade barriers in Mexico. The United States played a key role in instituting a dialogue in the WTO between trade and regulatory officials and in increasing coordination between the WTO and other multilateral institutions, such as the World Bank. The United States also promoted a Memorandum of Understanding with the International Telecommunications Union. Such agreements are enlisting the help of these institutions in building global support for more vigorous competition in the global telecommunications marketplace.

Prospects for 2001

The global appetite for investment in the telecommunications sector, and U.S. firms' interest in meeting this demand show no sign of abating. Demand for high-capacity (broadband) services on wireline networks and the development of advanced wireless services (e.g. so-called Third Generation services) ensure that competitive opportunities, and the importance of the Agreement as a framework for ensuring market access, will increase.

Given the recent trend in unilateral liberalization, prospects are good that the WTO services negotiations now underway will expand existing commitments to cover a broader range of telecommunications sub-sectors with fewer market access limitations. In regions that were previously not a major market focus (e.g., in less developed countries) there is substantial room for improved commitments.

2. Agreement and Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) met five times in 2000. It serves as a forum for discussion of important issues related to WTO Members' existing liberalization commitments and for technical approaches regarding further liberalization.

Major Issues in 2000

Among other developments, the United States circulated a statement with initial ideas on technical approaches for further financial services liberalization. This paved the way, in December 2000, for the United States to submit a financial services sectoral proposal to the GATS Council in special session.

The United States also worked aggressively to maintain pressure on the ten remaining countries that have not ratified their commitments under the 1997 Financial Services Agreement – the Fifth Protocol to the GATS – to do so as quickly as possible. During this reporting period, three more countries, Ghana, Nigeria and Kenya, notified their acceptance of the Fifth Protocol. With the three additions, 63 of the original 70 WTO Members making improved commitments as part of the 1997 negotiations, have now accepted the Protocol. Progress was reported by most of the remaining seven.

Delegations also undertook initial consideration of a proposal from Japan to enable the CTFS to receive reporting from principal international financial services regulatory bodies on current

work. Some discussion also took place on an Australian informal note regarding the definition of the "Prudential Measures" clause found in the Financial Services Annex. In addition, several WTO Members reported on developments in their financial services regimes, including a U.S. description of further financial services modernization ("Gramm-Leach-Bliley").

Prospects for 2001

Work of the CTFS will pick up pace in 2001. The CTFS will provide the opportunity for WTO Members to hold a more intensive discussion on financial services sectoral proposals or other proposals containing financial services elements that have been, or will be tabled, as part of the current GATS negotiations. At an appropriate time, it is also expected to resume its previous role overseeing the market access negotiations in this sector.

3. Working Party on Domestic Regulation

Status

GATS Article VI, on Domestic Regulation, directs the CTS to develop any necessary disciplines "with a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services." A 1994 Ministerial Decision had assigned priority to the professional services sector, for which the Working Party on Professional Services (WPPS) was established. The WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO in May 1997. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998. (The texts are available at www.wto.org/english/news_e/pres97_e/pr73_e.htm and www.wto.org/english/news_e/pres98_e/pr118_e.htm, respectively.)

After the completion of the Accountancy Disciplines, in May 1999 the CTS established a new Working Party on Domestic Regulation (WPDR) which also took on the work of the predecessor WPPS and its existing mandate. Using the experience from accountancy, the WPDR is now charged with determining whether these or similar disciplines may be generally applicable across sectors as appropriate for individual sectors. The working party is to report its recommendations to the CTS no later than the conclusion of the services negotiations.

Major Issues in 2000

With respect to development of generally applicable regulatory disciplines, Members have discussed needed improvements in GATS transparency obligations. In May, the United States presented a submission aimed at improving GATS provisions in this area. The OECD Secretariat also presented a paper reflecting relevant conclusions from OECD work on regulatory reform.

Members also have begun discussion of possible disciplines aimed at ensuring that regulations are not more trade restrictive than necessary to fulfill legitimate objectives for the full range of service sectors. The United States has taken a deliberate approach in this area and has supported discussion first of problems or restrictions for which new disciplines would be appropriate.

To continue work on professional services, Members agreed to solicit views on the accountancy disciplines from their relevant domestic professional bodies, addressing whether other professions would favor use of the accountancy disciplines with appropriate modifications. As agreed, Members contacted their domestic professional bodies, requesting comments on the applicability of the accountancy disciplines to their professions. In various

countries some professions found that the disciplines, with perhaps a few modifications, could apply to their professions. In several countries some professions found otherwise. Given the large number of professions and Member countries, the information thus far is incomplete and work is continuing. Members also reviewed a list of international professional organizations, compiled by the Secretariat from Member submissions, and are considering whether the organizations listed are appropriate to consult regarding the applicability of accountancy disciplines to those professions.

Prospects for 2001

The working party will continue discussion of possible regulatory disciplines, both horizontal and sector-specific, to promote the GATS objective of effective market access.

The work program on accounting was an important step in the multilateral liberalization of this important sector. While the United States was disappointed that Members ultimately were not able to agree to early application of the accountancy disciplines, the disciplines remain open for improvement before they are to become effective at the conclusion of the current GATS negotiations. The United States will be working to improve the accountancy disciplines, and working with interested U.S. constituencies to consider their applicability to other professions.

4. Working Party on GATS Rules

Status

The Working Party on GATS Rules was established to determine whether the GATS should include new disciplines on safeguards, government procurement, or subsidies.

Major Issues in 2000

Of the three issues, the GATS established a deadline only for safeguards. In 2000, this deadline was again extended, to March 2002, reflecting continuing disagreement among WTO Members on both the desirability and feasibility of a safeguards provision similar to the WTO provisions for goods.

Discussions were more focused in 2000 than in previous years, benefitting from submissions by ASEAN, including a proposed draft text. Discussion among Members addressed concepts including domestic industry, acquired rights, modal application of safeguards, situations justifying safeguards, and indicators and criteria to determine injury and causality. All such discussions were without prejudice to the question of whether the GATS should include such provisions.

Regarding government procurement, work has continued on definitional questions relevant to services and how such disciplines would relate to the results of ongoing negotiating in the WTO Working Group on Transparency in Government Procurement.

With respect to subsidies negotiations, the Committee is working through a "checklist" of issues to help understand better whether new provisions are appropriate in this area, including identification of trade distortions caused by subsidy-like measures. Argentina and Hong Kong have recently become more active in advocating new disciplines in this area. The United States has asked Members that favor new disciplines to provide more information on perceived trade distortions. In October, USTR solicited comments from the private and non-governmental sectors regarding U.S. interests in this area.

Prospects for 2001

Information-gathering and discussion of all three issues will continue. It is likely that discussions will become more concrete in 2001, as countries consider the implications of any new disciplines

in the context of the GATS market access negotiations.

5. Committee on Specific Commitments

Status

The Committee on Specific Commitments examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees application of the procedures for the modification of schedules under Article XXI of the GATS. The Committee also oversees implementation of commitments in country schedules in sectors for which there is no sectoral body, currently all sectors but financial services.

Major Issues in 2000

The Committee has made progress revising guidelines that were developed by the GATT Secretariat for use in scheduling country commitments during the Uruguay Round; the purpose of the scheduling guidelines is to improve transparency and consistency of new commitments. By the end of 2000, the Committee had reached informal agreement on new provisions addressing most outstanding issues, with only a small number of more difficult issues remaining.

The Committee also continued work on improving classification of services in individual sectors for which problems have been identified. The United States has advocated changes in express delivery services, energy services, environmental services, and legal services and has made submissions in each of these areas.

The Committee reached agreement on procedures for the certification of rectifications or improvements to country schedules – that is, procedures allowing WTO Members to assess the impact of purported improvements to a county's GATS commitments under Article XXI.

Finally, at the Committee's direction, the Secretariat has completed compilation of an electronic "looseleaf" version of each Member's GATS schedule, incorporating, for example, the results of the financial services and basic telecommunications negotiations in single, consolidated country schedules. This version is primarily for ease of reference and would not have legal status in the WTO. It will be made available to the public in CD-ROM format as well as on the WTO website.

Prospects for 2001

The Council set March 2001 as a "best endeavor deadline" for completion of the work on classification and scheduling guidelines.

D. Council on Trade-Related Aspects of Intellectual Property Rights

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) is a multilateral agreement that sets minimum standards of protection for copyrights and neighboring rights, trademarks, geographical indications, industrial designs, patents, integrated-circuit layout designs, and undisclosed information. Minimum standards are established by the TRIPS Agreement for the enforcement of intellectual property rights in civil actions for infringement and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. The TRIPS Agreement also requires, with very limited exceptions, that WTO Members provide national and most-favored-nation treatment to the nationals of other WTO Members in regard to the protection and enforcement of intellectual property. In addition, the TRIPS Agreement is the first multilateral intellectual property agreement that is enforceable between governments through WTO dispute settlement provisions.

The WTO TRIPS Council monitors implementation of the TRIPS Agreement, provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods. In 2000, the TRIPS Council held four formal meetings.

Major Issues in 2000

Although the TRIPS Agreement entered into force on January 1, 1995, some obligations are phased in based on a country's level of development (developed country Members were required to implement by January 1, 1996; developing country Members generally had to implement by January 1, 2000; and least-developed country Members must implement by January 1, 2006). A general "standstill" obligation, and an obligation on those Members that fail to provide patent protection for pharmaceuticals and agricultural chemicals to provide a patent "mailbox" and to provide an exclusive marketing rights systems, became effective on January 1, 1995. Obligations to provide "most favored nation" and national treatment became effective on January 1, 1996 for all Members.

As a result of the Agreement's staggered implementation provisions, the TRIPS Council during 2000: (1) monitored the Agreement's implementation by developing country Members and newly-acceding Members; (2) provided assistance to developing country Members so they can fully implement the provisions of the Agreement; and (3) concentrated on institution building, both internally and with the World Intellectual Property Organization (WIPO).

During the TRIPS Council meetings, the United States continued to press for full implementation of the TRIPS Agreement by developing country Members and participated actively during the reviews of legislation of 20 Members.

TRIPS-related WTO Dispute Settlement Cases: During the year, the United States continued to pursue consultations on enforcement issues with a number of developed countries, including the failure of Denmark to provide provisional relief in civil enforcement proceedings, the European Communities for its failure to provide national treatment to the protection of geographical indications, and Greece, regarding its failure to take appropriate action to stop television broadcast piracy in that country. As a result of Ireland's enactment of needed amendments to its copyright law, the United States and Ireland announced resolution of the WTO case brought by the United States over Ireland's failure to comply with the TRIPS Agreement. Also, the WTO Appellate Body decided in favor of the United States in a dispute with Canada regarding the term of protection for patents applied for prior to October 1, 1989, and recommended that Canada implement the recommendations of the dispute settlement panel within a "reasonable time." As no agreement was reached on what timeframe was reasonable, the United States is pursuing the issue through WTO arbitration.

Also during the year, the United States initiated disputes against Argentina and Brazil regarding patent and data protection issues. The United States is additionally considering the possibility of future dispute settlement cases concerning the practices of Australia, the Czech Republic, the Dominican Republic, Egypt, India, Israel, the Philippines and Uruguay. We will continue to consult with all these countries in an effort to encourage them to resolve outstanding TRIPS compliance concerns as soon as possible. We will also gather data on these and other countries' enforcement of their TRIPS obligations and assess the best cases for further action if consultations prove unsuccessful.

Review of Developing Country Members' TRIPS Implementation: During 2000, the TRIPS Council reviewed the laws of the following Members: in June - Belize, Cyprus, El Salvador, Hong Kong, Indonesia, Israel, Korea, Macau, Malta, Mexico, Poland, Singapore, and Trinidad and Tobago; in November - Chile, Colombia, Estonia, Guatemala, Kuwait, Paraguay, Peru, and Turkey. In addition, now that the majority of obligations for developing country Members must be implemented, the TRIPS Council called for developing country Members to respond to the questionnaires already answered by developed country Members regarding their protection of geographical indications and implementation of the Agreement's enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the Agreement that permits Members to exclude from patentability plants and animals and essentially biological processes for producing plants and animals.

Geographical Indications: During 2000, the Council continued negotiations under Article 23.4 on a multilateral system for notification and registration of geographical indications for wines and spirits, intended to facilitate protection of such indications. In 1999, the European Communities submitted a proposal for such a system under which Members would notify the WTO of their geographical indications and other Members would have one year in which to oppose any such notified geographical indications. If not opposed, the notified geographical indications would be registered and all Members would be required to provide protection as required under Article 23. The United States, Canada, Chile and Japan introduced an alternative proposal under which Members would notify their geographical indications for wines and spirits for incorporation in a register available to all Members on the WTO website. Under this proposal, Members choosing to participate in the system would agree to consult the notifications made on the website when making decisions regarding registration of related trademarks or otherwise providing protection for geographical indications for wines and spirits. Implementation of this proposal would not place obligations on Members beyond those already provided under the TRIPS Agreement or place undue burdens on the WTO Secretariat. In 2000, the European Communities introduced a revision of its original proposal, and Hungary introduced a proposal for a formal opposition system. The United States continues to support the "collective" proposal that it sponsored with Canada, Chile and Japan. Other delegations including, Argentina, Australia, Brazil, Mexico and New Zealand have also expressed support for the U.S. approach. The United States will aggressively pursue additional support for this approach on a multilateral register in 2001.

A review of the implementation of the application of the TRIPS provisions on geographical indications is underway pursuant to Article 24.2 of the Agreement. The United States urged countries that have not yet provided information on their regimes for the protection of geographical indications to do so. The United States also supported a proposal made by New Zealand in 2000 that the Council conduct the review by addressing each article of the TRIPS Agreement covering geographical indications in light of the experience of Members. Some Members have sought to use the review to initiate negotiations to expand enhanced geographical indication protection under Article 23 for products other than wines and spirits. The United States, supported by several other Members, opposes such efforts to initiate further negotiations in this area, noting that there is no provision of the Agreement that provides a mandate for such negotiations.

Review of Current Exceptions to Patentability for Plants and Animals: TRIPS Article 27.3(b) authorizes Members to except plants and animals and biological processes from patentability, but not micro-organisms and non-biological and microbiological processes. In 1999, the TRIPS

Council initiated a review of this Article as called for under the Agreement and, because of the interest expressed by some Members, discussion of this article continued in 2000. The 1999 review addressed the practices of those Members that were already obligated to implement the provisions and the Secretariat, to facilitate the review, prepared a synoptic table so that the descriptions of Members' practices could be compared easily. This portion of the review revealed that there was considerable uniformity in the practices of the Members who have implemented their obligations. During the discussion, the United States noted that the ability to patent micro-organisms and non-biological and microbiological processes, as well as plants and animals, has given rise to a whole new industry that has brought inestimable benefits in health care, agriculture, and protection of the environment to those countries providing patent protection in this area. In 2000, the United States called for developing country Members to provide this same information so that the Council will have a more complete picture if the discussion of this article is to continue. Regrettably, some other Members have chosen not to provide such information, but rather have raised topics in the discussion that fall outside the scope of Article 27.3(b), such as the relationship between the TRIPS Agreement and the Convention on Biological Diversity, and traditional knowledge. While maintaining the view that these issues are beyond the scope of the review of Article 27.3(b), and that the discussion should focus on relevant information regarding Members' implementation of the provision, the United States has responded by providing two papers expressing its views on these topics. The United States will continue to make every effort to refocus the discussion in TRIPS Council on issues relevant to Article 27.3(b).

Non-violation: Throughout the year, some WTO Members continued to raise questions on the operation of non-violation nullification and impairment complaints in the context of the TRIPS Agreement, and called for the Council to define the appropriate "scope and modalities" for addressing such complaints. They argued that the possibility of such complaints, now that the moratorium on such cases has expired, created uncertainty. As in past years, the United States continued to argue that a "non-violation" provision in TRIPS created no more uncertainty than was the case with "non-violation" provisions in other WTO agreements. In addition, the United States re-stated its long-held view that no "scope and modalities" need be developed by the TRIPS Council because past non-violation disputes and the provision in the Dispute Settlement Understanding on non-violation complaints provide sufficient guidance for any panel hearing such a dispute. The United States will continue to advocate forcefully its position on non-violation complaints.

Electronic Commerce: The TRIPS Council continues the work started last year identifying the provisions of the TRIPS Agreement most relevant to electronic commerce and exploring how these provisions apply in the digital world. In 2000, the Council submitted an update of its 1999 report to the General Council, identifying the most relevant Articles and noting that the subject should be pursued further. The United States will continue to support discussion of the application of the TRIPS Agreement in the digital environment.

Further Reviews of the TRIPS Agreement: Article 71.1 calls for a review of the implementation of the Agreement, beginning in 2000. The Council currently is considering how the review should best be conducted in light of the Council's other work.

Prospects for 2001

In 2001, the TRIPS Council will continue to focus on its built-in agenda. The review of developing country Members' implementation will take considerable time. Yet to be reviewed are: in April 2001 - Bolivia, Brazil, Cameroon, Congo, Dominican Republic, Grenada, Guyana,

Jordan, Namibia, Papua New Guinea, Saint Lucia, Surinam, and Venezuela; in June - Antigua and Barbuda, Argentina, Bahrain, Botswana, Costa Rica, Côte d'Ivoire, Dominica, Egypt, Fiji, Georgia, Ghana, Honduras, Jamaica, Kenya, Mauritius, Morocco, Nicaragua, Philippines, St. Kitts and Nevis, and United Arab Emirates; and in November - Barbados, Brunei Darussalam, Cuba, Gabon, India, Malaysia, Nigeria, Pakistan, Qatar, St. Vincent and Grenadines, Senegal, Sri Lanka, Swaziland, Thailand, Tunisia, Uruguay, and Zimbabwe.

Additional responses to the Article 24.2 questionnaire on geographical indications should provide a broader picture of developed and developing country Members' regimes for the protection of geographical indications. That broader picture will ensure that any system of notification and registration of geographical indications for wines and spirits negotiated under Article 23.4 can accommodate the varied regimes of Members. Some Members will likely wish to continue the review under Article 27.3(b). In that review, the United States will continue to provide its views forcefully, in writing. Despite the U.S. position and arguments, it is also likely that the Council will continue to discuss the scope and modalities of possible non-violation nullification and impairment disputes. The United States likewise will continue to provide its views forcefully, in writing. The Council and developed Members will also continue efforts to assist developing country Members to implement their obligations under the Agreement fully in the shortest possible time. The Council will also begin its review under Article 71.1 in a manner to be decided.

Continued U.S. objectives for 2001 are:

- to resolve differences through dispute settlement consultations and panels where appropriate;
- to continue efforts to ensure full TRIPS implementation by developing country Members;
- to participate actively in the review of formal notifications of intellectual property laws and regulations ensuring their consistency with TRIPS obligations by Members;
- to ensure no weakening of the Agreement;
- to ensure that no change in obligations in relation to geographical indications is made outside the context of a new round of multilateral trade negotiations; and
- to further develop Members' views on the relationship between the TRIPS Agreement and e-commerce.

E. Other General Council Bodies/Activities

1. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM has served as a valuable resource for improving transparency in WTO Members' trade and investment regimes and in ensuring their adherence to WTO rules. The TPRM examines national trade policies of WTO Members on a schedule designed to cover all WTO Members on a frequency determined by trade volume. The process begins with an independent report on a Member's trade policies and practices that is written by the WTO Secretariat on the basis of information provided by the subject Member. This report is accompanied by the report of the country under review. Together the reports are discussed by

WTO Members in the TPRB at a session in which representatives of the country under review discuss reports on its trade policies and practices and answer questions. The purpose of the process is to strengthen Member observance of WTO provisions and provide a smoother functioning of the multilateral trading system. A number of smaller countries have found the preparations for the review helpful in improving their own trade policy formulation and coordination.

The current process reflects changes in the instrument, which was created in 1989, to streamline it and to give it more coverage and flexibility. Reports now cover services, intellectual property and other issues addressed by WTO Agreements. The reports issued for the reviews are available on the WTO web site.

Major Issues in 2000

During 2000, the TPRB conducted fifteen policy reviews, which included Bahrain, Bangladesh, Brazil, Canada, European Communities, Iceland, Japan, Kenya, Korea, Liechtenstein, and Switzerland, Norway, Peru, Poland, Singapore, and Tanzania. Three countries were reviewed for the first time, including one least developed country, Tanzania. By the end of 2000, 135 reviews (127 if reviews were counted as single reviews) have been conducted since the formation of the TPR covering 88 Members, counting the European Communities as one. The Members reviewed represent 83 percent of world merchandise trade and 60 percent of the total membership of the WTO. Of the Members reviewed since 1995, 11 are least developed countries.

Despite the importance of the TPRM, questions continue to be raised about the ever increasing amount of resources needed to conduct the reviews. For many lesser developed countries, however, the reports represent the first comprehensive analysis of their commercial policies, laws and regulations and have implications and uses beyond the meeting of the TPRB. Some Members have used the Secretariat's Report as a national trade and investment promotion document, while others have indicated that the report has served as a basis for internal analysis of inefficiencies and overlaps in domestic laws and government agencies. For other trading partners and for U.S. businesses, the reports are a dependable resource for assessing the commercial environment of the majority of WTO Members. In the coming year, the United States will give some additional attention to the question of resources for the TPRM and potential improvements.

Reviews have emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of policy, and the current economic performance of Members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives; in particular, the priorities given to multilateral and regional arrangements have been important systemic concerns. Closer attention has been given to the link between Members' trade policies and the implementation of WTO Agreements, focusing on Members' participation in particular Agreements, the fulfilment of notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state-trading, the introduction by developing countries of customs valuation methods, and the adaptation of national legislation to WTO requirements. Considering that Trade Ministers' reaffirmed a commitment to the observance of internationally recognized core labor standards in Singapore, and made observance of labor standards a legitimate topic for discussion in the WTO, the United States delegation routinely made observations and raised questions relative to labor standards with nearly all those WTO Members which underwent reviews in 2000.

Prospects for 2001

The TPRM is an important tool for monitoring and surveillance, in addition to encouraging WTO Members to meet their GATT/WTO obligations and to maintain or expand trade liberalization measures. The program for 2001 contains provision for reviews of 21 Members, including Brunei, Cameroon, Costa Rica, Czech Republic, Gabon, Ghana, Macau, Madagascar, Malaysia, Mauritius, Mozambique, the members of the Organization of East Caribbean States, Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and the Grenadines (a grouped review), Pakistan, Slovak Republic, Uganda, and the United States. The U.S. TPR is scheduled for September 2001. (The EC, Japan and Canada, for scheduling reasons, were all reviewed in 2000.)

2. Committee on Trade and Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995 pursuant to the Marrakesh Ministerial Decision on Trade and Environment. The mandate of the CTE is to make appropriate recommendations to the Ministerial Conference as to whether, and if so what, changes are needed in the rules of the multilateral trading system to foster positive interaction between trade and environment measures and to avoid protectionist measures.

Major Issues in 2000

The WTO Committee on Trade and Environment met three times in 2000. The United States contributed to this process by, *inter alia*, working to build a consensus that both important trade and environmental benefits can be achieved by addressing fisheries subsidies that contribute to overfishing, and through the liberalization of trade in environmental goods and services.

Multilateral Environmental Agreements (MEAs): Inclusion of trade measures in MEAs has been and will continue to be essential to meeting the objectives of certain agreements but may raise questions with respect to WTO obligations. Over the course of the last two years, the CTE helped strengthen WTO Members' understanding of the trade provisions of MEAs by holding meetings with representatives from a number of MEA Secretariats. These representatives briefed the committee members on recent developments in their respective agreements. In addition, in October 2000, the UN Environmental Programme, the CTE, and certain MEA Secretariats held an informal meeting on the synergies between the WTO Agreements and MEAs. There continue to be sharp differences of view within the CTE on whether there is a need to clarify WTO rules in this area. The United States holds the view that the WTO broadly accommodates trade measures in MEAs.

Market Access: Work in this area has focused on the environmental implications of reducing or eliminating trade-distorting measures. There is a broad degree of consensus in the Committee that trade liberalization, in conjunction with appropriate environmental policies, can yield environmental benefits. The Committee has discussed in depth the potential environmental benefits of reducing or eliminating fisheries subsidies, drawing on submissions by Committee members including the United States. Discussion in CTE also has touched upon the benefits of improving market access for environmental services and goods. In addition, over the course of the last two years, the Committee has discussed the environmental implications of agricultural and services trade liberalization and liberalization in other sectors, including forestry and energy.

TRIPS: The Committee has had brief discussions of the relationship between the TRIPS Agreement and the environment. A few countries have advanced arguments for

consideration of changes to the TRIPS Agreement to address perceived contradictions between the WTO and the Convention on Biological Diversity. The United States has made clear its view that there are no contradictions between the WTO and the Convention on Biological Diversity.

Relations with NGOs: The United States, joined by several other Members, has emphasized the need for further work to develop adequate mechanisms for involving NGOs in the work of the WTO and adequate public access to documents. In the Third Ministerial process, the United States proposed that the WTO General Council's 1996 agreement on Guidelines for Relations with NGOs be reviewed and substantially improved, and the United States continues to lead efforts at enhancing the WTO's transparency, including through the derestriction of documents.

Prospects for 2001

The CTE is scheduled to meet three times in 2001. The Committee will continue to play an important role in bringing together government officials from trade and environment ministries to build a better understanding of the complex links between trade and environment. Among other things, this has helped to address the serious problem of lack of coordination between trade and environment officials in many governments. The CTE also will continue to engage in important analytical work, including in an effort to identify areas in which trade liberalization holds particular potential for yielding environmental benefits. Finally, the Committee will advance discussion of the broad range of trade and environment issues on its agenda, including assessments or reviews of the environmental effects of trade liberalization, transparency, and the relationship between MEAs and the WTO.

3. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the Committee on Trade and Development is a subsidiary body of the General Council. The Committee provides developing countries, which comprise two-thirds of the WTO's membership, an opportunity to focus on trade issues from a development perspective, in contrast to the other committees in the WTO structure which are responsible for the operation and implementation of particular agreements. The CTD offers a unique venue for Members to discuss trade issues in the broader context of development. The Committee's discussion has generated considerable interest, debate, and a variety of view points. Among subjects the Committee has discussed are the benefits of trade liberalization to development prospects, the role of technical assistance and capacity building in this effort and electronic commerce pursuant to the 1998 Ministerial decision on e-commerce.

Major Issues in 2000

The Committee held four formal meetings and three seminars in 2000. The Committee's work focused on the following areas: review of the special provisions in the Multilateral Trading Agreements and related Ministerial Decisions in favor of developing country Members (in particular least-developed countries); participation of developing countries in world trade; implementation of WTO agreements, technical cooperation and training, concerns and problems of small economies, development dimensions of electronic commerce; market access for least- developed countries; and the generalized system of preferences. The Committee seminars focused on special and differential treatment, the implementation of WTO Agreements, and the concerns and

problems of small economies. At the Committee meeting in September 2000, the United States explained recent efforts, such as the African Growth and Opportunity Act, to expand market access for some developing and least-developed countries.

The Committee also discussed the nature of the WTO role in technical assistance and how to collaborate effectively with other international and national agencies in providing and monitoring such assistance. At the Committee meeting in September, the Unted States submitted a report on U.S. Government initiatives to build trade-related capacity in developing countries. The report, which was compiled by USAID, provides details on the $600 million worth of trade-related assistance that the United States provides. The report can be viewed on the USTR and USAID websites.

Sub-Committee on Least-Developed Countries: The Committee on Trade and Development has a Sub-Committee devoted to the Least-Developed Countries. An element of the Plan of Action for Least Developed Countries agreed to at the 1996 Singapore Ministerial Meeting was the desire to foster an integrated approach to trade-related technical assistance activities for the least-developed countries with a view to improving their overall capacity to respond to the challenges and opportunities offered by the trading system. The result was the Integrated Framework for Trade-Related Technical Assistance ("Integrated Framework") that seeks to coordinate the trade assistance programs of six core international organizations (the International Monetary Fund, the International Trade Center, the United Nations Conference on Trade and Development, the United Nations Development Program, the World Bank and the WTO). In addition, least developed countries can invite other multilateral and bilateral development partners to participate in the Integrated Framework process. In 2000, the Sub-Committee on Least-Developed Countries of the Committee on Trade and Development continued to focus its work on the Integrated Framework. This work included communicating with and providing views to the Inter-Agency Working Group, which includes representatives from the six core international organizations on the arrangements for the Integrated Framework.

Prospects for 2001

The Committee on Trade and Development, which is scheduled to meet four times in 2001, will continue its function as the forum for discussion of development issues within the WTO. Particular emphasis is likely to be placed on further improving technical cooperation, special and differential treatment, and participation by developing countries in world trade. The Committee will host three seminars on electronic commerce, developing countries' access to technology, and policies and strategies for trade and development. The Committee is tracking the rapid developments in e-commerce and encouraging special programs that would provide technical assistance to promote developing countries' participation in electronic commerce.

The Committee's Sub-Committee on Least-Developed Countries will also meet four times in 2001. The Sub-Committee will continue to focus on the special needs of and opportunities available to the least developed countries. It will particularly remain interested in learning about increased market access for least developed countries. The Sub-Committee will also hold three seminars: mainstreaming trade into country development strategies, least-developed Members' implementation of the Customs Valuation Agreement, and a regional seminar on TRIPS. The Sub-Committee may be involved in some of the trade aspects of the third UN Conference on the Least Developed Countries being held in Brussels May 13-20, 2001.

4. Committee on Balance of Payments Restrictions

Status

GATT/WTO rules require any Member imposing restrictions for balance of payments purposes to consult regularly with the BOP Committee to determine whether the use of restrictive measures is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation, while simplified consultations provide more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in the balance of payments. The Uruguay Round results strengthened substantially the provisions on balance of payments. The BOP Committee works closely with the International Monetary Fund in conducting its consultations.

Major Issues in 2000

Since entry-into-force of the WTO on January 1, 1995, the WTO BOP Committee has demonstrated that the hard-won new WTO rules provide Members additional, effective tools to enforce obligations under the BOP provisions. During 2000, the Committee held consultations with the Slovak Republic, Romania, Pakistan and Bangladesh. At the September 2000 meeting of the Committee, the Slovak Republic reported that it was progressively reducing the import surcharge it had imposed in 1999 for balance of payments reasons and would eliminate it entirely by the end of the year. At the same meeting, Romania stated it was continuing to reduce the import surcharge it had imposed in 1998 for balance of payments and would eliminate it entirely by the end of the year. At the November meeting of the Committee, Pakistan announced it would implement its existing phase-out plan. Pakistan removed the first tranche of its balance of payments restrictions in December and is scheduled to remove the remaining restrictions in two tranches in June 2001 and June 2002. At its December meeting, the Committee approved a phase-out plan submitted by Bangladesh to eliminate all of its balance-of-payments restraints on certain textiles in four tranches by January 2005.

Prospects for 2001

The Committee will consult with Bangladesh in June 2001 and as necessary with other countries maintaining BOP-related restrictions during the year. Additionally, should Members resort to new BOP measures, the WTO provides for a program of rigorous consultation with the Committee. The United States expects the Committee to continue to ensure that WTO BOP provisions are used as intended to address legitimate, serious BOP problems through the imposition of temporary, price-based measures. The Committee will also continue to rely upon the close cooperation with the IMF.

5. Committee on Budget, Finance and Administration

Status

WTO Members are responsible for establishing and approving the budget for the organization via the Budget Committee. Traditionally, this is a "hands-on" effort by Members to address the financial matters confronting the institution. The WTO has an annual budget, which is reviewed by the Committee and approved by the General Council. It is the practice in the WTO to take decisions on budgetary issues by consensus. For the 2001 budget, the U.S. assessment rate is 15.631 percent, or approximately $13 million. Details on the WTO's budget required by Section 124 of the URAA are provided in Annex II.

Major Issues in 2000

In the course of 2000, it became clear that the continuing expansion of dispute settlement

activities (particularly in the trade remedies area), the built-in agenda for negotiations on agriculture and services, and the technical needs of developing country Members to meet their five-year WTO implementation commitments, required the Committee to devote much of its time to discussing how to handle proposed increases in 2001 spending. Other issues of significance in 2000 included a decision to change the methodology employed in determining Members' shares of the budget; transition to a performance award system for the WTO staff; and development of guidelines on contributions from non-governmental donors.

Agreed Budget for 2001: After considerable debate and delay in reaching a consensus, the Committee proposed, and the General Council approved, a 2001 budget for the WTO Secretariat and Appellate Body of 134,083,610 Swiss Francs (approximately $84 million). The agreed budget for 2001 represents an increase of about five percent over the approved 2000 budget, with about two percent representing inflation and previously built-in costs increases. The budget debate focused primarily on the Director General's request to bring technical assistance programs for developing countries "on-budget" in order to lend some stability and dependability. Currently, while staffing for technical assistance is provided by the WTO Secretariat, the variable expenses of these programs (mostly for facilities, interpretation and non-Secretariat travel) are largely funded by donations of individual developed countries, including the United States, to the WTO Global Trust Fund for Technical Assistance. The United States and a number of other Members opposed the Director General's proposal to bring such expenses "on-budget" for both systemic and budgetary reasons. In the U.S. case the continued constraints in U.S. funding levels for international organizations is an important concern. The United States agreed to WTO proposals to increase WTO staffing to ensure that the WTO's core operational divisions (market access, agriculture, services, trade remedies, intellectual property) have sufficient resources to provide necessary expertise to developing countries seeking to implement their commitments. The balance of the small increase over the 2000 budget is largely attributable to the need to hire staff for increased dispute settlement activity at the panel and Appellate Body levels. A sum of 1.5 million Swiss Francs was also appropriated to help address a growing backlog of translation. The appropriation should help ensure that dispute settlement panel reports are released to the membership and the general public more quickly. As a result of the budget agreement, for 2001, the United States owes 20, 770,934 Swiss Francs (about $13 million). Members' assessments are based on the share of WTO Members' trade in goods, services and intellectual property. The current U.S. contribution accounts for 15.631 percent of the total assessments on WTO Members. As the WTO adds new Members, the U.S. assessment will automatically be reduced. At the end of 2000, the accumulated arrears of the United States to the WTO amounted to 3,205,232 Swiss Francs (about $2 million).

Methodology for Determining Members' Shares: Members' assessments have been based on the share of WTO Members' trade in goods, services and intellectual property, as determined by the average trade of each Member over the most recent three-year period for which data are available. In 2000, the Committee considered the concerns of some Members about large variations in assessments from year to year, and the fact that Members were being assessed on different three-year periods because their annual trade data became available at different times. The Committee solved both problems by adopting a new methodology based on the average trade of each Member over a five-year period. To assure uniformity, the fifth year corresponds to the year that is two years before the particular budget year. In other words, for budget year 2001, the U.S. assessment is based on average trade in the years 1995-1999,

inclusive. The new methodology has not increased the U.S. share.

Performance Award Program: At the insistence of the United States and a number of other countries, the WTO is now in the process of moving to a performance-based pay system. This system will replace the practice of staff receiving salary increases based solely on the length of time that they have served. Under the new system, salary increases will only be granted if an employee's performance has been evaluated as satisfactory, and bonuses may be granted for outstanding performance. The new system is being designed to ensure that it does not cost more than the previous system. While the details of the system are being finalized in discussions with Members, the Secretariat has been instructed to begin to take the steps that will be necessary to implement the system in 2002, including developing performance benchmarks and training supervisors in performance assessment.

Non-Governmental Contributions: Prompted by the possibility that non-governmental donors may wish to fund some of the WTO's training, technical assistance and seminar activities, the Committee developed guidelines for the acceptance and use of such contributions. Under the guidelines, only donations from private individuals or non-governmental not-for-profit organizations or foundations will be accepted, and the Committee must approve any such donations. In general, all donations will be placed in a single trust fund and disbursed in a manner consistent with the WTO's agreed technical assistance objectives, though Members may decide to accept proposed donations for other uses. Overly narrow earmarking of contributions is discouraged. The WTO will maintain a public registry, accessible through its internet website, containing the details of each non-governmental donation.

Prospects for 2001

Performance Award Program: We anticipate that the performance award program will be finalized for implementation in 2002.

Development and Agreement on 2002 Budget: The bulk of the Committee's work in 2001 is expected to be devoted to consideration of a 2002 budget for the WTO. This discussion is likely to take up again the request by some Members to bring certain technical assistance expenditures "on-budget," away from dependence on individual Member donations to the Global Trust Fund. In light of growing contributions to the Global Trust Fund, including a $650,000 U.S. contribution in 2000 and $1 million contribution for 2001, the issue is not the level of resources for technical cooperation but rather how such projects are funded. The Secretariat and some WTO Members argue that assessed, or "on-budget" funding is needed in order to provide predictability, assure a fair sharing of the costs, and assure that the program can be managed effectively. However, the United States has argued that many international organizations maintain effective technical cooperation programs based on voluntary contributions. Moreover, since technical assistance programs are intended to benefit only part of the WTO's overall membership, it is questionable whether the costs for these should be borne by all WTO Members in the form of obligatory assessments.

6. Committee on Regional Trade Agreements

Status

Regional trade agreements in the WTO system are reviewed for compliance with WTO obligations and for transparency reasons. Prior to 1996, these reviews were typically conducted in a specific "working party." The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to

oversee all regional agreements to which Members are a party. The Committee is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established by the Uruguay Round agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system.

Free trade areas (FTAs) and customs unions (CUs), both exceptions to the principle of MFN treatment, are allowed in the WTO system if certain requirements are met. In the GATT 1947, Article XXIV (Customs Unions and Free Trade Areas) was the principal provision governing FTAs and CUs. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for less-than-comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of GATT Article XXIV.

To the extent that they apply to trade in goods, FTAs and CUs must fulfill several GATT requirements. First, substantially all of the trade between the parties to the agreement must be covered by the agreement, i.e., tariffs and other regulations of trade must be eliminated on substantially all trade. Second, the incidence of duties and other regulations of commerce applied to third countries after the formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case in the individual countries before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases. For a CU, (which by definition involves adopting common regulations of trade, including MFN duty rates, toward third countries), the parties to an agreement must notify WTO Members and begin compensation negotiations prior to the time it violates any tariff bindings. To the extent that they apply in trade in services, FTAs and CUs must fulfill certain requirements under the GATS. Among these, the agreement must have substantive sectoral coverage (in terms of numbers of sectors, volume of trade affected, and modes of supply). The agreement must also provided for the absence or elimination of substantially all national treatment discrimination in those sectors, either on the entry into force of that agreement or within a reasonable period of time. Moreover, the agreement must not raise the overall level of barriers to trade within those service sectors with respect to any third country, as compared to the level applicable before the agreement. If implementation of the FTA or CU requires any party to withdraw or modify any of its specific commitments under the GATS, that party must provide advance notice to WTO Members and begin compensation procedures.

Major Issues in 2000

Examination of Reports: The Committee held three formal meetings during 2000. By the end of the year, the Committee started, or continued, the examination of 86 regional trade agreements. The North American Free Trade Agreement (NAFTA) was among those under review.[18] The Committee now has a backlog of draft reports, for which Members do not agree on the nature of appropriate conclusions. The Committee had extensive consultations throughout the year to attempt to resolve Members' differences. At the same time, the Committee began to consider 20 biennial reports on regional agreements notified

[18] A list of all regional trade agreements notified to the GATT/WTO and currently in force is included in the appendix to this chapter.

under the GATT 1947.

Systemic Issues: The Committee also conducted substantial, but inconclusive, discussions on systemic effects of regional agreements on the multilateral trading system. To assist further analysis, the Committee directed the Secretariat to prepare "horizontal" studies, starting with a few indicia of internal liberalization, and a survey of all regional trade agreements in existence or under negotiation.

Prospects for 2001

During 2001, the Committee will continue to address all aspects of its mandate, in particular reviewing the new regional trade agreements being notified to the WTO. Special attention also will be given to clearing the backlog of reports, including the report on the NAFTA. Further discussions on improving the review process and the systemic effects of regional agreements will likely be major issues in the coming year, particularly in the context of horizontal studies being undertaken by the Secretariat. Some Members are likely to propose, as they did in the preparations for the 3rd Ministerial Conference, that the WTO embark on new negotiations to strengthen disciplines in this area.

7. Accessions to the World Trade Organization

Status

WTO membership continued to be a priority objective for many countries in 2000. Five new Members (Jordan, Georgia, Albania, Oman, and Croatia) joined, bringing the total to 140. In addition, twenty-nine accession applicants and Ethiopia participate as observers. The accession process provides an excellent opportunity for reforming economies to adopt necessary policies and practices within the framework of WTO obligations. It also offers the opportunity for the United States to expand market access opportunities for its exports and to address outstanding trade issues in a multilateral context. WTO accessions in recent years have been based on full implementation of WTO provisions and the establishment of commercially meaningful market access for other Members' exports; terms that have strengthened the international trading system.

Countries seeking to join the WTO must negotiate the terms of their accession with current Members, as provided for in Article XII of the WTO Agreement. After accepting an application, the WTO General Council establishes a working party to review information on the applicant's trade regime and to conduct the negotiations. Accession negotiations are time consuming and technically complex. They involve a detailed review of an applicant's entire trade regime by the working party. Applicants must be prepared to make legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make specific commitments on market access for goods and services.

The terms of accession developed with working party members in these bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a working party report and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and foreign service suppliers, and agriculture schedules that contain commitments on export subsidies and domestic supports. The working party adopts the completed protocol package containing the negotiated terms of accession and transmits it with its recommendation to the General Council or Ministerial Conference for approval. After General Council approval, accession applicants normally submit the package to their domestic authorities for ratification. Thirty days after the instrument of ratification is received in Geneva, accession to the WTO occurs.

At the end of 2000, there were 29 applications for WTO membership still under consideration, down from 33 at the beginning of the year. In addition to the five new Members whose parliaments ratified the results of the negotiations, Lithuania's protocol package was approved by the General Council in December 2000. Lithuania has submitted the accession package to its parliament for ratification, and should become a WTO Member by June 2001. The accession negotiations of Russia, Saudi Arabia, and Ukraine intensified during 2000, particularly market access negotiations on goods and services. All three now need to bring their trade regimes into conformity with WTO provisions, by enacting the laws or regulations necessary to complete the accession process.

The General Council accepted new accession applications from Cape Verde and Yemen during 2000 (Cape Verde's was originally submitted in 1999). Azerbaijan, Samoa, Tonga, Sudan and Uzbekistan responded to initial questions submitted by Members on their foreign trade regimes, and Macedonia and Nepal held first working party meetings to commence accession negotiations. Of the twenty-nine applicants, only six have not yet submitted any documentation to activate the accession process. During the year, working party meetings and/or bilateral market access negotiations were scheduled with Albania, Armenia, Belarus, China, Croatia, Kazakstan, Lithuania, Macedonia, Moldova, Nepal, Oman, Russia, Saudi Arabia, Chinese Taipei (Taiwan), Ukraine, Vanuatu, and Vietnam. The chart included in the Annex to this section reports the status of each accession negotiation. More detailed discussions of the accession negotiations for Russia and China may be found in Chapter Five.

Major Issues in 2000

The most significant aspect of WTO accessions in 2000 was the definitive progress made towards the completion of the accessions of China and Chinese Taipei, and the record number of countries completing accession negotiations and becoming WTO Members based on commercially meaningful market access commitments and full implementation of WTO provisions. Despite these achievements and the significant progress shown towards completion of the process by other applicants during 2000, the informal group of developing countries argued that the accession process was too burdensome for applicants. This criticism was not limited solely to least-developed applicants with extremely low levels of income and economic development. Other WTO Members contested this, and some recently-acceded Members noted that accession negotiations had helped familiarize their governments with WTO operations and had also supported important domestic economic reforms. There were additional complaints concerning the transparency of the accession process, in particular in the review by the WTO Council of applications to initiate accession negotiations. These issues will be addressed again in 2001.

On four occasions since 1995, the United States has invoked the non-application provisions of the WTO Agreement, contained in Article XIII.[19] This was necessary because the United States must retain the right to withdraw "normal trade relations status (NTR)" (called "most-favored-nation" treatment in the WTO) for WTO Members that receive NTR with the United States subject to the provisions of the "Jackson-Vanik" clause and the other requirements of Title

[19]The United States invoked nonapplication of the WTO when Romania became an original Member in 1995, and when the accession packages of Mongolia, the Kyrgyz Republic, and Georgia were approved by the WTO General Council in 1996, 1998, and 1999, respectively. Congress subsequently authorized the President to grant them permanent NTR, and the United States withdrew its invocation of non-application in the WTO for these countries.

order to make the best use of available resources and to ensure that the "development dimension" is fully considered. In December 1998, the General Council authorized the Group to continue its work on the basis of a more focused framework of issues. This framework continued to serve as the basis of the Group's work in 2000.

Major Issues in 2000

The WGTCP held three meetings in 2000. The Group continued to organize its work on the basis of written contributions from Members, supplemented by discussion and commentary offered by delegations at the meetings and, where requested, factual information and analysis from the WTO Secretariat and observer organizations such as the OECD, the World Bank and UNCTAD. As noted in last year's report, in 1999, the WGTCP began work under a more focused framework for study, which continued to set the parameters of the Group's work in 2000. These parameters are: (i) the relevance of fundamental WTO principles of national treatment, transparency and most-favored-nation treatment to competition policy, and vice-versa; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade.

Beyond these three broad areas of focus, the Group also took account of some suggestions developed by the Working Group Chairman, Professor Frédéric Jenny of France, in the course of informal consultations with Members. These suggestions were that the Group:

- make greater use of concrete examples in support of arguments and proposals advanced by Members;
- engage in a more meaningful exploration of the development dimension of issues raised (*e.g.*, in considering the benefits, challenges and obstacles involved in developing country implementation of competition policies; the problems involved in establishing competition agencies and organizing enforcement activities; and the benefits and costs, especially for developing countries, of enhanced international cooperation on competition issues);
- consider ways of creating and maintaining a "culture of competition";
- accord greater consideration to the practical aspects of competition policy, such as the setting of enforcement priorities and processes and the use of competition advocacy to promote and facilitate market reform, deregulation and privatization policies; and
- continue to focus on the interaction between trade and competition policy, as opposed to focusing on competition policy alone.

24 written submissions ranging across all of the above areas of focus were submitted by a total of 11 Members (counting the EU and its 15 Member States as one contributor). By far, the majority of these submissions addressed issues arising under the rubric of "approaches to promoting cooperation and communication among Members, including in the field of technical cooperation." Augmented by oral interventions and exchanges by these and other Members, the leading preoccupation of many delegations was either to advocate or contest the alleged merits and perceived disadvantages of negotiating a multilateral framework for competition rules in any new Round of multilateral trade negotiations. Extensive debate of these issues included: (i) the extent to which any such agreement could sufficiently address the needs or manage the institutional "capacity constraints" of developing countries; (ii) whether

IV of the Trade Act of 1974.[20] In such cases, the United States and the other country do not have "WTO relations" which, among other things, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its accession package. During 2000, however, the United States was not required to invoke nonapplication with respect to any new WTO Members. Albania was granted permanent NTR prior to Council approval of its accession terms on July 17, 2000. The United States also was able to "disinvoke" nonapplication with respect to the Kyrgyz Republic and Georgia when, pursuant to legislative authorization, the President granted them permanent NTR on June 30, and December 29, 2000, respectively.

Prospects for 2001

Accession negotiations will remain high on the WTO's work program in 2001. Delegations will review legislation and other documentation for meetings, provide technical assistance to meet WTO requirements, and conduct bilateral negotiations with the applicants. U.S. representatives are key players in all accession meetings, as the negotiations provide opportunities to expand market access for U.S. exports, to encourage trade liberalization in developing and transforming economies, and to support a high standard of implementation of WTO provisions by both new and current Members. Armenia, China, Chinese Taipei (Taiwan), Moldova and Vanuatu are far advanced in the accession process, and expect to complete negotiations in 2001. In addition, Nepal and Macedonia activated their accession negotiations in 2000, and Belarus and Kazakhstan have resumed active negotiations. Along with Russia, Saudi Arabia, and Ukraine, these countries have declared WTO accession a priority issue and will press to intensify, if not complete, negotiations during 2001. Six additional applicants at the very beginning of the accession process, including three additional least-developed countries, have circulated initial documentation and will expect to launch working party reviews of their trade regimes this year. Finally, the expectation remains that countries currently outside the WTO system will seek to initiate accession negotiations.

[20]Ten of the remaining 29 WTO accession applicants are covered by Title IV. They are: Armenia, Azerbaijan, Belarus, China, Kazakhstan, Moldova, Russia, Ukraine, Uzbekistan, and Vietnam. For information on developments in China's status under Title IV, please consult Chapter V.

8. Working Group on Trade and Competition Policy

Status

In 2001, the WTO Working Group on the Interaction between Trade and Competition Policy (WGTCP) enters its fifth year of work under the oversight of the WTO General Council. The WGTCP was set up by WTO Trade Ministers at their first Ministerial Conference in Singapore in December 1996. Its mandate is to "study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework." Whereas the Ministers acknowledged that certain WTO provisions already were relevant or related to competition policy, they were careful to specify that the aim of this Working Group was educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area. The WGTCP was directed to draw upon the work of a companion working group, also established at Singapore, that was mandated to examine the relationship between trade and investment. The WGTCP was also encouraged to cooperate with UNCTAD and other intergovernmental organizations examining similar trade and competition policy issues in

the focus of future work should be on attempting to define and deal with private anticompetitive conduct in an international context or on enhancing the pro-competitive nature of governmental measures, including those already governed by WTO obligations; (iii) what the elements and scope of any competition agreement might be, and whether attempting to negotiate such provisions would actually advance or undermine multilateral progress in this area from either a trade or an antitrust perspective; and (iv) the extent to which multilateral rules could inappropriately interfere with or distort sound antitrust law enforcement.

In these discussions, the EU, Japan, Canada and a variety of additional Members continued to press for the negotiation of a multilateral competition agreement. This was opposed by a range of developing and developed country Members, including the United States. Considering that nearly 90 countries have now enacted antitrust laws – and many more are considering doing so, or are pursuing other means of furthering competition policies – the United States' submissions to the Working Group last year focused on some of the pragmatic questions suggested by the Chairman. These issues must be faced when endeavoring to nurture a culture of competition, such as the considerations and priorities relevant to establishing an effective antitrust agency and assessing the role and importance of competition advocacy by competition authorities.

Prospects for 2001

WTO Members agreed to continue the work of the WGTCP into 2001, with two additional meetings already scheduled through the summer of this year. However, it also remains likely that the long term aims of various Members for future work in this area will continue to contrast and, at times, conflict. Undoubtedly, Members will continue to debate actively the question of whether the issue of trade and competition policy is ripe for negotiations in the WTO and, if so, what the nature of those negotiations might be. It is also reasonable to expect that certain competition-related issues will continue to be dealt with, as appropriate, in the context of ongoing work and negotiations in the WTO, such as the renewed negotiations to improve market access in services. As for the trade and competition policy agenda more broadly, the United States remains interested in working constructively with those who seek to advance consideration of this issue at the multilateral level in a pragmatic and productive fashion, recognizing the sometimes vast differences among Members as to their goals, views, resources and experiences in this area.

9. Working Group on Transparency in Government Procurement

Status

Drawing largely on proposals made by the United States, Ministers agreed at the 1996 Singapore Ministerial Conference to establish a Working Group on Transparency in Government Procurement. The Working Group's mandate calls for: (i) conducting a study on transparency in government procurement; and (ii) developing elements for an appropriate WTO Agreement on Transparency in Government Procurement. This work represents an important element of the United States' longstanding efforts to bring all WTO Members' procurement markets within the scope of the international rules-based trading system. It also contributes to broader U.S. initiatives aimed at promoting the international rule of law, combating international bribery and corruption, and supporting the good governance practices that many WTO Members have adopted as part of their overall structural reform programs.

Major Issues in 2000

The working group has made significant progress in developing and refining a number of delegations' specific proposals for the text of a potential Agreement on Transparency in Government Procurement. Those proposals contained many similar provisions, including in relation to:

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines;
- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements;
- Clear specification in tender documents of evaluation criteria for award of contracts;
- Availability to suppliers of information on contracts that have been awarded; and
- Availability of mechanisms to challenge contract awards and other procurement decisions.

In the past year, the work has focused on areas where significant differences remain, in particular: (i) the appropriate scope and coverage of a Transparency Agreement; and (ii) the appropriate application of WTO dispute settlement procedures to such an Agreement. In addition, responding to concerns that some delegations have expressed about their countries' abilities to implement international commitments in this area, the United States proposed that the Working Group develop a work program to identify potential needs for capacity building in relation to transparency practices in government procurement and existing technical assistance programs that may address those needs.

Prospects for 2001

The United States will continue to work with other WTO Members to resolve the remaining issues and, in the context of decisions on the broader WTO negotiating agenda, build a consensus for conclusion of an Agreement in this area.

10. Working Group on Trade and Investment

Status

The Working Group on Trade and Investment (WGTI), which was originally established by the Singapore Ministerial Declaration in 1996, provides a multilateral forum for the consideration of investment liberalization and international investment agreements and their relationship to trade and to economic development. The WTO General Council oversees the work of the WGTI and has approved extensions of the work beyond the initial two-year mandate. The WGTI's mandate is "to examine the relationship between trade and investment." The 1998 General Council decision extending the Working Group specifies that its aim is educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area.

The WGTI provides an opportunity for the United States and other countries to present the benefits they have derived from open investment policies and programs and to advance international understanding of these benefits. The Group has analyzed the full range of investment agreement models currently in use, and considered the implications of the differences. The Group has assessed the advantages and disadvantages of the variety of approaches, including as they affect economic development. The United States believes that the WGTI's work significantly raises other countries' understanding of investment rules.

Major Issues in 2000

The WGTI met three times in 2000. Drawing from the checklist of issues developed during the initial two years of its work, and relying primarily on written submissions from Members, the WGTI reviewed three broad subject areas. The first was the implications of trade and investment for development and economic growth, including the following subtopics: the relationship between foreign direct investment and the transfer of technology; the relationship between investment rules and policy flexibility; and the possible economic benefits of multilateral investment rules. The second topic was the economic relationship between trade and investment, where the effects of investment incentives were a principal focus of attention. Finally, the Working Group took stock of, and analyzed, existing international instruments and activities regarding trade and investment, in which rules regarding the transparency of investment regimes was a subject of much interest.

Prospects for 2001

There remains widespread interest in the WTO to continue work in the area of trade and investment. The Working Group has identified a number of areas for further study, such as the relationship between investment and trade for development and economic growth. However, there are differences of view as to what the next steps should be beyond educational work.

11. Trade Facilitation

Status

The 1996 Singapore Ministerial Declaration requested the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area." The Council continued its work under this mandate in 2000, largely focusing on issues related to customs and other administrative requirements pertaining to the movement of goods across borders.

Major Issues in 2000

A significant U.S. objective for 2000 was met as the Council for Trade in Goods achieved a renewed momentum toward an increased WTO role in the area of Trade Facilitation. The Council met several times in informal sessions, and ultimately began work based on a method jointly proposed by the United States and Canada. The Council commenced an analysis of various 'national experience' submissions, while beginning an examination of potential current "gaps" within the parameters of relevant WTO rules. The Council also took up capacity building and technical assistance issues related to future WTO work in the area of Trade Facilitation. On this basis, the Council work proceeded in accordance with the continuing aim of the United States for future WTO work that strengthens and develops new WTO disciplines focused on two key elements: (i) ensuring greater transparency in procedures for conducting trade transactions; and (ii) providing for increased efficiencies in how goods cross borders, such as through the rapid release of goods from the custody of customs administrations. A number of Members have joined the United States in putting at the core of future work a building upon relevant provisions of GATT Article VIII ("Fees and Formalities Connected with Importation and Exportation") and GATT Article X ("Publication and Administration of Trade Regulations"). As further evidence of success in the WTO in moving ahead on Trade Facilitation, the Council agreed at the end of the year to augment its work by holding a WTO symposium, in 2001, on technical assistance and capacity building in this area.

Despite these renewed efforts in 2000 toward an ultimate launch of WTO negotiations in the area of Trade Facilitation, there continued to be

resistance exhibited on the part of some developing country Members. In most cases this resistence was based upon an unfortunate continuing perception that associates further WTO rule-making in this area with a traditional-type trade concession. In contrast, the United States and a growing number of other Members view the development of a rules-based environment for conducting trade transactions as an important element for securing continued growth in the economic output of all WTO Members. Moreover, systemic rules-based reforms related to increased transparency and efficiency diminishes corruption. The reforms also provided the benefit of enhancing administrative capabilities that ensure effective compliance with customs-related requirements or laws concerning health, safety, and the environment. For the United States and many of its key trading partners, small and medium size enterprises (SMEs) have become important stakeholders in further WTO contributions to improving the Trade Facilitation environment. SMEs are especially poised to take advantage of opportunities provided by today's instant communications and ever-improving efficiencies in the movement of physical goods.

Prospects for 2001

The United States views further work in this area as ultimately leading to one of the most important systemic negotiations to be undertaken by the WTO. The United States will actively advocate for the continuation of effective preparatory work. A major challenge for the United States in 2001 will be to encourage other countries to join the group of Members that view future WTO negotiations in the area of Trade Facilitation as a "win-win" opportunity. A key element in meeting this objective will be to increase awareness of the understanding among all WTO Members of the important linkages between a rules-based trade transaction environment and a stable economic infrastructure. This will also include ongoing complementary initiatives involving existing Agreements, such as with regard to implementation of the WTO Agreement on Customs Valuation. The United States will also be working with key Members in advancing an agenda for addressing capacity building issues, in order to identify potential technical assistance programs that would be developed concurrently as part of any future overall negotiations.

F. Plurilateral Agreements

1. Committee on the Expansion of Trade in Information Technology Products

Status

The landmark agreement to eliminate tariffs by January 1, 2000 on a wide range of information technology products, generally known as the Information Technology Agreement, or ITA, was concluded at the WTO's first Ministerial Conference at Singapore in December 1996. As of this writing, the ITA has 55[21] participants representing over 95 percent of trade in the $600 billion-plus global market for information technology products.

[21]ITA participants are: Albania, Australia, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, El Salvador, Estonia, European Communities (on behalf of 15 Member States), Georgia, Hong Kong China, Iceland, India, Indonesia, Israel, Japan, Jordan, Republic of Korea, Krygyz Republic, Latvia, Lithuania, Macau, Malaysia, Mauritius, New Zealand, Norway, Oman, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Slovenia, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey, and the United States. Additional countries, including China, Armenia, Georgia and Moldova, have indicated their intention to join the ITA.

Major Issues in 2000

The WTO Committee of ITA Participants held four formal meetings in 2000, during which the Committee reviewed implementation status. For the majority of participants, January 1, 2000 marked the commencement of full implementation of the ITA, which covers computers and computer equipment, semiconductors and integrated circuits, computer software products, set-top boxes, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments. Under the ITA, some limited staging of tariff reductions for individual products was granted on a country-by-country basis for individual products up to 2005.

Pursuant to the provisions of the Singapore Ministerial declaration establishing the ITA, the Committee continued its work to address diverging classification of information technology products. Several informal meetings of technical experts were held, which resulted in increased alignment of classification practices among ITA participants concerning ITA-covered products. Also in accordance with the Singapore mandate, consultations continued among participants concerning product coverage expansion. In addition, at its final meeting of 2000 the Committee formally adopted a Decision outlining a work program to address non-tariff measures applicable to ITA-covered products.

Prospects for 2001

The Committee's Decision to establish a benchmarked work program on non-tariff measures effectively demonstrates how the WTO provides a dynamic mechanism that is responsive to the ever-changing nature of the information technology sector. The United States and other key ITA participants have already identified standards as a matter that will be taken up under the work program, although other non-tariff measures may be addressed as well. Throughout 2001 the Committee will continue to undertake its mandated work, including reviewing possibilities for product expansion ("ITA II") along with addressing further technical classification issues. In addition, the Committee will continue to monitor implementation of the Agreement, including undertaking any necessary clarifications.

2. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA) is a plurilateral agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that signed on in Marrakesh or that subsequently acceded to it. The GPA's current membership includes the United States, the Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom), Aruba, Canada, Hong Kong, Israel, Japan, Liechtenstein, Norway, the Republic of Korea, Singapore and Switzerland. In 2000, Iceland completed negotiations for its accession to the GPA. Chinese Taipei, Estonia, Jordan, Kyrgyz Republic, Latvia, and Panama are in the process of negotiating accession to the GPA.

Major Issues in 2000

In Article XXIV:7 of the GPA, the Parties to the Agreement agreed to conduct further negotiations with a view to improving both the text of the Agreement and its market access coverage. The Parties have also agreed that, as part of the review, the Committee should take into account the objective of promoting expanded membership of the GPA by making it more accessible to non-members.

Much of the existing text of the GPA was developed in the late 1970s, during the

negotiations on the original GATT Government Procurement Code. As the current review of the Agreement has proceeded, the Committee has become aware that there have been changes in procurement methods, systems and technologies around the world that require careful analysis in the context of potential modification of the GPA text. The Committee has also continued to consider the potential simplification of GPA statistical reporting requirements, an issue that is of particular interest to the Parties' sub-central procurement authorities and to other countries that may potentially be interested in acceding to the GPA.

As provided for in the GPA, the Committee continued the process of monitoring Parties' implementing legislation. In 2000, this included follow-up discussions on issues raised during the review of the United States, Canada and Switzerland implementing legislation, and discussions relating to the implementing legislation of Hong Kong, Norway and Singapore.

Prospects for 2001

In 2001, the Committee will continue its review of the text of the GPA, focusing on the Parties' efforts to "streamline" the Agreement, where appropriate, and ensure that it addresses the types of procurement procedures that are commonly used by the Parties' procuring entities today, including those that make use of modern telecommunications and information technologies. The Committee will continue it's review of the United States and Singapore implementing legislation, and begin reviewing the implementing legislation of Israel, Japan, Liechtenstein, and the Netherlands with respect to Aruba.

3. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) was concluded in 1979 as part of the Tokyo Round of multilateral trade negotiations and last amended in 1986. While the Aircraft Agreement was not renegotiated during the Uruguay Round, it remains fully in force and is included in Annex 4 to the WTO Agreement as a Plurilateral Trade Agreement.

The Aircraft Agreement requires Signatories to eliminate duties on civil aircraft, their engines, subassemblies and parts, and ground flight simulators and their components, and to provide these benefits on a NTR basis to all WTO Members. On non-tariff issues, the Aircraft Agreement establishes international obligations concerning government intervention in aircraft and aircraft component development, manufacture and marketing, including:

Government-directed procurement actions and mandatory subcontracts: The Agreement provides that purchasers of civil aircraft (including parts, subassemblies, and engines) will be free to select suppliers on the basis of commercial considerations and governments will not require purchases from a particular source.

Sales-related inducements: The Agreement states that governments are to avoid attaching political or economic inducements (positive or negative linkages to government actions) as an incentive to the sale or lease of civil aircraft.

Certification requirements: The Agreement provides that civil aircraft certification requirements and specifications on operating and maintenance procedures will be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade.

Under Article II.3 of the Marrakesh Agreement, the Aircraft Agreement is part of the WTO

Agreement, but only for those Members who have accepted it. As of December 31, 2000, there were 27 Signatories to the Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Georgia, Latvia, Malta, Japan, Macau, Norway, Romania, Switzerland and the United States. Albania, Croatia, Chinese Taipei, Estonia and Lithuania have indicated that they will become parties upon accession to the WTO and Oman within three years of accession. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, Colombia, the Czech Republic, Estonia, Finland, Gabon, Ghana, India, Indonesia, Israel, Korea, Mauritius, Nigeria, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition, China, Chinese Taipei, the Russian Federation and Saudi Arabia have observer status in the Committee. The IMF and UNCTAD are also observers.

Major Issues in 2000

The Aircraft Committee, permanently established under the Aircraft Agreement, affords the Signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. During 2000, the full Committee and the Technical Subcommittee each convened twice. The Committee discussed an array of aircraft-related trade matters including updating the Annex of aircraft items to be accorded duty-free treatment; conforming the language in the Agreement to the WTO; modifying the end-use customs administration by proposing to define "civil" aircraft by initial certification rather than by registration. The United States also identified activities by other Signatories that might result in trade barriers or market distortions, such as the failure by France to promptly certify large civil aircraft at full seating capacity, delay of certification of business jets by European Joint Airworthiness Authorities, Belgium's government exchange rate guarantees for aircraft component manufacturers, the European Union's support for the development of large civil aircraft and engines and the European Union's restrictions on the operation of aircraft, otherwise compliant with International Civil Aviation Organization Stage III noise standards, based solely on a design standard that targets U.S.-origin engines and environmental equipment.

While the Signatories were unable formally to adopt a Protocol to amend the Annex to the Agreement, the Committee decided to urge Signatories to apply, on an interim basis, duty-free treatment to the goods of the proposed product coverage Annex, including aircraft ground maintenance simulators. In addition, Signatories agreed to consider a further draft revision of the Product Coverage Annex, incorporating changes to the Harmonized System that will enter into effect on January 1, 2002.

Prospects for 2001

The United States will continue to conform the Aircraft Agreement with the new WTO framework while maintaining the existing balance of rights and obligations. A high priority for the upcoming year is to assist countries with aircraft industries that seek membership in the WTO to become signatories to the existing Aircraft Agreement, thereby facilitating their accession to the WTO. In addition, other countries that might procure civil aircraft products, but are not currently significant aircraft product manufacturers, are being encouraged to become members of the Agreement in order to foster non-discriminatory and efficient selection processes for aircraft products based solely upon product quality, price, and delivery.

III. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to the United States' international trade, environmental, labor and other trade-related interests are balanced and mutually supportive.

A. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a new, multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the fifth party. The 1999 Joint Statement on Semiconductors reflects over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei).

The 1999 Joint Statement includes the essential elements of the 1996 accord such as regular meetings among governments and between governments and industry representatives.

In April 2000, industry CEOs representing all five parties held their first World Semiconductor Council (WSC) meeting under the 1999 Joint Statement. The WSC was created under the 1996 Joint Statement to provide a forum for industry representatives to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. Membership in the WSC requires that the governments of national/regional industry associations must have eliminated semiconductor tariffs, or committed to eliminate these tariffs expeditiously.

The 1999 Joint Statement also requires that governments and other authorities meet at least once a year to receive and discuss the recommendations of the WSC regarding policies of governments and authorities that may affect the future outlook and competitive conditions within the global semiconductor industry. The first such meeting was held in June 2000, hosted by the Government of Korea. At that meeting, the WSC recommended that government/authorities pursue the following policies: promotion of free and open markets around the world, protection of intellectual property rights, full transparency of government policies and regulations, non-discrimination for foreign products in all markets, an end to investment restrictions tied to technology transfer requirements, adoption of a non-regulatory, market-oriented approach to e-commerce and maintenance of the internet as a tariff-free environment, adoption of environmental regulations based on scientific assessments of the risks posed by the targeted materials and their likely substitutes, completion of China's WTO accession,

expanded participation in the ITA, and completion of ITA 2. The WSC has also invited China to become a party to the Joint Statement when it has completed its accession to the WTO. China is expected to become the second-largest market for semiconductors within a decade. The United States will host the next meeting of governments and other authorities in mid-2001.

Foreign market share into the Japanese market which had exceeded 30 percent in every quarter during 1997 and 1998, fell slightly to just below 30 percent in 1999. The U.S. Government monitors foreign market share in the Japanese market on a quarterly basis, and once a year reports the average annual foreign share in the Department of Commerce "U.S. Industry and Trade Outlook."

B. Trade and the Environment

The U.S. Government has been very active in promoting a trade policy agenda that pursues economic growth in the broader context of sustainable development, integrating economic, social, and environmental policies. Building upon 1999 trade and environment initiatives such as the White House Policy Declaration and Executive Order 13141 (environmental review of trade agreements), USTR continued its efforts in 2000 to ensure that trade and environmental policies are mutually supportive. Specifically, in December 2000, USTR and the Council on Environmental Quality (CEQ) finalized guidelines implementing the Executive Order. The Order and implementing guidelines require careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of major environmentally significant trade agreements.

In addition, in 2000 and early 2001, USTR undertook the following trade and environment initiatives: (1) pursuant to Executive Order 13141, the conduct of a review of the environmental effects of the U.S.-Jordan FTA; (2) the conclusion of the U.S.-Jordan FTA, which includes trade and environment provisions such as on effective enforcement of environmental laws, an initiative on technical environmental cooperation, transparency elements, and provisions liberalizing market access for environmental goods and services; (3) the initiation of negotiations on FTAs with Singapore and Chile, including in the area of trade and environment; and (4) the initiation of environmental reviews of the FTAs with Singapore, Chile, and the Free Trade Area of the Americas (FTAA) agreement.

In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Multilateral Fora

The WTO Committee on Trade and Environment met three times in 2000, pursuant to its mandate as spelled out in the Uruguay Round Agreements. The Committee reviewed the full range of trade and environment issues on its agenda and continued to deepen Members' understanding of these issues. The United States contributed to this process by, *inter alia*, playing a leadership role in working to build a consensus for the WTO to address fisheries subsidies that contribute to over fishing and on the trade and environmental benefits of liberalizing trade in environmental goods and services.

USTR has been engaged in addressing the relationship between investment and the environment, including through active participation in the rewriting of the environment chapter of the OECD Guidelines for Multinational Enterprises, which were completed in June 2000. USTR, along with other U.S. agencies, also is examining the need for clarification of NAFTA Chapter 11 (see below).

In the OECD's Joint Working Party of Trade and Environment Experts, USTR and other U.S. agencies most recently have worked to develop

methodologies for assessing the environmental effects of trade liberalization in the services sector. Such methodologies will be useful as the United States continues implementation of the President's Executive Order on environmental reviews of trade agreements.

USTR remains very active in negotiations and conferences of the parties to various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. For instance, USTR has been an active contributor to U.S. involvement in the work of the United Nations Convention on Biological Diversity, including participating in the negotiations on the Cartagena Protocol on Biosafety, which includes an "advanced informed agreement" requirement for exports of certain genetically-modified organisms, and which was successfully completed in January 2000. In December 2000, USTR participated in the conclusion of a global environmental agreement on Persistent Organic Pollutants. This agreement, which includes trade provisions, is aimed at eliminating or reducing twelve toxic substances of global concern.

USTR also continues to be involved in the trade-related aspects of international forest deliberations, including in the newly-formed permanent United Nations' Forum on Forests – the successor to the Commission on Sustainable Development's *ad hoc* Intergovernmental Forum on Forests – and in the International Tropical Timber Organization. In addition, USTR participates in U.S. policymaking regarding the implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and the United Nations Framework Convention on Climate Change.

2. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to ensure that expanded North American trade does not take place at the expense of the environment. The Border Environment Cooperation Commission and the North American Development Bank develops and finances sorely needed environmental infrastructure projects along the U.S.-Mexico border.

The Commission for Environmental Cooperation (CEC), governed by the trilateral Ministerial-level Council that implements the NAAEC, continued in 2000 to generate progress on numerous fronts and to devote a significant portion of its annual work program to trade and environment issues. The CEC has undertaken a number of environmental projects, encompassing such diverse objectives as studying the market potential of shade-grown coffee, developing a draft plan to help control mercury levels in the environment, promoting efforts to protect habitat for migratory birds, and initiating voluntary environmental management systems with the private sector. In addition, the CEC conducted a multi-year study of the environmental effects of the NAFTA. In 1999, the CEC published a proposed methodology for assessing NAFTA's environmental effects – *Analytic Framework for Assessing Environmental Effects of the North American Free Trade Agreement (NAFTA): Phase II* – and in the fall of 2000, the CEC hosted a symposium in Washington, DC at which papers using this methodology were presented. The NAFTA Parties also have established a working group of senior trade and environment officials that in 2000, began substantive discussions on the use of precaution in environmental policies and on ecolabeling.

Also in 2000, USTR was involved in several issues related to NAFTA's Chapter 11, which sets out each government's obligations with respect to investors from other NAFTA countries and their investments in its territory, and affords investors

the right to seek compensation through international arbitration. One issue concerned the only environmental claim filed against the United States under Chapter 11, wherein a Canadian investor alleged that the State of California's phase-out of MTBE, a gasoline additive, expropriates Canada's investment in the United States. In preparation for the U.S. Government defense, USTR convened interagency consultations with the State of California. USTR also leads participation in another NAFTA Chapter 11 issue, a trilateral process undertaken with Canada and Mexico. This process is examining the operation of NAFTA Chapter 11 to determine what kind of procedural or substantive clarifications, if any, would be appropriate in light of the U.S. view that while the NAFTA investment commitments should provide a secure, transparent, and fair regulatory environment for foreign investors, the provisions must not be interpreted or applied in a way that undermines a member country's well-recognized right to regulate to protect the environment, health, and safety.

3. The Western Hemisphere and the European Union

To provide direction on ensuring mutually supportive economic and environmental policies, as was agreed at the 1994 Miami Summit of the Americas, U.S. negotiators worked over the past year within the framework Free Trade Area of the Americas (FTAA) negotiating groups to identify and pursue relevant trade-related environmental issues. The United States continues to express its view that the FTAA should expand trade and promote economic development consistent with the objective of sustainable development. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation.

The United States also will continue to support the FTAA Civil Society Committee to expand opportunities for expressions of views to the FTAA Ministers by members of civil society throughout the Hemisphere, and will carefully consider civil society's submissions to that Committee on the full range of issues, including environmental concerns. The United States is taking into account the environmental implications of the FTAA negotiations, both positive and negative, through an environmental review, which was initiated in 2000. USTR, through an interagency group of economic and environmental experts, has developed guidance on the quantitative and methodological parameters of the review (see *Report of the Quantitative Analysis Working Group to the FTAA Interagency Environmental Group* on the USTR website).

In 2000, the United States and the European Union continued their trade and environment dialogue under the auspices of the Transatlantic Economic Partnership's Environment Group and in the context of the annual U.S.-EU high-level environmental ministerial meeting, as well as through consultations with the Transatlantic Environment Dialogue (TAED), a consortium of European and U.S. environmental NGOs.

4. Other Issues

Shrimp/Turtle WTO Dispute

As described in Chapter II (*supra*), in the *Shrimp-Turtle* dispute the United States announced its intention to comply with the DSB recommendations in a manner consistent not only with WTO obligations, but also with the United States' firm commitment to protect endangered species of sea turtles. In this dispute, the WTO Appellate Body did not find fault with the U.S. shrimp/turtle law, but did find fault with certain aspects of U.S. implementation of the law. For example, the Appellate Body found that the State Department's procedures for determining whether countries meet the requirements of the law did not provide adequate due process, because exporting nations were not afforded formal opportunities to be heard, and were not given formal written explanations of adverse decisions. The Appellate Body also found that the United States had unfairly discriminated between the complaining Asian countries and Western Hemisphere nations by not exerting as

great an effort to negotiate a sea turtle conservation agreement with the complaining countries and by not providing them with the same opportunities to receive technical assistance.

After Congressional consultations and opportunities for input from all interested parties, in July 1999 the State Department revised its procedures to address these concerns in a manner consistent with sea turtle conservation. Revised State Department procedures provide more due process to countries applying for certification under the shrimp/turtle law. In addition, the State Department is making progress in efforts to negotiate a sea turtle conservation agreement among the countries of the South Asian/Indian Ocean region, and the United States is providing the complaining countries with additional technical assistance in the adoption of sea turtle conservation measures. Throughout the case, U.S. import restrictions on shrimp harvested in a manner harmful to sea turtles have remained fully in effect.

At the request of Malaysia (one of the complaining parties in the initial dispute), the original WTO panel is currently considering whether these implementation measures comply with the Appellate Body's recommendation.

Asbestos WTO Dispute

The United States is participating as a third party in the appeal of Canada's challenge to a French ban of chrysotile asbestos on health grounds. The WTO panel found that the French ban was inconsistent with WTO national treatment provisions but was justified under WTO exceptions as a measure necessary to protect human health. The United States supports the panel's overall conclusion that the ban is consistent with WTO rules, but questions the panel's finding that the ban violates the national treatment provisions.

Japanese Whaling Practices

On September 13, 2000, the U.S. Secretary of Commerce certified Japan under the Pelly Amendment to the Fisherman's Protective Act of 1967 for undermining international efforts to protect whales. The certification was based on Japan's expansion of its "scientific" research program in the North Pacific to include the lethal take of two additional species: sperm whales and Bryde's whales. The certification under the Pelly Amendment triggered a process for the President to consider trade sanctions against Japan and to report any action he may take to Congress within 60 days of certification. In December 2000, the President sent a letter to Congress stating that he did not believe that import prohibitions would further U.S. objectives at that time. In this letter, the President went on to direct certain Executive agencies, including USTR, to keep Japan's whaling activities under active review and to examine the relationship between Japanese companies that both manufacture whaling equipment and export to the U.S. market.

C. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a key forum for the discussion of economic and social issues confronting its members, which includes the United States, Canada, Mexico, the countries of Western Europe, Japan, Australia, and New Zealand. The Czech Republic joined the OECD in 1995, and Korea, Hungary, and Poland in 1996, bringing total OECD membership to twenty-nine. Slovakia is currently discussing the conditions of membership, and Argentina and Russia have also formally applied to join. The OECD has a major cooperation program with Russia, the purpose of which is to support Russia's efforts to establish a fully-fledged market economy and its eventual membership in the OECD.

The OECD was founded in 1960 as the successor to the Organization for European Economic Cooperation, which oversaw European participation in the Marshall Plan. Its fundamental objective is "to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while

maintaining financial stability and thus to contribute to the world economy." This objective is pursued through in-depth analysis of economic problems confronting the developed market economies and the development of cooperative solutions to many of these problems. Members have negotiated binding agreements in certain areas not adequately addressed in other fora. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora such as the World Trade Organization (WTO).

1. Work Program

In 2000, the OECD Trade Committee continued to address a number of issues of significance to the multilateral trading system. The Committee and other OECD bodies have focused increasingly on non-border restraints to market access and on the nexus between trade policy and other international and domestic policy objectives. As a result, the OECD's trade work has become more diverse, dealing with traditional trade issues as well as those which have been traditionally within the purview of domestic policy discussions. Major projects include studies on the benefits of ongoing trade liberalization, ratification and monitoring of the OECD Convention on combating Bribery of Foreign Public Officials in International Business Transactions, and analysis of trade in relation to labor standards and the environment.

2. Benefits of Trade Liberalization

A number of recent Trade Committee reports have made an important contribution to inform public debate on the implications of further trade liberalization, by analyzing the contribution that expanded international trade can make to economic development and other broader economic and social goals. In 1998, a report entitled "Open Markets Matter: the Benefits of Trade and Investment Liberalization," sought to better communicate the clear net benefits to society of continuing on the path of trade liberalization and market-led reforms. In 1999, a report, entitled "Reaping the Full Benefits of Open Markets," concluded that open trade and investment have been beneficial for development, particularly when accompanied by a coherent set of growth-oriented macroeconomic and structural policies, capacity-building, adequate social policy and good governance. In particular, it noted that open economies have grown significantly faster than closed economies over sustained periods of time and that this higher growth is associated with reductions in poverty. In 2000, the Committee began work on a more detailed follow-up study on the relationship between international trade and economic development in non-OECD countries.

3. Criminalization and Non-tax-deductibility of Bribery of Foreign Public Officials

The OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* entered into force in February 1999. The Convention was adopted by the 29 members of the OECD and five non-members in 1997. (The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia.) It requires the parties to criminalize bribery of foreign public officials in executive, legislative, and judicial branches, levy significant penalties on those who bribe, and implement adequate accounting procedures to make it harder to hide illegal payments. As of February 1, 2001, 27 of the 34 signatories had adopted legislation to implement the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms have lost international contracts allegedly worth billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions of developing countries, undermine the rule of law and create an unpredictable environment for business.

In April 1999, the signatories to the Convention began the first phase of monitoring the implementation process – the review of the

adequacy of implementing legislation. That phase of the process is still underway. As of January 1, 2001, the implementing legislation of twenty-three countries had been reviewed. The second phase – the evaluation of enforcement – is expected to commence in early 2001. The OECD Convention signatories are also studying several related issues, including bribery of foreign public officials as a predicate offense for money laundering legislation, the role of foreign subsidiaries and offshore financial centers in bribery transactions, and whether the Convention's coverage should be extended to bribery of foreign political parties and candidates.

The OECD also has recommended that member countries reexamine their tax laws to eliminate tax deductibility of such bribes. All thirty-four signatories have agreed to implement this recommendation. While most signatories have reported that such bribes are non-deductible, we will continue to work with the OECD to develop more reliable methodologies for monitoring implementation of this recommendation.

4. Export Credits

The *OECD Arrangement on Guidelines for Officially Supported Export Credits* places limitations on the terms and conditions of government supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of the government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries.

The *Arrangement* is saving U.S. taxpayers about $800 million annually in reduced appropriations because Ex-Im Bank (the U.S. export credit agency) no longer has to offer loans with low interest rates and long repayment terms. In addition, the "level playing field" created by the Arrangement's tied aid disciplines, has allowed U.S. exporters to increase their exports by about $1 billion a year. These exports would have cost taxpayers about $300 million in annual appropriations to Ex-Im Bank if the United States had to create its own tied aid program in order to compete.

5. Investment

The OECD Committee on Investment and Multinational Enterprises (CIME) pursues a multi-disciplinary work program, including analytical work on investment rules topics. The key issue for the CIME this year was the revision of the OECD Guidelines for Multinational Enterprises, a set of non-binding recommendations from OECD Member governments to enterprises, comparable to a code of conduct for international business.

The Guidelines, originally adopted in 1976, were revised on several occasions, most recently from 1998 to 2000. This latest examination addressed the text, as well as the operating procedures, with a view to ensuring that the Guidelines play a more effective role in setting minimum thresholds for international corporate conduct. Chapters on competition, environment, labor, bribery, and consumer interests were added or expanded upon. The example set by U.S. firms in the area of corporate social responsibility guided the U.S. position in the revision negotiations in an effort to create standards for foreign competitors that match those to which U.S. companies already adhere. The revision process was very transparent: representatives from business, labor, and civil society groups were invited to comment and provide significant input throughout. The revised text and implementation procedures were adopted by all OECD Member countries and the non-member observers (i.e., Argentina, Chile, Brazil, and Slovakia) at the OECD Ministerial June 26-27, 2000. The final version of the text along with additional information can be found on the OECD website (http://www.oecd.org/daf/investment/guidelines/index.htm).

In addition, CIME has placed a particular focus on conducting an investment policy dialog with Russia and China and pursued analytical work on corporate social responsibility and sustainable development.

6. Trade and Labor Standards

In 1996, the OECD released a report on "Trade, Employment and Labor Standards," which examined the relationship between core labor standards and economic development and trade. These core labor standards are: freedom of association, collective bargaining, elimination of exploitative forms of child labor, prohibition of forced labor, and non-discrimination in employment. The report concluded that a mutually reinforcing relationship exists between core labor standards and trade liberalization. It refuted the long-standing argument that adherence to such standards negatively affects the economic performance of developing countries; indeed, it reinforces long-term development prospects. In May 1999, the OECD Trade Committee asked the Secretariat to prepare an update of the 1996 report, which would review factual developments and summarize relevant economic literature since the report was issued. The 124-page updated report was approved in 2000 and presented, in November 2000, to the International Labor Organization's Working Party on Social Dimension of Globalization. It can be purchased and downloaded from the OECD's online book store, at www.oecd.org.

7. Shipbuilding

In July 1994, the OECD Working Party Six (WP-6) completed an ad referendum agreement on shipbuilding – the Agreement Respecting Normal Competitive Conditions in the Shipbuilding and Repair Industry. The Agreement, which covers the construction and repair of self-propelled seagoing vessels of 100 gross tons and above, has four key elements: (1) the elimination of virtually all subsidies granted either to shipbuilders directly or indirectly through ship operators; (2) the extension of injurious pricing (antidumping) rules to shipbuilding; (3) the establishment of strict rules for official domestic and export financing; and (4) an effective, binding dispute settlement mechanism.

The Agreement was signed on December 21, 1994, by the United States, the EU, Korea, Japan and Norway. These countries account for about 80 percent of world commercial shipbuilding. The Agreement requires ratification by all of these countries before it can enter into forces. The EU, Korea, and Norway ratified the Agreement in December 1995 and Japan completed its ratification process in May 1996. As the United States has not yet ratified the agreement, it has not taken effect.

8. Regulatory Reform

The OECD has an ongoing work program focusing on how governments can improve their regulations and regulatory processes. It began conducting reviews of regulatory reform efforts in member countries in 1998, based in part on self-assessment. The United States has supported the OECD's regulatory reform efforts as a way to raise the profile of the problems posed by the regulatory regimes of many OECD countries to our exporters' market access; to demonstrate that the benefits of regulatory reform (e.g., creation of due process and transparency) can lead to greater market openness and competition and more effective achievement of important policy goals; to encourage consideration of discussion among OECD members regarding possible solutions to market access problems caused by regulation and regulatory heterogeneity; and to promote growth in member economies through domestic efficiency gains and thereby increase demand for U.S. exports.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making,

non-discrimination, avoidance of unnecessary trade restrictions, use of internationally harmonized measures where available/appropriate, recognition of the equivalence of other countries' procedures for conformity assessment where appropriate, and application of competition principles.

In 1998, the OECD completed country reviews of regulatory reform in the United States, Japan, Mexico, and the Netherlands. In 1999, the Working Party of the Trade Committee reviewed the market access chapters of the reviews of Korea, Spain, Denmark, and Hungary. Four countries were reviewed in the 2000 cycle: Greece, Italy, Ireland, and the Czech Republic. Against this background, the OECD has pursued analytical work to identify patterns and best practices of countries in achieving regulatory reform. In 2000, this work focused in particular on regulatory transparency in trade in services. Recognizing that such crosscutting analysis and discussion of the effects of domestic regulation on trade and investment can produce useful insights for possible future trade rule making, this work was presented to the WTO Working Party on Domestic Regulation in April 2000 and widely shared with developing countries.

Drawing on this work, the OECD held a workshop on Regulatory Reform and the Multilateral Trading System on December 7-8, 2000. Representatives of twenty non-OECD governments attended the workshop.

9. Competition Policy

The Joint Group on Trade and Competition continued work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as other fora, such as the WTO. This forum has helped to promote mutual understanding and interaction between the trade and antitrust "cultures", as well as better clarity and coherence – if not always convergence – of approaches toward issues of common interest. Using conceptual approaches taken by both trade policy and competition policy experts, the Group discussed: (i) competition and trade policy issues with respect to intellectual property protection; (ii) WTO and competition rules for enterprises with exclusive or special rights; (iii) competition and trade effects of abuse of dominance; (iv) remedies available to private parties under competition laws; (v) different mechanisms for public or private dispute resolution in the trade and competition areas; and (vi) the development dimension of trade and competition policies. The Group considered that it may want to devote further attention to the last item in anticipation of undertaking potential outreach activities with non-Members in the future. It also continued to share views and experiences on various kinds of international cooperation and enforcement activities in the fields of both competition policy and trade policy.

10. Analysis of Tariff and Non-Tariff Barriers

In order to support continued trade liberalization, the Trade Committee has continued its analysis of the tariff and non-tariff regimes of OECD countries, and of a number of major non-OECD countries. A key objective is to seek to identify sectors and product groups on which future negotiations might focus. For example, the Trade Committee continues to analyze barriers to trade in services and considering various cross-sectoral approaches to services negotiations.

In 2000, the OECD completed the compilation of an up-to-date database of remaining tariffs in OECD countries and 13 non-OECD countries. The database, which may serve as a tool for trade negotiators, will be duplicated on a CD-ROM, and is expected to be available in early 2001.

11. Trade and Environment

The OECD Joint Working Party on Trade and Environment continues its analytical work in areas where trade and environmental policies intersect. For example, in the past year, the group discussed the nexus between trade and potential applications of the polluter pays principle and the precautionary

approach. Future work in these areas is expected in the coming year. In addition, as part of its activities related to environmental reviews, the group has developed a methodology for analyzing the environmental effects of trade agreements in the services sector. A fuller elaboration of this effort is also expected. The Joint Working Party has also contributed to the OECD's sustainability report by playing a key role in the development of chapter 5 on Trade, Investment and Sustainable Development.

12. Dialogue with Non-member Countries

The Trade Committee has continued its contacts with non-member countries to encourage the integration of developing and transitional economies into the multilateral trade regime. To date, this work has focused on the integration of the Central and Eastern European Countries, the Newly Independent States of the Former Soviet Union (NIS), and the Dynamic Non-Member Economies or "DNMEs" (leading developing economies in Asia and South America).

In 2000, the Committee focused on developments in Russia's trade policy and the progress in trade liberalization of all transition countries over the past ten years. The dialogue with Russia included discussion of proposed reforms in its trade regime, the interface between the central and sub-national levels of government in trade policy, and trade-related aspects of regulatory reform. In July, the Trade Committee conducted a workshop with representatives of non-OECD countries to explore factors that influence the pace and outcome of trade reforms in transition economies.

D. Steel Trade Policy

In 2000 the Administration continued to administer the steel action programs announced by the White House in 1999. In July 2000, the Commerce Department published the Report to the President on Global Steel Trade: Structural Problems and Future Solutions. The report documented the causes of the 1998 steel crisis and the underlying structural distortions in global steel trade that exacerbated that crisis. In that report, Commerce and USTR, in consultation with other agencies, set forth policy initiatives to help avoid future crises. That strategy built upon the earlier steel action programs and included the following points:

- Maintain strong U.S. trade laws consistent with WTO obligations.
- Provide early warning of steel import surges and industry conditions.
- Provide faster relief for industries, workers, and communities.
- Address market-distorting practices in global steel markets through continued bilateral engagement.

The Administration's bilateral engagement included talks with Japan, Korea, India, Taiwan, and Ukraine. With Japan, USTR conducted bilateral steel dialogue sessions in March and November of 2000. The primary topics of discussion were trade patterns, market conditions, and trade policies in Japan, focusing on the lack of meaningful competition in Japan's steel market.

USTR also continued the bilateral dialogue with Korea during sessions in May and November. The objectives of the dialogue are to promote fair trade in steel products; to achieve the full privatization of Korea's largest steel producer, POSCO; and to ensure the sale of Hanbo in a transparent manner that will not engender government involvement.

In October and November of 2000, senior Administration officials met with representatives of India, Taiwan and Ukraine, expressing strong concerns about the recent surges of steel exports from those sources.

In 2000, the Administration worked to reinvigorate the OECD Steel Committee by urging it to raise the level of government participation in the Committee, to address issues of immediate concern to the steel industry, and to undertake enhanced data collection and reporting.

The Administration also took steps to reduce government and multilateral lending to expand global steel capacity. The Administration sought a moratorium on multilateral development bank lending that substantially increases steel capacity in the developing world and requested that the OECD conduct a study of the impact on global steel capacity of the use of official export credits to finance steel producing equipment.

The Administration continued its vigorous enforcement of U.S. trade laws. In February 2000, the President announced import relief for two steel products, line pipe and wire rod, under Section 201 (the safeguards provisions) of the Trade Act of 1974, as amended. The Department of Commerce completed 23 antidumping and countervailing duty investigations on steel and began 35 additional steel cases in 2000, including cases on hot-rolled steel from 11 countries (including China, India, and Taiwan) and rebar from 12 countries (including China and South Korea). Most of these cases will be completed in the summer of 2001.

IV. Regional Negotiations

One of the major achievements in trade policy has been the use of regional arrangements to further trade liberalization. Passage and implementation of the North American Free Trade Agreement (NAFTA), the initiation of the Free Trade Area of the Americas (FTAA) negotiations and the negotiation of sectoral agreements in the Asia Pacific Economic Cooperation forum (APEC), all have played a seminal role in trade policy.

In 1993, in recognition of the growing strength and dynamism of our trade and economic links with the Asia Pacific region, President Clinton convened the first APEC Leaders meeting in Seattle, Washington, giving U.S. trade and economic policy an Asian regional focus at the highest level for the first time. In succeeding years, the President's vision and leadership transformed APEC from a largely consultative body to one with an active trade vision – to achieve open and free trade and investment in the region in the first two decades of the 21st century.

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. As the world's largest and most comprehensive free trade area, it provides market opening and fair rules for trade and investment across North America. The negotiation and implementation of trilateral environment and labor agreements dramatically increased cooperative activities across North America and encouraged effective enforcement of environmental and labor laws.

Finally, in December of 1994, the 34 democratically elected leaders of the Western hemisphere agreed to conclude negotiation of a comprehensive Free Trade Area of the Americas Agreement no later than 2005. It was recognized that the prosperity and competitiveness of the entire hemisphere would be enhanced by the elimination of trade barriers and a single set of fair trade rules. In addition, economic cooperation supports other goals, such as democracy, the rule of law, anti-corruption, and social justice. With these objectives in mind, the Administration pursued a regional approach to the Western Hemisphere, with the FTAA as its center.

A. Free Trade Area of the Americas

Overview

At the first Summit of the Americas, held in Miami in December 1994, the 34 democratically elected leaders of the Western Hemisphere agreed to create the Free Trade Area of the Americas as a comprehensive free trade zone encompassing more than 800 million people in the Americas. They directed their Trade Ministers to conclude the negotiations of the FTAA no later than the year 2005. The leaders noted that free trade and economic integration are key factors for raising living standards, improving working conditions, and better protecting the environment. The Trade Ministers launched their work at the first FTAA Ministerial, hosted by the United States in Denver in June 1995. At the second Summit of the Americas, held in Santiago, Chile, in April 1998, the Leaders of the hemisphere formally initiated the negotiations and established nine Negotiating Groups – covering market access; agriculture; services; intellectual property; government procurement; investment; subsidies, antidumping and countervailing duties; competition policy; and dispute settlement. These groups have conducted negotiations for the last two years in Miami.

On the eve of the next Leaders' Summit, to be held in April 2001 in Quebec City, Canada, the countries of the Western Hemisphere are well on their way to making the vision of hemispheric free trade a reality. The nine Negotiating Groups have produced initial draft bracketed text in each of the

areas they cover.

An important component of the FTAA process has been an effort to build broad public understanding of and support for the FTAA by communicating openly with the public. For the first time in an international trade negotiation, a committee of all participating governments was established to provide an effective means for civil society to contribute to the negotiating process. Reports to the Ministers from the Government Committee on Civil Society summarize the range of views submitted by organizations and individuals from throughout the hemisphere in response to a formal invitation for written comments. The reports are available on the official FTAA internet homepage (www.ftaa-alca.org). In addition, USTR has posted on its homepage (www.ustr.gov) public summaries of key U.S. positions in the FTAA negotiations.

In order to ensure that the FTAA negotiations take into account new technologies in international commerce, the Ministers also established the Joint Private-Public Sector Committee of Experts on Electronic Commerce. This Committee's Reports to the Ministers also are available on the FTAA homepage. The Joint Committee will continue its work to expand the benefits and opportunities of the electronic marketplace in the Western Hemisphere and to provide guidance on how electronic commerce should be dealt with in the construction of the FTAA.

Finally, the FTAA countries are taking into account the differences in the levels of development and the sizes of the economies in the Americas, in order to create opportunities for full participation by all countries.

Highlights of the achievements since the launch of the FTAA in 1994 include:

- *Initiation of Negotiations.* Following a period of preparatory work among the 34 countries after the Miami Summit of the Americas in 1994, the 34 leaders at the Santiago Summit of the Americas in 1998 initiated the negotiations. Since then, the Negotiating Groups developed annotated outlines and then initial bracketed drafts of their respective chapters of the FTAA Agreement. At the next FTAA Trade Ministerial meeting to be held on April 6-7 in Buenos Aires, the Ministers will provide further instructions to the Negotiating Groups on the development of the texts of their chapters of the FTAA Agreement.

- *Implementation of Business Facilitation Measures.* The FTAA countries developed and are implementing a set of 10 transparency and eight customs-related business facilitation measures to facilitate the conduct of trade in the hemisphere even before the negotiations are completed. Among the most significant measures are: linking via the internet the websites of relevant governmental institutions covering the issues under negotiation in all the countries of the hemisphere to the FTAA public website; the expediting of express shipments; the simplification of procedures for low-value shipment transactions and for goods related to business travel; and the development of national codes of conduct for customs officials.

2000 Activities

In 2000, the United States and the 33 other FTAA countries made substantial progress in negotiations toward creation of the Free Trade Area of the Americas. Each of the nine FTAA negotiating groups prepared draft bracketed text for chapters in their respective areas that will constitute the core disciplines in the FTAA Agreement. These draft texts will be reviewed by the trade ministers at their next meeting in April 2001.

The negotiations are being guided by general principles and objectives approved by the leaders of the 34 democratically-elected FTAA countries.

Among the most important principles are that the FTAA should improve upon WTO rules and disciplines wherever possible and appropriate, and the outcome of the negotiations will be a "single undertaking," in the sense that signatories to the final FTAA agreement will have to accept all parts of it – they cannot pick and choose among the obligations. Among the most important objectives are progressively to eliminate tariffs and non-tariff barriers, as well as other measures with equivalent effects, which restrict trade; to bring under greater discipline trade-distorting practices for agricultural products, including those that have effects equivalent to agricultural export subsidies; to promote customs mechanisms and measures that ensure operations are conducted with transparency, efficiency, integrity, and accountability; to liberalize trade in services to achieve hemispheric free trade under conditions of certainty and transparency; to ensure adequate and effective protection of intellectual property rights, taking into account changes in technology; to establish a fair and transparent legal framework for investment and related capital flows; to make our trade liberalization and environmental policies mutually supportive; and to further secure the observance and promotion of worker rights, in particular the observance of internationally recognized core labor standards.

The United States participated actively in the nine negotiating groups established following the 1998 Santiago Summit of the Americas. Each of the negotiating groups – covering market access, agriculture, services, intellectual property, investment, competition policy, government procurement,subsidies/antidumping/ countervailing duties, and dispute settlement – met several times over the course of the last year in Miami, which has been hosting the negotiations and the Administrative Secretariat for the first three years of the negotiations. In addition, the United States chaired the Negotiating Group on Services during the year 2000.

Other governments throughout the hemisphere have joined in sharing the responsibility of leading the negotiations. During the year 2000, the following countries chaired the Negotiating Groups: Chile (Market Access), Brazil (Agriculture), Mexico (Intellectual Property), Trinidad and Tobago (Investment), Canada (Government Procurement), Colombia (Competition Policy), Venezuela (Subsidies/Antidumping/Countervailing duties), and Costa Rica (Dispute Settlement). Also during the year 2000, Bolivia chaired the Government Committee on the Participation of Civil Society, Guatemala chaired the Consultative Group on Smaller Economies, and Uruguay chaired the Joint Public-Private Sector Committee of Experts on Electronic Commerce.

As a result of U.S. efforts, the FTAA countries have been implementing eight customs-related and ten transparency-related measures which will help reduce obstacles to doing business in the hemisphere while the FTAA negotiations continue. The 34 countries are implementing these measures based on a common set of elements that specify what steps each country will undertake. Such measures will contribute to the FTAA goal of achieving economic prosperity through free trade and economic integration. Among the most significant measures to be implemented are: procedures to expedite express shipments, including customs authorities releasing shipments by within six hours of submission of necessary customs documentation; simplified procedures for low-value shipment transactions and for goods related to business travel; development of national codes of conduct for customs officials; and application of the 1996 Harmonized Commodity Description and Coding System at the six-digit level.

In order to improve transparency and facilitate business in the hemisphere, the participating governments also agreed to continue to make public commercially-useful information by posting on the official FTAA internet homepage (www.ftaa-alca.org) detailed information on each country's trade regime. The business facilitation measures were developed as a result of extensive consultation with the private sector, including identification of customs efficiency as a priority

area. The FTAA countries view business facilitation as an ongoing initiative and accordingly will be identifying a second round of business facilitation measures at the Ministerial meeting in April 2001.

As agreed at the 1998 San Jose trade ministerial meeting, Argentina has been chairing both the Ministerial and the Vice Ministerial (Trade Negotiations Committee) meetings for the period 2000-2001. Ecuador will take on this responsibility at the close of the April Ministerial meeting and hold the chairmanship from 2001 to 2002. Following Ecuador's chairmanship, the FTAA negotiations will conclude under the co-chairmanship of Brazil and the United States, the two largest economies in the hemisphere. The Trade Negotiations Committee (TNC) focused its work on both guiding the negotiations and the implementation of business facilitation measures. The TNC will continue both of these aspects of its work in the next period. It will also begin to examine general and institutional issues related to the negotiations, including ways to treat the differences in levels of development and size of economies in the hemisphere to ensure the full participation of all countries in the construction and benefits of the FTAA.

In keeping with the leaders' mandate to conduct the FTAA negotiations in a manner that will build broad public understanding of and support for the FTAA and recognizing the need for open communication with the public throughout the hemisphere, the trade ministers established a Committee of Government Representatives on the Participation of Civil Society. The Committee was created to provide an effective means for civil society (i.e., all segments of the public, including individuals and organizations representing interests such as business, labor, consumers, academics, and the environment) to contribute to the negotiating process. Ministers directed the Committee to obtain ongoing input from civil society and to provide reports, outlining the full range of views received, at their ministerial meetings for their consideration. The United States has pressed for the Committee's reports to encompass recommendations based on input from civil society; other FTAA participants have opposed the inclusion of recommendations. The Civil Society Committee has invited the public throughout the hemisphere to provide its views on the FTAA negotiations in order for the Committee to present the full range of views to Ministers before each Ministerial meeting. In addition to placing this invitation on the official FTAA website (www.ftaa-alca.org), countries agreed to use national mechanisms to disseminate the invitations further. In the United States, the invitations were disseminated through a variety of means, including press releases, letters and public meetings. In order to further enhance transparency of the negotiations, the U.S. Government also held open briefings and issued several Federal Register notices soliciting public comment on various aspects of the FTAA negotiations. The ministers made a major advance in opening the negotiations to civil society by reaching agreement on and publicizing through the official FTAA internet homepage (www.ftaa-alca.org) Committee Reports outlining the views received from civil society in the hemisphere during the course of the negotiations.

The United States has used the framework of the FTAA negotiations to identify and pursue trade-related environmental issues, consistent with the agreement at the 1994 Miami Summit of the Americas to pursue mutually supportive trade and environment policies. In 2000, the United States initiated an environmental review of the FTAA. Consistent with Executive Order 13141, the review was initiated through the Federal Register with a request for public comment. The review is intended to ensure that the potential environmental implications of the FTAA are taken into account during the negotiations. USTR also developed guidance in 2000 regarding the quantitative and methodological parameters of the review, which was placed on the USTR website for public comment.

In recognition that the FTAA negotiations must take into account new technologies in international commerce, the ministers established

the Joint Private-Public Sector Committee of Experts on Electronic Commerce. The Joint Committee's Reports to Ministers are publicly available on the official FTAA internet homepage (www.ftaa-alca.org) and are circulated to relevant authorities within the respective governments in the hemisphere. The dividends of electronic commerce are expected to benefit particularly the smaller companies and smaller economies in the hemisphere which traditionally have been hampered by limited information, high market entry costs, and distance from major markets. The Joint Committee concludes that electronic commerce "can make an important contribution to future sustainable economic growth in the Western Hemisphere." The Joint Committee will continue its work aimed at expanding the benefits and opportunities of the electronic marketplace in the Western Hemisphere and providing guidance on how electronic commerce should be dealt with in the construction of the FTAA.

As noted in the Santiago Summit Declaration, the participants in the FTAA are to "take into account the differences in the levels of development and size of the economies in the Americas, in order to create opportunities for the full participation by all countries." In order to ensure the full participation of smaller economies in the FTAA negotiations, the FTAA ministers established the Consultative Group on Smaller Economies. The Consultative Group, in which all 34 FTAA countries participate, keeps under review the concerns and interests of the smaller economies and makes recommendations to the Trade Negotiations Committee to address such issues.

The FTAA will result in greater market access for U.S. exports. U.S. goods exports to Latin America (excluding Mexico) have been in surplus since 1992 before falling into deficit in 1999 as a result of the recessionary economic conditions through much of Latin America. Since 1992, U.S. goods exports have increased 56.8 percent. Jobs supported by goods exports to Latin America (excluding Mexico) increased from an estimated 460,000 in 1992 to more than 660,000 in 1998 (latest data available).

B. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. The NAFTA is the largest and most comprehensive free trade agreement in the world. It also includes the most significant labor and environmental cooperation agreements that the United States has negotiated as part of a trade agreement. The NAFTA has dramatically improved our trade and economic relations with our neighbors. Trade among the three countries has expanded enormously, thus helping to fuel our unprecedented economic expansion and promoting our global economic leadership. In addition, we are engaged in a singularly intensive trade, labor and environmental cooperation program. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and a coordinated effort to better protect worker rights and the environment in North America.

We intend to build on the remarkable record to date that has seen Mexico become our second largest single-country trading partner and our fastest growing major export market over the last five years, despite the worst economic setback in Mexico in 60 years in 1994-95. The magnitude of our trade relations in North America is impressive: U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined.

More than 25 different NAFTA Committees, Working Groups and their subsidiary bodies complement our active bilateral agendas with Canada and Mexico. Overall direction to NAFTA implementation is provided by the annual NAFTA Commission, which is made up of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy.

NAFTA, which built on the U.S.-Canada Free

Trade Agreement (CFTA) of 1989, includes nearly 400 million people producing more than $10 trillion worth of goods and services. Since the Agreement's entry into force on January 1, 1994, the United States has worked to ensure that its market opening objectives are met, thus eliminating barriers to U.S. exports. (Bilateral issues are discussed in the separate sections on Canada and Mexico).

Upon the Agreement's entry into force, half of all U.S. exports to Mexico became eligible for duty-free treatment. This benefitted many sectors in which the United States is most competitive, such as semiconductors, computers, machine tools, aerospace equipment, and medical devices. Remaining tariffs are being eliminated on a ten or fifteen-year staging schedule.

January 1, 2001, marked the eighth consecutive year of reciprocal tariff reductions. The estimated average Mexican trade-weighted tariff on U.S. products has fallen from 10.0 percent to 1.27 percent, while the average U.S. tariff on Mexican products has fallen from 4.0 percent to 0.35 percent. Thus, U.S. firms have obtained more than an eight percentage point margin of preference compared to non-NAFTA competitors, while Mexican firms have obtained roughly a three percentage point margin of preference in the United States. Nearly all goods traded between Canada and the United States now enter each country free of any tariff.

Trade among the three NAFTA Parties has soared during the first six years of the Agreement, and continues to set new records. U.S. goods exports to our NAFTA partners rose more than 75 percent, to $253 billion. U.S. merchandise exports to Canada, our largest trading partner, climbed nearly 66 percent since the NAFTA entered into force. Despite the setback in export growth to Mexico in 1994-95 due to the peso crisis and economic downturn, U.S. merchandise exports to Mexico have more than doubled from pre-NAFTA levels (growing from $41.6 billion in 1993 to $87 billion in 1999). As a result, Mexico became our second largest single-country trading partner in 1999. Exports to our two North American trading partners, combined, account for approximately 36 percent of our global exports. Jobs supported by goods exports to NAFTA countries increased by 32.5 percent, from an estimated 2.0 million in 1993 to an estimated 2.6 million in 1998 (latest data available).

Elements of NAFTA

1. Tariffs

Following procedures set out in the NAFTA, the United States, Canada and Mexico concluded a third NAFTA tariff acceleration exercise on January 1, 2001. In the third round of tariff acceleration, the early elimination of tariffs on a variety of products affected nearly $750 million in trade. The trilateral agreements to eliminate tariffs demonstrated the broad support for increased trade among the NAFTA countries. The items identified for accelerated tariff elimination were selected based on requests by consumers, producers and traders who are eager to take advantage of the benefits of free trade throughout North America. Under the last agreement, the United States and Mexico eliminated tariffs on an equivalent set of products, while Mexico and Canada eliminated tariffs between their two countries on a parallel package of goods. As a result of the tariff acceleration, hundreds of items now enter each country free of tariff barriers, including chemicals, pharmaceuticals, leather footwear, and heavy machinery. The NAFTA countries will continue to consider additional tariff acceleration requests, based on expedited procedures agreed upon in 1999.

2. Removing Nontariff Barriers

The NAFTA went beyond tariffs and quotas by reducing or eliminating numerous nontariff barriers, such as import licensing and performance requirements. These were more prevalent in Mexico than in Canada. For example, pursuant to the Agreement, Mexico eliminated rules that had

forced U.S. manufacturing investors in Mexico to export their output (usually to the United States) rather than sell it in the Mexican market in order to qualify for significant tax benefits. Requirements that U.S. companies produce in Mexico in order to sell there are being phased out. These barriers had been especially hard on small U.S. businesses, which are often ill-equipped to wrestle with complex procedures and unable to invest in overseas manufacturing facilities.

3. Government Procurement

The NAFTA defines broad categories of government procurement contracts on which firms from the three Parties can bid, including many services, such as construction services. The Agreement provides for transparent tendering and bid protest procedures, establishes a bid challenge mechanism, and prohibits offsets, without restricting U.S. small and minority business programs. There is an effort underway in the NAFTA trilateral Working Group on Government Procurement to build upon the existing progress.

4. Intellectual Property Rights

The NAFTA contains specific obligations requiring high levels of protection for owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs. Such protection will increase trade while decreasing losses from piracy and counterfeiting. Products that benefit from the NAFTA's intellectual property rights (IPR) chapter are, for example, computer software, motion pictures, audio recordings, pharmaceuticals, agricultural chemicals, and computer chips. In response to U.S. industry concerns, the United States is pursuing strengthened IPR enforcement jointly with Mexico. (See bilateral section on Mexico in Chapter V for more details.)

5. Investment

The NAFTA provides comprehensive disciplines to ensure that foreign investors are provided the same treatment as domestic investors. The NAFTA includes disciplines on performance requirements which prohibit most requirements for local content, for the transfer of technology to competitors, and for exclusive suppliers of a particular product to a specific region or market.

The NAFTA Investment and Services Working Group (ISWG) maintains an active agenda. The Group continues to review the implementation of commitments related to investment and cross-border trade in services (NAFTA Annex I). In addition, the Group monitored the progress of various professions in their efforts to reach mutual recognition agreements for licensing and certification and discussed the status of implementation of the agreement on mutual recognition of engineers. The Group also discussed issues related to investor-state provisions of the NAFTA and continued its discussion of interpretation of certain provisions of Chapters Eleven and Twelve.

6. Rules of Origin

The NAFTA raised the North American content requirement for duty-free treatment of automobiles from 50 percent (as provided in the CFTA) to 62.5 percent, and introduced mechanisms to improve accountability. The NAFTA also contains special rules of origin for high technology products, textiles, and apparel.

The United States, Mexico, and Canada agreed to certain technical rectifications to the rules of origin contained in Annexes 401 (product-specific rules of origin) and 403.1 (tariff provisions for tracing purposes) of the NAFTA. These rectifications are intended to maintain consistency between Annexes 401 and 403.1 and the tariff schedules of the NAFTA Parties and became effective in March 2000. The NAFTA Rules of Origin Working Group discussed ways to simplify the rules of origin and agreed to develop a work plan to develop an appropriate methodology for such simplification, as well as to address automotive tracing requirements.

7. Agriculture

The NAFTA mandates the eventual elimination of all nontariff barriers to agricultural trade between the United States and Mexico. All quantitative restrictions on agricultural trade between the United States and Mexico were eliminated upon the NAFTA's entry into force, although a small number of products are subject to tariff-rate quotas during the transition periods. For import-sensitive industries, long transition periods for the elimination of over-quota tariffs and special safeguards allow for an orderly adjustment to barrier-free trade with Mexico. All agricultural provisions will be implemented by the year 2008.

Under the provisions of the CFTA, which were incorporated into the NAFTA, all tariffs affecting agricultural trade between the United States and Canada were removed on January 1, 1998. The only special exceptions are for U.S. imports of dairy products, sugar, certain sugar containing products, peanut butter, and Canadian imports of dairy products, poultry, eggs and margarine, which are covered by tariff-rate quotas.

The NAFTA Committees and Working Groups which oversee the implementation of the NAFTA's agricultural provisions include the Committee on Agricultural Trade, the Working Group on Grade and Quality Standards in Agriculture, the Working Group on Agricultural Subsidies, and the Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods. These groups addressed issues such as tariff rate quotas, export subsidies and domestic support programs. As a result of work of the Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods, an independent body was established in 2000 to mediate commercial disputes involving trade between the United States, Mexico and Canada in fresh fruits and vegetables.

8. Food Safety and Sanitary/Phytosanitary Measures

The NAFTA recognizes the right of its members to impose measures necessary to protect food safety and animal and plant health. However, the NAFTA requires that measures not be merely a way to protect domestic industries from foreign competition. Also, measures must be based on scientific principles and risk assessments and must be applied only to the extent necessary to provide a country's chosen level of protection.

The NAFTA created a trilateral Committee on Sanitary and Phytosanitary Measures for resolution of issues surrounding food safety and animal and plant health. The Committee has considered a range of bilateral issues, facilitating trade in a number of agricultural goods, and is helping to implement the U.S. food safety initiative, which was first announced in 1997.

9. Safeguards

The NAFTA provides methods for protecting American industries and workers from injury – or the threat of injury – from surges in imports through two safeguard provisions. A bilateral safeguard permits a temporary "snap-back" to applied MFN tariff rates, and a global safeguard maintains our right to impose measures on Canada and Mexico as part of a multilateral action when imports from either country seriously injure U.S. firms.

10. Services

The NAFTA strengthens rules and broadens coverage to all service providers, except those that are specifically excluded. The Agreement opens new market opportunities for U.S. service companies by allowing them to provide services directly from the United States on a non-discriminatory basis. It encourages elimination of citizenship requirements for licensing and certification of professionals.

Subsidiaries of securities firms from NAFTA countries had individual and aggregate capital limits during the 1994-1999 transition period. The limits were eliminated in 2000 but foreign

securities firms are still subject to the same three-year safeguard as banks. The NAFTA Financial Services Committee has finalized rosters for financial services panelists for disputes under Chapter Fourteen, established "inquiry points" for each Party pursuant to the requirement of NAFTA Article 1411(6), agreed to update, on an annual basis, federal reservations set out in the Annex VII Schedules, consulted on Mexico's aggregate limit on limited scope financial institutions, and reviewed market access issues arising from NAFTA Article 1403(3) following the entry into force of the U.S. Interstate Banking and Branching Efficiency Act.

11. Standards

The NAFTA ensures that Canadian and Mexican product standards, regulations, and conformity assessment procedures do not discriminate against U.S. exports or create needless barriers to trade. The Agreement preserves our right to establish and enforce our own product standards and regulations, particularly those designed to promote safety and protect human, animal and plant life, and health and the environment. In 2000, the trilateral NAFTA Committee on Standards-Related Measures met to discuss issues associated with implementation (e.g., the operation of central contact points for information), and to exchange information on standards-related developments in the respective countries and related international and regional fora.

The Telecommunications Standards Subcommittee (TSSC), made up of telecommunications trade and regulatory officials from the three NAFTA signatory countries, meets to discuss, monitor, and facilitate the implementation of the telecommunications-related provisions of the NAFTA. Work focuses on implementing the TSSC's multi-year work program on standards harmonization for wired and wireless equipment, and facilitating more streamlined testing and certification procedures within the NAFTA.

The NAFTA Land Transportation Standards Subcommittee (LTSS) continues its work on safety issues. In 2000, the LTSS progressed toward developing more compatible standards related to truck, bus & rail operations and the transport of hazardous materials among the United States, Mexico and Canada. Specifically, the LTSS addressed issues related to vehicle and driver standards, vehicle weights and dimensions, and the transport of hazardous materials.
The NAFTA Subcommittee on Labelling of Textile and Apparel Goods is developing a trilateral standard in the area of care labelling of textiles.

12. Review of Dumping and Subsidy Determinations

Under NAFTA Chapter 19, the United States is not required to make any substantive change in its antidumping (AD) or countervailing duty (CVD) laws. The NAFTA did require Mexico to undertake far-reaching reforms to provide full due process guarantees and effective judicial review to U.S. exporters. The NAFTA establishes a mechanism for independent binational panels to review final U.S., Canadian, and Mexican AD and CVD determinations when such a review is requested by a person entitled to judicial review under the domestic law of the importing country. This is essentially the same review system that the United States and Canada have applied under the U.S.-CANADA FTA. In the six years that the NAFTA has been in force, 53 Chapter 19 panels have completed their work or have cases pending.

13. Mechanisms to Implement the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission, chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy. The NAFTA Commission, modeled after the U.S.-Canada Trade Commission under the U.S.-Canada FTA, is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement. The Commission held its last annual meeting in April 1999 in Ottawa, Ontario. At that

meeting, it directed officials to continue a trilateral operational review of the work program of the NAFTA Committees, Working Groups, and their sub-committees and sub-groups. As a result of the review, new direction was provided to the more than 25 different committees, subcommittees and working groups. The work program itself is guided by the NAFTA Coordinators operating under the oversight of deputy ministers.

14. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC also has generated an unprecedented trilateral work program in the areas of industrial relations (i.e., the right to organize and bargain collectively), occupational safety and health, employment and training and child labor and gender initiatives. Each NAFTA Party also has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate the expansive cooperative work programs. In addition, the Agreement created a trinational NAFTA Labor Secretariat.

Under the NAALC and various NAO procedural guidelines, citizens of any NAFTA signatory can file a submission to request their government to review the labor practices of a NAFTA partner. Several submissions have resulted in ministerial consultations and the adoption of work programs to address the underlying concerns. For example, the National Law Center for Inter-American Free Trade (NLCIFT) has presented to the U.S. NAO a report on Emergency Procedures for Resolving Labor-Management Disputes in the United States, Canada, and Mexico, which examines laws and procedures that can be used in the event of special or extraordinary circumstances associated with labor disputes in the NAFTA countries. The report is relevant to the issues raised in a U.S. NAO submission.

The Secretariat for the Commission of Labor Cooperation is engaged in several important ongoing research projects. Among them are a comprehensive, three-volume comparison of labor law in North America; a study of standard and advanced labor relations, work organization practices and use of technology in the garment industry; and a study focusing on the participation of women in the labor forces of the NAALC countries. The work of the Secretariat has greatly enhanced our understanding of each other's labor laws, and has resulted in better cooperation among the NAFTA countries.

The Parties have held more than 45 trilateral conferences, seminars, and technical exchanges to share information and make improvements in many critical areas. Conferences held in 2000 addressed issues related to health and safety in the workplace, freedom of association, the rights of women in the workplace, and migrant labor. By addressing issues of labor rights, the NAALC has contributed to the growth and development of labor unions within our countries as democratic institutions that will help ensure the participation of workers and their prosperity.

15. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the North American Commission on Environmental Cooperation (CEC), the Council of which is made up of the environmental ministers from the United States, Canada, and Mexico. The Commission's work is supported by an Environmental Secretariat located in Montreal.

The 2000-2002 Program Plan is centered around four core program areas: Environment, Economy and Trade; Conservation of Biodiversity; Pollutants and Health; and Law and Policy. Within these areas, a number of programs are set out to further the objectives of the NAAEC. Specific projects outline the concrete steps to be

undertaken by the organization to implement these objectives. The programs and projects will continue to evolve over a three-year cycle in response to the results achieved each year.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. The governments established two institutions, the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB), which now are working with close to 100 communities along the Mexico-U.S. border.

As of September 30, 2000, the BECC had certified 42 water, wastewater, and municipal solid waste infrastructure projects. These projects will represent a total estimated investment of $945 million, benefitting over seven million border residents. Twenty-five certified projects are located in the United States; seventeen are located in Mexico. Under Articles 14 and 15 of the NAAEC, the CEC Secretariat may consider a submission from any person or non-governmental organization asserting that a Party to the NAAEC is failing to effectively enforce an environmental law. Such submissions can result in the preparation of a factual record and the publication of this record. In 2000, six new submissions were filed bringing the total to twenty-eight. To date, two factual records have been prepared (one involving a commercial pier in Cozumel, Mexico and another involving hydroelectric facilities in British Columbia, Canada) with one more currently under development (involving an abandoned lead smelter in Tijuana, Mexico). In 2000, the CEC Secretariat notified the CEC Council that a factual record is warranted on three more submissions (one involving the Migratory Bird Treaty Act in the United States, another relating to a shrimp farm in Nayarit, Mexico, and a third regarding fish habitat and environmental assessments in Alberta, Canada).

16. Temporary Entry of Business Persons

Under provisions set out in Chapter 16 of the NAFTA, a citizen of a NAFTA country may work in a professional occupation in another NAFTA country provided that the profession is on the NAFTA list of professions; the alien possesses the specific criteria for that profession; and the prospective position requires someone in that professional capacity. The NAFTA Temporary Entry Working Group is responsible for the implementation and administration of NAFTA Chapter 16. The interagency U.S. delegation meets annually with its counterparts from Canada and Mexico to review progress and address issues related to implementation.

C. Asia Pacific Economic Cooperation

Overview

Over the past seven years, the Asia Pacific Economic Cooperation (APEC) forum, which was founded in 1989, was transformed from a largely consultative body to a dynamic force for market opening and trade expansion in the Asia Pacific region, and in the world. Recognizing that the Asia Pacific accounted for more than half of the U.S. exports to the world, and had steadily increased in importance in recent years, President Clinton invited Leaders from 18 Asia Pacific economies to Blake Island, Washington in 1993, the first ever regional meeting of Leaders.

The growth in U.S. goods exports to APEC clearly demonstrates the benefits of market opening and trade expansion. Since 1992, U.S. exports to APEC increased nearly 80 percent, including a 15 percent increase in 2000 . In 2000, two way trade with APEC members is estimated to reach $1.28 trillion, a 17.5 percent increase over 1999 (annualized estimate based on 10 month data). It was at Blake Island that APEC Leaders first expressed their collective desire to move toward an "Asia Pacific community" of economies. This presaged a series of accomplishments which established APEC as the preeminent forum for trade liberalization and open markets in the Asia

Pacific region. In particular:

- In 1994, APEC Leaders announced their commitment to the "Bogor vision" to establish free and open trade and investment in the region by 2010 for industrialized economies and 2020 for developing economies;

- In 1995, the Osaka Action Agenda, which developed a specific road map for opening markets in the region in 14 substantive areas, was agreed upon;

- In 1996, APEC economies submitted their first "Individual Action Plans" indicating how they intended to move toward fulfillment of the Bogor goals. Moreover, APEC Leaders called for conclusion of the Information Technology Agreement (ITA) in the WTO, which acted as a decisive catalyst toward successful completion of this agreement – one of the world's largest trade agreements ever in terms of trade coverage – in 1997; and

- In 1997 and 1998, APEC Leaders, seeking to further advance APEC's leadership role in the multilateral trading system, called for the opening of 15 key sectors on a global basis, developed the details for market opening in each sector, and affirmed their commitment to working to this end in the WTO.

- In 1999, APEC Leaders called for a new round of WTO negotiations, to include among other things industrial tariffs, the abolition of agricultural export subsidies, as well as the eight "accelerated tariff liberalization" sectors that they had identified in 1997-98.
- In 2000, APEC Leaders reiterated the importance of agreement on a WTO agenda as soon as possible in 2001, and the need to launch a new WTO round before the end of the year in 2001. They also launched a broad based Action Agenda on the New Economy, to ensure that APEC members used advances in information technology to boost productivity and stimulate economic growth in the region.

2000 Activities

As economic recovery from the financial crisis took hold in the region in 2000, APEC Trade Ministers and Leaders reaffirmed the importance of moving forward to launch multilateral trade negotiations in the coming year, stressed the region's continued commitment to trade expansion and market opening, and moved forward in concrete ways to facilitate, open and expand trade. Though APEC economies continued to grow and open their markets in 2000 (see the *APEC 2000 Economic Outlook,* and the *2000 Individual Action Plans* at www.apecsec.org.sg, for further detail on growth and trade liberalization, respectively), Ministers and Leaders stressed the need to show continued leadership on global trade issues, in particular in view of the inconclusive results of the WTO Ministerial meeting in December 1999. They took note of the extraordinary economic and social progress that had been experienced in APEC economies during the past decade, resulting from an unwavering commitment to open markets and continued trade liberalization. Analysis of this progress in detailed in *Open Economies Delivering to People, APEC's Decade of Progress* (also found at www.apecsec.org.sg).

Important activity took place at all APEC levels in 2000, from the Leaders and Ministerial agreements to the work of Senior Officials and the Committee on Trade and Investment to give effect to APEC's vision of free and open regional trade and investment and to fulfill Ministerial and Leaders instructions. APEC demonstrated its continuing commitment to this vision in several concrete ways. In particular, it:

- reaffirmed its commitment to play a leading role in the multilateral trading

system;

- took specific steps to advance its own work program of regional trade and investment liberalization and facilitation; and

- began to discuss and express views on the proliferation of sub-regional trade agreements in the Asia Pacific region.

1. Leadership in the Multilateral Trading System

PEC Trade Ministers indicated clearly their desire for the region to continue to play a leading, catalytic role in fostering the opening of markets worldwide. With the aim of restoring momentum to the multilateral trading system after the inconclusive WTO Ministerial in December 2000, APEC Trade Ministers at their June 2000 meeting in Darwin, Australia stressed the need for an early launch to a new WTO round, and in addition to endorsing ongoing and mandated negotiations in services and agriculture, called for preparatory work in the WTO on industrial tariffs and related areas. APEC Ministers and Leaders built on this outcome when the met in November, when they agreed that a balanced and sufficiently broad based agenda responding to the interests and concerns of all WTO members should be formulated and finalized as soon as possible in 2001, and that a round be launched in 2001. They also called for the establishment of an ad hoc analytic task force in the WTO which would examine how WTO rules are relevant to the evolution of electronic commerce.

In addition, to contribute in a concrete way to building confidence in the WTO, APEC Ministers and Leaders endorsed a strategic plan on building capacity in developing countries to implement existing WTO agreements. This strategic plan will be further developed and implemented in 2001.

2. Advancement of APEC's Work on Trade and Investment Liberalization and Facilitation

APEC continues to take concrete steps to ensure that its member economies make steady progress toward achieving the "Bogor goals" of free and open trade and investment in the region. APEC work on trade and investment liberalization and facilitation is overseen by the *Committee on Trade and Investment* (CTI) and its sub-fora. The CTI and sub-fora have well-developed, specific work programs in the fifteen substantive issue areas, as first defined in the 1995 Osaka Action Agenda. These areas are: tariffs, non-tariff measures, services, investment, government procurement, standards and conformance, customs, competition policy, deregulation, intellectual property rights, dispute mediation, mobility of business people, rules of origin, and implementation of the Uruguay Round.

While the CTI has overall responsibility for developing and overseeing work in these 15 areas, much of the work program at a technical level is conducted by CTI sub-fora. The Committee met three times during 2000 in Bandar Seri Begawan: 16-17 February; 30-31 May; and 19-20 September. In addition, the following CTI sub-fora met:

- *Market Access Group* (MAG) – Bandar Seri Begawan, 18 February; and Bandar Seri Begawan, 17 September;

- *Group on Services* (GOS) – Bandar Seri Begawan, 18-19 February; Bandar Seri Begawan, 28-29 May; and Bandar Seri Begawan, 17-18 September;

- *Investment Experts' Group* (IEG) – Shanghai, China, 17-18 March; Bandar Seri Begawan, 27-28 May; and Bandar Seri Begawan, 15-16 September;

- *Sub-Committee on Standards and Conformance* (SCSC) – Bandar Seri Begawan,

18-19 February; Bandar Seri Begawan 28-29 May; and Bandar Seri Begawan, 17-18 September;

- *Sub-Committee on Customs Procedures* (SCCP) – Bandar Seri Begawan, 18-20 February; and Bandar Seri Begawan 16-18 September;

- *Intellectual Property Rights Experts' Group* (IPEG) – Sapporo, Japan, 2-3 March; and Cheju, Korea, 12-13 July;

- *Competition Policy/Deregulation Workshop* – Bandar Seri Begawan, 27-28 May;

- *Government Procurement Experts' Group* (GPEG) – Bandar Seri Begawan, 12-13 February; and Bandar Seri Begawan, 15-16 September;

- *Informal Experts' Group on the Mobility of Business People* (IEGBM) - Bandar Seri Begawan, 18-19 February; and Bandar Seri Begawan, 30-31 May.

Progress on Collective Action Plans

Among other things, the CTI and its sub-fora are responsible for implementing APEC's "Collective Action Plans" in each of the fifteen areas. The objective of the Collective Action Plans is to develop cooperative means and programs by which APEC members progress toward the APEC goals of regional open and free trade and investment. In 2000, a number of concrete results were achieved in the implementation of these Collective Action Plans. A complete description of steps undertaken in advancing Collective Action Plans can be found in the *Committee on Trade and Investment's 2000 Annual Report to Ministers*, which is at the APEC Secretariat's website (http://www.apecsec.org.sg). In 2000 and 2001, the United States serves as the Chair of the Committee on Trade and Investment.

Highlights of Collective Actions conducted by some of the key of the CTI Sub-fora are outlined below.

The *Sub-Committee on Standards and Conformance* (SCSC), in addition to furthering its core work of further aligning member economy standards with international standards, developed the Principles and Features of Good Practice for Technical Regulations and the Information Notes, which would provide APEC member economies with guidance for adoption of efficient regulatory arrangements leading to reductions in technical barriers to trade. It also developed a work program on trade facilitation in information technology products in collaboration with the Information Technology Industry Council (ITI).

The *Sub-Committee on Customs Procedures* (SCCP) completed much of its agreed work programs on important customs areas such as WTO Valuation, WTO TRIPS (on border control), Clear Appeals Provisions, Advance Classification Ruling, Temporary Importation and Express Consignment. The SCCP has published the 2000 SCCP Blueprint: Meeting the Challenges of Modern Business Environment, an annual publication which maps out the SCCP work program to enable the business sector to visualize the future changes and positive impacts they will have on the trading community. It also developed plans to improve the levels of "Integrity" in Customs Administrations, a collective action newly introduced in 1999.

The *Market Access Group* (MAG) undertook a stock-take of work in the non-tariff measures (NTMs) area by various fora, including identifying the types of NTMs with a view to intensifying work on reducing NTMs. It discussed a list of ideas for future NTMs Work Program and agreed to adopt some of the elements as CAPs for implementation in 2001. These elements included (i) undertaking research and providing a basis for policy discussions on trade regulations and administrative arrangements that focus on procedural elements of trade processes in collaboration with other APEC fora; (ii) undertaking a series of policy discussions on

NTMs with a view to exploring issues surrounding their progressive reduction, and devising practical options for their progressive reduction on a voluntary basis; (iii) further developing the MAG homepage of links to websites of APEC member economies dealing with trade regulations and associated administrative arrangements as a resource to business and other economies; (iv) expanding the MAG website by publishing other appropriate MAG papers on the website; and (v) maintaining a dialogue with other APEC fora on aspects of their work programs which address NTMs. In addition, MAG also agreed to undertake a study in the tariffs area with respect to trade data and tariff information.

The *Group on Services* (GOS) completed its development of a broader policy framework for work on services, taking into account the cross-cutting nature of services work. The Framework will facilitate the better organization of APEC services work as well as better coordination of the APEC service-related fora/sub-fora. To implement the Policy Framework, GOS has commenced development of the Menu of Options for Voluntary Liberalization, Facilitation and Promotion of Economic and Technical Cooperation in Service Trade and Investment.

The *Intellectual Property Experts' Group* (IPEG), in response to the post TRIPS era, is in its final stages of completing a new Collective Action Plan on IPR. As part of the new CAP, the IPEG agreed to undertake a program of information exchange and technical cooperation to promote strong management practices for software and other IP assets in APEC economies.

The *Workshop on Competition Policy and Deregulation* (CPD) considered effective ways to implement the APEC Principles on Competition and Regulatory Reform. It identified two areas, which it would be looking into as part of its future work program. These relate to (i) the facilitation of the basic understanding by APEC fora and sub-fora of the Principles and its implications for the process of implementation in each respective area and (ii) the design of effective and efficient means for reporting on the advancements of the process of implementation of the Principles by APEC fora and sub-fora.

The *Government Procurement Experts' Group* (GPEG) advanced the process of voluntary reviews by economies on consistency of their government procurement regimes with the APEC Non-Binding Principles on Government Procurement. Four economies presented full review reports in 2000, and others will report in 2001, regarding the transparency principle. GPEG adopted a work program to address capacity building for implementing the principles, including electronic procurement. It also discussed alternative approaches to encourage domestic suppliers to participate in competing to supply government procurement needs without restricting competitive opportunity for foreign suppliers.

The *Informal Experts' Group on Mobility of Business People* (IEGBM) continues to work to facilitate business transfers. IEGBM focused on streamlining business temporary residence and undertook activities such as: (i) conducting an evaluation of the extent to which member economies have implemented streamlined arrangements for the intra-company transfer of senior executives and managers; (ii) considering extending streamlined business temporary residence processing to specialists; and (iii) undertaking a capacity building project in immigration facilitation techniques, aimed at helping member economies make progress on the temporary residence initiatives. The IEGBM has started to consider standards for travel, entry and stay in APEC economies, a new collective action for 2000/01.

Work on the "EVSL" Sectors

The CTI also oversaw work to address non-tariff measures, facilitate trade, and conduct economic and technical cooperation in each of the sectors selected by APEC Leaders for "early voluntary liberalization." Key among these was agreement to a proposal by the Asia-Pacific Chemical

Industry Coalition (APCIC) to set up a APEC *Chemical Dialogue* in which senior government and industry representatives would meet regularly. The terms of reference for this Dialogue will be developed in 2001.

In addition, the second meeting of the *APEC Automotive Dialogue* was held successfully on 6-8 April 2000 in Manila with more than 170 participants from industry and government. A substantive work program requiring close consultation with other APEC fora, particularly in the areas of customs, standards and intellectual property rights, has been established.

Several EVSL-related projects were also successfully implemented. These include:

- *Toys*: The APEC Seminar on the ISO Global Safety Standard, IS 8124 was held on 20-22 March 2000 in Hong Kong.

- *Medical equipment and instruments*: The Seminar for Government Regulators/ Harmonization of Medical Equipment Regulation was conducted on 1-2 March 2000 in Singapore. The Seminar covered topics such as Quality System Requirements and Guidance, Pre-market Review, Vigilance and Post-Market Surveillance and Auditing.

- *Gems & Jewelry*: The APEC Gems and Jewelry Trade and Technology Seminar was held in Beijing on 15-19 May 2000. The seminar discussed a broad range of topics in the area of processing and trade of Gems and Jewelry within APEC.

- *Forest Products:* The completion of the NTM study on Forest Products. The publication is available in both hard copy and electronically on the internet at the APEC Secretariat's homepage, www.apecsec.org.sg/pubs/freepubs.html#2000

- *Food*: The Seminar on Public Health Issues in Animal Production/Animal Products held in Beijing, China on 15-19 October 2000. The seminar was aimed at increasing the safety of food and enhancing environmental protection.

Improving the Individual Action Plans (IAPs)

The CTI and its sub-fora also played a lead role in responding to Ministerial instructions to improve the Individual Action Plan (IAP) process. IAPs, first developed in APEC in 1996, are the chief means by which APEC members report how they plan to comply with the goal of achieving free and open trade and investment in each of the 15 substantive areas. The major focus of work to reform and improve the IAP process in this work in 2000 was the development of the "electronic-IAP," which will enable information in the IAPs to more accessible, searchable, and comparable among economies and between years, on the internet. CTI completed work on a prototype "e-IAP" in 2000, which member economies will use in completing their action plans in the coming year. The delivery of the e-IAP responds to the APEC Business Advisory Council (ABAC) recommendations for IAPs to be more transparent, specific and comprehensive.

3. Regional Trade Agreements

Noting the increasing number of free trade agreements being either studied, negotiated, or concluded among countries in the APEC region, APEC officials and Ministers conducted several policy discussions in 2000 to exchange views on these developments, and the effect they may have on regional and multilateral efforts to free trade. APEC Ministers agreed in November that sub-regional and bilateral trade agreements should serve as building blocks for multilateral liberalization in the WTO. They considered it essential that such agreements be consistent with WTO rules and disciplines, and that they should be in line with APEC architecture and supportive of APEC goals and principles.

V. Bilateral Negotiations

A. Asia and the Pacific (Other than China & Japan)

Overview

The dramatic expansion of trade and economic growth in the Asia Pacific region over the past decade was due in large measure to the progressive and steady opening of markets in the region. While numerous barriers to trade in the region still exist, significant progress was made in the past decade in dismantling impediments to trade. The commitment of regional leaders in the Asia Pacific Economic Cooperation (APEC) forum to move forward toward free and open regional trade and investment has been an important factor in spurring this regional trend (see Chapter IV for information on APEC). In addition, the Administration has delivered results in bilateral negotiations and consultations with countries in the region, opening markets of interest to American farmers, manufacturers, and services providers, and protecting intellectual property, which is critical to U.S. exporters in the high-tech, entertainment and other key sectors.

Highlights of the achievements in this region include:

- *Effective Enforcement of Trade Commitments through WTO Dispute Settlement.* The United States effectively used the WTO Dispute Settlement mechanism to ensure that countries in the region implemented their multilateral commitments. The United States prevailed in cases involving: discriminatory liquor taxes in Korea; Korea's discriminatory import regime for beef; automotive subsidies and barriers in Indonesia; prohibited export subsidies on automotive leather in Australia; exclusive marketing rights in India for pharmaceutical and agricultural chemical products; and quantitative restrictions applied by India on a wide range of imported products.

  The WTO Dispute Settlement process also facilitated settlements favorable to the United States in a dispute with Korea on shelf-life requirements for food products, with the Philippines on pork and poultry imports, and with Pakistan on exclusive marketing rights for pharmaceuticals and agricultural chemicals.

- *A Series of Significant Market Opening Agreements with Korea.* Through a combination of bilateral consultations, the use of U.S. trade remedy law, and action in the WTO, the United States has concluded agreements with Korea, and obtained commitments from its government: (1) in 1990, 1993, and 2000, to open its market for beef; (2) in 1995, to reform its government mandated shelf-life system, which had impeded the import of meat products; (3) in 1995, to address market access problems for trade in passenger cars; (4) in 1998, to further reduce trade barriers affecting passenger vehicles and to render trade in minivans and sport utility vehicles fairer; (5) between 1995 and 1998, to revise Korean import clearance procedures, thereby expediting the import of several key U.S. agricultural exports; (6) in 1998 and 1999, to take steps to privatize the second largest steel company in the world and to get the Korean Government "out of the steel business;" (7) in 1999, to reform its pharmaceutical pricing and regulatory policies, thereby

making the drug approval process in Korea faster and less onerous; and (8) in 1996, an agreement, and in 1997, a policy statement, to ensure equal treatment for foreign goods, services and intellectual property rights protection in telecommunications.

- *Normalization of Trade Relations with the Countries of Indochina.* As a result of the Vietnam era conflict, Cambodia, Laos and Vietnam were three of only seven countries in the world not to receive normal trade relations (NTR) status from the United States. In 1996, the United States completed a bilateral trade agreement with Cambodia granting it NTR status; in 1997, a comprehensive bilateral trade agreement and bilateral investment treaty were concluded with Laos (Congressional approval is still required to grant NTR under the terms of this agreement); and in July 2000, the United States and Vietnam signed a bilateral agreement granting NTR status to Vietnam, with provisions covering market access for goods and services, intellectual property and investment issues. (The agreement requires final formal assent by the Vietnamese and U.S. Congressional approval.)

- *Significant Progress in Protecting Intellectual Property Rights.* Bilateral consultations and negotiations with a number of countries in the region resulted in significant new commitments to protect intellectual property. These include: conclusion by Thailand of a comprehensive IPR action plan in 1998; enactment of two TRIPS-related laws; patent amendments and plant varieties in 1999, and trademark amendments and integrated circuits in 2000, all of which followed extensive consultations with USTR; submission in 2000 of draft legislation to Parliament by the Indonesian Government; action by the Malaysian Government in 2000 to reduce pirated optical media production and export; as a direct result of the "Special 301" process, an action plan by Korea in 1997 to combat copyright piracy, improve patent enforcement and improve its trademark and industrial design laws; and a bilateral agreement with Vietnam in 1997, which grants legal protection to all U.S. copyrighted works in that country for the first time.

- *Enhanced Access for U.S. Agriculture and Processed Food Exports.* The United States has vigilantly utilized WTO procedures and bilateral consultations to reduce Asian restrictions which impede market opportunities for U.S. agriculture and food exporters. In addition to the agriculture-related WTO disputes mentioned elsewhere, resolution of India's balance of payments restrictions resulted in the elimination of quantitative restrictions affecting a broad range of agricultural and processed food products. In Southeast Asia, particularly during the recent economic turmoil and currency volatility, U.S. efforts concentrated on a host of measures which threatened U.S. agriculture exports, including: Philippine arbitrary customs valuation practices; Thai tariff adjustments and import licensing restrictions; Malaysian food standards and certification; and Indonesian tariff adjustments and monopolistic distribution channels.

- *Ensuring that Responses to the Financial Crisis are Market Opening.* USTR worked with Treasury and other agencies to ensure that International Financial Institutions (IFIs) stabilization programs adopted by countries effected by the financial crisis (including Korea, Indonesia and Thailand) worked to open markets and expand competition. Many aspects of these programs have a direct bearing on trade, in areas such as improved market

access, ransparency, economic deregulation, attracting investment, and allocating public and private resources based on market disciplines. The United States continues to monitor the trade-related aspects of these programs closely to ensure their effective implementation.

2000 Activities

The countries in the Asia Pacific region are continuing to work to recover from the financial crisis of 1998. The economies hardest hit by the financial crisis – Korea, Thailand, Philippines, Malaysia and Indonesia – continue to have overall positive growth rates in 2000, with much of the growth led by exports.

U.S. goods exports to APEC countries grew approximately 15.6 percent in 2000, an indicator that these countries are continuing to recover from the Asian financial crisis. Meanwhile, U.S. imports from APEC countries grew 18.7 percent in 2000 over the previous year, highlighting the export-based nature of the recovery.

The United States has a full agenda of specific bilateral impediments that it is tackling in the Asia Pacific region, as described below. It also continues to work regionally, primarily through APEC, to foster concrete movement toward more open markets, as described elsewhere in this report. In addition, it is using the WTO process – both in enforcing existing commitments and in its future work program – to further drive open markets and expand trade in a region that accounts for over half of total U.S. exports. The negotiation of a comprehensive U.S.-Singapore Free Trade Agreement would complement both our regional and multilateral work by serving as a significant step toward realization of APEC's "Bogor Vision," under which APEC's 21 members are working toward "free and open trade in the Pacific" and by underscoring the benefits of further trade liberalization.

1. Australia and New Zealand

Despite some limited progress in recent years, Australia's market for agricultural commodities continues to be closed for some products due to sanitary and phytosanitary measures. For example, the United States is waiting for the Australian Government to issue a science-based risk assessment to justify its prohibition on the importation of U.S. table grapes.

The WTO validated the U.S. and Canadian complaint in a case on barriers to Australia's fresh, frozen and chilled salmon market. With Australia's June 1, 2000 amendments to its quarantine policies regarding these products, U.S. exporters now have access to a market that had been closed for more than 20 years. The WTO SPS Agreement provided the lever to push Australia to allow entry of U.S. salmon.

On June 21, 2000 the United States resolved a dispute it brought to the WTO over subsidies to Australia's sole exporter of automotive leather. The WTO found that Australia's subsidies violated its obligations under the WTO Agreement on Subsidies and Countervailing Measures. Under the resolution agreement, the subsidy recipient agreed to a partial repayment of the prohibited export subsidy it received, and the Australian Government committed to exclude this industry from current and future subsidy programs, and to provide no other direct or indirect subsidies.

New Zealand's one-year-old Labour/Alliance Government committed to change the previous government's law on parallel imports to prohibit parallel imports of CD's, films, videos and software"creative works" (copyrighted products such as film, video, software, music and books) for up to two years after initial release. To date, the New Zealand Government has not implemented this commitment and parallel imports are still permitted.

The New Zealand Government has created a Royal Commission on Biotechnology to study for one

year various issues involving food produced from grains grown using this technology. During this time, there is a "voluntary" moratorium on new field trials and commercial release of genetically modified products. On a separate front, the Australia-New Zealand Food Safety Council (ANZFSC) has approved a rule requiring labeling of all genetically-modified food products beginning in late 2001.

2. The Association of Southeast Asian Nations (ASEAN)

The trade and investment relationship between the United States and the members of the Association of Southeast Asian Nations is strong, mature, and mutually beneficial despite the continuing effects of the Asian financial crisis on Asian economies. Two-way trade in goods increased an estimated 15 percent (annualized based on the first 10 months of 2000), from $115 billion to $132 billion, with U.S. exports to ASEAN in 2000 increasing by an estimated 17 percent. This growth reflects the recoveries from the Asian financial crisis underway in a number of ASEAN economies. The now ten-member ASEAN group – comprising Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam – collectively continues to be the United States' fifth largest trading partner. As such, the United States has an important stake in ASEAN's economic recovery and is committed to working closely with ASEAN as an institution, and with ASEAN member countries individually, to pursue and promote our mutual trade and investment interests.

The ASEAN countries have witnessed a number of important developments during the last few years. The economic turmoil which began in 1997 has caused significant economic dislocation, but also has been the impetus for economic reform and restructuring that has promoted recovery and will benefit these countries in the future. The crisis has also stimulated dialogue between the United States and ASEAN countries, as well as more regular discussion between ASEAN and its Asia neighbors, including China, Japan and Korea. The year 2000 marked the first full year of the ten-member ASEAN.

While ASEAN's gradual expansion over time has added to the association's diversity, it has also posed new challenges, which manifest themselves as more complicated decision-making and the lack of ASEAN solidarity in other fora, such as APEC and the WTO (in which some ASEAN members do not participate). Tensions have also surfaced in terms of individual member's economic difficulties and selective implementation of trade-related initiatives undertaken within ASEAN. In order to ensure that these intra-ASEAN undertakings do not adversely affect U.S. interests, we have stressed the importance that such undertakings be consistent with WTO rules, be taken in the spirit of APEC's goals and principles, and be faithfully implemented if ASEAN hopes to attain its own developmental goals and in order to promote a business- and investor-friendly environment.

In 1993, the then-seven members of ASEAN created the ASEAN Free Trade Area (AFTA) as a means to promote regional economic competitiveness and prosperity. The objective of AFTA is to promote trade among ASEAN member countries by gradually eliminating customs duties on intra-ASEAN trade of qualifying products by 2005, with special allowance for sensitive sectors. By agreement, AFTA members agreed to accelerate the reduction of tariff cuts under AFTA from 2003 to 2005. Laos and Burma were admitted to ASEAN as full members in July 1997, although these countries have until 2008 to phase in obligations under the AFTA.

ASEAN continues efforts to implement and expand the AFTA by including unprocessed agricultural commodities in the tariff phase-out scheme, and placing greater emphasis on the elimination of non-tariff measures such as customs surcharges and technical barriers to trade. During the December 1998 ASEAN Summit in Hanoi, leaders agreed to accelerate reduction of AFTA Common Effective Preferential Tariff (CEPT) rates to ensure that a minimum 90 percent of tariff lines are

subject to 0-5 percent rates by 2000 (three years ahead of schedule). They also agreed to expand the scope of products for which CEPT rates will be eliminated by 2003 (accounting for roughly 83 percent of AFTA tariff lines). In recognition of their late accession to the AFTA, Vietnam, Laos, and Burma will follow a modified schedule.

In October 2000, the ASEAN Economic Ministers held their annual meeting in Chiang Mai, Thailand. The Ministers agreed on a mechanism to allow an ASEAN member to temporarily postpone tariff reductions on specific products under the CEPT. This mechanism was developed at the request of Malaysia, which sought a delay in its obligation to eliminate tariffs on autos and auto parts. The mechanism also provides for ASEAN members adversely affected by such delays to temporarily suspend concessions as compensation.

ASEAN also intends to expand negotiations under the Framework Agreement on Services beyond the current priority areas with a view to eventually including all sectors and all modes of supply. The 1999 Hanoi Summit also produced the "ASEAN Vision 2020" declaration in which members resolved, among other things, to continue with full implementation of AFTA, to implement fully the ASEAN Investment Area by 2010, and to achieve the free flow of investment by 2020. The eventual creation of ASEAN patent and trademark offices are longer-term goals; however, efforts toward coordinating documentation and application filing procedures continue.

a. Indonesia

i. General

The economic crisis and political upheaval in Indonesia have taken priority over bilateral trade issues during the past year. While the Indonesian economy is strengthening as a result of economic and political reforms, it remains fragile. Indonesia's IMF program, initiated in October 1997, was modified in each of the three subsequent years as the economic situation deteriorated. Concerns about the Indonesian Government's ability to follow through with these reforms along with the continuing political uncertainty is weakening investor confidence and adding to the serious problems faced by Indonesia's financial and corporate sectors.

ii. Intellectual Property Rights

In April 2000, the USTR removed Indonesia from the Special 301 Priority Watch List, where it had been since 1996, and placed it on the Watch List in recognition of efforts made toward a more effective IPR regime. The Indonesian Government resubmitted draft legislation on trade secrets, industrial designs, patents, trademarks and copyrights in February 2000, although this legislation has yet to gain parliamentary approval.

However, U.S. industry reports continuing problems with IPR issues, including: software, book, video, VCD, drug, and apparel trademark piracy; audiovisual market access barriers; inconsistent enforcement; and an ineffective legal system. Indonesia's amendments to the copyright, patent and trademark laws apparently are still not completely TRIPS consistent.

The U.S. Government has raised these issues with Indonesia since 1998, and in June 1998 presented Indonesia with an IPR work plan (market access, enhanced enforcement, TRIPS consistency of laws, special juridical arrangements, legal use of software, and increased protection of well-known marks; including several company-specific cases). Although the Indonesian Government has yet to take sufficient action on the proposed work plan, it has acknowledged the need for improved enforcement and a broad education program, in addition to the need to bring its statutes into TRIPS conformity.

iii. IMF Trade-Related Conditionality

Indonesia's initial October 31, 1997 Memorandum of Economic and Financial Policy (MEFP) with the IMF has been revised several times in response to

deteriorating macroeconomic conditions. The latter versions of the program, including the most recent letter of intent executed in January 2000, expanded the focus of earlier programs to cover the entire range of economic challenges facing Indonesia. These include fiscal policy, monetary policy, structural reform and deregulation, corporate debt and bankruptcy proceedings, banking sector reform and restructuring, restoration of trade financing to promote exports, food security, the distribution system and social safety net policies. In accordance with the IMF program, the Indonesian authorities are taking initial steps to restructure the banking system and to facilitate the restructuringiof corporate debt burdens.

The IMF memoranda contain a considerable amount of trade-related conditionality that if fully implemented by Indonesia will contribute to significant liberalization of the real economy and reduction of distortions in the Indonesian goods and services markets. Despite the sharp economic downturn in Indonesia, the Indonesian Government has undertaken structural reforms to dismantle the national car and aircraft programs, reduce tariffs on agricultural commodities and industrial goods, eliminate export taxes, and disband marketing monopolies. Indonesia appears to be implementing its border liberalization and internal market reforms captured in the IMF memoranda from October 1998 to date, although careful monitoring is warranted given the ambitious scope of liberalization involved and the relatively low level of commercial activity this year.

iv. Automobiles

The successful 1998 WTO challenge by the United States (joined by the EU and Japan) of Indonesia's auto programs constitutes a significant victory for the United States in its effort to dismantle Indonesian barriers to trade in automotive products. It also serves as an important precedent in combating similar barriers in other markets. In 1999, Indonesia promulgated a new automobile policy that appears to comply with its WTO obligations. However, the United States is concerned by recent statements by high-level Indonesian officials that the Government is considering reviving a national automotive industrial policy in some form. Such an action would be an inefficient commitment of resources at a time when materials, capital, and labor should be focused on promoting Indonesian recovery and promotion of sustainable enterprises. The United States is continuing to monitor developments in this area closely.

b. Malaysia

i. Investment and Services

Malaysia maintains investment limits which predate the financial crisis and which adversely affect the local business and investment climate. In general, Malaysian law requires that business entities include a domestic partner with a minimum 30 percent stake. Banking and other financial services providers face foreign-held equity restrictions, as do suppliers in the wholesale/retail, distribution and multi-level marketing, construction and legal services sectors. U.S. officials have and will continue to raise concerns over investment restrictions in the distribution services sector as a priority and will continue to monitor developments.

ii. Tariffs

In 1997 and 1998, Malaysia raised tariffs on certain goods from 0 percent in 1996 to current levels of between 5 and 20 percent ad valorem – still within its WTO-bound commitments. The products affected include some types of heavy machinery and construction equipment, automobiles, motorcycles, and home appliances. In 1998, Malaysia also implemented a new import approval scheme for construction equipment that could further restrict market opportunities for U.S. exports. Malaysia's rationale for the measures affecting construction equipment is to encourage reconditioning and repair of existing equipment; however, it is unclear that this policy has promoted this objective. Malaysia is reducing tariffs for information technology products covered by the

Information Technology Agreement (ITA), under which most of its tariffs were to be bound at zero by the year 2000.

iii. Local Content-Related Investment Incentives

Malaysia has taken a number of steps which confer tax benefits, based on the amount of locally produced parts or inputs utilized, in order to promote the development of domestic automobile manufacturers under its "national automobile" program. As required by the WTO Agreement on Trade-Related Investment Measures, Malaysia's various incentives for local production were to be eliminated by January 1, 2000. However, in late December 1999, Malaysia notified WTO members of its desire to obtain a two-year extension of its auto-related measures. Malaysia's request to the WTO has not been acted upon. The United States is considering taking appropriate action.

iv. Intellectual Property Rights

The USTR conducted an out-of-cycle Special 301 review of Malaysia's intellectual property practices in late 1999, deciding not to remove Malaysia from the Priority Watch List pending passage of new optical disc (OD) legislation designed to reduce pirated optical media production and export. After considerable delay, the Malaysian Government enacted its Optical Disc Anti-Piracy Act in September 2000. The legislation offers the government greater enforcement powers and establishes stiffer penalties for IPR crimes.

In August 2000, Malaysia announced the formation of special mobile enforcement units throughout Malaysia in its war against copyright pirates. The Malaysian Government has worked closely with the United States and U.S. industry to suppress end-user piracy of copyrighted works, principally business application software. U.S. industry has welcomed these increased enforcement actions, but remains concerned by a lack of prosecution of IPR offenses by the local judicial system.

The Malaysian Government IPR enforcement efforts in 2000 were a significant step forward. However, it needs to take additional action to link effective police enforcement with aggressive prosecution in the courts. Domestic production of optical disks far exceeds domestic demand, and has contributed to substantial domestic and export markets for pirated goods. The United States will continue to encourage the government to further increase its efforts in IPR enforcement.

c. Philippines

i. Market Access Issues

In 2000, the Philippines passed a new safeguard law. Although no action has been taken under this law, the U.S. Government and U.S. industry have serious concerns with its provisions. The legislation does not give foreign producers a meaningful opportunity to defend their interests. In addition, the prerequisites for imposition of provisional relief appear to be lower than the requirements contained in the WTO Safeguards Agreement. We have raised our concerns with the Philippine Government and will take appropriate action as necessary as the law is implemented.

ii. Intellectual Property Rights

In June 1997, the Philippines enacted a comprehensive law on intellectual property rights. The law entered into force on January 1, 1998, although formal implementing regulations for most provisions of the law were not promulgated until later. On balance, the law represents a significant step toward implementation of the Philippines' commitments under the WTO TRIPS Agreement. However, several provisions of the law are of concern to the United States and could pose serious policy implications and investment disincentives if not adequately addressed. Specific concerns include provisions governing the circumstances under which decompilation of software programs is permissible, *ex parte* search and seizure, and restrictions on technology licensing arrangements. The United States also continues to monitor

carefully Philippine enforcement efforts and judicial efficiency.

iii. Customs

With the transition period available to the developing countries at an end, the Philippines was obligated to implement the "transaction value" method of customs valuation on January 1, 2000, in accordance with obligations under the WTO Agreement on Customs Valuation. While the existing Valuation Law (R.A. 8181) includes a provision requiring the Bureau of Customs to publish reference values that "shall be binding on importers and the Bureau of Customs until changed," new implementing regulations are silent on this issue. Legislation to remove this provision is still pending in the Philippine Congress.

In addition, on March 31, 2000, the Philippine Government ended a preshipment inspection services contract with Swiss Societe Generale De Surveillance. Thus, effective April 1, 2000, all importers or their agents are required to file import entries with the Bureau of Customs, which processes these entries through its automated customs operating system.

d. Singapore

In November 2000, the United States and Singapore announced the launch of negotiations for a U.S.-Singapore Free Trade Agreement (FTA). This agreement is expected to have significant commercial benefits, as Singapore is our largest trading partner in Southeast Asia, with two-way trade in goods and services totaling more than $40 billion. In negotiating this agreement, the United States will seek to eliminate tariffs on substantially all goods over time, obtain substantial sectoral coverage in services, help develop electronic commerce, protect intellectual property rights (IPR), and achieve other bilateral trade objectives. Like in the Jordan FTA, the United States has proposed provisions on labor and the environment.

Singapore imposes tariffs on only four categories of goods, allowing nearly 96 percent of its imports to enter duty-free. Singapore's tariffs on products covered by the Information Technology Agreement were bound at zero by the year 2000.

While the United States and Singapore are discussing IPR in the context of the FTA negotiations, this issue has been a longstanding concern for the United States. Singapore enjoys some of the lowest piracy rates in Asia, but it has been on the Special 301 Watch List since 1995, primarily out of concerns that its legal framework does not appear to be TRIPS compliant and that its enforcement efforts are inconsistent.

Singapore readily acknowledges that enhanced IPR regulation and enforcement is necessary for it to develop toward its goal of becoming a "knowledge-based economy." The creation of mobile IP units in 2000 has increased the Government's ability to conduct raids on major centers of distribution for pirated products. In addition, the Government of Singapore's efforts to promote a "code of conduct" for local manufacturers of optical disks in order to improve the performance of its domestic industry has helped to focus attention on the growing problem of piracy of CDs, VCDs, and CD-ROMs. We continue to work with U.S. industry to develop effective approaches to curtailing retail piracy in Singapore.

e. Thailand

i. Intellectual Property Rights

In recent years, Thailand's commitment to effective IPR protection has been uneven, as evidenced by growing piracy rates and inconsistent coordination between enforcement authorities. The Thai Government has made significant progress, however, toward erecting legal and administrative structures necessary for IPR enforcement. Thailand enacted two TRIPS-related laws in 2000, including amendments to trademark laws in June and protection of integrated circuit design in August. Thailand opened specialized IPR and international trade courts in late 1997, which has

resulted in moderate improvements in IPR protection, but has not resulted in the imposition of penalties sufficient to deter IPR infringement. In June 1998, the United States and Thailand concluded an Action Plan, which among other things was intended to enhance routine coordination among relevant Thai Government agencies in order to improve retail-level IPR enforcement and to prioritize the enactment of key legislation. The Action Plan also sets the foundation for implementation of measures to address the growing problem of optical disk (OD) piracy. The United States will continue to press the Thai government to make meaningful progress on IPR protection and enforcement, and will continue to consult with U.S. industry to develop specific proposals to enhance patent, copyright and trademark protection in Thailand.

ii. Market Access Issues

Thailand's applied tariffs are generally higher than many of its neighbors. As a signatory to the Information Technology Agreement (ITA), effective January 2000, Thailand eliminated tariffs on 153 information technology-related products pursuant to it obligations.

iii. Worker Rights

In July 2000, USTR terminated a long-running GSP investigation concerning the provision of core worker rights in Thailand. In February, the Thai Government successfully re-instituted fundamental worker rights with the enactment of the new State Enterprises Labor Relations Act. The Act, which received Royal Assent and was published in the Royal Gazette in Bangkok, reversed a nine-year time period during which core rights had been denied workers in state-owned enterprises.

f. Normalization of Trade Relations with Vietnam and Laos

i. Vietnam

On July 13, 2000, the United States and Vietnam signed a historic bilateral trade agreement, culminating a four-year negotiation to normalize trade relations. When enacted, the agreement will grant Vietnam "Normal Trade Relations" (NTR) status, that is, the same low tariffs that the United States applies to imports from nearly every other country. The agreement also commits Vietnam to sweeping economic reform, which will create trade and investment opportunities for both Americans and Vietnamese, and will lay the foundation for a new American relationship with Vietnam.

The trade agreement, when implemented, commits Vietnam to opening its market and moving toward adoption of WTO and international norms. The agreement has five major sections.

1. *Market Access for Agricultural and Industrial Goods.* Vietnam has made significant commitments across hundreds of industries. It will grant trading rights, allowing all Vietnamese firms, and over time U.S. persons and firms, the right to trade in Vietnam for the first time; lower tariffs on hundreds of categories of industrial goods and farm products of interest to U.S. exporters; phase out all non-tariff measures; and adhere to WTO standards in applying customs, import licensing, state trading, technical standards and sanitary and phytosanitary measures.

2. *Intellectual Property Rights.* Vietnam will adopt the WTO "TRIPS" standard for intellectual property protection (copyright, patent and trademark law) in 18 months or less, and take further measures in several other areas (e.g., protection of satellite signals).

3. *Market Access for Services.* Vietnam will allow U.S. persons and firms to enter its services market in a broad array of areas, including financial services (insurance and banking), telecommunications services, distribution services, audiovisual services, as well as other sectors. These commitments are phased in, typically within three to five years.

4. *Investment.* Vietnam will protect U.S.

investments from expropriation, eliminate its "Trade Related Investment Measures," and phase out its investment licensing regime for many sectors, as well as modernize its investment regime in other areas.

5. *Transparency*: Vietnam has agreed to adopt a fully transparent regime in each of the four areas above, by publishing all laws, regulations and rules; submitting them for public comment in advance; and giving U.S. citizens the right to appeal rulings made with respect to all such laws and regulations.

Under U.S. law, for Vietnam to receive NTR status, a bilateral trade agreement must be completed and approved by Congress, and the President must "waive" the "Jackson-Vanik" provision, indicating that Vietnam is making sufficient progress on the issue of free emigration. Since 1998, the President has granted the annual Jackson-Vanik waiver for Vietnam. Thus, completion of this agreement, and its subsequent approval by Congress will clear the way for Vietnam to receive annually renewed (as opposed to permanent) NTR treatment from the United States. This, along with the Vietnamese Government's formal ratification of the Agreement, would bring Vietnam's commitments under the bilateral trade agreement into force.

ii. Laos

In 1997, the United States completed a comprehensive bilateral trade agreement with Laos aimed at normalizing trade relations. Laos, unlike Vietnam, is not covered by the "Jackson-Vanik" provisions of U.S. trade law. Similar to Vietnam, the Laos agreement does require separate legislation enabling the President to grant normal trade relations status to Laos once formal signature of the agreement is completed.

3. Republic of Korea

a. Macroeconomics and Trade

At the end of 1997, the IMF negotiated a macroeconomic stabilization package with the Korean Government when the value of the won depreciated dramatically due to a large outflow of foreign investment. The stabilization package for Korea included credit from the IMF, the World Bank, and the Asian Development Bank.

The stabilization plan focused on: (1) restructuring the financial and corporate sectors to make them more market-driven, efficient, transparent, and open to foreign investment; and (2) eliminating trade- and competition-distorting policies. Korea's trade-related reforms included:
early elimination of WTO-prohibited export and domestic content subsidies and the import diversification program (which prohibited many Japanese imports); and a reduction in the number of products subject to tariff adjustments, or snapbacks. Korea also agreed to liberalize its import licensing and certification procedures and to bind its OECD financial services market access commitments in the WTO.

The Korean Government made progress on implementing some of its reform commitments during the past three years, particularly in the financial sector, by rationalizing and recapitalizing its banks, and by consolidating regulatory authority over the financial sector in a new, independent Financial Supervisory Commission. However, the Korean Government still maintains a majority ownership in several of the largest commercial banks in Korea and a significant stake in a number of others. Korean authorities are now in the process of further strengthening commercial bank balance sheets and restructuring merchant banks, investment trust companies and the insurance industry.

With respect to changes in corporate practices, Korea is in the process of implementing international standards on accounting practices,

including corporate activities on a consolidated basis, and has provided for the appointment of outside directors on corporate boards. The rights of small shareholders have been strengthened, while restrictions on foreign participation have been eased. Cross guarantees of major conglomerates have been eliminated, and bankruptcy laws have been strengthened.

That said, the Korean Government's record on implementation of some of its trade-related stabilization commitments has fallen short. For example, the U.S. Government has expressed concern about the Korean Government's decision to maintain tariffs at the highest "snapback" level, while eliminating the "snapback," or tariff adjustment mechanism. The U.S. Government will continue to work with Korea to ensure full follow-through on its trade-related stabilization commitments.

In addition, many of the systemic reforms that President Kim Dae Jung laid out for Korea have yet to be implemented. Corporate restructuring efforts undertaken thus far have yielded little change in the structure of Korean industrial sectors, including motor vehicles, steel, and shipbuilding. The U.S. Government has noted in representations to the Korean Government that for restructuring to be considered meaningful: (1) it must yield efficient, market-driven companies; and (2) the process through which it is carried out must be open, transparent, and treat foreign creditors equitably, and comport with Korea's international obligations.

The fiscal, monetary, and restructuring policies laid out by the Kim Dae Jung administration have contributed to a resumption of foreign and domestic consumer confidence in Korea's economy. In 1999, Korea grew at a rate of 10.7 percent and is expected to grow by about 9 percent in 2000, after experiencing negative growth in 1998. The United States ran a bilateral trade deficit with Korea of $8.3 billion in 1999, and the deficit in 2000 is expected to be higher.

b. OECD

In late 1996, the Korean National Assembly ratified Korea's accession to the OECD. Given Korea's membership in the OECD, the United States expects Korea to implement its WTO commitments and to negotiate in the new round of multilateral trade negotiations as a *developed* country, including in the area of agriculture.

In May 1997, on the fringes of an OECD Ministerial, Korea issued a statement indicating that the government did not support anti-import activity, which had been encountered in the Korean market in the context of the frugality, or anti-consumption, campaign launched by President Kim Young Sam. The Korean Government also issued guidelines to trade officials to ensure that they did not discriminate against imports. While the Korean Government has taken some important steps to address anti-import activity, serious problems in this area persist. The United States continues its work with the Korean Government to ensure that it expeditiously and effectively addresses instances of anti-import activity and reaches out proactively to educate Korean citizens on the benefits of free trade and competition.

In November 1999, the Trade Committee of the OECD reviewed Korea's regulatory regime. In this review, the U.S. Government stressed the need for enhanced transparency and reform of Korea's regulatory system and emphasized that Korean regulations should fully reflect the trade commitments and policies that Korea has undertaken as a WTO and OECD member. In addition, the United States underscored the need for Korean regulations and other rules, and the officials who administer them, to reflect the free and open trade and investment policy that Korean President Kim Dae Jung has embraced. Among the specific areas of concern flagged by the United States in this review were Korean policies on motor vehicles, pharmaceuticals, telecommunications, *chaebol* reform, import clearance procedures, foreign equity restrictions, and customs classification and border treatment.

Also in November 1999, the OECD Committee on Capital Movements and Invisible Transactions and the OECD Committee on International Investment and Multinational Enterprises reviewed Korea's financial and investment policies. In this review, the United States focused on Korean takeover policies, financial services commitments, and rules on bank ownership and investment in the meat, rice, barley and insurance sectors.

In September 2000, the OECD Trade Policy Review Body reviewed Korea's trade policies. The report noted the progress the Korean Government had made over the past few years in instituting market-based reforms, which helped pave the way for the recovery of the Korean economy following the financial crisis. However, the United States and Korea's other trading partners highlighted areas where additional progress is required. Among these were Korean Government policies on privatization and *chaebol* reform, motor vehicles, pharmaceuticals, telecommunications, agriculture, intellectual property protection, import clearance procedures, foreign equity restrictions, subsidies, and labor rules.

c. Motor Vehicles

In the October 1, 1997 Super 301 report to the Congress, the USTR identified Korean barriers to motor vehicles as a priority foreign country practice. On October 20, 1997, the USTR initiated a Section 301 investigation with respect to certain acts, policies, and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market.

On October 20, 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access for foreign motor vehicles. Under this MOU, Korea agreed to: (1) bind in the WTO its 80 percent applied tariff rate at 8 percent; (2) lower some of its motor-vehicle-related taxes and to eliminate others, thereby substantially reducing the tax burden on motor vehicle owners; (3) streamline its standards and certification procedures and adopt a manufacturer driven self-certification system by 2002; (4) establish a new mortgage mechanism to make it easier to purchase motor vehicles in Korea; and (5) continue to actively and expeditiously address instances of anti-import activity and to proactively educate Korean citizens on the benefits of free trade and competition. As a result of the measures the Korean Government committed to in the 1998 MOU, on October 20, 1998, the USTR decided to terminate the Section 301 investigation and to monitor the Korean Government's implementation of these measures.

The United States and Korea have held three formal reviews of the 1998 MOU. At the most recent review, held in August 2000, the United States and Korea held consultations to assess the progress under the agreement and to discuss additional steps Korea will take to implement this agreement. While implementation of many of the specific provisions of the MOU is on track, the U.S. Government expressed serious concerns about: (1) the lack of substantial increases in market access for foreign motor vehicles in Korea; (2) ongoing instances of anti-import activity; (3) the lack of a long-term plan to continue to reduce the tax burden on motor vehicle owners in Korea; (4) standards and certification issues (including the potential application of new standards to minivans when they are reclassified as passenger vehicles, the Korean Government's plans on noise and fuel efficiency standards, and the development of a self-certification system by 2002); and (5) the pace of corporate restructuring in the automotive sector.

The United States also made specific proposals for addressing these concerns and achieving further progress under the agreement. Among these were proposals for Korean Government action to improve the generally negative perception of foreign vehicles among Korean citizens, which are largely the result of successive Korean Government policies that discouraged the purchase of foreign autos. The U.S. Government also made specific proposals on outstanding standards and certification, financing, and tax and tariff issues.

d. Steel

U.S. steel imports surged in 1998, as chronic overcapacity in the global steel sector was compounded by the Asian financial crisis and the resulting drop in demand in Asia. Korea accounted for nearly 20 percent of the overall growth in U.S. imports of steel in 1998. Although imports declined in 1999 and in 2000, largely as a result of eight antidumping and countervailing duty cases, imports remain substantially above 1997 levels, and the U.S. market has not recovered from the import surge.

In response to the substantial role that Korean steel plays in the U.S steel import situation, the United States has continued a dialogue on steel with the Korean Government. This dialogue is based on the 1999 exchange of letters in which the Korean Government made assurances that it would not provide any market-distorting subsidies to the steel sector and that steel companies would be privatized and restructured under transparent and market based principles.

In July 2000, the U.S. Government published the Report to the President on Global Steel Trade: Structural Problems and Future Solutions. The report documented the role of Korean imports in the 1998 steel crisis and the underlying structural distortions in the Korean steel industry that exacerbated that crisis.

In 2000, the United States continued the bilateral dialogue with Korea on steel, holding working level meetings in May and November to urge the Korean government to:

- take steps to promote increased domestic and international competition in Korea's steel sector;
- fully privatize Pohang Iron and Steel (POSCO) (a partially state-owned steel company) and terminate government influence over its management;
- sell off Hanbo's assets to encourage rationalization of Korean steel capacity (Hanbo is Korea's largest steel producer which declared bankruptcy in 1997); and
- promote fair trade in steel.

The U.S. Government will continue to raise these issues with the Government of Korea in bilateral meetings and will use the OECD Steel committee as a forum to address structural distortions in the Korean steel market.

e. Pharmaceuticals

U.S. concerns regarding pharmaceuticals trade relate to three baskets of issues: (1) listing and pricing on Korea's national health insurance reimbursement schedule, and associated hospital margins and administrative procedures that limit the commercial distribution of foreign-made pharmaceuticals; (2) protection of intellectual property rights, particularly protection of clinical data and patents; and (3) regulatory requirements, particularly on acceptance of foreign and clinical test data and approval of new drugs. USTR, in its 1999 Super 301 trade report, listed these pharmaceuticals trade issues as the bilateral trade expansion priority on the U.S.-Korea agenda and in May 2000, USTR placed Korea on the Special 301 Priority Watch List, in part because of concerns of intellectual property issues related to pharmaceuticals.

In 1999, the Korean Government took a number of steps to address U.S. concerns in this sector, including: (1) listing imported pharmaceuticals on Korea's national health insurance reimbursement schedule; (2) implementing an Actual Transaction Price (ATP) system whereby both imported and domestically-manufactured pharmaceuticals are reimbursed without hospital margins (such margins had previously benefitted only Korean-produced drugs); (3) committing to adhere to international guidelines on the acceptance of foreign clinical test data and making the approval process for new drugs more science-based; (4) eliminating the requirement for the submission of a Certificate of

Free Sale before Phase III clinical trials can commence in Korea; and (5) committing to shorten the overall drug approval process in Korea.

The U.S. Government has been closely monitoring Korea's implementation of the recent important changes made to its procedures on reimbursement pricing of pharmaceuticals and on regulatory requirements for the acceptance of foreign clinical test data and the approval of new drugs. The United States has urged Korea to take steps to ensure full implementation and enforcement of the ATP system to prevent resumption of questionable (and illegal) discounting that would disadvantage innovative drugs, limiting their availability to Korean patients. The United States also will continue to monitor Korea's implementation of its policy to separate the prescribing and dispensing of drugs, and will urge the Korean Government not to take steps that would lead to a distortion of the incentives needed to promote innovation and the availability of innovative pharmaceutical products. In addition, the United States will urge the Korean Government to take steps to ensure that its actions to open the pharmaceutical market are not undermined by harassment of U.S. pharmaceutical firms or recent anti-import activities by Korean pharmaceutical companies.

To speed the introduction of innovative drugs into Korea, the U.S. Government has underscored the need for Korea to improve market access for foreign pharmaceuticals by eliminating requirements for redundant clinical test data in the drug approval process. The United States will continue to urge Korea to adopt tests for bio-equivalency based on global scientific standards and requirements for bridging studies based on ICH and global scientific studies. We also will continue to press Korea to implement international guidelines on the acceptance of foreign clinical test data.

On IPR, the United States is monitoring Korea's implementation of an amendment to the Pharmaceutical Affairs Act in January 2000, which provides for the protection of data submitted to the Korean Government when the submitting company requests such protection. The U.S. Government also remains concerned about the lack of coordination between the Korea Food and Drug Administration (KFDA) and intellectual property (KIPO) officials, which allow products that infringe existing patents to be approved for marketing.

f. Intellectual Property Rights

Korea's record on IPR protection and its Special 301 status are important indicators of the nature of Korea's climate for doing business. In April 2000, USTR placed Korea on the Special 301 Priority Watch List due to serious concerns over legal protection and enforcement of intellectual property rights. The U.S. Government and U.S. industry remain concerned about Korea's failure to provide: (1) full protection for pre-existing copyrighted works as required under the TRIPS Agreement; and (2) adequate and effective data, patent, and trademark protection. In addition, the United States has engaged the Korean Government on concerns that U.S. industry has raised about recent amendments to Korean laws on protection of copyrighted works, including computer programs. The U.S. Government will continue to work with the Korean Government to ensure its full compliance with its TRIPS obligations, including those on protection of test data against unfair commercial use and disclosure, and on protection of copyrights. The United States also has highlighted the need for Korea to improve coordination between its health and safety and IPR officials to ensure that products that infringe on existing patents are not approved for marketing. Issues related to Korea's TRIPS consistency must be resolved before concluding a Bilateral Investment Treaty (BIT).

g. Telecommunications

The Korean Government raised foreign investment limits in telecommunications services companies (other than Korea Telecom) from 33 percent to 49 percent in April 1999, 18 months sooner than its

WTO commitment. The limit on foreign investment in Korea Telecom was increased from 20 percent to 33 percent in September 1999, and the Korean Government announced in September 2000 that it would ask the Korean National Assembly to revise the Telecommunications Business Act to increase the foreign ownership ceiling to 49 percent. The United States has urged Korea to eliminate all investment restrictions in this sector, which limit Korea's ability to introduce the infrastructure necessary to develop its telecommunications sector.

Korea issued two third-generation wireless services licenses in December 2000. The Korean Government had announced its intention to issue three licenses, one each for W-CDMA and cdma2000 technologies and a third license for an unspecified technology. Three companies bid for W-CDMA licenses and one for a cdma2000 license. Two companies received W-CDMA licenses but the company that bid for the cdma2000 license was judged technically unqualified. The Korean Government stated that it intends to re-tender the cdma2000 license in early 2001. The United States has consulted with the Korean Government on this issue and urged it to allow network operators to make their own technology choices and not to mandate the use of a particular technology.

h. Financial Services

As a condition in the IMF stabilization package, Korea agreed to bind its OECD commitments on financial services market access in the WTO. In January 1999, Korea provided WTO members with a revised and somewhat improved schedule of financial services commitments that entered into force as of September 1999. The U.S. Government will continue to work with Korea to bring about more liberal treatment of foreign financial services providers.

i. Screen Quotas

Korean Law requires that domestic films be shown in each cinema for a minimum number of days per year. Current law requires that Korean films be shown 146 days of the year, with a potential reduction to 106 days. The Korean National Assembly adopted a resolution on December 8, 2000 stating that the screen quota system must not be abolished or reduced until the domestic market share for Korean films maintains a 40-percent level. The screen quota issue is part of ongoing Bilateral Investment Treaty (BIT) negotiations.

j. Bilateral Investment Treaty

In 2000, the U.S. Government sought further progress in negotiations with Korea on a BIT aimed at securing Korean commitments on a balanced and open investment regime and providing protections for U.S. investors in Korea. Negotiations in 1999 made progress on Korean commitments to liberalize investment restrictions in a number of sectors, but several key issues remain unresolved, including greater access for U.S. investors in telecommunication services, liberalization of the screen quota system, and full TRIPS compliance, specifically, with respect to retroactive copyright protection for pre-existing works and sound recordings.

k. Cosmetics

Impediments to entry and distribution of foreign cosmetic products in Korea have included the following: (1) the Korean Government's delegation of authority to the domestic industry association to screen advertising and information brochures prior to use; (2) provision of proprietary information on imports to Korean competitors; (3) redundant testing; (4) burdensome import authorization and tracking requirements (record-keeping from import to sale); and (5) requirements for animal toxicity test data. During July and August 1997, U.S. Government officials made representations to Korean Embassy officials on these and other barriers that were in effect at the time. The U.S.

Government cited Korea's cosmetics-related measures as a bilateral priority in the 1997 Super 301 report.

On January 1, 1998, the KFDA abolished the annual testing requirement for imported cosmetics, and authorized importers to perform the required self-testing, provided that they maintain records for each batch/shipment. In January of 2000, the KFDA eliminated requirements for pre-approval and local testing at the first importation. Foreign cosmetic manufacturers that have passed a facility inspection by the KFDA also are exempt from testing requirements for each batch/test. The U.S. Government will continue to press Korea in a variety of fora until U.S. concerns on Korea's barriers to entry and distribution of cosmetics are fully and satisfactorily addressed.

l. Distilled Spirits

Despite Korean consumer interest in U.S. whiskey, U.S. exports of this product to Korea have historically been very low, accounting for less than one percent of the total Korean market for distilled spirits. This is due to the exorbitant taxes and tariffs they face. Prior to January 2000, Korea's taxation of alcoholic beverages was based on a two-tiered regime. First, under a general liquor tax law, Korea imposed an *ad valorem* tax of 100 percent on whiskey and brandy, and of 80 percent on vodka, rum, and gin. At the same time, Korea applied a tax of only 35 percent to *soju*, the locally produced Korean liquor. The Korean Government compounded this difference in liquor tax rates by applying another tax – an education tax – on alcoholic beverages and by basing the education tax rate on the liquor tax rate. The effect of these tax policies was the application of an education tax of 30 percent on U.S. whiskey and of only 10 percent on *soju*. In short, the effective tax rate on whiskey was 130 percent and on *soju* only 38.5 percent.

In 1997, the United States and the EU initiated dispute settlement proceedings against Korea because of this discriminatory tax system. In July 1998, a WTO dispute settlement panel ruled that Korea's taxes on alcoholic beverages were discriminatory, and in January 1999, the Appellate Body upheld this decision. The panel found, and the Appellate Body agreed, that Korea's two liquor taxes violated Article III:2 of the General Agreement on Tariffs and Trade (GATT) because they afforded protection to domestic production of *soju*.

In April 1999, the United States and the EU requested that the period of time for Korea to implement the panel's recommendation be determined by arbitration because Korea wanted 15 months, which the United States and the EU opposed. The WTO arbitrator found that Korea should comply within 11.5 months, *i.e.*, by January 31, 2000.

Korea complied with the panel and Appellate Body decisions on January 1, 2000, one month earlier than required, by amending two laws to harmonize its tax rates on domestically-produced and imported liquors. In fact, the Korean Government actually lowered taxes on imported whisky by 28 percentage points. The U.S. Government will continue to monitor Korean policies affecting producers of *soju* to ensure Korea's continued compliance with its WTO obligations.

m. Beef

Pursuant to a 1989 GATT panel ruling against Korea, the Korean Government committed to phasing out its balance-of-payment restrictions on beef. Subsequently, in 1990, and in July 1993, the United States and Korea concluded exchanges of letters and Records of Understanding (ROUs) under which Korea agreed to increasing minimum market access levels annually for beef imports through 1995. The 1993 agreement also guaranteed direct commercial relations between foreign suppliers and Korean retailers and distributors and provided that a growing volume of beef be sold through that channel instead of through a state trading organization. Specifically, the agreement provided for the following: (1) an

increase in the minimum annual quotas; (2) an increase in the number of Korean meat outlets and retailers that can undertake commercial transactions with U.S. exporters without Korean Government intervention – the Simultaneous Buy/Sell (SBS) system; (3) dramatically increased annual SBS sub-quota amounts; and (4) a ceiling on the mark-up levied on the duty-paid price of imported beef. Australia and New Zealand – the other two major suppliers of beef to Korea – entered into identical ROUs on beef issues with Korea.

In December 1993, the July agreement – including provisions for increasing the minimum market access quota – was extended. Pursuant to Section 306 of the Trade Act, the USTR began monitoring Korea's implementation of its commitments on beef imports.

Senior U.S. Government officials have repeatedly sought Korea's elimination of government impediments to the entry and distribution of foreign beef. On February 1, 1999, the U.S. Government requested WTO dispute settlement consultations. No settlement was reached, and a panel was established in May 1999. Australia's request for formation of a panel on Korea's beef measures was approved in July, and the U.S. and Australian panels were eventually joined. Canada and New Zealand participated in the panel process as third parties.

The U.S. complaint focused on Korea's: (1) requirements that imported beef be sold only in specialized imported beef stores and Korean laws and regulations restricting the resale and distribution of imported beef by SBS super-groups, retailers, customers, and end-users; (2) a discretionary import licensing regime; (3) imposition of duties and charges in the form of a markup, which is not provided for in Schedule LX; and (4) failure to fulfill its WTO reduction commitment for domestic support.

The United States prevailed in the case against Korea, with the WTO panel concluding in July that Korea's import regime for beef discriminates against imports of beef from the United States and other foreign countries. Korea filed an appeal of the case in September; and in December the Appellate Body report affirmed most of the findings of the WTO panel. The United States will meet with Korea in early 2001 to discuss implementation of the WTO ruling and the steps the Korean Government is taking to open its beef market.

In October 2000, the Korean Government passed a rule of origin requiring that cattle must be in the United States for at least six months prior to slaughter in order to be considered U.S beef when exported to Korea. The requirement was to go into effect at the beginning of 2001. The Korean Government has stated that the new rule is not a public health or animal health requirement. The U.S. Government raised strong concerns about the new requirement and its likely impact on U.S. beef exports to Korea, which total about $500 million. The Korean Government has agreed to delay implementation for one year and to work with the U.S. Government to find a mutually satisfactory resolution to this issue during this time.

n. Rice

The Korean Government continues to exercise full control over the purchase, distribution, and end-use of imported rice. The state trading enterprises that administer the WTO-mandated minimum access program continue to purchase only low-quality Asian rice, as Korean law forbids the use of imported rice for purposes other than industrial or processing uses. As a result, high quality U.S. rice is effectively shut out of the Korean market. In addition, Korea appears not to have filled the quota established in the Uruguay Round based on minimum access commitments. The U.S. Government also continues to be concerned with Korea's statements that Korean rice policies are "off the table" in the new round of multilateral agriculture negotiations provided for as part of the built-in agenda. The United States will continue to actively engage Korea to ensure its full compliance

with its current obligations on rice and to press for further liberalization of Korean trade policies on this commodity.

o. Oranges

The Cheju Citrus Cooperative, a Korean producer group, has controlled the allocation of the in-quota quantity of Korea's orange tariff-rate quota (TRQ). In the past, Cheju has filled the quota, with most of the imports coming from the United States. In 1999 and in 2000, however, the quota was not filled. In 1999, Korea auctioned a portion of the quota, despite U.S. concerns that an auction system would add costs to entering the market beyond Korea's bound tariffs. In 2000, Korea opted not to tender for the unfilled quota amount, ignoring queries from the U.S. Government and industry on the country's tendering schedule. The United States will continue to actively engage Korea on this issue to ensure its full compliance with its WTO obligations on citrus.

p. Croaker

Korea's application of prohibitively high adjusted tariffs to croaker significantly limits U.S. exports of the fish species to Korea, which is the largest per capita consumer of croaker in the world. Only joint ventures with Korean importers (with a minimum of 49 percent Korean ownership) are eligible to export croaker to Korea at a zero tariff rate.

Korea's market to croaker was closed until 1997, when it introduced a 90 percent adjustment tariff. Since 1997, in accordance with the requirements of its IMF stabilization package, the Korean Government has reduced the number of items that qualify for adjusted tariff protection. Of the remaining 27 items, however, 14 are seafood products, including croaker.

The U.S. Government has urged Korea to eliminate or reduce its tariff on croaker. In 1999, Korea reduced the tariff to 80 percent and the Korean Government announced that it reduced the tariff to 70 percent in early 2001. The United States will continue to encourage Korea to phase out these tariffs.

q. Potato Preparations

The Korea Customs Service's (KCS's) repeated misclassification and change in border treatment of potato preparations has essentially stopped U.S. exports of these products to the Korean market. Potato preparations should enter Korea in the unrestricted HS heading 2005 with a current applied tariff rate of 20 percent and a bound rate of 31.5 percent. Instead, Korea has been classifying these products in the more restrictive HS heading 1105 (pure potato), with an in-quota quantity of 60 metric tons and an over-quota tariff rate in excess of 300 percent.

In 1993, the KCS suddenly reclassified a U.S. potato preparation as pure potato, thereby subjecting it to more restrictive border treatment. The U.S. Government objected to this action, and asked international customs authorities – then, the Customs Cooperation Council (CCC), the predecessor to the World Customs Organization (WCO) – to provide an opinion on the proper classification of the product in question. The CCC found that the U.S. product was properly classified as a potato preparation, and therefore subject to a straight tariff, rather than to more restrictive treatment. Subsequently, the KCS agreed in an exchange of letters with the United States to abide by the CCC ruling. In January 1997, however, after initiating a review of the classification of a number of preparation products, the KCS once again abruptly reclassified another U.S. potato preparation into the same trade restrictive heading, HS 1105. The U.S. Government subsequently pursued resolution of the issue in numerous bilateral meetings with the Korean Government, and has raised it in various multilateral fora.

Even after assurances by the Korean Government that the U.S. product would enter Korea as a potato preparation if a similar European product were found to be a preparation by the WCO – which it

was – and a 1999 letter in which the KCS agreed to classify blended potato products according to internationally recognized criteria, U.S. exporters of potato preparations continue to experience market access problems in Korea. The U.S. Government has urged Korea to take steps to resolve this issue.

r. Agricultural Tariffs

In 1999, the U.S. Government discovered a discrepancy between Korea's applied tariff rates on several agriculture items – peanuts, popcorn, potato flour, potato flakes, and wheat and soybean meal – and its WTO bindings and tariff commitments made to the United States in a 1993 U.S.-ROKG Record of Understanding and a February 1994 exchange of letters. In February 1999, U.S. Embassy officials in Seoul brought these discrepancies to the attention of the Korean Government. The Korean Government adjusted the in-quota tariff rates of potato flour, potato flakes, and peanuts effective January 1, 2000. The U.S. Government will continue to press Korea to bring duties on the remaining agricultural products into compliance with Korea's WTO and bilateral commitments.

s. Import Clearance Procedures, Food Standards, and Labeling Requirements

After WTO dispute settlement consultations with the United States between 1995 and 1999, the Korean Government revised its import clearance procedures by: (1) expediting clearance for fresh fruits and vegetables; (2) instituting a new sampling, testing, and inspection regime; (3) eliminating some non-science-based phytosanitary requirements; (4) beginning revisions of the Korean Food and Food Additives Codes, for example, by bringing Korean pesticide residue level standards for citrus into conformity with CODEX standards; and (5) requiring ingredient listing by percentage for major, rather than all, ingredients. In 2000, the KFDA issued revisions to the Food Code, the Food Additives Code, and Labeling Standards for Food. The KFDA's changes addressed many U.S. industry concerns, including mandatory labeling of product type in Korean and excessive restrictions on food and food additives. However, additional work will be needed to bring Korea's Food and Food Additives Codes into conformity with international standards, specifically those related to chocolate and food additives.

In October 2000, the U.S. Government worked closely with the KFDA and the Ministry of Agriculture and Forestry (MAF) to reassure them that the U.S. Government would help them minimize the risk of importing U.S.-origin food-grade corn and corn-based food products that tested positive for the "Starlink" protein. In late December, KFDA guidance to field inspectors helped ease, although not eliminate, port clearance delays caused by confusion over Korea's import requirements regarding Starlink.

In general, U.S. suppliers of food and agricultural products continue to encounter trade-impeding practices in Korean ports of entry and Korean clearance times are still slower than in other countries in the region. Surveys of U.S. trading partners in Asia indicate that import clearance for most agricultural products requires less than three to four days. In Korea, import clearance for new products still typically takes ten to eighteen days (and four to six months if a food additive is used that is not specifically recognized in Korea's Food Code for use in that product). MAF accounts for the greatest delays in import clearance, specifically through non-science-based quarantine, and burdensome documentation, requirements.

The United States will continue its dialogue with the Korean Government on its import clearance procedures until clearance times in Korean ports of entry are comparable to those in other Asian ports and Korean procedures are based on science and consistent with international norms.

4. India

a. General

Important progress was made during 2000 in developing a more constructive long-term trade relationship with India. Important events during the year included elimination of one-half of India's remaining balance of payment-related quantitative restrictions and agreement on India's tariff bindings for textiles and apparel. However, India continues to limit market access through irritants such as automotive TRIMS, soda ash restrictions, and minimum reference prices on steel products.

b. WTO Balance of Payments Case

For more than fifty years, India maintained bans, restrictive licensing, and other quantitative restrictions (QRs) on imports of industrial, textile, and agricultural products, and sought to justify these restrictions on the basis of the balance of payments (BOP) provisions of the GATT. In 1999, BOP restrictions applied to approximately 15 percent of India's tariff lines. Virtually all consumer goods are affected, as are many agricultural, textile, and petroleum-related products.

In 1997, during India's consultation with the WTO Committee on Balance of Payments Restrictions, the International Monetary Fund stated that India no longer had a BOP crisis permitting recourse to the GATT BOP exception. However, India insisted on at least six years to remove the BOP QRs. Following unsuccessful settlement talks with India, the United States initiated dispute settlement proceedings against India in July 1997. A dispute settlement panel was established in November 1997 and the panel issued its final report in April 1999 affirming the U.S. contention that these measures were inconsistent with India's WTO commitments. On May 25, 1999, India filed a Notice of Appeal with the Appellate Body. The Appellate Body rejected India's claim that its balance of payments situation justified import restrictions.

On December 28, 1999, the United States and India reached an agreement to lift these restrictions. Under the agreement, India eliminated one-half, or 714, of its 1,429 QRs on March 31, 2000. Restrictions on the remaining 715 items will be eliminated by April 1, 2001. Eliminating these restrictions will provide market access opportunities for U.S. producers in key sectors such as textiles, agriculture, consumer goods, and a wide variety of manufactured products. India had previously reached agreements with the EU, Japan, and other trading partners to remove these restrictions by April 2003. The agreement with the United States advanced that time table by two years.

c. Intellectual Property Rights and the WTO TRIPS Mail Box

As a signatory to the Uruguay Round of GATT trade negotiations, including the Agreement on Trade-Related Aspects of Intellectual Property Rights, India was required to comply with most of the obligations of the TRIPS Agreement by January 1, 2000, and must introduce a comprehensive patent system for pharmaceuticals and agricultural chemicals no later than 2005. The Indian Government has announced its intention to conform fully to the IPR-related requirements of the Uruguay Round. In December 1999, Parliament successfully passed three IPR related bills: the Copyrights Amendment Bill, the Trademark Bill, and the Geographic Indicators Bill. While the copyright law is generally compliant with the TRIPS Agreement, the 1999 amendments undermine TRIPS requirements concerning protection for computer programs. In 1999, the Parliament failed to amend the Patents Act and, thus, apparently failed to meet fully its WTO TRIPS obligations by the January 1, 2000 deadline. The Patents Act was expected to pass the Parliament in July 2000, and subsequently in November 2000, but remains mired in Committee nearly one year past its original introduction. Should the bill eventually pass, however, several provisions still appear to be inconsistent with the TRIPS Agreement.

In April 1999, the United States and India resolved the WTO dispute brought by the United States regarding India's implementation of Articles 70.8 and 70.9 of the TRIPS Agreement. Through the enactment of the Patents (Amendment) Act 1999 and its accompanying regulations, India established a mechanism for the filing of so-called "mailbox" patent applications and a system for granting exclusive marketing rights for pharmaceutical and agricultural chemical products.

d. Auto TRIMS

The United States considers India's measures affecting trade and investment in the motor vehicle sector to be inconsistent with India's obligations under Articles III and XI of the GATT and Article 2 of the Agreement on Trade-Related Investment Measures. These measures require manufacturing firms in the motor vehicle sector to achieve specified levels of local content; to achieve a neutralization of foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period; and to limit imports to a value based on the previous year's exports.

On June 2, 1999, the United States requested consultations with the Government of India pursuant to the WTO Dispute Settlement Understanding (DSU). Those consultations were held on July 20, 1999. On June 19, 2000, the United States requested establishment of a WTO dispute settlement panel, which India rejected. The United States made a second request at the July 27 meeting of the WTO Dispute Settlement Body, which established the panel on that date. On November 17, 2000, a panel on the same issue was established at the request of the European Union. Pursuant to Article 9.1 of the DSU and at the request of the parties to the two disputes, the panel will be merged. We expect the panel process to continue through the middle of 2001.

e. Textile and Apparel: Tariff Bindings

In the Uruguay Round, the EU and the United States pressed India for market opening commitments. In bilateral agreements in December 1994 with the EU and with the United States, India agreed to eliminate, over time, the special import licensing program, and to bind textile tariffs in the WTO for the first time. This was a very important achievement for EU and U.S. industry.

After some delay, in conjunction with the visit of Prime Minister Vajpayee in September 2000, India and the United States agreed on the level at which India would bind its tariff on textile and apparel products. At issue was the introduction of alternative specific duties by India, including many at rates which would effectively block U.S. exports. The final agreement provides new opportunities at commercially viable tariff rates for U.S. exporters in this large, untapped market. Such products include textured yarns of nylon and polyester, filament fabrics, sportswear and home textiles.

f. GSP

The GSP subcommittee decided in December 1998 to accept for review the petition of the American Natural Soda Ash Corporation (ANSAC) to withdraw, suspend or limit the application of GSP treatment to Indian imports due to the lack of market access to the Indian market stemming from the injunction of the Indian Monopolies and Restrictive Trade Practices Commission barring ANSAC imports. In India's FY1999-2000 budget, it raised the import tariff on soda ash to 38.5 percent, which is now the highest import tariff on soda ash in the world. A public hearing was held on March 23, 1999.

Discussions with the Government of India during the course of 2000 did not lead to a resolution of the issue. In early January 2001, the Administration published a Federal Register notice seeking public comment on the withdrawal of India's GSP benefits on a variety of products as a consequence of India's denial of market access for soda ash. A decision on withdrawal of benefits is expected on or about April 1, 2001.

g. Reference Pricing

In December 1998, three weeks after imposing antidumping duties on certain steel products, the Government of India established minimum reference prices for certain other imported steel products: hot-rolled steel coils, cold rolled steel coils, hot-rolled sheets, and alloy steel bars and rods. Under this regime, India prohibits the import of these products when the import values are below the established minimum price. India had noted that the regime was adopted to discourage dumping. Although, the United States does not export steel to India, U.S. industry is concerned that this practice, which violates India's obligations under the customs valuation agreement, could divert imports to the United States.

Minimum prices on steel were withdrawn on January 1, 2000, for primary products but still apply to secondary merchandise. In the spring of 2000, Indian industry challenged the Government's action to eliminate the regime with respect to primary products. The Supreme Court of India reinstated the regime for these products while it considers the petitioner's claim. To date, the Supreme Court has not issued a final decision and the regime remains in place for both primary and secondary products. The U.S. Government is evaluating the appropriate response to India's decision to retain minimum prices for secondary merchandise.

5. Taiwan

Overview

During 2000, the Working Party on Taiwan's accession to the WTO agreed that substantive negotiations on market access and the Working Party Report had been completed subject to final review and verification. The United States and several other WTO members completed their verification of Taiwan's tariff and services schedules. The only outstanding issue relates to the concerns of a few WTO members regarding nomenclature used in the Working Party Report. The United States has stated on several occasions during the year that the General Council needs to act on the Taiwan and the People's Republic of China's (PRC) applications for accession to the WTO at the same Council session. Negotiations on PRC accession continued throughout the year.

In the U.S.- Taiwan bilateral agreement on WTO accession, concluded in February 1998, special access was provided for agricultural products previously subject to import bans, including certain pork, chicken, and beef products. During 2000, these access arrangements were multilateralized, i.e. "U.S. only" quotas were converted into quotas open to all WTO members. Because of the competitiveness of U.S. product prices, imports of pork and chicken products in 2000 continued at levels at or above those concluded in the February 1998 agreement. Taiwan, however, took the unusual step of allocating a significant portion of the 2000 chicken quota to poultry farmers who did not then import. Discussions are underway to assure that this practice is not repeated before Taiwan accedes to the WTO.

In 1999, Taiwan agreed on a procedure for recognition of internationally approved minimum residue levels (MRLs) for pesticides. Taiwan implemented this new MRL regulatory system in July 2000. Despite the fact that an extensive registration of currently used pesticides was required, no U.S. fruit or vegetable exporters have reported problems with the new system.

a. 1998 Bilateral Agreement on WTO Accession

Taiwan's bilateral agreement with the United States, concluded in February 1998, provides for increased market access prior to accession to the WTO. Once Taiwan fully implements its commitments as a WTO member, it will benefit from increased access to a broad range of U.S. goods and services, including agricultural exports to Taiwan.

Highlights of the 1998 bilateral WTO agreement include commitments by Taiwan to:

- reduce its overall tariff rates below 5 percent;
- reduce tariffs and discriminatory taxes on imported automobiles;
- open trade in a full range of products, including chemicals, medical equipment, furniture, toys, steel, paper, construction and agricultural equipment, wood, civil aircraft, and distilled spirits;
- improve access for telecommunications service providers so that foreign companies can hold a controlling interest, and reduce excessively high interconnection charges for new telecommunications companies;
- accede to the WTO's Government Procurement Agreement (GPA) and establish new arbitration procedures for resolving disputes involving major projects undertaken by the Taiwan authorities. Consultations were held with Taiwan authorities during 2000 to ensure Taiwan's new procurement law and regulations were in compliance with the GPA.

b. Intellectual Property Rights

The overall climate for the protection of intellectual property in Taiwan has deteriorated over the past year. This deterioration is due to a single major factor – lack of an effective legal basis for enforcement actions against optical media piracy. There is a critical need in Taiwan, one of the world's largest producers of optical media products, for a legal requirement to license both the import and the use of CD manufacturing devices. Other governments have adopted such requirements and they have been proven to be an effective tool to identify and to act against copyright piracy. In 1999 and 2000, Taiwan reorganized its enforcement authorities and addressed some longstanding impediments to IPR enforcement. Nevertheless, U.S. companies have for the past decade complained about convoluted procedures regarding recognition of powers-of-attorney, which have often hindered efforts by foreign rights-holders to bring legal action against copyright pirates. In the last year, Taiwan has moved effectively to streamline its legal procedures on this issue.

On January 1, 2001, Taiwan will implement a new chip marking system which will allow identification of the manufacturer and designer of computer chips suspected of containing counterfeit software. This program represents a significant step forward in protecting the IPR of video game designers.

c. Telecommunications

Taiwan issued licenses to three new fixed-line telecommunications companies during 2000. While U.S. companies were initially very interested in fixed-line operations, Taiwan's requirement that new telecommunications companies invest US$1.25 billion in new facilities together with Taiwan's commitment to open fixed-line competition fully by July 2001 dissuaded U.S. and most other foreign telecommunications companies from seeking licenses now.

Several international telecommunications companies, however, are actively interested in providing fiber-optic broadband submarine cable service to Taiwan customers. Access issues regarding these companies have been difficult to resolve. The United States has been actively involved in discussions with the Taiwan authorities over the last several months to assure that these companies can effectively compete in the Taiwan market in a manner consistent with Taiwan's WTO commitments.

6. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights

Hong Kong undertook significant enforcement

actions over the last year to address widespread piracy of copyrighted works. On the legislative front, the proposal to include copyright piracy and trademark counterfeiting as offenses under the Organized and Serious Crimes Ordinance was enacted by the Legislative Council in January 2000. The Legislative Council also passed legislation in June that criminalized the corporate use of unlicensed software and subjects corporate pirates to the same penalties, including fines and jail sentences, as other pirates. Imposition of deterrent sanctions for IPR violations has also improved over the previous year, with an increase in the number of IPR-related jail sentences. Significant follow-up efforts, however, are needed as piracy problems continue and we will continue to monitor these follow-up efforts closely. On other fronts, the Hong Kong authorities extended the mandate of the special anti-piracy task force and are considering concrete actions to prosecute the illegal loading of software by dealers onto computer hard drives. The Hong Kong public continues to become much more aware of the damage being sustained by its own industries, notably movies and toys, from copyright and trademark infringement.

b. Telecommunications

Hong Kong continues to make progress in opening its telecommunications market. During 2000, Hong Kong authorities announced over 30 new licenses for telecommunications services. In particular, Hong Kong's Telecommunications Authority (TA) issued five new licences for local fixed telecommunication network services using wireless networks and twelve licences for external fixed telecommunications services using satellites to and from Hong Kong. It also issued a licence to Hong Kong Cable TV to provide telecommunications services over its coaxial cable networks. In addition, Hong Kong authorities decided to liberalize submarine cable landing licences in an effort to attract more international capacity to Hong Kong. They also announced that in 2001 Hong Kong would invite applications for new local fixed network (wireline) telecommunications systems licenses in order to allow new companies to develop business plans and generate capital in advance of full liberalization.

B. People's Republic of China

Overview

Our China trade policy goals have been to open China's markets to American exports, support Chinese domestic economic reform, and integrate China into the Pacific and world economies. We have used a variety of means to achieve these goals, including commercially meaningful agreements that create opportunities for Americans. These efforts culminated in the signing of permanent normal trade relations (PNTR) legislation for China by the President in October 2000, which builds on our historic bilateral agreement on China's accession to the WTO signed in November 1999.

Looking ahead, to complete the WTO accession process China must reach agreement with other WTO members and complete a multilateral negotiation which will ensure that its policies comply with broader WTO rules. Once China becomes a WTO member, its market will become far more open to the world than it has ever been. WTO accession for China requires no substantial concessions by the United States. We make no change in our current market access policies, and preserve our right to withdraw market access for China in the event of a national security emergency. Likewise, we amend neither our laws controlling the export of sensitive technology, nor our fair trade laws.

Finally, of course, the full benefits of this agreement will require extensive monitoring and enforcement. WTO accession will substantially strengthen our enforcement capability with respect to China, for example through WTO dispute settlement, our ability to work with 139 other WTO members instead of acting alone, multilateral monitoring, and our own trade laws.

2000 Activities

The passage of PNTR legislation in 2000 built upon a record of bipartisan support for a market-opening China trade policy. Until China becomes a WTO member, China's receipt of normal trade relations tariff treatment will be reviewed on an annual basis, requiring the President to waive Section 402 of the 1974 Trade Act, the Jackson-Vanik Amendment. As discussed, Congress enacted legislation authorizing the President to terminate application of Jackson-Vanik to China and grant exports from China PNTR treatment when China becomes a WTO Member.

1. WTO Accession

In November 1999, the United States concluded a comprehensive bilateral WTO accession agreement with China. China committed to reduce both tariff and non-tariff barriers to U.S. exports of industrial goods, agricultural products and services. China also agreed to application of specific rules to address import surges, anti-dumping and subsidies practices and to end the application of export performance, local content, offsets, technology transfer and similar requirements on imports and investment.

China's industrial tariffs will fall from an overall average of 24.6 percent in 1997 to an overall average of 9.4 percent by 2005. On U.S. priority industrial products, tariffs will fall to an average of 7.1 percent, with the majority of tariff cuts fully implemented by 2003. Tariffs will fall on a broad range of products, including wood, paper, chemicals, agricultural and medical equipment. China also committed to join the Information Technology Agreement, so tariffs on products such as computers and semiconductors will fall from an average of 13 percent to zero by 2005.

China's average duty on agriculture will fall from 22 percent to 17.5 percent, with the duties on items of U.S. priority falling even more sharply, from an average of 31 percent to 14 percent. China will expand access for bulk agriculture commodities, including corn, cotton, wheat, rice, barley, and soybean oil and will permit private trade in these products as well as imports through state trading enterprises. Tariff reductions and quota growth will be fully phased in by 2004. China also will eliminate agricultural export subsidies, in particular for corn, cotton and rice.

China agreed to phase-in trading rights for most products over a three-year period. This means U.S. firms and individuals can import and export without going through government-approved middlemen. China also agreed to liberalize distribution services for most products over a three-year period, so that U.S. firms may eventually own and operate their own distribution systems in China, and provide related services such as maintenance and repair services. China also committed to progressively liberalize a broad range of services, including telecommunication services, such as Internet and satellite services; banking, insurance, and financial information services; professional services such as accounting, management consulting, and legal services; hotel and tourism services; motion pictures and distribution for videos, software entertainment, and periodicals; business and computer services; and environmental services.

The agreement also deals, appropriately, with the special and unusual characteristics of the Chinese economy: it addresses state trading; it bans forced technology transfer; it eliminates investment policies intended to draw jobs and technology to China, such as local content, offsets and export performance requirements; and it provides protections for Americans against import surges from China and from abusive export practices like dumping.

While the market access agreement represents a crucial step in China's WTO accession process, China also concluded bilateral negotiations with a number of other WTO members. The commitments in the U.S. bilateral agreement and other such agreements will form an integral part of China's WTO accession package.

In addition to completing these bilateral negotiations, China must reach agreement with the participants in China's WTO Working Party on the application of WTO rules and any special provisions that may apply to China. After a consensus is reached in the Working Party on China's draft Protocol of Accession, Working Party Report and market access schedules, these documents are transmitted to the WTO General Council, which must approve the terms and conditions for China's accession. Normally, approval is by consensus, but a Member may require a vote on the accession, which must then be approved by a two-thirds majority of all WTO Members. Negotiations on China's accession continued throughout the year.

2. Agriculture

Gaining direct access to China's market for U.S. agricultural products has long been an objective of the U.S. agricultural industry, in particular, the removal of unjustified sanitary and phytosanitary barriers. In 1992, China signed a bilateral Memorandum of Understanding on Market Access with the United States, agreeing to remove unjustified technical barriers to imports of U.S. agricultural commodities. Although China agreed to address these issues within one year, a significant number of problems remain.

On April 10, 1999, the United States and China signed an *Agreement on U.S. - China Agricultural Cooperation*, which eliminated technical barriers in China to imports of U.S. citrus, meat and poultry, wheat, and other grains. Unfortunately, China's compliance with this agreement has been inconsistent and U.S. exporters still do not have the access envisioned in the agreement.

While China agreed to recognize the U.S. inspection system for meat and poultry, for example, it implemented new barriers to poultry imports on December 1, 2000. China has not yet published this regulation, but we understand that the new measure requires all imports of poultry to enter China through four ports. It also imposes several other WTO-inconsistent restrictions and appears designed to replace other restrictions removed in connection with our bilateral agreement and the WTO accession negotiations. We have already raised our concerns about these new regulations with Chinese officials.

In the 1999 Bilateral Agreement, China agreed to remove phytosanitary barriers to citrus exports from Arizona, California, Florida and Texas over a two-year phase-in period. While it implemented the first tranche according to schedule, China delayed implementation for remaining counties in California and Florida three months beyond the October 2000 deadline, finally implementing the agreement for those countries on January 18, 2001.

China also agreed to remove phytosanitary barriers to wheat and other grains from the Pacific Northwest beginning April 1999. Thus far, less than 100,000 metric tons of grain have been shipped to China, and most of it has been stopped at the border due to new internal measures calling for special processing of U.S. grains.

Bilateral negotiations on remaining sanitary and phytosanitary issues continued in 2000. China agreed to remove unjustified barriers to imports of U.S. dried tobacco as of December 1, but has just concluded an "import protocol." China still needs to publish its administrative rule so the protocol can become effective. While China agreed to allow imports of U.S. rabbits, barriers still remain on plums, additional varieties of apples, potatoes and pears.

3. Intellectual Property Rights

For more than a decade, the United States and China have engaged in detailed discussions regarding the improvement of China's protection of intellectual property rights and market access for products with intellectual property rights protection. In January 1992, the United States and China reached an agreement on improved protection for U.S. inventions and copyrighted works, including computer software and sound recordings, trademarks, and trade secrets. This

Agreement focused principally on revisions to China's laws and membership in international intellectual property rights agreements, including the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Patent Cooperation Treaty, and the Madrid Protocol on the Protection of Marks.

Although China improved the legal framework for intellectual property rights protection based on the 1992 bilateral agreement, enforcement of those laws was seriously deficient. In 1995, the United States and China reached a second agreement that focused on intellectual property rights enforcement and market access issues.

Based on our 1995 IPR Agreement and the Administration's continuing bilateral efforts, China has developed a basic infrastructure for the protection and enforcement of intellectual property rights. Implementation of our bilateral intellectual property rights agreements provided a basis for China's commitment to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) upon accession to the WTO. Additional improvements to China's laws and training of judges and enforcement personnel are essential. U.S. and Chinese rights-holders can seek administrative and judicial remedies for infringement of their intellectual property rights; however, administrative sanctions need to be increased and the threshold to initiate criminal investigations needs to be lowered. China has formally issued a decree to address the "end-user" computer software piracy issue in connection with government purchase and use of legitimate software.

As a result of intensive bilateral implementation and enforcement negotiations in 1996, China has made further progress on enforcement of intellectual property rights. For example, Chinese authorities have shut down over 100 illegal CD, CD-ROM and VCD production facilities. This effort has changed China from an exporter of pirated material to being the import target for pirated product from other countries in the region.

China also is improving customs enforcement of intellectual property rights. Each year customs authorities seize millions of pirated CDs, CD-ROMs and VCDs. Since the importation of pirated product has been on the increase, we have encouraged enhanced cooperation with regional customs authorities, such as those in Hong Kong and Macau, Vietnam and others, to stop this trade in pirated product.

Under our bilateral agreements, market access for computer software, motion pictures, videos and sound recordings have improved. China also has made further commitments on market access in the context of our bilateral WTO accession agreement.

a. Further Steps to Improve Protection for IPR and Market Access

China's last major revisions to its intellectual property rights laws and regulations occurred after the 1992 Bilateral Agreement. Based on its experience in implementing its intellectual property rights laws, Chinese authorities are engaged in the process of revising the copyright, patent and trademark laws and taking further steps necessary to comply with the requirements of the TRIPS Agreement. The United States has also urged China to do a comprehensive amendment to its copyright laws to implement two copyright related agreements negotiated under the auspices of the World Intellectual Property Organization (WIPO) that China has signed but not yet ratified.

Chinese enforcement of copyrights and trademarks is still uneven from province to province. Guangdong province, for example, has recently significantly increased sanctions against piracy and counterfeiting. We are encouraging the national government and/or the other provinces to do likewise. Of concern is the unauthorized use of software by private enterprises (end user piracy). Piracy rates of entertainment software (game compact discs) and other audiovisual products are also very high. Although strong steps have been

taken to address the production of pirated software, CDs and VCDs, pirated product remains available at the retail level.

Trademark counterfeiting in China has worsened considerably. During recent discussions we have also raised the growing problem with trademark counterfeiting, particularly in the area of consumer goods, protection for unregistered well-known trademarks and effective enforcement against counterfeiters. In part to address these concerns, the Chinese launched a nationwide anti-counterfeiting campaign in October 2000. The results are as yet inconclusive.

Access for foreign sound recordings has improved, but restrictions on distribution remain a key concern. Although imports of foreign video titles have increased rapidly, the Chinese still impose an unofficial quota on foreign motion pictures that are distributed on a revenue sharing basis. China maintains this limit through a state-owned import monopoly.

China committed in its November 1999 WTO accession agreement to increase market access for the audiovisual sector. China will allow foreigners to distribute videos, entertainment software and sound recordings through joint ventures, and will allow the importation of 20 motion pictures annually on a revenue sharing basis.

4. 1992 Market Access Agreement

The United States and China signed a Memorandum of Understanding on Market Access in 1992. This Agreement committed China to changes in its import regime over a five-year period, including increased transparency, elimination of quotas and licenses, a guarantee that no trade law or regulation could be enforced unless published, uniform application of trade rules, elimination of import substitution policies, and agreement that any sanitary and phytosanitary measures would be based on sound science. While China has phased-out formal measures, such as quotas and licenses, serious problems remain as China continues to restrict imports by retaining non-uniform application of trade rules, import substitution policies and use of sanitary and phytosanitary (SPS) standards.

5. Satellite Launch Services

On March 13, 1995, the United States and China agreed to extend the 1989 Bilateral Agreement on International Trade in Commercial Launch Services. This Agreement is intended to balance the interests of the U.S. satellite and commercial space launch industries, while encouraging free trade by allowing China to enter the international market for commercial space launch services in a fair and non-disruptive manner. The extended Agreement covers the period from 1995 through 2001 and continues quantitative and pricing disciplines established under the earlier bilateral space launch services Agreement. The renewed Agreement initially limited China to 15 launches over this time period. An increase in the Geosynchronous Earth Orbit (GEO) launch limit, up to a potential of twenty launches, may be prompted as a result of stronger than predicted growth for GEO launch services. With respect to the Low Earth Orbit (LEO) satellite launch market, the Agreement requires that China's participation in this market segment be proportionate and non-disruptive. Both the GEO and LEO launches are to be priced on a par with other Western providers. The space launch services Agreement specifically provides that nothing in the Agreement limits the operation of U.S. export control laws.

As a result of a 1997 determination that the pricing terms of one of the contracts for a GEO launch were not consistent with the provisions of the Agreement, the United States decided not to consider exercising any discretionary increase in the limitation on GEO launches provided for in the Agreement beyond the original fifteen. The United States continues to monitor the prices, terms and conditions offered by Chinese launch services providers in international commercial competitions.

In October 2000, representatives from China and the United States met to discuss a schedule and agenda for upcoming annual consultations under the terms of the space launch services Agreement. The United States and China are attempting to arrange consultations under the Agreement in early 2001. Agenda items for those consultations include an overview of the world satellite launch market, new developments in China's commercial space industry, and a review of the implementation of the Agreement.

C. Japan

The United States continued its intensive efforts in 2000 to improve market access for United States goods and services, promote deregulation and much-needed structural reform, and support the adoption and successful implementation of pro-competitive policies throughout the Japanese economy. The macroeconomic steps adopted by the Japanese Government have complemented the positive trends in corporate restructuring and investment. Nonetheless, the outlook for Japan's economy remains uncertain. The United States has strongly urged Japan to take additional steps to open and deregulate its market, which would help revitalize its economy and generate sustainable economic growth in the medium- and long-term.

The United States placed a high priority in 2000 on further market opening efforts in Japan. As elaborated below, the United States and Japan reached agreement on a package of new deregulation measures to be taken by the Government of Japan encompassing a wide range of sectors and cross-cutting structural issues. The package will help to promote meaningful reform in Japan, reinvigorate the Japanese economy, and address specific market access concerns of United States exporters.

In addition to this new agreement, the United States dedicated substantial resources to monitoring and enforcing the bilateral trade agreements concluded with Japan, particularly autos and auto parts, insurance, and various sectors of government procurement. While Japan's economic slowdown has interrupted progress in a number of sectors over the last several years, the United States remains committed to close monitoring of our trade agreements with Japan to ensure that United States rights under these agreements are enforced and that the United States exporters are well positioned to compete in Japan once the economy regains its footing.

The United States also relied on a wide range of regional and multilateral fora, including the WTO and APEC to achieve market opening goals in Japan. The United States is working to ensure that our agendas in these fora, including on agriculture and services, are well coordinated with our bilateral agenda so that the various initiatives are mutually reinforcing and complementary.

The highlights of our 2000 bilateral and multilateral trade agenda with Japan follow.

Overview of Accomplishments in 2000

The United States continued to secure further progress in promoting much-needed comprehensive deregulation in Japan in 2000 while simultaneously obtaining improved access for U.S. goods and services. In July, under the Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative), Japan agreed to take additional deregulatory steps in telecommunications, energy, housing, medical devices, pharmaceuticals, financial services and legal services – sectors where United States firms are particularly competitive. In addition, Japan unveiled specific measures to address structural concerns relating to cross-cutting competition policy, transparency, and distribution issues. A key commitment included in the new package is a substantial reduction in Japanese telecommunications interconnection rates, opening the door to genuine competition in Japan's $130 billion telecommunications market and unleashing enormous economic opportunities for United States telecommunications carriers and Internet services providers. Such rate cuts are expected to

save telecommunications carriers operating in Japan over $2 billion during the next two years. Moreover, the benefits for new competitors should grow as interconnection rates will likely drop even more sharply as a result of Japan's agreement to conduct a thorough review of interconnection rates in 2002.

In July, the United States and Japan agreed to continue bilateral deregulation discussions for a fourth year, aiming to secure new deregulation measures designed to further open Japan's economy and increase market access for U.S. and other foreign firms. The United States submitted to Japan in October a 49-page set of proposals calling on Japan to adopt sweeping regulatory reforms in key sectors and structural areas of the Japanese economy. Building on the deregulation measures agreed to in 2000, this October's submission has expanded its telecommunications component to include numerous proposals on cutting-edge information technology issues, particularly e-commerce. Also new to the submission is a section on the revision of Japan's Commercial Code, which provides the fundamental regulatory framework for conducting business in Japan.

The United States focused considerable time and resources in 2000 on the monitoring and enforcement of existing agreements to ensure their successful implementation. U.S. Government officials met with their Japanese counterparts throughout the year to discuss progress and implementation problems under a range of bilateral agreements, including: autos and auto parts, insurance, and NTT procurement.

1. Deregulation

The Enhanced Initiative on Deregulation and Competition Policy, announced in June 1997 established a bilateral forum for addressing deregulation and market access issues in Japan. The Enhanced Initiative seeks to eliminate bottlenecks that inhibit Japanese structural change and economic adjustment and focuses on market access and regulatory issues in seven important sectors: telecommunications, housing, financial services, medical devices, energy, pharmaceuticals, and information technology. The Enhanced Initiative also addresses the critical cross-cutting structural issues of distribution, competition policy, transparency, and the revision of Japan's Commercial Code.

Building on the achievements of the first two years of the Enhanced Initiative, the United States and Japan issued the Third Joint Status Report in July 2000. The measures included in this report will translate into meaningful deregulation in Japan, supporting continued recovery of the Japanese economy and increasing the availability of new, innovative, and competitive products for Japanese consumers.

Recognizing that deregulation is an ongoing process, the United States presented to Japan in October 2000 a 49-page submission, which called on Japan to adopt bold regulatory reforms to further open Japan's economy and increase market access for U.S. and other foreign firms. Given the potential boost to growth that information technology can give to Japan's economy, the United States expanded its submission to include numerous measures on cutting-edge information technology issues. These proposals promise to create a legal and regulatory environment in which the digital economy in Japan can flourish with minimal government intervention. The U.S. submission also focuses on Japan's proposed revision of its Commercial Code, offering measures to ensure that the reform is sufficiently comprehensive to remove the existing impediments to investment and financial transactions and increase accountability and efficiency in corporate management. Fundamental revision of the Commercial Code will have a positive impact on the ability of foreign firms to enter and operate in the Japanese market.

Highlights of the deregulation achievements in 2000, and key United States proposals made in October 2000, for further progress in 2001, are as follows:

a. Sectoral Deregulation

Telecommunications: Over-regulation of new entrants in Japan's telecommunications sector and weak controls over the dominant carrier, NTT, have stifled competition in Japan's $130 billion telecommunications services market, deprived the Japanese economy of the benefits of innovative services and low prices, slowed growth in Japan's information infrastructure and limited access of competitive United States companies. As a result, Japan continues to have difficulty stimulating investment in this sector while high telecommunications rates are crippling Internet usage and electronic commerce.

Under the third year of the Enhanced Initiative, the United States called on Japan to implement a "Telecommunications Big Bang" to eliminate unnecessary regulations and strengthen safeguards against anti-competitive behavior by dominant carriers. To address these problems, Japan agreed to reduce the rates for competitors to interconnect with NTT's network by 50 percent at the regional level (the rates of greatest importance to United States companies) and by 20 percent at the local level by 2001. Such rate reductions will save competitive carriers over $2 billion over the next two years. The cuts will also improve service and lower costs for Japanese consumers, and will reduce the cost of business-to-business transactions and Internet usage. In addition, Japan agreed to conduct a thorough review of NTT's interconnection rates in 2002 based on an improved rate calculation model, a process that should result in additional and substantial rate reductions in 2002.

Japan committed in 2000 to open new points of access ("unbundling") to NTT's network and enact rules to ensure fair usage rates and conditions in order to allow new entrants to compete in providing high-speed Internet services. Japan also agreed to eliminate restrictions which limit their ability to construct their own networks in the most efficient way, removing certain road construction restrictions and promoting measures to improve access to underground tunnels controlled by NTT and electric utilities.

In its October 2000 deregulation submission, the United States urged Japan to establish strong dominant-carrier regulation. In order to achieve more independent telecommunications regulation, the United States called on Japan to create an independent regulator in this important sector by fully separating the regulatory responsibility from the government's industrial promotion policies. Moreover, the United States urged Japan to eliminate rules and practices that deny competitors access to rights of way, facilities, and services necessary to provide high-quality, up-to-date and affordable telecommunications services to consumers in Japan.

Housing: Japan's $42 billion home building materials market is the second largest in the world. Unwieldy rental market restrictions and government-imposed limits on the size of wooden buildings have stymied market access and driven up housing costs for Japanese consumers. The lack of significant resale and renovation markets and a shortage of high-quality rental housing are also limiting long-term growth of Japan's housing sector.

During the third year of the Enhanced Initiative, Japan implemented a change to its Land and House Lease Law governing lease renewals, a reform that will help Japan to develop a quality rental housing market. The measure will also improve housing choices for millions of Japanese families and create enormous opportunities for domestic and foreign builders and suppliers.

Building on our efforts from the first two years of the Enhanced Initiative, Japan agreed to reduce restrictions on four-story wood-frame buildings. This move will strengthen the current boom in construction of wood-frame houses, and could ultimately mean substantial increases in the sales of U.S. wood products. Japan also agreed to help improve housing appraisals by ensuring that maintenance and renovation are factored into appraisal values.

In its October 2000 submission, the United States urged Japan to take a renewed look at ways to substantially increase the sale of existing homes and expand the market for home renovation including changes to housing finance policies. Taking advantage of new technologies, the United States recommends that Japan make such information as property assessments and sale prices for new and existing homes publicly available, including via the internet. The United States is also focusing on technical building regulations and standards issues that continue to impede the use of U.S. building products and building systems. Implementation of such proposals will help Japan achieve its objective of improving the quality, affordability, and variety of Japanese housing, without compromising safety. As in the United States, growth in the resale and renovation markets also will generate significant growth for the overall economy.

Financial Services: The Government of Japan has already implemented the majority of its "Big Bang" financial deregulation initiative, which aims to make Tokyo's financial markets "free, fair and global" by allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. "Big Bang" liberalization should substantially improve the ability of foreign financial service providers to reach customers in most segments of the Japanese financial system.

In a move long sought by the United States, Japan modified the Employee Pension Fund (*kosei nenkin kikin*) and National Pension Fund (*kokumin nenkin kikin*) provisions in June 2000 to allow the direct transfer of securities from one asset manager to another. Japan will eliminate the corresponding requirement for public pensions by April 2001, and permit investment advisors to directly manage public pension funds. Japan also approved legislation to expand the class of assets eligible for securitization by Special Purpose Companies. To improve transparency and predictability in the regulatory process, the Financial Services Agency has agreed to initiate a system of response to written inquiries, including requests for published guidance and "no-action" letters. The entry of banks into the insurance business, scheduled to take place by March 2001, will complete the removal of restrictions on the scope of business of cross-industry subsidiaries.

The United States welcomes Japan's notable progress in increasing the efficiency and competitiveness of its financial markets. In its October 2000 submission, the United States put forward proposals to support further opening and development of the Japanese financial markets, which will allow Japan to take full advantage of international financial expertise and support future Japanese growth. These include: (1) introducing tax-advantaged defined contribution pension plans in a manner that creates a viable pension alternative; (2) permitting postal financial institutions to employ investment advisory companies through direct onshore trust arrangements without the requirement to convert asset positions into cash before changing asset managers; (3) exempting from withholding tax foreign holders of Japanese Government Bonds (JGBs) who use global custodians; (4) requiring full mark-to-market accounting for all investment trusts; (5) simplifying the disclosure requirements for investment trusts; and (6) permitting multiple classes of shares for investment trusts.

For information on deregulation in the insurance sector, please see the Insurance entry under "Existing Bilateral Agreements."

Medical Devices and Pharmaceuticals: Continued over-regulation and inefficiencies in Japan's medical device, pharmaceutical, and nutritional supplement sectors have slowed the introduction of innovative, cost-effective products into Japan. Increasing the availability of these products is key to helping Japan meet the challenge of providing increased quality healthcare to its aging population while containing overall healthcare costs.

Under the third year of the Enhanced Initiative, Japan agreed to take twenty-five new concrete

deregulation measures that are critical to ensuring that the steady stream of innovative medical devices and drugs being developed by U.S. firms can gain timely access to the Japanese market. This included a commitment to establish in October 2000 an unbiased and transparent appeals process that allows U.S. suppliers to challenge unfavorable pricing decisions for medical devices and pharmaceuticals under Japan's national health insurance system.

In line with commitments made in 1998, on April 1, 2000, Japan implemented a reduction in the approval processing time for new drugs from 18 months to 12 months. In addition, Japan agreed to implement a transparent and speedy process for creating new medical device pricing categories and committed to take specific measures to improve the transparency and speed of the approval procedures for both drugs and medical devices, including increased use of foreign clinical data. This will result in faster patient access to cutting-edge products. The Third Joint Status Report also included a commitment by the Ministry of Health and Welfare to abolish restrictions on the shape and maximum daily dosages of many common vitamins and minerals.

Recognizing that Japan has achieved important progress in the medical devices and pharmaceuticals sectors, the United States continues to recommend additional measures that will result in even greater improvements to the ongoing healthcare reform process in Japan. In its October 2000 deregulation submission, the United States Government proposes that Japan adopt steps to expedite and increase the availability of innovative medical devices and expand consultations between the Government of Japan and industry regarding pharmaceutical pricing reform to promote the availability of innovative pharmaceuticals. The United States also urges Japan to take further steps to prevent duplicative clinical testing for pharmaceutical approvals, expedite the approval of medical devices, ensure direct industry input in the medical device and pharmaceutical pricing decision processes, and liberalize the sale of nutritional supplements.

Energy. Japan has taken concrete steps over the past year to deregulate its energy sector with the aim of creating a more efficient, rational and less expensive supply of energy. In March 2000, Japan opened nearly one-third of its electricity market to competition, allowing large-lot customers to choose their electricity supplier. This reform is intended to help reduce Japan's energy prices, which are the highest among OECD countries, and in doing so, to increase economic growth and create new jobs. In the Third Joint Status Report, the Government of Japan agreed to establish a fair, transparent, and non-discriminatory framework for access to its electricity transmission grid and natural gas sector. Japan also agreed to eliminate antitrust exemptions applicable to the electricity and gas sectors, and pledged to disclose information on the development of transmission rates by utilities so that new firms seeking to compete in the market can determine if these rates are being set fairly. These reforms will help United States firms to produce, sell, and trade power in Japan's $135 billion electric power market and will create new opportunities for exports to Japan's $15 billion market for electrical generation equipment.
In its October 2000 submission, the United States calls on Japan to take more aggressive steps to promote the emergence of competitive wholesale and retail energy sectors. The United States recommends that the new divisions created within the Ministry of Economy, Trade and Industry in January 2001 regulate the electricity and gas industries, be fully independent, and staff themselves with a sufficient number of energy sector experts to permit effective monitoring and enforcement. The United States also urges Japan to establish measurements to gauge progress in energy sector liberalization and to conduct comprehensive interim reviews of liberalization in the gas and electricity sectors by the end of 2001 instead of waiting until the currently scheduled review dates of 2002 and 2003, respectively. Other key elements in the submission are proposals that Japan: (1) require that utilities make transparent their tariff calculation methodologies; (2) ensure open and non-discriminatory access to electricity transmission and distribution facilities;

and (3) ensure open and non-discriminatory access to gas pipelines and liquified natural gas terminals.

Legal Services and Infrastructure: As deregulation and restructuring of the Japanese economy create new opportunities for Japanese and foreign persons and enterprises, the capacity of the Japanese legal system to facilitate business transactions and resolve disputes will become increasingly important. The Government of Japan, recognizing the importance of adequate legal services in an international financial center, has taken measures to increase the number of successful applicants of the annual Bar Examination, lifted the ban on business advertising by Japanese lawyers and foreign legal consultants, and established a Judicial Reform Council to verify the fundamental policies necessary for reform of the Japanese legal system. The United States has welcomed these steps and its October 2000 submission recommends additional measures to be taken: Those measures include: (1) further increasing the number of legal professionals in Japan; (2) improving the efficiency of civil litigation; (3) reforming Japan's arcane arbitration law; (4) augmenting judicial oversight over administrative agencies; (5) improving the ability of courts to issue and enforce prompt and effective orders to remedy legal violations; and (6) improving the transparency of judicial proceedings. In addition, the United States continues to urge Japan to remove the ban on partnerships between Japanese and foreign lawyers and to accord equal treatment to Japanese lawyers and foreign legal consultants.

Information-Technology: Recognizing that building a vibrant information technology sector is critical to bolstering Japan's economic growth, the U.S. deregulation submission to Japan in October 2000 includes a new focus on cross-cutting information technology issues. The proposals in the submission reflect the U.S. experience that government's most important role is ensuring that market mechanisms such as competition and innovation are allowed to flourish. They are also designed to dovetail with Japan's objective of achieving an IT revolution within five years. The United States recommends steps to improve the climate in Japan for operating and investing in this sector through: (1) greater intellectual property rights protection in the digital environment; (2) a commitment to free trade in "digital products" such as software, music and video; (3) reform of laws permitting paperless electronic commerce in sectors such as consumer finance sector; (4) greater use of electronic commerce for government procurement; (5) a commitment to market-based approaches to technology standards (versus government-mandated standards); and (6) an emphasis on a self-regulatory approach to consumer protection and privacy.

b. Structural Deregulation

Distribution: Japan's rigid and inefficient distribution and customs systems have restricted market access in key sectors, including glass, film, and paper. The heavily regulated and therefore costly and time-consuming process of physically distributing foreign-made goods in Japan results in trade distortions that affect purchasing decisions and work against the competitiveness of foreign-made products. Japan's ability to move goods quickly and inexpensively is critical in order for the country to reap the benefits of achieving a revolution in information technology.

Japan's new Large-Scale Retail Store Location Law enacted on June 1, 2000 marked an important step forward in addressing some of the inefficiencies in the distribution sector. However, the law must be carefully monitored to ensure that its implementation does not unfairly discriminate against large stores and is not an even greater obstacle to store openings than the previous regulatory regime. U.S. and other foreign retailers, for example, have expressed concerns that small shop owners pressure local officials to abuse their authority and make unreasonable demands on large retailers over issues related to traffic, parking, noise, and trash removal.

In the Third Joint Status Report, Japan agreed to ensure that the new Large Scale Retail Store

Location Law is implemented in a consistent, transparent, and fair manner. In response to requests by the United States, MITI, and its successor, the Ministry of Economy Trade and Industry (METI) has established official contact points in Tokyo and around the country to field complaints by large store developments and to facilitate their resolution. To address concerns that local governments will not implement the Large Scale Retail Store Location Law in a uniform manner, Japan will undertake an information campaign to ensure maximum awareness about the new law, and to provide local governments with technical assistance with regard to its implementation.

Japan also agreed to adopt meaningful changes to its customs system, including increasing the amount of goods that Customs officers are allowed to process during overtime work. This measure will effectively reduce the costs of releasing goods imported into Japan, saving U.S. and other foreign importers millions of dollars each year. Japan has agreed to introduce over the next year a new Simplified Declaration Procedure that will move imports into Japan more efficiently through streamlined procedures for duty payments and reporting requirements.

In its October 2000 deregulation submission, the United States called on MITI to continue to monitor implementation of the Large Scale Retail Store Location Law, taking appropriate measures to ensure that it is applied fairly, reasonably, and uniformly by the local governments. The submission also called on MITI to work closely with the Japan Fair Trade Commission to promote competition in highly oligopolistic industry sectors such as flat glass. With respect to import processing, the United States urged Japan to continue modernizing and streamlining customs clearance procedures.

Competition Law and Policy: A key goal of the Enhanced Initiative is to ensure that deregulation is not undone by anti-competitive actions orchestrated by private-sector players. Strong antitrust enforcement is needed to combat bid rigging, restrain anti-competitive behavior by incumbent firms in once heavily regulated sectors, and prevent cartels from undermining the health of the economy. In the Third Joint Status Report, Japan confirmed that it will not allow the January 2001 central government organization to affect the independence of the Japan Fair Trade Commission (JFTC) in antitrust enforcement and competition policy promotion related to any sector. Japan also undertook to improve the JFTC's capacity to investigate and take action against cartels by improving the effectiveness of its searches, fortifying its ability to obtain evidence stored on computers, actively seeking penalties against obstruction of its investigations and aggressively pursuing international cartels. In addition, Japan committed the JFTC to monitor local government policy toward large-scale retail stores and to strictly apply the Antimonopoly Act (AMA) against collusive practices in the retail sector. To combat bid rigging, the National Police Agency (NPA) will cooperate with the JFTC in a new investigative mechanism and provide assistance to local police departments to ensure vigorous and effective investigations of criminal bid-rigging, or *dango*, activities.

In the past year, Japan passed legislation eliminating the antimonopoly exemption for the electricity, gas and railroad sectors as well as for other sectors that could be characterized as natural monopolies, and affirmed that the Industry Revitalization Law in no way supercedes the AMA. Japan also enacted a bill allowing private parties to obtain legal injunctions against parties engaged in activities that violate the unfair trade practices provisions of the AMA and to file damage actions against trade associations violating the AMA.

The United States continues to urge Japan to strengthen its efforts to stamp out anti-competitive practices in its economy. In its October 2000 deregulation submission, the United States recommended that Japan take formal steps to safeguard the JFTC's independence following the reorganization of the central government. It urges the JFTC to play an active role in promoting

competition in regulated sectors, including by establishing a joint working group with the Ministry of Posts and Telecommunications (MPT) to review ways to promote competition in the telecommunications, postal insurance and other postal services sectors under MPT jurisdiction. The submission also calls on Japan to make operation of the surcharge payment system more effective in supporting the investigation and deterrence of collusive agreements among competitors.

Transparency and Other Government Practices: Over the past several years, the Government of Japan has begun to lay the foundation for a more transparent and accountable regulatory system, including through the implementation in 1999 of a Public Comment Procedure. However, Japan's regulatory system continues to lack the transparency and accountability necessary to ensure that all players have the same access to public information and the policymaking process.

In order to address these concerns, Japan has agreed under the Third Joint Status Report to increase regulatory transparency and bureaucratic accountability by introducing a government-wide policy evaluation system. In response to U.S. concerns, Japan will examine the implementation of the Public Comment Procedure, including the length of comment periods used and the justifications given for why the ministries do not use the Procedure in particular cases. Building on these measures, the United States is seeking steps in its October 2000 submission that would curtail bureaucratic discretion by incorporating the rule-making procedures into a law, requiring any administrative guidance to be issued in writing, and requiring administrative agencies to allow the public to comment on proposed legislation before it is submitted to the Diet. The U.S. submission also calls on Japan to improve the Public Comment Procedure by taking steps to better incorporate public comments into final regulations, as well as to extend the time period for submissions of such comments. Such reforms will increase the transparency of the process, raise the accountability of the bureaucracy, and help level the playing field for foreign firms by curbing the special advantages traditionally enjoyed by Japan's domestic firms.

Commercial Code: The United States Government included for the first time in 2000 recommendations in regard to Japan's plan to undertake a sweeping revision to its Commercial Code - the first such comprehensive revision in half a century. A bold reform of the Code, which is scheduled for completion in 2002, could introduce greater flexibility in the organization, management, and capital structure of Japanese companies, and improve their efficiency and accountability. Ultimately, this could strengthen Japanese firms, improve the business environment for United States and other foreign firms operating and investing in Japan, and contribute to the revitalization of the Japanese economy. In its October 2000 deregulation submission, the United States recommends that Japan carefully consider revisions of the Commercial Code that would: (1) make corporate boards more independent of management and accountable to shareholders; (2) eliminate many of the current restrictions on a company's capital structure; and (3) push Japan closer to international standards of accounting and disclosure. The submission also calls on Japan to allow greater public and foreign expert input in the revision process.

2. Existing Bilateral Agreements: Implementation and Monitoring

a. Insurance

The 1994 and 1996 bilateral insurance agreements have made significant contributions to the deregulation of the Japanese insurance market to date. The agreements included sweeping measures that resulted in significant improvements in the product approval process, greater use of direct sales of insurance products, and the introduction of risk differentiated automobile insurance. Of great importance, the agreements eliminated the obligation to adhere to rates set by the non-life rating organizations once imposed on insurance companies, thereby eliminating the

cartels that, until recently, characterized Japan's non-life insurance market. As a result of these positive changes, foreign insurance companies have visibly and substantially increased their presence in both the life and non-life insurance sectors in Japan.

In light of progress made by Japan to deregulate the primary insurance sector as well as its commitment to further improve the product approval process, in July 2000, the United States confirmed that the bilateral agreement provisions to avoid radical change that prohibited life subsidiaries of non-life companies and non-life subsidiaries of life companies from selling third sector insurance products or utilizing certain distribution channels for these products, would be lifted on January 1, 2001. However, the 1994 and 1996 bilateral insurance agreements as well as Japan's WTO commitments related to insurance remain in force, and consultations will continue as called for under the agreements.

Bilateral consultations under the two insurance agreements were held in Tokyo in March 2000. The review included an assessment of Japan's implementation of the provisions of the agreement through use of data provided by the Government of Japan and the objective criteria contained in the agreement. More specifically, the United States and Japan discussed administrative and regulatory changes in Japan's insurance sector, including issues related to Japan's product approval process, the availability of needed resources and technology within the Financial Services Agency (FSA), and recent changes related to the life and non-life Policyholder Protection Corporations. The United States also raised issues of key concern to U.S. industry regarding plans of the Ministry of Posts and Telecommunications related to their postal insurance system (*Kampo*). In addition, in order to promote U.S.-Japan regulator-to-regulator discussions of various aspects of the U.S. and Japanese insurance regulatory systems, a representative from the National Association of Insurance Commissioners (NAIC) participated in the talks. The next annual consultation is scheduled to be held in the spring of 2001, at which time the United States anticipates a full discussion of a wide range of issues.

In addition to the bilateral agreements on insurance, the United States and Japan have discussed various insurance-related issues within the context of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy. The United States welcomes new commitments Japan made in the Third Joint Status Report to further deregulate, increase transparency of, and best utilize personnel and other resources within Japan's insurance product approval system. In addition, the Government of Japan affirmed that it has no current plans to expand *Kampo* into additional areas of non-life insurance, and that the Ministry of Posts and Telecommunications will explain upon request to foreign insurance providers and other interested parties any plans to change *Kampo* insurance offerings.

In its October 2000 deregulation submission to Japan under the Enhanced Initiative, the United States included specific proposals focused on transparency in the regulatory reform process and in Japan's development of plans for the transition of the postal services portion of the Ministry of Posts and Telecommunications to a Postal Services Agency and Public Corporation in 2001 and 2003, respectively. In addition, the United States called for Japan to ensure that any plans to change the offerings of *Kampo* are developed and implemented in a manner consistent with Japan's goals of deregulation to promote free, fair and global markets. The United States voiced concern that any future expansion of *Kampo* into product lines being offered by private insurers is inappropriate and questioned the competition policy implications of the fact that *Kampo* falls outside the scope of the Insurance Business Law and is not subject to oversight by FSA or the JFTC.

b. Autos and Auto Parts

Improving access to Japan's automotive market has been a high priority for the United States. In

an effort to significantly increase export opportunities to Japan for U.S. auto and auto parts manufacturers, in August 1995, the United States and Japan reached an Automotive Agreement, which expired on December 31, 2000. The goals of the 1995 Agreement were to eliminate market access barriers and significantly expand sales opportunities in this sector. To monitor implementation of the Automotive Agreement, the United States also announced the establishment of an Interagency Enforcement Team, which released periodic assessments of progress in all areas covered by the Agreement.

At the last annual consultations under the 1995 Agreement, held in November 2000 in Seattle, the United States expressed strong concern that Japan's economic slump, limited market access, and the weak competitive environment have continued to disproportionately hurt foreign vehicle and auto parts manufacturers in Japan. The United States voiced strong disappointment that, after rising steadily in 1995 and 1996, sales of North American-made vehicles have fallen for the past four years, with sales in 2000 expected to be substantially less than in 1994. In an effort to contend with these economic conditions and position themselves to better compete in the future, U.S. auto companies have continued to consolidate or close less-profitable dealerships. The United States also stressed similar concerns related to the auto parts sector, where U.S. exports to Japan declined from a record level of $13 billion in 1995 to about $11 billion in 1999. The United States pointed to the need for additional Japanese efforts to, among other things, further deregulate and increase transparency in this sector. In general, the United States concluded that, while some progress was made under the 1995 Agreement, the overall market opening objectives of the agreement have not yet been achieved and significant barriers restricting full access by U.S. vehicle and parts manufacturers remain.

During the latter half of 2000, the United States and Japan conducted a series of negotiations on the future of the bilateral Automotive Agreement. Recognizing the significant changes that have taken place in the global automotive market in the last several years, the U.S. Government proposed a five-year, follow-on agreement that was based on the 1995 Agreement and incorporated additional measures to be undertaken by Japan to eliminate remaining market access barriers in the sector. These included: further deregulation of the automotive sector; improvements in the transparency of procurement by Japanese auto and auto parts makers and in the Japanese automotive regulatory and standards-setting process; adoption of more rigorous measures by the private sector to comply with the Antimonopoly Act; further dissemination of information on central and local government investment incentive programs of relevance to the automotive sector; facilitation of a periodic dialogue among U.S. and Japanese auto and automotive parts industries. Another essential aspect of the U.S. proposal was continued provision of specific automotive data by Japan for discussion at ongoing annual consultations and a set of additional objective criteria through which to evaluate progress.

Unfortunately, the Government of Japan did not accept the U.S. proposal, and as a result, the 1995 Agreement expired on December 31, 2000.

c. Government Procurement

NTT Procurement: On July 1, 1999, the United States and Japan concluded an NTT Procurement Agreement that reflects changes brought about by NTT restructuring into four firms (NTT holding company, NTT East, NTT West, and NTT Communications). The new agreement remains in effect until July 2001. It includes a commitment that the NTT companies will conduct their procurement in an open and transparent manner and provide non-discriminatory and competitive opportunities to both domestic and foreign suppliers. The agreement outlines three methods of procurement, including the traditional "request for proposal" method, a means by which companies with innovative products can approach NTT directly, and a means by which NTT will conduct follow-on purchases. The agreement also ensures that foreign companies will continue to

have equal access to procurement information, provides protection for any proprietary information supplied during the procurement process, and includes a mechanism for protesting unfair bids.

The NTT companies continue to account for a large percentage of Japan's $35 billion telecommunications equipment market and remain the most important purchasing entities in this sector. Through their research and development and deployment decisions, the NTT companies have and will continue to set standards that impact the entire market. The United States expects that procurement of foreign equipment by the NTT successor companies will not only continue to grow, but will move closer to the success foreign firms have achieved in other, more open parts of the Japanese market and telecommunications markets globally.

The United States and Japan conducted an annual review under the bilateral agreement in November 2000 to discuss the operation of the new procurement procedures and review data. The United States side focused discussions on changes in procurement brought about by the NTT restructuring, the process through which suppliers qualify to bid, the criteria used by NTT to select suppliers, the functioning of the Supplier Proposal process, and the use of national versus international technical standards. The NTT companies provided data on foreign procurements for Japanese Fiscal Year (JFY) 1998 and 1999, as called for under the agreement. Procurement of foreign equipment increased somewhat under the 1999 Agreement, but still remains far below purchases of such equipment by other Japanese telecommunications carriers. Under the terms of the 1999 Agreement, in 2001 the U.S. and Japanese Governments will hold consultations on the operation of the agreement, and the NTT companies will provide procurement data for JFY 2000.

Telecommunications: The Government Procurement Agreement on Telecommunications Products and Services, concluded on October 1, 1994, aims to significantly increase access for, and sales of, foreign products and services. The agreement also includes measures Japan will take to improve and open its procurement process to foreign suppliers, which are intended to improve the transparency and impartiality of the process and to increase reliance on international standards. Implementation of this agreement is assessed through both quantitative and qualitative criteria.

The United States continues to urge Japan to take concrete actions to correct the low level of Japanese public procurement of highly competitive U.S. and other foreign telecommunications goods and services. The United States remains concerned about the use of biased standards, the excessive use of sole sourcing, and lack of transparency, which restrict the ability of U.S. firms to bid competitively. The next annual review will be held in the spring of 2001.

Computers: The 1992 U.S.-Japan Computer Agreement commits Japan to adopt non-discriminatory and open procurement procedures with the aim of expanding government procurement of foreign computer products and services. The agreement makes procedural improvements in Japan's public sector computer procurement regime, with provisions guaranteeing that: (1) equal access to information and opportunity to participate will be available to all potential bidders; (2) any company that has participated in developing specifications for a procurement will be barred from bidding on that same procurement; (3) sole sourcing will be restricted to exceptional cases justified under the GATT/WTO Agreement on Government Procurement; (4) evaluation of bids will be based upon a range of criteria set forth in the tender documentation; and (5) unfair low bids will be prohibited.

United States firms continue to have much greater success in the Japanese private sector than in the public sector. This situation, as well as rapid technological advancements in this sector, has led the United States to urge Japan to update and

improve the implementation of the Computer Agreement. As a step forward, the Government of Japan has announced a plan to consolidate Japanese central government procurement announcements and documentation on the Internet. Japan's aim is to create a consolidated procurement information home-page beginning in fiscal year 2001. This site would make available all Japanese central government procurement information necessary for bidding for all product categories. A pilot program for digital bidding and contracting would begin in Japan's FY2003, aiming at full implementation from Japan's FY2005. The next annual review of the Computer Agreement will be held in the first half of 2001.

Supercomputers: Under the 1990 Supercomputer Agreement, Japan committed to implement transparent, open, and non-discriminatory procurement procedures and to ensure that procuring entities are able to procure the supercomputer that best enables them to perform their missions.

Results under the 1990 Supercomputer Agreement have been mixed. There was an increase in the early 1990's in the U.S. share of Japan's public sector supercomputer market, with U.S. firms reaching a 40-45 percent market share. However, this trend has not been sustained, and more needs to be done by the Government of Japan to ensure that individual ministries and agencies fulfill Japan's commitment to provide transparent, open and non-discriminatory competitive procedures for their procurement of supercomputers. The United States continues to closely monitor developments in this sector and remains committed to ensuring full implementation of the 1990 Agreement.

Medical Technology: The Medical Technology Agreement was concluded in November 1994 with the goal of significantly increasing access and sales of competitive foreign medical technology products and services in the Japanese public sector procurement market. This agreement has been successful in providing greater market access and sales for foreign suppliers in Japan's government procurement sector. The last review of this agreement showed that foreign market share had increased to 45.6 percent.

The United States continues to urge Japan to make further progress in this sector by improving transparency in Japan's public procurement process. At the United States' request, Japan took steps in February 1999 to allow the use of the overall greatest value methodology to include procurement by local and prefectural governments. The next consultation under this agreement will be held in early 2001, at which time Japan will provide updated procurement data.

Construction/Public Works: There are two public works agreements in effect: the Major Projects Arrangements (MPA), implemented in 1988 and amended in 1991, and the 1994 U.S.-Japan Public Works Agreement, which includes the "Action Plan on Reform of the Bidding and Contracting Procedures for Public Works" (Action Plan). The MPA was designed to improve access to Japan's public works market and includes a list of 40 projects in which international cooperation is encouraged. Under the 1994 Agreement, Japan must use open and competitive procedures for procurements valued at or above the thresholds established in the WTO Agreement on Government Procurement.

The U.S. share of Japan's $250 billion public works market has consistently remained well below one percent – a troubling fact given the competitiveness of American design/consulting and construction firms throughout the rest of the world. The consultative mechanism under the 1994 Agreement expired on March 31, 2000. However, the United States believes it is essential for the two governments to continue to meet regularly to discuss problems in Japan's public works sector.

The United States included procurement practices in Japan's public works sector in its Title VII report issued in May 2000. In the report, the United States described a significant and persistent pattern of practices of discrimination that impedes U.S. companies from participating in Japan's public works sector. These practices

include rampant bid-rigging; unreasonable restrictions on the formation of joint ventures, including the three-company joint venture rule, which limits to three the number of members in joint ventures for most construction projects; use of unreasonably vague and discriminatory qualification and evaluation criteria in the design/consulting and construction areas; and the structuring of procurements and calculation of procurement values so they fall below the thresholds covered by the agreements. The U.S. Government continues to closely monitor developments in this sector.

d. Investment

Changing Japanese attitudes toward inward foreign direct investment (FDI), depressed asset values and improvement in the regulatory environment enabled U.S. and other foreign firms to gain significant new footholds in the Japanese economy in 2000, mostly through mergers and acquisitions. As a result, although FDI in Japan remains the lowest among the OECD countries, investment during JFY 1999 hit $21.5 billion (Yen 2.4 trillion), double the level of JFY 1998. In the first half of JFY 2000 (April-September) FDI rose 41 percent compared to the same period the year before, totaling $17.45 billion (about Yen 1.9 trillion). Financial services accounted for approximately 40 percent of this FDI, with 38 percent (roughly $7 billion) going to telecommunications.

In March 2000, the United States and Japan co-sponsored an Investment Conference in Tokyo at which business representatives from both countries were able to raise issues of concern directly with Japanese Government officials. The business recommendations for further reform and deregulation were contained in a summary report jointly presented to the President and Prime Minister in July 2000.

Japanese and foreign businesses in 2000 were significantly affected by the implementation of several laws passed in 1999 which included suggestions raised by the United States during the dialogue carried out under the 1995 foreign direct investment agreement. The Securities Exchange Law, for example, was modified and now mandates consolidated and market-value accounting for listed firms. A revision of Japan's Commercial Code for the first time allows one company to wholly acquire another through stock swaps. Further, the Industrial Revitalization Law was passed, providing tax and credit relief to firms (including foreign investors in Japanese companies) which undertake government-approved reorganization. The new bankruptcy law (Civil Reconstruction Law) encourages business reorganization, including spin-offs, rather than forced liquidation of assets. In addition, the concept of corporate governance, such as the role of boards of directors, is also changing in ways that augur well for increased investments, mergers and acquisitions.

Nevertheless, government and business observers from both countries recognize that much more remains to be done. The U.S. and Japanese Governments agreed in 2000 to continue to consult on investment issues; a meeting of the bilateral Investment Working Group will occur in early 2001.

3. Sectoral Issues

a. Steel

The U.S. steel industry endured tremendous hardship in 1998 as a sudden and substantial drop in demand for steel in Japan and the rest of Asia created a huge oversupply. As a result, imports from Japan increased 164 percent from 1997 to 1998, making Japan the main source of imports to the U.S. market in 1998. Imports from Japan of steel mill products in 1999 fell 54 percent compared to 1998, and fell an additional 30 percent in 2000.

In July 2000, the Commerce Department published the Report to the President on Global Steel Trade: Structural Problems and Future Solutions. The report documented the role of Japanese imports in the 1998 steel crisis and the

underlying structural distortions in the Japanese steel industry that exacerbated that crisis. Specifically, the report cited substantial information indicating the apparent market coordination among major integrated steel producers and a protected home market characterized by stable production shares among the major producers; very low levels of imports; a closed distribution system for steel; and an onerous product certification process for steel imports.

In 2000, antidumping orders were issued against Japan on (1) structural steel beams and certain tin mill products; and (2) certain carbon and alloy seamless standard, line, and pressure pipe. In addition, U.S. steel producers and workers requested antidumping investigations against Japan on steel concrete reinforcing bar and stainless steel angles.

The second and third working-level meetings of the U.S.-Japan Steel Dialogue took place in March and November 2000. The primary topics of discussion in the second round of meetings were trade patterns, market conditions, and trade policies in Japan. Specifically, the United States focused on the static shares of production held by Japanese steel producers, the stability of steel prices in Japan's domestic market, and other indicators of the lack of competition in the Japanese steel market. The United States also inquired about the implementation of the Industrial Revitalization Law in the steel sector. The United States stressed that in order for restructuring to be successful, Japan needed to encourage domestic and import competition and avoid subsidies.

In the third session held in November 2000, the United States focused on the lack of meaningful competition in Japan's steel market. The United States presented the findings of the Commerce Department's steel report which suggests that members of Japan's steel industry continue to coordinate steel production levels in a manner that appears inconsistent with principles of market competition. The United States will continue to raise its concerns about the apparent anticompetitive practices in the steel industry with the Government of Japan in future meetings of the U.S.-Japan Steel Dialogue. The United States will use the OECD Steel Committee as a forum to discuss structural distortions in the Japanese steel market. We will also continue to raise the structural issues that affect the steel sector, such as competition policy and distribution, under the Enhanced Initiative.

b. Flat Glass

In January 1995, the United States and Japan concluded an agreement aimed at opening the oligopolistic Japanese market to imported flat glass. There were some positive changes under the agreement, such as increased use of higher value added glass, but U.S. firms have made little market headway. The Agreement expired on December 31, 1999, and Japan has refused to negotiate a new agreement.

A 1999 Japan Fair Trade Commission (JFTC) survey identified a number of problematic distribution practices requiring further monitoring. In addition, the JFTC ruled on December 21, 1999, that certain Japanese industry associations and affiliates, including a subsidiary of Japan's largest flat glass manufacturer, unlawfully colluded through price discrimination and other methods to intimidate distributors who purchased foreign-manufactured auto replacement glass.

In its 2000 deregulation submission under the Enhanced Initiative, the United States urged MITI and the JFTC to actively take additional steps to monitor and promote competition in the flat glass sector and assure compliance with the Antimonopoly Act by working with Japanese firms to prevent discriminatory barriers in the distribution system. The United States also called on the JFTC to initiate a survey on highly oligopolistic industry sectors, focusing on the extent and form of financial inter-relationships linking manufacturers and distributors. The United States continues to raise glass market access issues with Japan and to work with U.S.

industry on ways to improve market access and enhance competition in this sector.

c. Rice

Japan's highly protected rice market has long been a target for liberalization efforts. During the Uruguay Round, Japan agreed to crack open the door to its domestic rice market by establishing a minimum access commitment for rice imports. Under this agreement, Japan committed to import 379,000 metric tons in 1995/1996. This quota has grown to just over 762,000 tons at the end of the Uruguay Round implementation period (2000/2001). Since the Uruguay Round, the United States has been the single largest foreign supplier of rice to the Japanese market, supplying approximately one-half of total imports.

On April 1, 1999, a new Japanese rice regime went into effect that transformed the existing import quota system into a tariff quota system. Under "tariffication," a duty is applied to imports outside of Japan's minimum access rice imports.

The U.S. rice industry has worked assiduously to meet the demands of the Japanese market. In cooperation with its Japanese customers, it has improved its production, handling, and milling techniques for the unique varieties that are produced specifically for the Japanese market. To advance this effort, the U.S. rice industry has actively engaged in technical discussions with Japan. In addition, the U.S. rice industry made tremendous efforts to improve its price competitiveness under the simultaneous-buy-sell (SBS) tendering system.

The United States continues to convey to the Government of Japan its expectation that the U.S. rice industry will achieve future access to Japan's rice market in line with earlier supply trends established under the minimum access commitment. The United States believes it to be of great importance that the Japan Food Agency administer its import system in a transparent manner that will allow U.S. rice exporters to develop effective commercial relationships with end-users in Japan. Moreover, the United States urges the Government of Japan to consider any changes to the SBS system that would allow it to work in a more effective way. The United States will continue to closely monitor Japan's rice purchases, and will consider all of its options to respond to Japan's policies in the event that circumstances change. Additionally, the United States will seek further liberalization of all market access commitments, including Japanese commitments on rice, during ongoing WTO agricultural negotiations.

4. Multilateral/WTO Disputes and Settlements

Consumer Photographic Film and Paper: In 1998 the United States created an interagency monitoring and enforcement committee to ensure that Japan is fully living up to its formal representations to the WTO regarding its efforts to ensure the openness of the Japanese market to imports of photographic film and paper.

The conclusions of the Committee over the last year have been mixed. Overall, recent structural changes in the Japanese economy, coupled with U.S. monitoring efforts and limited steps by the Government of Japan to further open the Japanese market to foreign photographic film and paper producers, have yielded some positive results in this sector. The removal of various barriers to foreign direct investment (FDI) in Japan has provided some new and heretofore unseen opportunities for U.S. companies in the photographic film and paper as well as other sectors of the Japanese economy. However, foreign manufacturers continue to face notable barriers in their continued efforts to gain more meaningful access to the Japanese photographic film and paper market. This calls for further action by the Government of Japan. Among other things, Japan's Ministry of International Trade and Industry and the JFTC in particular - should take further steps to open Japan's distribution system and more actively seek out and investigate complaints of anticompetitive behavior in all sectors, including photographic film and paper.

Further, because the availability of most foreign film products remain greatest in larger "non-traditional" retailing channels, it is important that the Government of Japan takes all necessary steps to ensure that the new Large-Scale Retail Store Location Law, which became effective in June 2000, does not discourage new retail store development or create a regulatory environment that is more burdensome than under the old Large Store Law.

Varietal Testing of Fruits: In October 1997, the United States invoked dispute settlement procedures against Japan regarding its varietal testing requirements. Japan required repeated testing of established quarantine treatments each time that a new variety of an already approved commodity was presented for export. This redundant requirement had no scientific basis and, because it imposed expensive and time-consuming testing on American producers, served as a significant barrier to market access. The United States challenged these requirements as inconsistent with Japan's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement").

The United States prevailed in WTO panel and Appellate Body proceedings which concluded on October 27, 1998, and February 19, 1999, respectively. On March 19, 1999, the WTO Dispute Settlement Body (DSB) adopted the panel and Appellate Body findings that Japan's varietal testing requirement was: (1) maintained without sufficient scientific evidence, in violation of Article 2.2 of the SPS Agreement; (2) not based on a risk assessment, in violation of Article 5.1; and (3) inconsistent with Japan's transparency obligations under paragraph 1 of Annex B, since Japan did not publish its requirements. The United States and Japan are close to agreeing on quarantine methodologies for apples.

Japan and the U.S. agreed on the implementation of methodologies for nectarines and cherries, allowing these products to be shipped to the Japanese market.

D. Western Europe

Overview

The U.S. economic relationship (measured as trade plus investment) with Western Europe is the largest and most complex on earth. Due to the size and nature of the transatlantic economic relationship, serious trade issues inevitably arise on occasion. Sometimes small in dollar terms, especially compared to the overall value of transatlantic commerce, these issues can take on significant importance as potential precedents for broader U.S. trade policies. This is particularly true in the case of U.S. disputes with the European Union (EU) over EU import policies respecting bananas and beef treated with growth hormones. Despite U.S. WTO victories against the EU's banana regime and the EU's ban on U.S. beef from cattle treated with hormones, the EU has not ended its discriminatory treatment in these areas.

The fifteen member countries of the EU together comprise a market of some 370 million consumers with a total gross domestic product of over $8 trillion. U.S. goods exports to the EU Member States totaled $152 billion in 1999, second only to Canada. Since 1992, U.S. goods exports have increased 41 percent, including a 1.8 percent increase in 1999. Jobs supported by goods exports to the EU have increased from an estimated 1.3 million in 1992 to an estimated 1.4 million in 1998 (latest data available).

From its origins in the 1950s, the EU has grown from six to fifteen Member States, with Austria, Finland, and Sweden becoming the newest EU members states on January 1, 1995. The other major trade group within Western Europe is the European Free Trade Association (EFTA), which through 1994 included Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland (Austria, Finland, and Sweden ceased EFTA membership upon their accession to the EU). Formed in 1960, EFTA provides for the elimination of tariffs on manufactured goods and select agricultural products that originate in, and are traded among, its Member States.

In late 1991, the EFTA countries and the EU reached agreement on the formation of a European Economic Area (EEA), designed to strengthen significantly the free trade agreement already in place between the two groups. Switzerland rejected the EEA in a referendum at the end of 1992. A revised EEA (excluding Switzerland) entered into force on January 1, 1994. In practice, the EEA involves adoption by the EFTA signatories of approximately 70 percent of EU legislation.

2000 Activities

In 2000, the EU intensified its efforts to deepen the economic and political integration of its Member States. The pace of additional western European integrative efforts over the next few years is being set first by the experience of implementing the Economic and Monetary Union (EMU) established by the EU's Maastricht Treaty, which went into force on November 1, 1993, and amendments to Maastricht contained in the 1997 Amsterdam and 2000 Nice Treaties. Under the Maastricht Treaty schedule, eleven Member States on January 1, 1999 launched in earnest the EMU program, the most prominent feature of which is the introduction of the new European single currency (the "euro"), set to replace national currencies in participating Member States by 2002. The second major factor affecting the pace of European integration will be the process of enlarging the EU to include new members to the East and South. The EU has signed association agreements and other types of free trade arrangements with the Czech Republic, Slovakia, Hungary, Poland, Bulgaria, Romania, Latvia, Lithuania, Estonia, Albania, Slovenia, Israel, Algeria, Morocco, and Tunisia. The EU has also negotiated a customs union with Turkey. In November 1998, the EU formally launched substantive accession negotiations with six "first-tier" candidate countries: Poland, the Czech Republic, Hungary, Slovenia, Estonia and Cyprus. In late 1999, the EU declared it would also begin formal negotiations for accession with Slovakia, Romania, Bulgaria, Lithuania, Latvia and Malta (Turkey remains an accession candidate, with no EU commitment to commence formal negotiations). Although the December 2000 EU summit addressed important institutional questions associated with EU enlargement, key issues still need to be resolved before enlargement can take place. No firm target has been set for completing any of the accession negotiations and some candidate states have expressed concern that the process could last for a number of years.

In 2000, USTR devoted considerable resources to addressing pressing or potential trade problems with the EU and its individual Member States, as well as to efforts to enhance the transatlantic economic relationship. As part of our ongoing dialogue with the European Union under the Transatlantic Economic Partnership (TEP) this year, we negotiated a Mutual Recognition Agreement (MRA) on marine safety equipment, completed an agreed framework for cooperation on calibration, and are nearing completion on guidelines for more effective transatlantic regulatory cooperation and transparency. We advanced our discussions with the EU on MRAs in key services sectors (insurance, engineering and architecture). We also have agreed to establish a pilot project to track biotechnology product approvals simultaneously through our respective regulatory systems. We have continued efforts to reach understandings with the EU that would lead to EU compliance with WTO dispute settlement rulings on bananas and beef and to resolve other bilateral trade problems. In addition, with respect to the WTO ruling in the Foreign Sales Corporation (FSC) case (see Chapter II for a fuller discussion of this case), we will work to resolve the situation in a mutually satisfactory manner and to ensure that this issue does not seriously damage our overall bilateral relationship.

The extent of USTR activity on a bilateral basis with respect to the EFTA states in 2000 was modest, though both Norway and Switzerland have continued to make inquiries concerning possibilities for further regulatory cooperation.

1. Transatlantic Economic Partnership

At the May 1998 U.S.-EU Summit in London, the President and EU Leaders announced the Transatlantic Economic Partnership (TEP) initiative, which seeks to deepen and systematize the cooperation in the trade field launched under the New Transatlantic Agenda process begun in 1995 (see below). In the TEP, the two sides identified a number of broad areas in which they committed to work together in order to increase trade, avoid disputes, address disagreements, remove barriers and achieve mutual interests. These areas include: technical barriers to trade, agriculture, intellectual property, government procurement, services, electronic commerce, environment and labor. In addition, the United States and EU agreed to put an emphasis throughout the initiative on shared values, i.e. they agreed to more fully involve citizens and civil society on both sides of the Atlantic in trade policy so as to strengthen the consensus for open trade. Cooperation under the TEP occurs with respect to bilateral matters, as well as in the context of multilateral activities such as in the WTO. The TEP Action Plan, endorsed by Leaders at the December 1998 U.S.-EU Summit in Washington, lays out specific goals under each of the above categories which the two sides hope to achieve as soon as possible.

Under the TEP in 2000, the United States and EU agreed to establish a project to examine the regulatory processes on each side connected with the issue of biotechnology. The two sides worked to develop common guidelines for regulatory cooperation and transparency – an area increasingly seen by the business community as impacting the further deepening of transatlantic commercial ties. In addition, under TEP auspices, the United States and EU will begin negotiating new agreements and other forms of cooperation for mutual recognition of regulatory processes in various industrial and services sectors. Finally, U.S. and EU leaders agreed at the June 1999 U.S.-EU Summit to use TEP mechanisms to carry out part of a joint effort to identify – and hopefully defuse – potential trade problems at an early stage, before they become irritants to the bilateral economic relationship.

Public Dialogues: Important companions to the Transatlantic Economic Partnership initiative are the various private dialogues among European and American businesses, labor organizations and environmental and consumer groups. The first of these to be established, the Transatlantic Business Dialogue (TABD), is a forum in which American and European business leaders can meet to discuss ways to reduce barriers to U.S.-European trade and investment. Other dialogues – the Transatlantic Labor Dialogue (TALD) and the Transatlantic Consumer Dialogue (TACD), along with the Transatlantic Environment Dialogue (TAED) – start from a similar premise, i.e., that corresponding organizations on both sides of the Atlantic should share views and, where possible, present joint recommendations to governments in both the United States and the EU on how to improve transatlantic relations and to elevate the debate among countries in multilateral fora. All of these dialogues have forwarded recommendations related to trade policy issues to governments on both sides of the Atlantic. The United States is committed to the full participation of civil society in the trade policy process and intends to cooperate closely with all the dialogues as it works to implement the TEP initiative.

2. Standards, Testing, Labeling, and Certification

A process of harmonization of technical regulations and product standards is underway within the EU. The U.S. Department of Commerce anticipates that EU legislation covering regulated products eventually may affect half of all U.S. exports to Europe. Given this trade pattern, EU legislation and standardization work in the regulated areas is of considerable importance. Although there have been improvements in some respects, a number of problems related to this evolving EU-wide regulatory process continue to cause concerns for U.S. exporters. Among these concerns are: lags in the development of EU standards; lags in the

drafting of harmonized legislation for regulated areas; inconsistent application and interpretation by Member States of the legislation that is in place; overlap among directives dealing with specific product areas; gray areas among the scope of various directives; and unclear or unnecessary marking and labeling requirements for these regulated products before they can be placed on the market.

In December 1998, the United States and the EU began implementation of the U.S.-EU Mutual Recognition Agreement (MRA) – in sectors representing over $50 billion of annual two-way trade. The MRA is designed to reduce duplicative conformity assessment procedures, while maintaining our current high levels of health, safety and environmental protection. Once fully implemented, the MRA will permit U.S. exporters to conduct required conformity assessment procedures (such as product testing and inspection) in the United States according to EU requirements, and vice versa. The sectors covered by the current MRA include: telecommunications and information technology equipment; network and electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft. The recreational craft annex entered the operational phase in June 2000; and the telecommunications equipment and EMC annexes entered the operational phase in January 2001.

Over the past year, the United States continued work to enhance regulatory cooperation and reduce unnecessary technical barriers to transatlantic trade. Under the Transatlantic Economic Partnership (TEP), the United States and EU advanced our bilateral regulatory cooperation workplan in 2000 by advancing negotiations for an MRA on marine safety equipment and a completing a framework for cooperation on calibration. We made substantial progress on agreed guidelines and principles for effective regulatory cooperation and more transparent regulatory procedures. In addition, the TEP will be used to conclude precedent-setting mutual recognition agreements and other cooperation in the services field – beginning with sector-specific negotiations in the areas of insurance, engineering services and architectural services.

3. Telecommunications

Europe is in the process of implementing wide-ranging liberalization and harmonization in its telecommunications services market and is undergoing a process to update its telecommunications legislation. The European Community and its Member States, with limited exceptions, committed to provide market access, national treatment, and fair regulatory practices as part of the WTO Basic Telecommunications Agreement. Greece, Ireland, Portugal, and Spain made subsector-specific reservations in the WTO agreement, mirroring derogations granted under EU law that permit an extra one to five years before the introduction of competition. Ireland and Spain abandoned these derogations and, as of January 1, 1999 and December 1, 1998 respectively, opened their markets to full competition. Portugal's derogation has also ended and Greece's was scheduled to end at the end of 2000.

The record of implementation under the agreement so far is mixed. Many Member States have begun licensing new entrants, and have begun taking the steps necessary to compel former monopolies to meet pro-competitive obligations set forth in the WTO Agreement. However, some governments have been slow to adopt or put in place the legislative and regulatory mechanisms necessary to implement EU directives. The European Commission's competition directorate, formerly DG-IV, has taken an active stance in bringing actions for noncompliance with EU directives in order to compel implementation.

Europe is also in the process of privatizing state-owned telecommunications firms, but in some countries, this process has proceeded slowly.

About half of the incumbent operators in EU Member States remain primarily government owned, including France, Germany, Austria, Belgium, Luxembourg, Sweden, Finland, and Greece.

4. Aircraft

Throughout 2000, the United States pressed the European Commission and Airbus consortium governments for details of EU plans for official financial assistance for the launch of Airbus' A3XX superjumbo jetliner project. Specifically, the United States asked for discussions regarding the terms and conditions of that financing, to ensure that those terms and conditions complied with the EU's obligations under the 1992 U.S.-EU Agreement Concerning the Application of the WTO Agreement on Trade in Civil Aircraft and the WTO Agreement on Subsidies and Countervailing Measures. In December 2000 and January 2001, the two sides held technical discussions on financing of the A3XX (officially unveiled as the A380 by Airbus on December 19, 2000) and other issues associated with trade in large civil aircraft.

5. Foreign Sales Corporation Tax Rules

Potentially the most damaging of the trade disputes currently involving the U.S. and the EU is the EU's complaint to the WTO that the U.S. Foreign Sales Corporation (FSC) tax rules are an illegal export subsidy. The United States lost this case on appeal in spring 2000, but repealed the FSC and enacted new legislation in November which correct the shortcomings identified in the dispute. Though the United States and the EU agreed in September 2000 on procedures which would permit WTO legal review of the new legislation, the EU has nonetheless requested permission ultimately to retaliate against up to $4 billion in U.S. exports should the new measure be found inconsistent with WTO rules, as the EU charges. The WTO's review of the legislation is expected to be completed by the middle of 2001. In the U.S. view, the EU's WTO challenge does not arise out of substantive commercial problems of EU businesses. To the extent that European industry has spoken out on this issue, it has been to counsel against escalation and confrontation and to urge a reasonable settlement of the dispute.

6. EU Banana Regime

In 1997, the United States won two WTO proceedings (before a WTO panel and the WTO Appellate Body) against the EU's discriminatory banana regime, which has been in effect since 1993. The WTO found that the EU had violated numerous provisions of the GATT and GATS. The WTO determined that the EU had deliberately confiscated a major share of the banana business developed by United States and Latin American companies and transferred it to EU companies and EU domestic banana growers. The WTO also determined that the EU unfairly restricted imports of bananas grown in Latin American countries compared to imports from the EU's former colonies.

In 1999, the United States won a WTO arbitration that determined that the EU banana regime is hurting the U.S. economy by over $191 million each year – i.e., over $1.3 billion since 1993 – and authorized U.S. retaliation in the form of 100 percent duties on selected EU products. The United States took this action after nearly a decade of trying to convince the EU to honor its international trade commitments and after the EU had lost two cases in the GATT.

U.S. policy consistently has been to press the EU to adopt a WTO-consistent banana regime that enables the vulnerable Caribbean countries to continue exporting their bananas. U.S. officials have presented the EU several proposals that would do just that, and have coordinated these views with Latin American countries involved in this dispute. The Caribbean countries themselves recently submitted a proposal to the EU that would achieve these twin goals. The United States has endorsed the Caribbean proposal; the EU has not. The United States will continue to press the EU to comply with its WTO obligations, including by intensifying on-going negotiations

with the Commission, consulting with EU Member States, and raising the issue in the WTO Dispute Settlement Body.

7. Ban on Growth Promoting Hormones in Meat Production

The EU continues to ban the import of U.S. beef obtained from cattle that have been treated with growth promoting hormones. In 1996 the United States challenged the EU ban on U.S. beef in the WTO. In June 1997, a WTO panel found in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the ban was not based on a scientific risk assessment. In January 1998, the WTO Appellate Body upheld the panel's finding that the EU's ban on imported meat from animals treated with certain growth-promoting hormones is inconsistent with obligations under the WTO SPS Agreement.

In 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with the WTO rulings by the May 13, 1999 deadline. In July 1999, the United States applied 100 percent duties on $116.8 million of U.S. imports from the EU after receiving WTO authorization.

The United States has recently engaged in discussions with the EU on the possibility of reducing the level of retaliation in exchange for improved market access for U.S. non-hormone treated beef. However, as of December 31, 2000, the two sides had not reached an agreement on this matter.

8. Approval of Biotechnology Products in the EU

EU legislation covering biotechnology has proven to be unpredictable, cumbersome, and non-transparent, and the EU's approval system has ceased to function. While in the past the EU approved several U.S. agri-biotech products, no U.S. agri-biotech products have been approved since April 1998. In June 1999, some of the EU's Environmental Ministers declared a moratorium on new approvals of agri-biotech products until amendments are completed to the EU's Directive 90/220, which governs approval of agri-biotech products. The United States has lost $200 million annually in corn sales since 1998 because of continued approval delays for other agri-biotech corn varieties.

The United States continues to press concerns about the EU's regulatory processes for approving agri-biotech products and is continuing a dialogue with the EU on these issues. Both sides agreed in late 1998 to use the Transatlantic Economic Partnership (TEP) to set up a Biotechnology Group to identify and address differences in regulatory processes that delay the approval process in the EU. This Group met periodically during 1999 and 2000 and will continue in 2001 with a meeting in February. In addition, President Clinton and EU Commission President Prodi agreed to a high-level dialogue to address a wide range of issues involving this technology. These senior officials have met several times in 1999 and 2000 to address these issues, including market access obstacles. In the TEP Biotechnology Group, the U.S. presented a proposal in May 2000 aimed at restoring U.S. corn exports to the EU. U.S. and EU experts have engaged in a useful technical dialogue to reach a common understanding on mutually acceptable sampling and testing methodologies to detect unapproved varieties. This work should facilitate reaching an agreement in 2001 that will enable trade in corn to resume.

9. Veterinary Equivalence

As a part of the Single Market initiative, the EU harmonized its animal and public health standards among Member States. In harmonizing these standards, the EU introduced new import controls for animal and animal products that threatened to disrupt U.S. exports to the EU. On April 30, 1997, USDA announced that the United States and the European Union had reached an agreement on an overall framework for recognizing each other's

veterinary inspection systems as equivalent. The agreement is expected to open new opportunities for red meat exports and preserve most pre-existing trade in products such as pet food, dairy and egg products. Without this agreement, U.S. exports of some products, including egg products and dairy products, would have been blocked from the EU market unless U.S. industries invested in costly adjustments to their facilities to comply with each EU internal market requirement. The agreement, which covers more than $1.5 billion in U.S. animal and animal product exports to the EU and an equal value of EU exports to the United States, was signed on July 20, 1999 and became effective on August 1. In July 2000, the Joint Management Committee created by the agreement met for the first time. Agreement was reached on an approach to resolve differences concerning short audit processes and a working group was formed to harmonize auditing procedures for the long term. Progress was also made on selected animal health issues.

While conditions for trading poultry and poultry products will be less restrictive under the agreement, U.S. poultry plants using certain anti-microbial treatment are not able to ship to the EU. The EU will not accept our use of certain anti-microbial treatments such as chlorine despite the fact that such treatments are an important element in modern poultry and red meat processing. The United States continues to explore ways of resolving this issue in connection with its overall review of implementation of the Equivalence Agreement.

10. Wine

U.S.-EU wine negotiations were successfully launched in 1999 following several years of discussions concerning various market access problems. The negotiations became possible when, in response to U.S. insistence, the EC Council in December 1998 approved an extension of the existing derogations for U.S. wine making practices for five years or until an agreement is reached, whichever comes first. EC Commission and U.S. negotiators met several times in 1999 and 2000, gaining valuable information about each other's regulatory systems for wine that will help them achieve a bilateral agreement. The United States continues to be concerned about the EU's requirements for the review and approval of wine making practices, and has questioned the EU's export subsidies and subsidies to its grape growers and wine producers. A major EU concern is the use of semi-generic names on some U.S. wines. Other issues include tariffs, approval procedures for labels, the use of certain terms on labels, and import certification. The United States will continue to press the EU to give U.S. wine makers equitable access to the EU wine market. Negotiations slowed in the second half of 2000 while the EC Commission consulted with stakeholders. In late 2000 the EU Council agreed on new guidelines for EC negotiators. Negotiations are expected to accelerate in 2001 starting with a session in February.

E. Mediterranean/Middle East

Overview

U.S. trade relations with the countries of Northern Africa and the Middle East, while to date relatively modest, have considerable potential value in terms of both U.S. commercial and foreign policy interests. The U.S.-Jordan Free Trade Agreement (FTA) and the U.S.-Israel Free Trade Agreement, together with the Trade and Investment Framework Agreements (TIFAs) established with several countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the development of intra-regional trade.

2000 Activities

1. U.S.-Jordan Free Trade Agreement

The U.S.-Jordan Free Trade Agreement (FTA), signed on October 24, 2000, will eliminate virtually all tariffs on industrial goods and farm products within 10 years, as well as commercial

barriers to bilateral trade in goods and services originating in the United States and Jordan. The FTA includes, for the first time ever in the text of a trade agreement, substantive provisions on electronic commerce. Other provisions address intellectual property rights protection, balance of payments, rules of origin, safeguards, labor, environment, and procedural matters such as consultations and dispute settlement. Because the United States already has a Bilateral Investment Treaty with Jordan, the FTA does not include an investment chapter.

The agreement builds on other U.S. initiatives in the region, designed to encourage economic development and regional integration. These include the 1985 U.S.-Israel Free Trade Agreement and its extension to areas administered by the Palestinian Authority in 1996, and the 1996 Qualifying Industrial Zone (QIZ) program.

2. Qualifying Industrial Zones

In 2000, USTR further expanded the establishment of Qualifying Industrial Zones (QIZs) by designating five additional QIZs in the region in order to help attract investment and strengthen economic integration in the region: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999, the Industrial Park in Gateway, Al-Kerak Industrial Estate, Ad-Dulayl Industrial Park, and Al-Tajamouat Industrial City in Jordan. The first QIZ in Jordan, Irbid, opened in 1998.

These actions were pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Israel and Jordan and Israel and Egypt. The President issued a November 1996 proclamation delegating the authority to designate qualifying industrial zones to the United States Trade Representative and providing duty-free treatment to products of the West Bank and Gaza.

The United States continues to designate additional Qualifying Industrial Zones (QIZ), further increasing employment and investment, and encouraging stability in a volatile region. The growing number of QIZs testifies to the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs are increasingly offering participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits of QIZs.

3. Trade and Investment Framework Agreements

In 2000, the United States worked toward concluding Trade and Investment Framework Agreements (TIFA) with Tunisia and Algeria. TIFA agreements were previously negotiated with key regional partners, Egypt, Jordan, Turkey, and Morocco. Each TIFA establishes a bilateral Trade and Investment Council that enables USTR-chaired representatives to meet directly with their counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment. In 2000, Trade and Investment Council talks with the Government of Turkey were inaugurated and the second TIFA Council discussions with the Government of Morocco were held to review bilateral and regional trade and investment issues such as improving market access for U.S. industrial and agricultural products, improving intellectual property rights protection, and promoting duty-free e-commerce.

4. WTO Accession

Oman successfully acceded to the WTO in 2000. Negotiations on Saudi Arabia's accession to the WTO continue, in which the United States insists

on entry based on implementation of WTO provisions upon accession and commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

5. Intellectual Property Rights

Intellectual property rights protection remains a leading priority in the Mediterranean region. Because of continuing concerns with Israeli efforts to reduce and eliminate piracy of intellectual property, Israel remained on the "Special 301 Priority Watch List" in 2000. Egypt and Turkey are also on the Priority Watch List, while Kuwait, Lebanon, Oman, Qatar, and Saudi Arabia are on the Watch List. The UAE was removed from the list in recognition of its efforts to adequately and effectively protect IPR.

F. Central Europe and the Newly Independent States

Overview

In order to ensure a permanent end to the Cold War, the United States has been actively supporting political and economic reforms in Central Europe (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, Lithuania, Croatia, Albania, Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia-Montenegro) and the Newly Independent States (NIS) (Russia, Ukraine, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, Tajikistan, Turkmenistan, and Uzbekistan). The U.S. Government has been striving to construct a framework for the development of strong trade and investment links between the United States and Central Europe and the NIS. This approach has been pressed on both bilateral and multilateral fronts. Bilaterally, the United States has negotiated trade agreements to extend Normal Trade Relations (formerly referred to as "most-favored nation" or "MFN") tariff treatment to these countries and to enhance intellectual property rights protection; extended Generalized System of Preferences (GSP) benefits to eligible countries; and negotiated bilateral investment treaties (BITs) to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, USTR strives to ensure that Central Europe and the NIS satisfy their bilateral and multilateral trade obligations, as well as comply with U.S. trade laws and regulations, such as those governing eligibility for participation in the GSP program.

2000 Activities

1. Normal Trade Relations Status

Russia, Ukraine, and nine of the other NIS republics within the region receive conditional NTR tariff treatment pursuant to the provisions of title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment. As part of U.S. sanctions policy related to the conflict in the region, the President revoked NTR from Serbia-Montenegro. While certain sanctions against Serbia-Montenegro were lifted in 1996 pursuant to the peace accords negotiated in Dayton, Ohio, NTR tariff treatment was not restored.

Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to any non-market economy that was not eligible for such treatment in 1974 and that the President determines denies or seriously restricts or burdens its citizens' right to emigrate. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, the President can determine that an affected country complies fully with the legislation's emigration requirements and report on this status semi-annually. Affected countries must also have a trade agreement with the United States, including certain specified elements to obtain conditional NTR status.

The President has determined that Russia, Ukraine

and all of the other NIS republics, with the exception of Belarus; are in full compliance. Belarus continues to receive NTR tariff treatment under annual waivers. Congress must enact a law to terminate application of Title IV to a country. In 2000, pursuant to specific legislation, the President terminated application of Title IV to the Kyrgyz Republic, Albania and Georgia.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States has invoked the "non-application" provisions of WTO. In such cases, the United States and the other country do not have "WTO relations" which, among other things, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its accession package. (See Chapter II for further information.)

2. Intellectual Property Rights

Since the United States has concluded bilateral agreements covering intellectual property rights (IPR) protection throughout Central Europe and the NIS, today USTR concentrates principally on ensuring compliance by these countries with their international IPR obligations. In 2000, the transitional period granted developing countries and formerly centrally planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of the compliance of the WTO Members in the region with the TRIPS Agreement. The U.S. Government has cooperated with and provided technical assistance to the countries in the region to help improve the level of IPR protection. Much of USTR's focus in the region is on improving enforcement of existing IPR legislation. Copyright and trademark piracy has been a widespread and serious problem throughout much of Central Europe and the NIS. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

Four IPR issues in the region merit special mention:

a. Ukraine - Optical Media Piracy

Ukraine has become the leading producer and exporter of pirated compact discs (CDs) in Europe. U.S. industry estimated that in 1999 pirates exported over 35 million pirated CDs to Europe and elsewhere, which represented over $200 million in lost revenues. Ukraine also fails to provide copyright protection for pre-existing sound recordings in a manner inconsistent with international obligations and the 1992 bilateral trade agreement. In June 2000, Ukrainian President Kuchma committed to a plan of action to stop the unauthorized production of CDs and to enact legislation to outlaw such piracy by November 1, 2000. Consequently, the USTR agreed to postpone until December 2000 a decision to designate Ukraine a "Priority Foreign Country" under Special 301, which could lead to the imposition of trade sanctions and also the withdrawal of trade preferences under the U.S. Generalized System of Preferences (GSP) program. In light of the submission of key legislation to parliament, the USTR postponed until March 1, 2001, a decision on identifying Ukraine as a "Priority Foreign Country." This would allow Ukraine some additional time to fulfill the action plan.

b. Hungary and Slovenia - Protection of Confidential Test Data

USTR places a high priority on protecting the confidential test data submitted by pharmaceutical firms to health authorities in order to obtain marketing approval. This test data typically requires millions of dollars and years of research to develop, and so innovators have a strong interest in preventing potential copiers from being able to rely on the data to obtain their marketing approvals. USTR seeks to ensure that WTO Members provide the protection of confidential test data (so-called "data exclusivity") specified in

Article 39.3 of the TRIPS Agreement. The United States usually provides five years of exclusivity for confidential test data, and the EU requires its members to provide 6-10 years of exclusivity. Data exclusivity is an important issue in U.S. relations with countries of Central Europe, because at present many pharmaceutical products of U.S. firms do not yet enjoy product patent protection there. Many foreign pharmaceuticals, at best, receive process patents, a relatively weak form of protection. Over the next five years, this vestige of the transition from socialist economic regulations will diminish in importance as new products gain product patent protection. For those drugs without product patent protection, however, data exclusivity can take on special importance. Accordingly, USTR has been pressing the Central European countries - especially Hungary and Slovenia with their large generic drug industries - to provide data exclusivity. In November 2000, USTR initiated Out of Cycle Reviews under Special 301 for both countries because of this issue.

c. Poland and the Czech Republic - Protection for Sound Recordings

Poland and the Czech Republic failed to meet their obligation under the TRIPS Agreement to provide by January 1, 2000, fifty-year protection to sound recordings, including pre-existing recordings. Much of the U.S. recording industries' repertoire of sound recordings would benefit from this protection. A USTR-led effort contributed to Poland and the Czech Republic finally enacting legislation to provide this copyright protection to sound recordings in 2000.

d. The Russian Federation - Widespread Piracy

Russia has enacted comprehensive laws to protect IPR, but certain major deficiencies remain. Most notably, enforcement of IPR remains a pervasive problem. The prosecution and adjudication of intellectual property cases remains weak and sporadic, there is a lack of transparency, and a failure to impose deterrent penalties. Russia's customs administration also needs significant strengthening. Piracy of U.S. films, videos, sound recordings, and computer software remains pervasive. Russia has yet to provide protection, as required by our 1990 bilateral trade agreement, to pre-existing U.S. copyrighted works and sound recordings still under protection in the United States. Some U.S. companies have also had difficulty registering well-known marks, and trademark infringement is reportedly on the rise. In May 2000, Russia was again placed on the Special 301 "Priority Watch List" because of these and other problems. In 1998, the U.S. Government began a U.S. Government-wide IP law enforcement technical cooperation program with Russia. Since 1998, this group has intensified technical assistance on both enforcement and WTO requirements. On enforcement, the GOR has been able to show increases in investigations, but no progress in prosecution of cases.

3. Generalized System of Preferences

Under the Generalized System of Preferences (GSP) program, developing countries are eligible to receive duty-free access to the U.S. market for many items, if it is determined that these countries meet certain statutory criteria. All of the Central European countries (other than Serbia-Montenegro) and most of the NIS participate in the GSP program. Azerbaijan, Tajikistan and Turkmenistan have never requested designation as a beneficiary under the U.S. GSP program and, therefore, are not eligible to receive benefits under the program. Georgia petitioned in 1997 for eligibility as a GSP beneficiary country; that petition is under review.

In 1997, the Government of Russia petitioned the U.S. for duty-free treatment under the GSP program for exports of both unwrought titanium and wrought titanium. On July 1, 1998, the President granted the request on wrought titanium. The petition on unwrought titanium was "pended" based on the situation in the U.S. titanium industry. Since 1997 and throughout 2000, Russia has expressed a continuing interest in a GSP designation for unwrought titanium; however, the

domestic industry faces a situation of weakened demand and depressed prices.

In 2000, USTR examined the eligibility of several countries under the U.S. GSP program. The President announced that, as mandated by the GSP statute, Slovenia will graduate from the GSP program on January 1, 2002, because the World Bank has determined that Slovenia has become a "high income" country. In 1997 the AFL/CIO petitioned USTR to remove Belarus from eligibility for the GSP program due to violation of worker rights. After conducting an extensive review process, including public hearings, and after affording the Government of Belarus ample time to improve its worker rights situation with no progress on this front, Belarus's GSP benefits were suspended in 2000.

In 2000, USTR commenced reviews on the continued eligibility of Ukraine, Armenia, Moldova, Kazakhstan and Uzbekistan under the U.S. GSP program, due to concerns that these countries were not providing adequate and effective protection of intellectual property rights as required by the GSP statute and as agreed to in the bilateral trade agreements that all of these countries entered into with the United States in the early 1990s. (See section on Intellectual Property Rights above.) In late 2000, based on significant improvement in Moldova's intellectual property rights regime since the initiation of the GSP review process, the U.S. copyright industry, which had petitioned USTR to conduct these reviews, withdrew its petition with respect to Moldova. In 2000, the USG also initiated bilateral consultations with both Armenia and Uzbekistan designed to improve the protection and enforcement of intellectual property rights in these countries.

Further, the U.S. GSP legislation contains a provision that makes a country ineligible for GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, which has a significant adverse effect on U.S. commerce. The U.S. Government has been consulting with the Central European countries about addressing the problem of preferential tariffs given EU exporters vis-a-vis U.S. exporters pursuant to their Association Agreements with the EU. (See section on EU Association Agreements and EU Membership below.)

4. The Southeast Europe Trade Preference Act

On November 12, 1999, the Administration transmitted a draft bill, the "Southeast Europe Trade Preference Act" (SETPA), to Congress for its consideration. The SETPA would implement, in part, the United States' commitments to the countries of Southeast Europe pursuant to the Southeast Europe Trade Expansion Initiative announced at the Sarajevo Summit in July 1999. The SETPA would promote economic development and stability in Southeast Europe by increasing access to the U.S. market and facilitating regional investment. The SETPA, which is patterned after the Andean Trade Preference Act, would provide the authority to establish duty-free treatment of certain imports from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania, Slovenia, and the territories of Kosovo and Montenegro on the basis of specified criteria. Duty-free treatment under the SETPA would extend for a period of five years in order to provide investors adequate time to take advantage of the unilateral preferences that the program offers. With respect to the technical assistance component of the Southeast Europe Trade Expansion Initiative, the United States and the Government of Hungary co-hosted a widely-attended conference on "Southeast Europe and the World Trade Organization" in Budapest, Hungary in April 2000.

5. WTO Accession

Prior to the end of 2000, virtually all of the Central European countries (Poland, Hungary, the Czech Republic, Slovakia, Romania, Albania, Slovenia, Croatia, Latvia and Estonia) and two NIS countries (the Kyrgyz Republic and Georgia)

had become members of the WTO. Lithuania completed negotiations for membership in December 2000 and Moldova is expected to complete its accession process in early 2001.

WTO accession working parties have been established for an additional seven NIS countries (the Russian Federation (see section on Country Specific Issues below), Ukraine, Armenia, Azerbaijan, Belarus, Kazakhstan, and Uzbekistan) and two Central European states (Bosnia-Herzegovina and the Former Yugoslav Republic of Macedonia). Serbia-Montenegro has applied for WTO membership. Neither Turkmenistan nor Tajikistan has yet applied for observer status or membership in the WTO.

The United States supports accession to the WTO on commercial terms and on the basis of implementation of WTO provisions. WTO accession and the adoption of WTO provisions can be an important method of supporting economic reform. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in support of the WTO accession process. (See Chapter II for further information on accessions.)

6. Bilateral Trade Agreements and Bilateral Investment Treaties

The United States has some form of bilateral trade agreement with all of the Central European and NIS countries. In addition to these general trade agreements, the United States has concluded a variety of trade agreements concerning specific product areas with various Central European countries and the NIS, such as regarding firearms with Russia, textiles with Romania and Macedonia, poultry with Poland and Russia, and commercial space launch services with Russia and Ukraine (see below).

Bilateral Investment Treaties (BITs) protect U.S. investment abroad in countries where U.S. investors' rights are not protected through existing agreements such as our Treaties of Friendship, Commerce and Navigation. The United States has placed a priority on negotiating BITs with countries undergoing economic reform, in which we believe that we can have a significant impact on the adoption of liberal policies with respect to the treatment of foreign direct investment. BITs also lay the policy groundwork for joining the WTO. BITs provide that U.S. companies will be treated as favorably as their competitors (by providing the better of national or NTR treatment). In addition they: (1) establish clear limits on the expropriation of investments and ensure prompt, adequate, and effective compensation when expropriation occurs; (2) guarantee U.S. investors the freedom to transfer funds in and out of a country without delay, using a market rate of exchange; (3) restrict the ability of local governments to require inefficient and trade distorting practices by prohibiting performance requirements such as local content or export quotas; (4) give U.S. investors the right to submit an investment dispute with the Treaty partner's government to international arbitration; and (5) give U.S. investors the right to engage the top managerial personnel of their choice, regardless of nationality.

In Central Europe, the United States has BITs in force with Albania, Bulgaria, the Czech Republic, Estonia, Latvia, Poland, Romania, and Slovakia. Of the NIS, the United States currently has BITs in force with six countries (Armenia, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, and Ukraine) and has signed BITs with two others (Belarus and Russia) for which the formal process of ratification has not been completed. In 2000, the U.S. Senate gave its advice and consent to ratify the BITs that the United States had concluded with Croatia, Lithuania, Azerbaijan and Uzbekistan. In September 2000, Lithuania completed the ratification processes for its BIT with the United States. The United States held consultations with Slovenia on a BIT, but significant differences remained outstanding. After bilateral discussions, Hungary opted not to conclude a BIT with the United States.

7. Commercial Space Launch

Russia

On September 2, 1993, the agreement on Russia's participation in the commercial space launch market entered into force. The agreement gave Russia an opportunity for its space launch industry to participate in the international launch services market and offered Western satellite companies an additional source of competitive launch capacity. It also provided general rules of the road for fair competition in commercial space launches and required Russia to charge prices comparable to those of Western launch providers for similar services during the period of its space launch industries' transition to market-based operations. As originally concluded, the agreement afforded Russia the opportunity to compete for contracts to launch up to eight commercial payloads to geosynchronous earth orbit (GEO) for international customers (in addition to the INMARSAT 3 satellite and three launches to low-earth-orbit for the Iridium system) between signature and December 31, 2000. The agreement was amended on January 30, 1996 to allow Russia the opportunity to launch up to 15 commercial payloads (in addition to INMARSAT 3) to GEO, with four more launches possible if future market demand proved more robust than anticipated. The amendments also gave Russia additional flexibility on pricing in exchange for greater transparency in price setting, and liberalized rules governing the launch of satellites to low-earth orbit.

In late 1998, the United States informed the Russian Government that it could not foresee increasing the quantitative restriction on GEO launches until Russia showed greater cooperation in preventing the transfer of missile technology to nations such as Iran. By July of 1999, the United States decided that Russian cooperation in the non-proliferation area was sufficient to permit an amendment to the agreement providing for an increase in the number of GEO launches from 16 to 20 (market demand had not developed to the point where the "conditional" increase of four launches mentioned above could be justified). The amendment permitting the increase of four launches became effective in late 1999. In December 2000, the United States decided and informed the Russians that the commercial objectives of the agreement had been met and that U.S.-Russian cooperation in the non-proliferation area was of a nature that would allow the agreement to expire on schedule on December 31, 2000.

Ukraine

The agreement governing Ukraine's entry into the commercial space launch market entered into force on February 21, 1996. The agreement with Ukraine was meant to serve the same basic function as the pre-existing agreements with China and Russia, and its provisions were broadly similar to those of the other two agreements. The agreement afforded Ukraine the opportunity, between signature and December 31, 2001, to launch up to 16 commercial payloads to GEO for international customers (11 of which had to be reserved for a joint venture involving a U.S. company). In addition, Ukraine was given the opportunity to launch up to four more commercial payloads (three of which had to be reserved for a joint venture with a U.S. firm) to GEO if future market demand proved more robust than anticipated. The liberalized rules governing pricing and launches to low-earth-orbit contained in the China and amended Russia agreements were mirrored in the agreement with Ukraine.

On June 5, 2000, the United States and Ukraine announced their mutual agreement to terminate the space launch agreement immediately, in advance of its originally scheduled December 31, 2001 expiration date. This decision reflected the determination that the commercial objectives of the agreement had been met and that U.S.-Ukrainian cooperation on non-proliferation matters was exemplary.

8. EU Association Agreements and EU Membership

The United States has been strongly supportive of the integration of the Central European countries into Western Europe. Ten Central European countries (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, and Lithuania) have concluded Association Agreements (often called "Europe Agreements") with the EU. These Europe Agreements are meant to set the stage for eventual EU membership. The EU is not expected to accept new members before 2004, and many predict that enlargement may take significantly longer, especially for the less developed of the candidate countries. The Europe Agreements provide for the reduction to zero of virtually all tariff rates on industrial products and preferential rates and quotas for many agricultural products. In 2000, the EU and all the candidate countries agreed to reduce their tariffs rates to zero for the vast majority of each other's agricultural products. The candidate countries' Most Favored Nation (MFN) tariff rates on industrial goods are generally higher, and the rates on agricultural goods are usually lower, than comparable EU rates. Consequently, U.S. exporters often face relatively high MFN tariff rates in contrast with the zero or preferential rates borne by EU exporters. Much of this tariff differential problem with respect to industrial goods will dissipate when the candidate countries join the EU and adopt its generally low industrial tariff rates.

In the interim period prior to these countries' accession to the EU, the United States has been consulting with the Central European countries to address this tariff differential problem. In 2000, the United States held talks with Poland, the Czech Republic, Hungary, Slovenia and Romania on this issue. Slovenia has announced a plan to lower its high MFN tariff rates on industrial products to the level of the EU's common external tariff rates over a three-year period. The Czech Republic and Slovakia agreed to tariff waivers in 2001 for civil aircraft and key parts. (See section on Country Specific Issues below.)

As part of the accession process, the candidate countries are harmonizing their laws and regulations to those specified in the EU's common legislative regime, the "acquis communautaire." Frequently, harmonization represents an improvement over the existing regimes in the candidate countries. In the case of audio-visual policy, however, candidate countries must harmonize their laws with the EU's Broadcast Directive, which establishes broadcast quotas for European and domestic production on television. This directive provides a country with flexibility in implementing the quotas. In 2000, USTR continued to work with the candidate countries to encourage them to include the flexibility option in their legislation.

The EU and several of the candidate countries (Hungary, the Czech Republic and Latvia) in 2000 concluded Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (called "PECAs"). These first three PECAs will enter into force in 2001, and the EU is likely to conclude PECAs with the other EU candidate countries. It is the United States' understanding that the provisions for recognition of conformity assessment results would eliminate the need for further product testing and certification of EU-origin products covered by the PECAs. It is unclear how these provisions would affect products originating in countries not party to the PECAs, including products tested and certified to EU requirements pursuant to a bilateral Mutual Recognition Agreement. The United States is concerned that third-country products which do not originate in the EU bearing a valid "CE" mark granted by an EU-recognized notified body may have to undergo redundant testing upon importation to Hungary, the Czech Republic, and Latvia.

9. Country Specific Issues

The United States continued to encounter a number of country specific trade issues in the region, which were not described above. The major items are discussed below:

a. Russia: Potential Restrictions on Investment

The United States was active in opposing proposed Russian legislation which could potentially have deprived U.S. investors and services providers of meaningful market access. In late 1999, a restrictive draft companion law to Russia's Foreign Investment Law, which was passed in July 1999, entitled "On Bans and Restrictions on Foreign Investment into the Russian Federation," was passed by the Duma in first reading. The U.S. Government continues to work with the government of Russia to avoid this law, and any other such restrictive legislation that could have the effect of restricting foreign investment. While we have registered our concerns with an overall positive effect, forces in the Russian Parliament may still pursue similarly restrictive legislation. The United States will continue to monitor carefully legislative developments in these areas and will continue to work with the government of Russia to clarify and strengthen its existing investment regime.

b. Russia: Product Standards, Testing, Labeling and Certification

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, we continue to urge Russia to bring its standards and certification regime into compliance with international practice. The Russian Government is now attempting to put in place the necessary legal and administrative framework to establish standards procedures and processes for certification and licensing of products in Russia in order to better align with WTO rules.

There has been some movement to eliminate duplication among regulatory agencies and to clarify categories of products subject to certification. However, businesses are still experiencing difficulties in getting product approvals in key sectors. Manufacturer declaration of conformity is now feasible under Russian law, but is not yet widely used. In 1998, the Russian State Committee on Standards adopted a new nomenclature of goods subject to mandatory certification, effective January 1, 1999, and the Russian Government has been moving to revise problematic legislation, as provided under its Technical Barriers to Trade action plan.

Certification is a particularly costly and prolonged procedure in the case of telecommunications equipment. In many sectors, type certification or self-certification by manufacturers is currently not possible. Veterinary certification is often arbitrary and needs to be more transparent and based on science. Russian phytosanitary import requirements for certain planting seeds (notably corn, soybeans and sunflowers) appear to lack scientific basis and have blocked imports from the United States. Discussions to ease or eliminate burdensome Russian requirements are ongoing.

c. Russia: WTO Accession

Russia has been an observer in the GATT and WTO since 1990 (initially as the Soviet Union), and formally applied for accession to the GATT 1947 in 1993. Its request for WTO accession has been under discussion since 1995. The United States has strongly supported Russia's efforts to join the GATT and WTO, through active participation in the WTO Working Party established to conduct the negotiations and through technical assistance on how to move Russia's trade regime into conformity with WTO rules. In a series of Working Party meetings through December 2000, Russia described its trade regime and WTO delegations noted specific aspects of the trade regime that require legislative action to become compatible with the WTO. The United States and Russia also continued bilateral discussions on Russia's offers on goods and services market access throughout 2000. WTO-based reforms to Russia's trade regime will strengthen its ongoing efforts for broader-based market-oriented economic reform and can help Russia integrate more smoothly into the global economy. Adopting WTO provisions will give

Russia a world-class framework for intellectual property protection, customs duties and procedures, and application of other requirements to imports that will encourage increased investment and economic growth. Russia recently indicated an interest in accelerating the negotiations, and has taken steps to begin development of new and amended laws and regulations to bring it into conformity with WTO provisions. Completion of the accession negotiations will depend on how rapidly Russia implements WTO rules and moves to conclude negotiations on goods and services with current WTO members.

g. Russia: Aircraft Market Access

The United States and Russia concluded a joint Memorandum of Understanding (MOU) in 1996, which addresses U.S. concerns about access to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. Under the MOU, the Russian Federation confirmed that it will become a signatory to the WTO Agreement on Trade in Civil Aircraft. In the interim before Russia accepts its full international trade obligations, the MOU commits the Russian Federation to provide fair and reasonable access for foreign aircraft to its market. Russia agreed to take specific steps, such as the granting of tariff waivers and the reduction of tariffs, to enable its airlines to meet their needs for U.S. and other non-Russian aircraft on a non-discriminatory basis.

Through 2000, Russian airlines have been able to import over 20 non-Russian aircraft under the MOU, the majority of which were of U.S. origin. In accordance with the MOU, the Russian Federation also lowered tariffs on aircraft from 30 to 20 percent.

e. The Czech Republic and Slovakia: Waiver of Tariffs on Civil Aircraft and Parts

The Czech Republic and Slovakia, which have a customs union, impose a 4.8% tariff rate on large civil aircraft and parts from U.S. exporters, but allow duty-free access to their markets for EU exporters. This tariff barrier posed a major impediment to the ability of U.S. firms to compete against EU firms for the over $2 billion worth of aircraft tenders to be conducted in 2001. In late 2000, the Czech Republic and Slovakia, in response to U.S Government reports, agreed to waive 2001 tariffs on large civil aircraft and key parts. This annual waiver can be renewed.

f. Romania: Minimum Reference Prices

Romania has established minimum and maximum prices for various imports, including poultry and distilled spirits. Romania also has instituted burdensome procedures for investigating import prices when the invoice value falls below the minimum import price. USTR concluded that this customs valuation regime violated Romania's WTO obligations, especially those under the WTO Agreement on Customs Valuation. In May 2000, the United States initiated a WTO Dispute Settlement case in the matter and held constructive consultations with Romanian officials in Geneva in July. A settlement of this matter could occur in early 2001.

g. Hungary: Market Access for High-Quality Beef

As part of its Uruguay Round commitments, Hungary agreed to a tariff-rate quota for imports of live cattle and beef. However, the Hungarian Government permitted only imports of manufacturing quality beef, which prevented U.S. exporters from taking advantage of the demand for U.S. high quality beef. USTR, together with USDA, successfully persuaded the Hungarian Government to establish a special sub-quota for high quality beef finally opening that market to U.S. exporters.

G. Western Hemisphere

1. Canada

Canada is the largest trading partner of the United States with over $1 billion of two-way trade crossing our border daily. At the same time, the United States and Canada share one of the world's largest bilateral direct investment relationships. In 1999, the stock of U.S. foreign direct investment in Canada was $111.7 billion, an increase of 7.5 percent from 1998. In 1999, the stock of Canadian direct foreign investment in the United States was $79.7 billion, an increase of 6.3 percent.

a. Softwood Lumber

Canada challenged the U.S. Customs Service's reclassification of three products (rougher headed lumber and drilled/notched lumber), which places them in a tariff heading for products on which Canada is required to impose export fees under the U.S.-Canada Softwood Lumber Agreement (SLA). On October 24, 2000, the United States and Canada exchanged letters amending the U.S.-Canada Softwood Lumber Agreement (SLA) to settle the dispute over rougher headed lumber. The drilled and notched lumber dispute continues under the SLA's procedures.

After careful consultation with U.S. stakeholders, the negotiators were able to reach a settlement on the rougher headed lumber arbitration which struck a balance among the producers of competing products, users of rougher headed lumber and environmental groups. The agreement permits an additional 72.5 million board feet to enter the United States fee-free, above the current 14.7 billion board feet permitted under the SLA, in full settlement of the arbitration regarding the U.S. Customs Service's June 9, 1999, revocation of rougher headed lumber letter rulings. The additional 72.5 million board feet will enter the United States between October 2000 and March 31, 2001. This settlement is without prejudice to the merits of the Parties' claims respecting the consistency of Customs' reclassification with the Agreement.

b. Intellectual Property – Patents

On May 6, 1999, USTR initiated a WTO dispute settlement case against Canada for its failure to amend its patent law to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). When the panel ruled in favor of the United States, Canada appealed. On September 18, 2000, the Appellate Body upheld the findings of the panel, recommending that the WTO Dispute Settlement Body request Canada to "bring section 45 of its Patent Act into conformity with Canada's obligations under the TRIPS Agreement." As the United States was unable to agree with Canada on a reasonable period for implementation of the WTO's decision, the United States took the matter to arbitration on December 15, 2000. The arbitration decision is expected within the first quarter of 2001.

c. Agriculture

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. In 2000, the CCA and PSAG met twice on issues covering livestock, grain, seed, and horticulture trade as well as pesticide and animal drug regulations.

As a result of the ROU, U.S. feeder cattle exports to Canada continue to increase from seven states. Paving the way for shipping more grain into and through Canada, in November 2000, Canada amended its plant health regulations recognizing all but four states as free of karnal bunt. In January 2000, Canada issued a new directive allowing U.S. wheat to be moved on Canadian rail to export facilities at the port of Vancouver.

Despite these accomplishments, the U.S.

Government continues to have concerns about the marketing practices of the Canadian Wheat Board. On October 23, USTR initiated a Section 301 investigation of certain trade practices of the Canadian Wheat Board. In response to a petition filed by the North Dakota Wheat Commission, the twelve-month investigation will look into the Board's sales practices in the United States and third country markets.

On a related but separate track, the United States is seeking reforms to state trading enterprises as part of the WTO agricultural negotiations. The U.S. proposal calls for the end of exclusive export rights to ensure private sector competition in markets controlled by single desk exporters; the establishment of WTO requirements to notify acquisition costs, export pricing, and other sales information for single desk exporters; and the elimination of the use of government funds or guarantees to support or ensure the financial viability of single desk exporters.

In April 1999, the United States successfully challenged Canada's subsidized dairy industry. A WTO panel found that the Canadian government, through its government-managed provincial marketing boards, was subsidizing the price of exported milk through a two-tiered pricing system. In light of this finding, the Panel also concluded that Canada had violated its export subsidy reduction commitments by exporting a higher volume of subsidized dairy products than permitted by Canada's obligations under the WTO Agreement on Agriculture. The Panel also found that Canada had improperly imposed a limit on the value of milk that could be imported in any single entry under the relevant tariff-quota. This finding was sustained by an appeal panel in October 1999.

Under a negotiated implementation agreement, Canada committed to bring its export regime into compliance with its WTO export subsidy commitments on butter, skimmed milk powder and an array of other dairy products, by January 31, 2001. Although Canada eliminated one export subsidy program in this process, new programs were substituted in nine provinces. The United States is concerned that the new measures appear to duplicate most of the elements of the export subsidies which they replace. Therefore, the United States will request that the panel be reconvened to review Canada's compliance.

2. Mexico

Mexico is our second largest single-country trading partner and has been the fastest growing major export market for goods since 1993, with U.S. exports up more than 170 percent despite Mexico's 1994 peso crisis and the resulting economic contraction. The potential of trade with Mexico is just beginning to be tapped, while the benefits to workers, consumers, farmers and firms are increasingly apparent. The NAFTA has fostered this enormous relationship with its unprecedented comprehensive market opening rules. It is also creating a more equitable set of trade rules as Mexico's higher trade barriers are being reduced or eliminated. The United States has continued to seek improved access to the Mexican market in several areas.

a. Intellectual Property Rights

Piracy and counterfeiting of U.S. intellectual property in Mexico continue to be serious concerns. As has been the case in recent years, despite significant enforcement efforts, only a small percentage of raids have resulted in court decisions and deterrent penalties. To address the problem, the United States convened the U.S.-Mexico Bilateral Intellectual Property Rights (IPR) Working Group in April 2000 in Dallas and October 2000 in Guadalajara to discuss IPR problems and review progress.

b. Standards and Technical Regulations

Technical barriers to trade have been the focus of work in the NAFTA Committee on Standards-Related Measures, and that effort will continue. The Committee's work is supplemented by higher-level discussions when appropriate. The United States has called on Mexico to fulfill its

obligation to allow adequate time for public comment on new or amended regulations under the jurisdiction of the Mexican Ministry of Health.

c. Agriculture

North American agricultural trade has grown significantly since the NAFTA. Mexico is currently our third largest agricultural export market. For fiscal year 2000 (October 1999-September 2000), U.S. agricultural exports to Mexico grew by 11 percent to $6.3 billion, the highest value ever, with value-added consumer agricultural products surging 27 percent to an all-time high.

Current trade irritants include Mexico's limits on the importation and domestic consumption of high fructose corn syrup (HFCS). At the request of the U.S. Government, a dispute settlement panel was established by the World Trade Organization on November 25, 1998 to review Mexico's determination in an antidumping case against U.S. HFCS. On February 24, 2000, the panel ruled in favor of the United States. Mexico responded by refunding antidumping duties collected during a seven-month period and providing a new justification for the original duty rates, which were kept in place. In response to a request by the United States, on October 23, 2000 the WTO Dispute Settlement Body (DSB) agreed to form a panel to review whether Mexico's September 20, 2000 redetermination is inconsistent with the recommendations and rulings of the DSB. A decision is expected in the spring of 2001.

In other agricultural sectors, the United States and Mexico continue to seek to resolve a dispute over the NAFTA's sugar provisions. On April 28, 2000, Mexico announced final antidumping duties on imports of U.S. beef (boneless, bone-in and carcasses). The final antidumping margins are, in many cases, lower than those in the July 27, 1999 preliminary determination but remain a concern to the United States. In September 2000, the United States also held WTO consultations in with Mexico regarding an October 20, 1999 final resolution in Mexico's antidumping investigation of U.S. slaughter hog imports from the United States. On November 30, the United States requested consultations on its concerns about Mexico's administration of its tariff rate quota on U.S. dry bean exports.

Working with affected industries to address these problems will continue to be a high priority, particularly given the importance of continued growth in export opportunities for U.S. agricultural producers.

d. Telecommunications

Telecommunications services market barriers in Mexico's are a serious source of concern. Mexico has failed to maintain appropriate measures to prevent Telmex (Mexico's major telecommunications supplier) from engaging in anti-competitive practices; to ensure timely, cost-oriented interconnection at any technically feasible point in the network for local, long-distance, and international traffic; and to permit the cross border supply of basic telecommunications services over leased lines. In September 2000, Mexico took two positive steps by issuing rules to regulate the anti-competitive practices of Telmex and announcing significant reductions in long-distance interconnection rates for 2001. The United States remains concerned, however, over the apparent lack of willingness on the part of the regulating agency, COFETEL, to enforce the dominant carrier regulations against Telmex, which is already in violation of some of its key provisions. Rather, COFETEL appears to be relying on the private parties to enforce the dominant carrier rules between themselves and is effectively outsourcing its regulatory function. The Government of Mexico has a WTO obligation to prevent Telmex from engaging in anti-competitive practices. We fully expect the Government of Mexico to abide by this obligation. The United States held WTO consultations with Mexico in October 2000, but failed to reach a satisfactory conclusion and in November announced that it would seek the formation of a dispute settlement panel to examine U.S. claims. On January 16, 2001, the United

States conducted a second set of WTO consultations with Mexico concerning the new Mexican measures, including Mexico's dominant carrier regulations and Mexico's interconnection rates for 2001.

e. Customs Valuation

The Mexican Ministry of Finance has established minimum import prices for a specified list of products which is linked to a recently-implemented cash deposit system as part of its customs valuation procedures. Under Mexico's regime, if the declared value of an imported product is below the government-established minimum price, the importer must make a cash deposit in certain designated banks (the value of which is the difference in applicable duties) to obtain the release of the goods. In the meantime, a declared value that is not consistent with the minimum price will result in Mexican customs officials conducting an investigation to verify the declared value, often triggering requirements of additional documentation of questionable evidentiary value (such as a certification by a chamber of commerce) from the importer. Because of the added costs and paperwork burden, this system poses a serious impediment to trade. USTR has been consulting with Mexico and plans to continue to pursue the issue in 2001.

3. Brazil and Southern Cone

a. Mercosur (Argentina, Brazil, Paraguay and Uruguay)

The Common Market of the South, referred to as "Mercosur," from its Spanish abbreviation, is the largest preferential trade agreement in Latin America. It consists of Brazil, Argentina, Uruguay and Paraguay and represents over half of Latin America's gross domestic product. Chile and Bolivia are Associate Members of the group. Mercosur was established in 1991, with the goal of creating a common market. Implementation of the Mercosur customs union commenced January 1, 1995, with the establishment of a common external tariff (CET), covering some 85 percent of intra-Mercosur trade. Convergence on excepted items is slated for completion by January 1, 2006.

b. Argentina

U.S. exports to Argentina were down in 2000, but Argentina remained in the top 30 export markets of the United States. Overall bilateral trade increased, and the U.S. surplus narrowed by more than $700 million to $1.6 billion in 2000. A key factor in the Argentine economy is its trade with Brazil, Argentina's number one trading partner.

During 2000, the United States worked with the Government of Argentina to ensure the success of the next stage of the FTAA negotiations. The United States also pursued resolution of existing trade disputes, such as the lack of intellectual property protection for pharmaceuticals and Argentina's failure to comply with its Uruguay Round obligations on footwear.

Trade in agricultural commodities is another important element of our bilateral economic relationship. In 1997, Argentine beef gained entry to the United States, after Argentina demonstrated that beef from certain regions was free of foot-and-mouth disease (FMD). However, an outbreak of FMD caused suspension of Argentine beef imports in 2000. The Government of Argentina recently announced initiation of the importation of fresh and processed pork meat from the United States. Argentina has also received approval to begin limited export of its citrus to the United States, and the United States is working to gain access for Florida citrus to Argentina. In accordance with WTO disciplines, the United States has worked on these matters using a science-based approach to assure the health and safety of animal, plant and human populations.

Intellectual Property Rights (IPR): Argentina's intellectual property rights regime does not yet meet TRIPS (WTO Agreement on Trade-Related Aspects of Intellectual Property Rights) standards and fails to fulfill long-standing commitments to the United States. Grave concerns regarding

Argentina's IPR regime, particularly in pharmaceutical patent protection, have led USTR to maintain Argentina on the Special 301 "Priority Watch List" since April 1998. In 1997, the United States withdrew 50 percent of Argentina's benefits under the Generalized System of Preferences (GSP) over this same issue, and benefits will not be restored unless the concerns of the United States are addressed adequately.

Despite U.S Government efforts, intellectual property protection has been deteriorating. Bilateral IPR talks were held in April 1998 and January 1999. In August 1998, the Argentine Government eliminated the ten-year exclusivity period for confidential test data for agrochemicals, which enjoy patent protection under Argentine law. This appears to conflict with the standstill provision in TRIPS. Also in 1998, the Government of Argentina failed to provide Exclusive Marketing Rights (EMR) to a U.S. company for a qualifying pharmaceutical product. This inaction by the Argentine Government raises doubts over such rights for other U.S. firms with products in line for EMR. Given that Argentina availed itself of the TRIPS transition period and delayed implementation of patent protection for pharmaceutical products, the Government of Argentina must provide EMR to innovative products that meet several conditions set out in the TRIPS Agreement. In May of 1999, the United States initiated a WTO case against Argentina due to its failure to protect patents and test data. The United States added additional claims to this case in May of 2000, due to the fact that the TRIPS Agreement became fully applicable for Argentina in the year 2000. Several rounds of consultations have been held in Geneva, most recently in late November. Argentina's copyright laws are currently under review by the Executive Branch, and the U.S. Government is maintaining a dialogue with Argentina on this review.

c. Brazil

The United States exported goods valued at nearly $16 billion to Brazil in 2000. Brazil's market accounts for 27 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico, and 60 percent of U.S. goods exports to Mercosur.

Intellectual Property Rights (IPR): In 1997, Brazil enacted laws providing protection for computer software, copyrights, patents and trademarks. The United States has identified certain problems with some of this legislation, including a local working requirement and extensive exceptions to a prohibition on parallel imports in the patent law. U.S. industry has also voiced concerns about the high levels of piracy and counterfeiting in Brazil and the lack of effective enforcement of copyright (especially for sound recordings and video cassettes) and trademark legislation. The United States initiated a dispute settlement case in the WTO against Brazil regarding a section in its patent law which says that a patented product must be manufactured in Brazil three years from the issuance of the patent. Two sets of consultations have been held to date. Unable to resolve the issue through consultations, the United States has formally requested a WTO dispute settlement panel in this case. The U.S. pharmaceutical industry is very concerned that Brazil will use its "working requirement" as a basis for granting compulsory licenses on newly marketed pharmaceuticals. To date, however, the Brazilian government has not done so.

Autos: In March 1998, USTR signed an agreement with the Government of Brazil to terminate its TRIMS-inconsistent (Trade-Related Investment Measures) auto regime, enacted in December 1995. The regime had offered auto manufacturers reduced duties on imports of assembled cars and auto parts and other benefits if they exported sufficient quantities of parts and vehicles and promised to meet local content targets in their Brazilian plants. The Brazilian Government committed to eliminate the trade and investment distorting measures in its auto regime and not to extend the measures to its Mercosur partners when their auto regimes were unified in 2000. Argentina and Brazil recently reached agreement on a new regime, which remains TRIMS-inconsistent. Argentina requested a WTO

TRIMS extension.

d. Paraguay

With a population of just over five million, Paraguay is one of the smaller U.S. markets in Latin America. In 2000, the United States exported only a half a billion-dollars worth of goods to Paraguay. However, Paraguay is a major exporter of and a transshipment point for pirated and counterfeits products in the region, particularly to Brazil.

Intellectual Property Rights (IPR): In January 1998, the USTR identified Paraguay as a "Priority Foreign Country" (PFC) under the "Special 301" provisions of the Trade Act. In identifying Paraguay as a PFC, the USTR noted deficiencies in Paraguay's intellectual property regime, especially a lack of effective action to enforce IPR. As required under the Trade Act of 1974 as amended, the USTR initiated an investigation of Paraguay in February 1998.

During negotiations under Special 301, the Government of Paraguay indicated that it had undertaken a number of actions to improve IPR protection, such as passing new copyright and trademark laws and undertaking efforts to improve enforcement. In November 1998, USTR concluded its Special 301 investigation in light of commitments made by the Government of Paraguay in a bilateral Memorandum of Understanding (MOU). The Government of Paraguay committed to take a number of near-term and longer-term actions to address the practices that were the targets of the investigation, including implementing institutional reforms to strengthen enforcement and taking immediate action against known centers of piracy and counterfeiting. The U.S. Government is currently monitoring Paraguay's implementation of the MOU.

e. Uruguay

With the smallest population of Mercosur (just over three million), Uruguay nonetheless imported over $500 million of goods from the United States in 2000. Areas of recent consultation have included coordinating U.S efforts in multilateral fora such as the FTAA and WTO and the importance of Uruguay's apparent failure to bring its intellectual property regime into line with TRIPS standards by January 1, 2000.

f. Chile

Chile is our 32nd largest export market, purchasing nearly $3.6 billion in U.S. exports in 2000. Chile has been a recognized leader of economic reform and trade liberalization in Latin America, with growth averaging eight percent for the decade prior to Chile's economic slowdown in 1998-99. Chile's real GDP grew by approximately 6 percent in 2000 after contracting by 1.1 percent in 1999. As a resource-based, export-dependent economy, Chile was seriously affected by the global drop in commodity prices. In addition, continued sluggishness in the economies of Mercosur and Asia, two major destinations for Chilean exports, contributed to slower Chilean growth in 2000.

Chile FTA

In December 1994, the United States, Canada and Mexico announced their intention to negotiate Chile's accession to NAFTA. Several negotiating rounds were held in 1995. However, Chile withdrew from the negotiations due to concerns at that time about the absence of fast track negotiating authority. They subsequently negotiated a bilateral FTA with Canada (they already had a bilateral agreement with Mexico). In 1998, United States initiated the U.S.- Chile Joint Commission on Trade and Investment, which led to increasingly ambitious work programs in areas including services, government procurement, investment, environment, business visas, norms and standards, labor, and civil society. The annual meeting of the full Commission was held on October 23-24, 2000 in Washington.

On November 29, 2000, the United States and Chile announced their agreement to initiate

immediately the negotiations for a U.S.- Chile Free Trade Agreement. On December 6-7, the negotiations were launched in Washington, D.C. Both sides agreed to pursue the negotiations on a high-priority basis, but no deadline for concluding the negotiations was set.

The list of initial issues presetented at the December meeting included: tariffs and non-tariff barriers (industrial and agricultural goods); customs procedures; rules of origin; trade remedies; sanitary and phytosanitary measures; technical norms and standards; investment; services; temporary entry of business persons; e-commerce; intellectual property rights; competition policy; government procurement; transparency; dispute settlement; labor; and environment.

Distilled Spirits

Chile historically has maintained a taxation system that discriminates against imported distilled spirits. In December 1997, Chile changed its law to phase in a system that is less obviously discriminatory, but that continues to burden U.S. exports. In January 1998, the United States and the European Union participated in GATT Article XXII consultations with Chile on this issue, and a WTO panel was subsequently established at the EU's request. The United States asserted third party interest in the subsequent procedure and actively represented U.S. concerns throughout. The panel, in June 1999, and the WTO Appellate Body, in December 1999, found Chile's tax regime inconsistent with Article III:2 of the GATT. These findings were adopted at the January 2000 Dispute Settlement Body meeting, at which Chile stated its intention to comply. Legislation that would bring Chile into compliance has been passed and is expected to be signed by the President of Chile.

4. The Andean Community

The U.S. trade deficit with the Andean region increased from $9.7 billion in 1999 to $18.0 billion in 2000, in large part due to the increase in the price of oil imported from the region. U.S. goods exports to the region were up 1.4 percent in 2000, totaling $12.0 billion.

The Andean Community originated as the Andean Pact in 1969, with Bolivia, Colombia, Ecuador, Peru and Venezuela as its members. However, it was only in the 1990s that the Andean Pact's commitment to form a customs union took on momentum, with the reduction and elimination of most duties among the members and an increasingly common external tariff. In 1997 the Andean Community became operational. Among its features are strengthened institutions, such as a Council of Presidents and a Council of Foreign Ministers in addition to meetings of Trade Ministers, and creation of a General Secretariat of the Andean Community mandated to act as the group's executive body.

a. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) of 1991 authorizes the President to provide reduced-duty or duty-free treatment to most imports from Bolivia, Colombia, Ecuador and Peru. It is intended to help the four beneficiary countries expand economic alternatives in their fight against drug production and trafficking. ATPA preferential trade benefits are similar to those granted to beneficiaries of the Caribbean Basin Economic Recovery Act. ATPA preferences are scheduled to end on December 4, 2001. In January 2001, the President submitted a triennial report to Congress on the operation of the program which indicated that the ATPA has facilitated economic development and export diversification in the ATPA beneficiary countries.

b. Intellectual Property Rights

In the area of intellectual property, the Andean Community countries have developed common disciplines with legal effect throughout the Community. The various Andean Pact decisions, while generally an improvement from previous disciplines, fell short in a number of ways in meeting WTO TRIPS requirements. The Andean

countries have recently reached agreement on modifications to the decisions. The U.S. Government is in the process of analyzing the revised legislation to determine TRIPS compatibility. U.S. pharmaceutical companies are concerned that Decision 486 does not go far enough in ensuring the patentability of "second use" innovations. Both the U.S. pharmaceutical and agrochemical industries are also concerned that Decision 486 is not sufficiently explicit regarding the confidentiality of data submitted in conjunction with applications for marketing approval.

While Peru is on the Special 301 Priority Watch List, it has developed a plan of action for improved intellectual property enforcement, which the U.S. Government is currently monitoring. The other four Andean countries are also on the Special 301 Watch List. In general, piracy levels in the region are high and while enforcement efforts have improved somewhat, they remain inadequate.

c. Bilateral Investment Treaties

In April 1998 the U.S. Government signed a Bilateral Investment Treaty (BIT) with the Bolivian Government. The U.S. Senate approved the BIT on October 18, 2000. The BIT will help to improve the investment climate in Bolivia for potential U.S. investors and will provide investors in both countries guarantees of access and fair treatment in the other's market. During 2000, the U.S. Government continued exploratory discussions with the Government of Colombia on a possible BIT. A U.S.-Ecuador BIT went into effect in May 1997. The United States did not conduct BIT negotiations with Peru or Venezuela during 2000.

5. Central America and the Caribbean

a. Caribbean Basin Initiative (CBI)

On May 18, 2000, President Clinton signed into law the Caribbean Basin Trade Partnership Act (CBTPA), which significantly enhances U.S. trade preferences for imports from eligible Caribbean Basin countries. Enactment of the CBTPA represents the latest expansion of the Caribbean Basin Initiative (CBI), originally enacted by Congress in 1984 to promote the economic revitalization and export diversification of the Caribbean Basin region.

The CBTPA extends duty-free and quota-free treatment to certain apparel manufactured in the CBI region from U.S.-origin fabric, as well as limited quantities of apparel made from fabric which is knit in the CBI region from U.S. yarns. In addition, the CBTPA extends NAFTA-equivalent tariff treatment to a number of other products previously excluded from CBI trade preferences, including footwear, canned tuna, petroleum products, and watches and watch parts.

During the summer of 2000, the Administration conducted an extensive review of the eligibility of Caribbean Basin countries to receive the enhanced trade benefits, according to criteria established in the CBTPA. The eligibility review considered countries' implementation of WTO commitments, participation in the FTAA process, protection of intellectual property and internationally recognized worker rights, efforts to eliminate the worst forms of child labor, cooperation with the United States on counter-narcotics initiatives, implementation of an international anti-corruption convention, and government procurement practices.

Following this review, on October 2, 2000, President Clinton designated the following 24 CBI countries as Beneficiary Countries under the CBTPA: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Montserrat, Netherlands Antilles, Saint Kitts and Nevis, and the British Virgin Islands. As of the end of 2000, eleven countries have also satisfied customs-related requirements established in the CBTPA and are thus fully eligible for the new

trade benefits. These countries are: Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, and Panama.

In addition to the enhanced benefits of the CBTPA, the CBI program continues to encompass the Caribbean Basin Economic Recovery Act (CBERA), which allows the President to grant unilateral duty-free treatment for eligible articles from beneficiary countries. The 24 countries listed in the preceding paragraph are the current CBERA beneficiaries. In 2000, exports from these countries to the United States were estimated at $22.6 billion.

b. Central America

The United States remains Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, and provides duty-free trade for most products traded among these countries. Panama, which has observer status, and Belize participate in CACM summits but not in regional trade integration efforts. As a group, the countries of the CACM exported a total of $11.9 billion of goods to the United States in 2000, importing $9 billion of U.S. goods. The CACM is an internal market of 33 million people with a combined GDP of over $50 billion. GDP per capita varies widely within the Central American region, with the relatively developed service-oriented economy of Panama registering $3,070 per capita. At the other extreme, Nicaraguan GDP per capita was only $430 in 1999. Furthermore, these figures do not capture the broad disparities of income evident within most Central American countries.

The CACM signed a trade agreement with Chile in the fall of 1999. A CACM free trade agreement with the Dominican Republic has not yet entered into force. Beyond the CACM, countries in the region have also been active in pursuing regional trade liberalization bilaterally or in regional sub-groups. Guatemala, Honduras and El Salvador, the so-called "Northern Triangle," concluded a free trade agreement with Mexico in May 2000; the agreement awaits ratification in each of the signatory countries. Nicaragua also has a free trade agreement with Mexico, and El Salvador has a free trade agreement with the Dominican Republic. Costa Rica has signed free trade agreements with the Dominican Republic and Mexico, and launched free trade negotiations with Canada in June 2000. El Salvador, Guatemala, Nicaragua, and Honduras are also exploring a trade agreement with Canada. In May 2000, the Presidents of Guatemala, El Salvador, and Nicaragua signed a "Tri-National Declaration" on regional economic integration, incorporating a number of trade policy objectives.

All of the countries of the region are participating in the Free Trade Area of the Americas (FTAA) negotiations. Central American countries take an active role in the negotiating process. In the November 1999 to April 2001 negotiating phase, Costa Rica chairs the Negotiating Group on Dispute Settlement and Guatemala chairs the Consultative Group on Smaller Economies.

During the course of 2000, the United States consulted regularly with Central American trade officials, including in the context of the FTAA process and the eligibility review for the Caribbean Basin Trade Partnership Act. In October 2000, senior U.S. trade policy officials met in Guatemala City with trade ministers and other officials from Guatemala, Honduras, El Salvador, Nicaragua, Panama, Costa Rica, Belize and the Dominican Republic. This meeting included an exchange of views on the FTAA process, the enhanced CBI benefits, and developments in the WTO.

Agriculture

Tariff and non-tariff barriers to U.S. agricultural exports are among the biggest U.S. trade policy concerns in Central America. Several countries in the region, including Costa Rica, Nicaragua and Panama, have recently raised tariffs on agricultural products, although they are still within WTO-bound rates. Panama's arbitrary and trade-

restricting practices with respect to sanitary and phytosanitary licensing, often linked to local buying requirements, have been a matter of concern; the United States has pursued these concerns with the Government of Panama, and some improvement was seen by the end of 2000.

Intellectual Property Rights (IPR)

Protection of intellectual property remains a concern in several Central American countries. The eligibility review for the enhanced CBI benefits provided an opportunity for the United States to engage with several Central American governments on the importance of providing protection equivalent to or greater than that provided for in the WTO TRIPS (Trade-Related Aspects of Intellectual Property) Agreement.

In general, protection of intellectual property rights in Central America has improved in recent years. In August 2000, Guatemala, which has been on the Special 301 Priority Watch List, enacted new legislation to bring its patent and copyright laws into compliance with TRIPS obligations. Costa Rica also passed enforcement-related legislation in September, although concerns have been raised with respect to potential weaknesses in the new law. Honduras and Nicaragua passed TRIPS-related legislation in 1999. El Salvador continues to consider a number of TRIPS-conforming amendments to its IPR legal framework.

Beyond these legal reform efforts, the United States has continued to stress the importance of effective enforcement and prosecution in cases of infringement of intellectual property rights. Enforcement efforts have been stepped up in a number of countries, such as Panama and Honduras.

Worker Rights

The Caribbean Basin Trade Partnership Act required the United States to consider the extent to which CBI countries are providing internationally recognized worker rights, and these issues figure prominently in the eligibility review with respect to several Central American countries. In Guatemala, certain efforts by the government to improve worker rights have failed to overcome a threatening environment for those seeking to advance basic, internationally-recognized rights for workers. Instances of anti-union violence, including occasional murders, persist, and the widespread impunity for those who provoke and carry out such violence is a particularly severe concern. Consequently, Guatemala's CBTPA beneficiary status will be reviewed in April 2001, with a focus on further improvements in the area of worker rights. The CBTPA review also pursued concerns about worker rights in El Salvador, Honduras, and Nicaragua. The United States will maintain ongoing monitoring of worker rights in these countries, and will seek consultations with the respective governments by mid-2001.

c. The Caribbean

CARICOM: Countries in the Caribbean region include members of the Caribbean Community and Common Market (CARICOM) and the Dominican Republic. Current members of CARICOM are: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress toward economic integration and a common external tariff (CET) has been limited.

CARICOM countries have played an active role in the FTAA process, which has provided an opportunity for frequent bilateral interaction between U.S. and Caribbean trade officials. At the November 1999 FTAA Summit in Toronto, ministers agreed that Trinidad and Tobago would chair the Negotiating Group on Investment, and the Bahamas would serve as Vice Chair of the Consultative Group on Smaller Economies for the phase of negotiations through April 2001.

Agriculture

The Caribbean countries, Barbados and the Dominican Republic in particular, have made significant advances in lowering tariffs in advance of their WTO reduction schedule. However, many countries, including the Dominican Republic, Trinidad and Tobago, the Bahamas, Jamaica, and Barbados have increased the use of non-tariff barriers such as arbitrary customs valuation, domestic absorption requirements and discretionary import licensing practices to stem the flow of imports and make up for lost government revenues due to lower tariffs.

Other Caribbean Countries

The Dominican Republic, the largest beneficiary of the Caribbean Basin Initiative program, does not belong to any regional trade association, but has increased cooperation with both Central America and CARICOM. The Dominican Republic's record in trade is mixed. The Dominican Republic has taken full advantage of unilateral preferential trade benefits extended by the United States, attracting investment in its free trade zones and assembly operations and registering impressive growth rates. In 2000, the Dominican Republic enacted a new Industrial Property law which appears to fall well short of certain basic requirements of the WTO TRIPS Agreement, and the Dominican Republic remains on USTR's Special 301 Priority Watch List.

In July 2000, CARICOM and Cuba signed a trade and economic cooperation agreement. Cuba is a member of the Association of Caribbean States (ACS), a political and economic organization. Cuba does not participate in the FTAA process or the Summit of the Americas.

H. Africa

Overview

The primary objectives of U.S. trade policy with sub-Saharan Africa are to: (1) strengthen U.S.-Africa economic cooperation and engagement; (2) promote economic reform and growth in Africa; (3) expand and diversify U.S.-Africa trade and investment; and, (4) facilitate Africa's full integration into the multilateral trading system. On May 18, 2000, President Clinton signed into law the Trade and Development Act of 2000, which includes the African Growth and Opportunity Act (AGOA) as Title I. Passage of the AGOA was a major policy achievement for 2000; its enactment and implementation herald a new U.S. trade and investment stance toward Africa.

The AGOA institutionalizes a process for strengthening U.S. relations with African countries and provides incentives for these countries to pursue political and economic reform and growth-oriented policies. The AGOA offers beneficiary sub-Saharan African countries enhanced U.S. market access through the Generalized System of Preferences (GSP) program by making over 1,800 new products eligible for duty-free treatment; provides additional security for investors and traders in designated African countries by ensuring GSP benefits for eight years; and, eliminates the GSP competitive need limitation for African countries. Under the AGOA, essentially all products from eligible sub-Saharan African countries are accorded duty and quota free access to the U.S. market. In addition, the AGOA requires the establishment of a U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum to ensure regular high-level discussions on trade and investment policy and to promote economic reforms and development in the region. The AGOA supports the establishment of Overseas Private Investment Corporation (OPIC) equity and infrastructure funds and promotes U.S. Export-Import Bank initiatives to strengthen private sector development and expand U.S. exports to the region. The AGOA aims to stimulate market-led investment and economic growth in an effort to raise living standards in some of the world's poorest countries. As reforms and trade spur growth in Africa, new and bigger markets will be established for U.S. exports. The AGOA provides mutual benefits for both the United States and

Africa.

Highlights of recent U.S. trade and investment achievements with Africa:

1. Enactment and Implementation of the African Growth and Opportunity Act

The Administration worked cooperatively with Members of Congress to achieve strong bipartisan Congressional approval of the AGOA. There was also strong support from the general public. Private sector associations, faith-based groups, civil rights institutions, and non-governmental organizations, joined government officials in the United States and Africa in support of the AGOA. As a result, the Trade and Development Act of 2000 (with the AGOA as Title I) was the first major trade legislation adopted by Congress since 1994.

USTR chairs the interagency committee responsible for implementation of the AGOA, a process that is ongoing. One of the first steps in implementation was designation of countries eligible to receive AGOA benefits. After a rigorous country eligibility review process, 35 sub-Saharan African countries were designated for the AGOA's trade benefits. The eligible countries are: Benin, Botswana, Cameroon, Cape Verde, Central African Republic, Chad, Republic of Congo, Djibouti, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Principe, Senegal, Seychelles, Sierra Leone (with delayed implementation), South Africa, Swaziland, Tanzania, Uganda, and Zambia.

In December 2000, over 1,800 additional products were designated for duty-free treatment under the Generalized System of Preferences Program when imported from AGOA-eligible beneficiary sub-Saharan African countries through September 30, 2008. The AGOA requires designated countries to meet certain customs-related requirements to prevent illegal transshipment and the use of counterfeit documents in order to receive the textile and apparel trade preferences. USTR was delegated the authority to make these determinations. Some countries have met these customs-related requirements; reviews of information submitted by other AGOA-eligible countries are underway.

As part of AGOA implementation, USTR coordinated regional technical assistance seminars on the AGOA in Gabon, Kenya, Madagascar, Nigeria, South Africa, and Zambia; a bilateral seminar was also held in Senegal. Trade officials from the private and public sectors in the countries hosting the seminars, as well as representatives from regional organizations (Indian Ocean Commission (IOC), Common Market for Eastern and Southern Africa, (COMESA), Tripartite Commission for East African Cooperation (EAC), Southern African Development Community (SADC), West African Economic and Monetary Union (WAEMU), the Monetary and Economic Community of Central Africa (CEMAC), and the Economic Community of West African States (ECOWAS)) were invited to participate. The seminars, conducted by U.S. Government officials responsible for AGOA implementation, reached a broad range of industry and government representatives and provided detailed information on the AGOA's requirements and benefits, the GSP program, customs requirements, as well as information on U.S. agricultural market access requirements and initiatives, building U.S. market linkages, and the importance of e-commerce as related to the AGOA. The seminars also focused on much needed African policy and regulatory reforms that will be required in order for African countries to receive maximum benefit from the trade preferences accorded under the AGOA. USTR also developed a comprehensive AGOA Implementation Guide for African countries, an AGOA video – which was aired on national television broadcasts in many African countries, and, in conjunction with the Department of Commerce, an AGOA website, www.agoa.gov.

USTR also sponsored, in collaboration with the U.S. Department of State, the visit of customs

technical assistance teams to five apparel-producing countries (Kenya, Lesotho, Madagascar, Nigeria, and South Africa) to assist them in developing effective visa systems to prevent illegal transshipment. In addition, a four-day workshop conducted by U.S. Customs officials was held in Washington, D.C. to train African customs officials on U.S. customs requirements stipulated in the AGOA and other mechanisms to strengthen the customs regimes in African countries.

2. Strengthened U.S.-Africa Engagement

The AGOA provides incentives for African countries to address commercial disputes and issues, open markets, and to work with the United States to advance U.S. commercial interests. A USTR-chaired Subcommittee of the Trade Policy Staff Committee (TPSC) conducted a review of countries based on the criteria required under the AGOA. The review included information from U.S. embassies, African governments, U.S. Government agencies, other reliable sources, and from public comments received in response to a *Federal Register* notice. Through this information-gathering process, country-specific issues and areas of concern and specific policy objectives to be pursued were identified. The United States and African countries continue to work on these reform issues. U.S. consultations with African counties have been highly productive, and have resulted in numerous commitments by African governments to address and resolve many of these issues. As noted previously, the AGOA establishes a U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum that will facilitate regular meetings between high level U.S. Government officials and their African counterparts.

The United States has three Trade and Investment Framework Agreements (TIFAs) with sub-Saharan African countries. The third TIFA, with Nigeria, was concluded in February 2000. This agreement provides the framework for future trade negotiations and establishes a mechanism for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property, and other issues between the two countries. A TIFA meeting with the South African Government was held in March 2000 via video-conference, and addressed a number of issues, including AT&T's complaint that South Africa's basic telecommunications monopoly, Telkom, was denying access to basic telecommunications facilities needed by AT&T to operate its value-added network services.

The first TIFA meeting with the Government of Ghana is scheduled for 2001. In addition to formal consultations under TIFAs or other bilateral mechanisms, USTR has conducted extensive trade-related consultations throughout Africa and in Washington D.C with senior African trade officials. USTR has also been active in the Trade Policy Review Mechanisms that are conducted by the World Trade Organization (WTO) and has used these reviews as a tool to encourage further trade and investment liberalization and reform. In the past few years, about fourteen African countries and one regional economic organization have been reviewed.

3. Fuller African Integration into the Multilateral Trading System

Increased African participation in the global trading system not only opens markets and creates greater opportunities and a stronger foundation for economic growth in sub-Saharan Africa, it also strengthens the international trading system. In May 2000, USTR organized and chaired the first U.S. WTO Consultative and Technical Assistance Forum in Washington D.C. African trade ministers and representatives of several African regional economic organizations joined senior U.S. Government officials for extensive discussions of WTO issues including technical assistance, agriculture, services, e-commerce, and trade remedies. The trade ministers expressed strong interest in USTR's efforts to work with them on WTO issues and, as a result, USTR was able to develop a consensus on many areas of interest and to reaffirm the ministers intent to

work cooperatively with the United States in the WTO. Other efforts on the part of the United States to strengthen cooperation and coordination with African countries on WTO and trade-related issues included increased dialogue with sub-Saharan African missions in Geneva.

USTR has worked with other agencies to increase WTO-related technical assistance to sub-Saharan African countries. As part of U.S. efforts to work in partnership with African countries in the WTO, in November 2000, USTR and the U.S. Agency for International Development (USAID) announced that the United States will provide a grant of $650,000 to the WTO's Global Trust Fund for Technical Assistance for the benefit of sub-Saharan African countries. The grant will be used to conduct technical assistance courses on trade policy and WTO rules for countries in Africa, and will also fund the development of computer-based training modules on WTO Agreements. Funding for the grant was provided through USAID's African Trade and Investment Policy (ATRIP) Program, which funds activities to provide technical assistance for policy reform or to support U.S.-Africa business linkages. In addition to the $650,000 grant, this year, the ATRIP program provided almost $4 million in technical assistance for African countries on standards, customs valuation, and training focused on implementation of, and compliance with, WTO agreements.

USTR and USAID have coordinated a number of WTO-awareness workshops, including those in Zambia (regional workshop for members of the Common Market for Eastern and Southern Africa), Côte d'Ivoire, Mali, Senegal, South Africa, and Uganda. During the 1999 WTO Ministerial Conference, USTR and USAID conducted a Technical Assistance Symposium for African trade ministers on WTO-related technical assistance resources and published a comprehensive guide to these resources. USTR also participated in a Globalization Forum and a WTO workshop in Abuja, Nigeria on June 27, 2000 and in the November 13-15, 2000 WTO meeting of African trade ministers in Libreville, Gabon.

4. Economic Reform and Growth

The AGOA provides beneficiary African countries with incentives to reform their economies and create an environment conducive to increased trade and investment. The legislation establishing the AGOA sets conditions for country participation in the program. The countries must demonstrate the existence, or progress toward establishing, a market-based economy, the rule of law, reduction or elimination of barriers to trade and investment, policies to reduce poverty, systems to combat corruption, and protection of worker rights. All of these criteria represent global best practices to attract trade and investment, and are essential for the transfer of technology, increasing labor force skill, promoting competition, and increasing exports.

Economic reform and growth in African countries benefit both the United States and these countries. New opportunities are created for U.S. businesses and exports in the sub-Saharan African market of over 640 million people. Stronger and more stable economies allow African countries to achieve economic growth and to become important partners with the United States in combating transnational challenges such as infectious disease, poverty, environmental degradation, narcotics trafficking, and international terrorism. As a result of bilateral consultations initiated by the Administration during the development of AGOA over the past few years, and its current implementation process, many African countries have been encouraged to introduce reforms in their policies and practices. A number of countries have reported economic reforms including reduction of governments' role in the productive economy, deregulation of many sectors, and liberalization of trade regimes.

The United States has also encouraged African countries to address human rights concerns and to enact and enforce labor laws that protect workers' rights to organize and bargain collectively, discourage anti-discrimination of unionized

workers, and improve child labor laws. Bilateral consultations with African governments also resulted in greater emphasis on poverty reduction programs through health, education, and infrastructure development initiatives.

5. Public Outreach

The Unites States has been very active in promoting domestic private and public sector understanding of U.S. trade policy towards Africa, which has increased overall understanding of the opportunities and challenges of trade with Africa. In addition to the numerous AGOA technical assistance seminars held in Africa, briefings for Congress and private sector business groups, the USTR and other members of the interagency AGOA Implementation Subcommittee participated in WorldNet interactive dialogue programs, produced an AGOA technical assistance video for African and U.S. audiences, created an AGOA website, and published a comprehensive *AGOA Implementation Guide.*

6. 2000 Activities

In 2000, the United States strengthened both its bilateral and multilateral engagement with the countries of sub-Saharan Africa. As in previous years, the United States' largest trading partners in sub-Saharan Africa were Nigeria, South Africa, Angola and Gabon. U.S. exports to sub-Saharan Africa grew 5.9 percent in 2000 from the previous year. U.S. imports from the region increased 23.8 percent in 2000. Crude oil accounted for nearly 70 percent of U.S. imports from sub-Saharan Africa in the first three quarters of the year. During that period, Nigeria, South Africa, Angola, and Gabon accounted for 88 percent of Africa's total sales to the United States.

With a population of almost 640 million, sub-Saharan Africa's potential as a trading partner is much greater than these figures would indicate. In 2000, African countries, including Nigeria, continued their transition to more democratic political systems and more open and market-oriented economies. The United States supports these efforts and the economic reform process in many sub-Saharan African countries. The AGOA is the primary U.S. policy tool for expanding and diversifying U.S. trade with sub-Saharan African countries.

a. South Africa

In 2000, the United States exported $3.1 billion to South Africa, up 19.7 percent from the previous year. U.S. imports from South Africa were $4.3 billion in 2000, an increase of 35.3 percent over imports of $3.9 billion in 1999.

In February 1999, the United States and South Africa signed a Trade and Investment Framework Agreement (TIFA), which establishes a mechanism for addressing trade and investment issues, and for identifying and reducing or eliminating barriers to trade and investment. In July1999, the U.S. Trade Representative and the South African Minister of Trade and Industry co-chaired the inaugural U.S.-South Africa Trade and Investment Framework Agreement which was held by video-conference. A subsequent TIFA meeting was held in March 2000 via video-conference as well. The next TIFA council meeting with the South African Government is planned for 2001 and discussions will include a specific agenda for promoting trade and investment between the United States and South Africa. TIFA meetings have been complemented by a number of other senior USTR visits to South Africa, including two visits by the Deputy USTR in June and October 2000.

As with many growing trade relationships, a number of trade problems have arisen between the United States and South Africa. These include concerns related to South Africa's basic telecommunications monopoly, Telkom, and its provision of facilities to U.S. value-added network service (VANS) providers in order to permit them to operate and expand. Some problems have been resolved but questions regarding the VANS regulatory regime are still being worked out. In addition, the USTR is reviewing the Government of

South Africa's decision to impose anti-dumping duties on U.S. exports of poultry parts to South Africa.

In 2000, South Africa also concluded two major agreements that may affect U.S.-South Africa trade. In September 2000, South Africa implemented the Southern Africa Development Community (SADC) Trade Protocol to establish a free trade area within SADC. As of mid-December, four other Southern African countries, Botswana, Lesotho, Mauritius, and Swaziland, had also implemented the Trade Protocol. The United States has supported efforts of SADC and other African organizations to promote regional economic integration.

b. Nigeria

In 2000, U.S. exports to Nigeria were $722 million, a 15 percent increase from 1999. U.S. imports from Nigeria were $10.8 billion, a 145 percent increase. The large increase in the dollar amount of U.S. imports from Nigeria was due to the higher price of petroleum during the period.

The United States has expressed its strong commitment to helping Nigeria in its economic reforms and in Nigeria's efforts to take its place as a leader in the multilateral trading system. A U.S.-Nigeria TIFA, which created a mechanism in which trade, investment, intellectual property, and other issues can be addressed and resolved, was signed on February 16, 2000. The inaugural TIFA Council meeting was held in Abuja, Nigeria in June 2000. The Council discussed technical assistance to support trade and investment, the AGOA and GSP matters, the agriculture sector, U.S.-Nigeria cooperation in the WTO, and strategies to increase U.S.-Nigeria trade and investment. The TIFA meeting resolved a number of issues that could have potentially challenged Nigeria's eligibility for GSP. In addition, the Nigerian Minister of Commerce agreed to form an inter-ministerial committee to address difficulties faced by U.S. traders and investors in Nigeria. USTR officials also held bilateral meetings with key Nigerian ministers.

Nigeria was designated eligible to participate in the U.S. GSP Program in August 2000, and is among the 35 countries designated as AGOA beneficiary countries.

USTR also sponsored a Globalization Forum and a WTO workshop in Abuja, Nigeria in June 2000. An AGOA technical assistance seminar for Nigeria, as well as for member countries of ECOWAS and WAEMU, was held in Abuja in November 2000. That seminar was the result of a request by the Nigerian government for technical assistance on the AGOA.

c. Other African Countries

Implementation of the AGOA has afforded the United States an unique opportunity to engage more countries in the region on trade policy reform issues. The United States has increased its engagement on trade issues with a number of other sub-Saharan African countries including Kenya, Ghana, Senegal, and Uganda. The United States plans to continue to enhance economic relations with other African countries, and to work to expand and diversify U.S. trade with Africa.

d. GSP

The Generalized System of Preferences (GSP) program was re-authorized in November 1999 until September 30, 2001. In December 2000, the Administration proclaimed the addition of approximately 1,800 products to the current GSP list of some 4,468 categories of articles, as eligible for duty-free treatment for AGOA beneficiaries. The President determined that these articles are not import-sensitive when imported from African countries. The product list will remain available for eligible AGOA beneficiary countries until September 30, 2008. AGOA beneficiaries are also exempted from the competitive need limits that provide a ceiling on GSP benefits for each product and country, and can cumulate under a special rule of origin provision.

The GSP was enhanced in June 1997 with 1,783 new tariff lines for the 39 least-developed beneficiary developing countries (LDBDCs), of which 30 are in sub-Saharan Africa. These enhancements allow sub-Saharan African countries duty-free access to the U.S. market for products listed in these tariff lines and promote greater African use and diversification of the GSP program.

Nigeria was designated as eligible for GSP benefits in 2000. USTR also worked with a number of African countries to help them better understand how the GSP program works.

e. Enhanced Engagement on WTO Issues

Working with the countries of sub-Saharan Africa to assist them to participate fully in the WTO is a priority for the United States. As a group, African countries represent a large and important bloc of members in the WTO and are important to achieving U.S. goals of opening markets and promoting growth. For Africa, participation in the WTO and the multilateral trading system is essential for promoting sustainable economic growth on the continent. U.S.-African cooperation in the WTO has improved in recent years, as areas of common interest have been identified. However, African WTO members will only be able to benefit fully from the WTO by understanding all their rights and obligations and by fully implementing their commitments under WTO agreements, commitments which will make their countries more attractive to international commerce and investment. U.S. technical assistance on WTO matters (e.g., through ATRIP-funded projects, the forthcoming U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum, and other consultations with African officials) helps to facilitate African countries' integration into the multilateral trading system.

The United States has been working with a number of African countries to increase their understanding of the issues before the WTO by providing technical assistance to enable them to implement their WTO commitments and to enjoy fully the benefits of the international trading system. The U.S.-Nigeria Trade and Investment Framework Agreement (TIFA) council discussed bilateral cooperation in the WTO. A Globalization Forum in Nigeria which included prominent Nigerian academics and government officials was followed by a three-day WTO workshop introducing Nigerian trade officials and private sector leaders to the structure of the WTO and its principal agreements. The Administration also held high-level bilateral and multilateral consultations on WTO matters with South Africa, Nigeria, and Mozambique, and the second annual U.S.-SADC Forum was held in Mozambique in May 2000, with officials from fourteen SADC countries.

The Administration hosted an African Trade Ministers' WTO Consultative and Technical Assistance Forum in Washington on May 3-5, 2000, which was attended by African Trade Ministers and representatives of African regional economic organizations. The Forum included extensive discussions of WTO issues including technical assistance, agriculture, services, e-commerce, trade remedies, and the role of international financial institutions. The Trade Ministers also met with Members of Congress and representatives of the private sector. The Ministers expressed strong support for AGOA and USTR's efforts to work with them on WTO issues.

VI. Trade Enforcement Activities

A. Enforcing U.S Trade Agreements

Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous enforcement enhances the ability of the United States to reap the benefits of trade agreements USTR negotiates, ensures that we can continue to open markets, and builds confidence in the trading system.

USTR devotes substantial attention and resources to ensuring that these agreements yield the maximum advantage in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. In the broad sense, ensuring full implementation of U.S. trade agreements is one of USTR's strategic priorities. We seek to achieve this goal through a variety of means, including:

- asserting U.S. rights through the mechanisms in the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO Bodies and Committees charged with monitoring implementation and with surveillance of agreements and disciplines;
- vigorously monitoring and enforcing bilateral agreements;
- invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;
- providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements like the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and
- promoting U.S. interests under the NAFTA through NAFTA's trilateral work program, tariff acceleration, and use, or threat of use, of NAFTA's dispute settlement mechanism, including using its labor and environmental side agreements to promote fairness for workers and effective environmental protection.

Through vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits to U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement

procedures. In enforcing the WTO agreements, we have focused in particular on foreign practices that could pose serious problems to the international trading system if they proliferated in many markets. Therefore, USTR aims not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. The United States has further demonstrated its commitment to enforce WTO agreements by imposing retaliatory trade measures against the European Union for its failure to comply with WTO rulings on bananas and on beef from cattle treated with hormones.

Since the establishment of the WTO, the United States has filed 56 complaints at the WTO, thus far concluding 28 of them by settling favorably 13 cases and prevailing on 15 others through WTO panels and the Appellate Body. USTR has obtained favorable settlements and favorable panel rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy.

Satisfactory settlements. Our hope in filing cases, of course, is to secure U.S. benefits rather than to engage in prolonged litigation. Therefore, whenever possible we have sought to reach favorable settlements that eliminate the foreign violation without having to resort to panel proceedings. We have been able to achieve this preferred result in 13 of the 30 cases concluded so far, involving: Australia's ban on salmon imports; Brazil's auto investment measures; the EU's market access for grains; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Pakistan's protection of patents; the Philippines' market access for pork and poultry; Portugal's protection of patents; Sweden's enforcement of intellectual property rights; and Turkey's box-office taxes on motion pictures.

Litigation successes. When our trading partners have not been willing to negotiate settlements, we have pursued our cases to conclusion, prevailing in 15 cases so far, involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; the EU's import barriers on bananas; the EU's ban on imports of beef; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; Indonesia's measures that discriminated against imports of US automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's beef imports; and Mexico's antidumping duties on high-fructose corn syrup.

The cases involving EU measures on bananas and beef are unique among our 28 successfully concluded cases. The EU has failed to implement WTO dispute settlement rulings; specifically, it has failed to lift its unscientific ban on imports of U.S. beef produced with hormones and has adopted a new banana import regime that perpetuates WTO violations previously found by a WTO panel and the Appellate Body. In response, the Administration used Section 301 of the Trade Act of 1974 to increase tariffs, consistent with our WTO rights, on products totaling $308 million worth of EU exports to the United States. We continue to work toward a positive resolution of these cases.

In 2000, the United States filed seven new complaints under WTO dispute settlement procedures, involving: (1) Philippines - measures affecting trade and investment in the motor vehicles sector; (2) Brazil - customs valuation;

(3) Romania - minimum import prices; (4) Brazil - patent protection; (5) Mexico - measures affecting trade in live swine; (6) Mexico - measures affecting telecommunications services; and (7) Belgium - rice imports. See Chapter II for a description of each of these cases.

USTR also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and NAFTA. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below.

To carry out this enforcement work as effectively as possible, USTR has added new personnel to handle its expanded enforcement workload, to complement USTR's efforts to negotiate further market access improvements in key markets.

1. WTO Dispute Settlement

2000 Activities

The United States filed seven new complaints under WTO dispute settlement procedures in 2000. These disputes involve: (1) the Philippines' measures affecting trade and investment in the motor vehicles sector; (2) Brazil's customs valuation methods; (3) Romania's customs valuation methods; (4) Mexico's measures affecting trade in live swine; (5) Mexico's telecommunications trade barriers; and (6) Belgium's measures affecting rice imports. The United States also received favorable WTO panel and Appellate Body rulings in 2000 in cases involving Canada's patent law and Korea's measures affecting imports of beef. These cases, which are described in Chapter II, further demonstrate the utility of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website at www.ustr.gov/enforcement.

2. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address distortive foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures, and leads the interagency team on

matters of policy. The role of Commerce's Import Administration is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit the matter to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year, SEO staff have handled numerous inquiries and met with representatives of U.S. industries concerned about the subsidization of foreign competitors. Moreover, the SEO's electronic subsidies database was fully installed in 2000, which fulfills the goal of providing the U.S. trading community a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The completion of the database is the culmination of three years of intensive efforts by SEO staff reviewing hundreds of countervailing duty cases, summarizing government practices investigated, and linking these summaries directly into the *Federal Register* notices of specific countervailing duty determinations, where the practices are discussed in greater detail. The redesigned website, which can be found at http://ia.ita.doc.gov/esel/eselframes.html, now includes information on all the foreign subsidy programs that have been investigated in U.S. countervailing duty cases since 1980, covering more than 50 countries and over 2,000 government practices. It will be updated at least quarterly, or more often as resources permit, to reflect programs investigated or reviewed in on-going cases in order to keep the site current.

The SEO was also engaged in certain focused areas of work in 2000, having led or been involved in the preparation of several studies and reports on subsidy practices affecting specific industries in various countries, *e.g.*, the steel and film production industries. These reports – like the SEO's forthcoming report on subsidies received by the Brazilian iron ore and slab steel industries and its ongoing research of foreign government aid to cattle and beef industries abroad – provide in-depth analysis of the trade issues confronting certain industries, including whether foreign governments have been providing assistance to support their industries.

b. Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member country to another. The United States carefully monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, the Department of Commerce tracks foreign antidumping and countervailing duty actions involving U.S. exporters and gathers information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. government agencies to watch other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty actions affecting U.S. exports is accessible to the public via the Department of Commerce's Import Administration website at http://ia.ita.doc.gov/foradcvd/index.html.

Over the past year, U.S. officials have met on several occasions with South Africa regarding its antidumping investigation of U.S. exports of poultry parts and with Canada and Chile on their respective countervailing duty investigations against U.S. exports of grain corn and powdered and fluid ultra heat-treated milk. In the two countervailing duty investigations, the U.S. Government also actively participates as a separate respondent. Other antidumping investigations of U.S. goods being closely monitored include the EU's investigation of acetaminophen and China's investigation of dichloralmethane.

Twice a year, WTO Members notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Members also notify their preliminary and final determinations to the WTO on a semi-annual basis. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and Import Administration website "links" to the WTO's website.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

The USTR has initiated 120 investigations pursuant to Section 301 since the statute was first enacted in 1974. From 1993 through 2000, the USTR initiated 30 Section 301 investigations.

Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take action. The USTR also may self-initiate an investigation. In each investigation the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable,

unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory, or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

There were major developments in the following Section 301 investigations during 2000. (For those investigations involving WTO dispute settlement procedures, see Chapter II.)

Wheat Trading Practices of the Canadian Wheat Board (301-120)

On October 23, 2000, the USTR initiated an investigation in response to a petition filed by the North Dakota Wheat Commission to determine whether certain acts, policies, or practices of the Government of Canada and the Canadian Wheat Board (CWB) with respect to wheat trading are unreasonable and burden or restrict U.S. commerce. The CWB is a state-trading enterprise with sole control over the purchase and export of western Canadian wheat for human consumption. According to the petition, certain elements of the wheat trading system established by the Government of Canada provide the CWB with pricing flexibility not available to private wheat traders, and the CWB exploits this flexibility by engaging in certain allegedly unreasonable wheat trading practices. The petition asserts that such practices have harmed U.S. wheat farmers by causing U.S. wheat to lose market share in the United States and particular third-country markets, by reducing the sales prices obtained by U.S. wheat farmers and by causing unsold wheat stocks in the United States to increase.

In response to a notice of initiation published in the *Federal Register*, USTR received several comments from the public on the investigation. USTR is reviewing these comments and proceeding with the investigation.

EC - Importation, Sale, and Distribution of Bananas (301-100a)

Chapter II includes a report on WTO dispute settlement proceedings involving the EC's regime for the importation, sale, and distribution of bananas. On April 6, 1999, WTO arbitrators confirmed that the EC had failed to implement

the recommendation and rulings of the WTO Dispute Settlement Body (DSB) with respect to its banana regime, and the arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent banana regime was $191.4 million per year. Pursuant to the arbitrators' determination, on April 19, 1999, the DSB authorized the United States to suspend the application to the European Communities and its Member States of tariff concessions and related obligations under the GATT covering trade up to $191.4 million per year. In a notice published in April 1999, the USTR announced that the United States was exercising this authorization by imposing 100 percent *ad valorem* duties on certain products of certain EC Member States pursuant to Section 301. These increased duties remained in place throughout the year 2000 while talks continued with the aim of reaching a mutually satisfactory solution to this longstanding dispute.

EC - Measures Concerning Meat and Meat Products (Hormones) (301-62a)

Chapter II includes a report on WTO dispute settlement proceedings regarding an EC directive prohibiting import of animals, and meat from animals, to which certain hormones had been administered (the "hormone ban"). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but failed to do so. Accordingly, in May 1999 the United States requested authorization from the DSB to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with its WTO obligations but objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the European Communities and its Member States of tariff concessions and related obligations under the GATT covering trade up to $116.8 million per year. In a notice published in July 1999, the USTR announced that the United States was exercising this authorization by imposing 100 percent *ad valorem* duties on certain products of certain EC Member States. These increased duties remained in place throughout 2000. While talks have continued with the aim of reaching a mutually satisfactory solution to the dispute, no resolution has been reached. On November 3, 2000, the EU notified the WTO of its proposal to make permanent its ban on oestradiol.

Other Investigations Involving WTO Dispute Settlement

Chapter II includes information on the following Section 301 investigations that involve measures that are the subject of WTO dispute settlement proceedings filed by the United States: India - Patent Protection for Pharmaceuticals and Agricultural Chemicals (301-106); Australia - Subsidies on Leather (301-107); Indonesia - Promotion of the Motor Vehicle Sector (301-109); Japan - Market Access Barriers to Agricultural Products (301-112); and Canada - Export Subsidies and Market Access for Dairy Products (301-113).

2. Super 301

Super 301 – now embodied in Executive Order 13116 – provides a mechanism for the USTR annually to review U.S. trade expansion priorities and identify priority foreign country practices,

the elimination of which is likely to have the most significant potential to increase U.S. exports, either directly or through the establishment of a beneficial precedent. Under the Executive Order, an annual Super 301 report is to be issued on April 30 of each year through 2001.

The 2000 Super 301 Report identified five top trade expansion priorities: (1) completing China's accession to the WTO; (2) securing enactment of legislation promoting trade with certain regions; (3) advancing negotiations for the Free Trade Area of the Americas; (4) pursuing multilateral negotiations to open world markets to U.S. exports; and (5) enhancing U.S. monitoring and enforcement efforts.

The report did not identify any "priority foreign country practices" within the meaning of the Executive Order but found that a number of practices warranted the initiation of WTO dispute settlement proceedings. In particular, the report announced WTO dispute settlement proceedings covering auto investment measures in India and the Philippines and customs valuation practices in Brazil and Romania.

The report also identified country practices of significant concern, including EU Member State subsidies for Airbus, market access barriers in Japan's flat glass sector, and Mexico's customs valuation practices. Finally, the report highlighted U.S. efforts through trade laws (such as Special 301 and Section 1377), WTO oversight bodies (such as the Committee on Agriculture), and WTO dispute settlement procedures to ensure that U.S. trading partners comply with their WTO commitments.

3. Special 301

During the past year, the United States continued to implement vigorously the Special 301 program, resulting in substantial improvement in the global intellectual property environment. Publication of the Special 301 lists indicates the countries whose intellectual property protection regimes most concern the United States, and warns those considering trade or investment relationships with such countries that their intellectual property rights may not be adequately protected.

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act of 1994, under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as "Priority Foreign Countries."

Priority Foreign Countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act of 1974. USTR may not designate a country as a Priority Foreign Country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

USTR must decide whether to identify countries each year within 30 days after issuance of the National Trade Estimate Report. In addition, USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted.

USTR has created a "Priority Watch List" and "Watch List" under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention

concerning the problem areas.

a. 2000 Special 301 Review Announcements

On May 1, the United States Trade Representative announced the results of the 2000 "Special 301" annual review which examined in detail the adequacy and effectiveness of intellectual property protection in more than 70 countries. The USTR also announced that, as a result of the 2000 Special 301 review, the U.S would initiate World Trade Organization (WTO) dispute settlement consultations with Argentina and Brazil, and take the next step in the dispute with Denmark, requesting the establishment of a WTO panel unless immediate progress was made. That brought to 14 the number of intellectual property-related WTO complaints filed by the United States since 1996. Consultations about implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) also may be initiated with other countries in the near future. Moreover, the Special 301 report addressed significant concerns in such countries or areas as Ukraine, Italy, Israel, Malaysia, India, Korea, Poland, and the West Bank and Gaza, as well as progress in economies such as Macau, Mexico, and Sweden, and the United Arab Emirates.

In the 2000 review, USTR devoted special attention to proper and timely implementation of the TRIPS Agreement by developing country WTO Members, which was required as of January 1, 2000. In addition, USTR continued to focus on two other critically important issues: preventing the production of unauthorized copies of "optical media" such as CDs, VCDs, DVDs, and CD-ROMs, and ensuring that government ministries use only authorized software. Considerable progress has been made over the past year by many developing countries in implementing their TRIPS obligations. USTR also achieved success again during 2000 in encouraging U.S. trading partners to implement optical media controls and appropriate software management programs. While progress also was made on improving enforcement in many countries, the unacceptably high rates of piracy and counterfeiting of U.S. intellectual property around the world require ongoing vigilance.

Under the Special 301 provisions of the Trade Act of 1974, as amended, USTR identified 59 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States artists and industries that rely upon intellectual property protection.

In the 2000 report, Ukraine was identified for potential Priority Foreign Country designation. The United States has worked with Ukrainian officials over the past several years in an effort to reduce alarming levels of copyright piracy and to improve Ukraine's overall intellectual property regime. According to estimates from our copyright industry, Ukraine is the single largest source of pirate CDs in the Central and East European region. In June, the U.S.-Ukraine Joint Action Plan to Combat Optical Media Piracy in the Ukraine was signed. Regrettably, the Ukraine has failed to live up to the terms of the Plan; at year's end the U.S. Government was engaged with the Government of Ukraine in an intense effort to resolve this problem.

Copyright piracy in Ukraine is extensive and enforcement is severely lacking, resulting in increasing unauthorized production and export of CDs and CD-ROMs. U.S. industry estimates that losses to the music industry alone are $210 million. The United States urges the Government of Ukraine to take stronger measures on an urgent basis to address this problem through the implementation of effective optical media production controls and other available means. In addition, a number of Ukraine's intellectual property laws, especially trademark, patent and copyright, fall short of compliance with the minimum standards set out in the TRIPS Agreement and the 1992 U.S.-Ukraine bilateral

trade agreement. It is unclear whether Ukraine protects pre-1973 copyrighted works; it does not provide retroactive protection for sound recordings.

Paraguay and China were designated for "Section 306 monitoring" to ensure both countries comply with the commitments made to the United States under bilateral intellectual property agreements. Special concern was expressed that Paraguay's efforts have not been sufficient in recent months, and further consultations will be scheduled.

In 2000, USTR placed 16 trading partners on the "Priority Watch List:" Argentina, the Dominican Republic, Egypt, the European Union, Greece, Guatemala, India, Israel, Italy, Korea, Malaysia, Peru, Poland, Russia, Turkey, and Ukraine. Thirty-nine trading partners were placed on the "Watch List." Countries that were not mentioned in the report last year but are on the Watch List this year include: Armenia, Azerbaijan, Kazakhstan, Latvia, Lithuania, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.

On November 8, 2000, the USTR announced the results of out-of-cycle reviews of Italy and El Salvador. USTR also announced resolution of TRIPS implementation concerns in Poland and Ireland. Italy was moved from the Priority Watch List to the Watch List as a result of its passage of a new anti-piracy law. USTR decided not to place El Salvador on the Watch List in recognition of its stepped-up IPR enforcement efforts. Poland was moved from the Priority Watch List to the Watch List because of amendments to its copyright law, which brought that country into compliance with its TRIPS obligations regarding sound recordings. Ireland was removed from the Watch List after it adopted new copyright legislation.

b. Intellectual Property and Health Policy

On December 1, 1999, the President announced that the United States is committed to helping developing countries gain access to essential medicines, including those for HIV/AIDS. Also on December 1, the USTR and the Secretary of Health and Human Services announced their intention to develop a cooperative approach on health-related intellectual property matters to ensure that the application of U.S. trade law related to intellectual property remains sufficiently flexible to respond to public health crises.

Specifically, the announcement stated that USTR and HHS will work together to establish a process for analyzing and evaluating health issues that are relevant to the application of U.S. trade-related intellectual property laws and policy. When a foreign government expresses concern that U.S. trade law related to intellectual property protection significantly impedes its ability to address a health crisis in that country, USTR will seek and give full weight to the advice of HHS regarding the health considerations involved. This process will permit the application of U.S. trade-related intellectual property law to remain sufficiently flexible to react to public health crises brought to the attention of USTR. It will also ensure that the minimum standards of the TRIPS Agreement are respected.

USTR and HHS have established a regular consultative mechanism on health-related intellectual property matters consistent with their goal of helping poor countries gain access to essential medicines. The agencies are also working closely with interested NGOs and industry to ensure that this policy is implemented effectively.

In May 2000, the President issued Executive Order 13155. The order is intended to give sub-Saharan African governments flexibility to bring lifesaving drugs and medical technologies to those infected with HIV. The order provides this flexibility by declaring that the United States will not seek any revision of intellectual property policy in sub-Saharan African countries if that

policy promotes access to HIV/AIDS medications and remains consistent with the TRIPS Agreement.

c. Implementation of Special 301

While piracy and counterfeiting problems persist in many countries, progress has occurred in other countries. Significant positive developments are highlighted below:

- The Commonwealth of the Bahamas provided assurances that it would amend its copyright law to eliminate provisions that create a compulsory license for unauthorized re-transmissions by cable television systems of any copyrighted work transmitted over its territory, including encrypted transmissions. Such provisions violate the Bahamas' obligations under the Berne Convention. The Bahamas also agreed to revise its copyright law so that internet transmissions are likewise not subject to compulsory licenses.

- Italy passed a new anti-piracy law that significantly strengthens the penalties for theft of intellectual property rights.

- The Government of El Salvador took steps to improve its protection of intellectual property, including increased raids against software pirates and invigorated efforts to bring its intellectual property laws into compliance with the TRIPS agreement.

- Poland brought into effect important new amendments to its copyright law to protect recordings produced before 1974. Failure to provide such protection had left Poland in violation of the TRIPS Agreement.

- Ireland recently adopted new copyright legislation that brings that country into compliance with the TRIPS Agreement by making penalties for copyright infringement stiff enough to deter pirates.

- Malaysia brought into force in September a new optical media law to rein in compact disc pirates.

- Guatemala passed two strong IPR laws: a new industrial property law, and an amended copyright law.

- In June, Hong Kong adopted legislation criminalizing corporate use of unlicensed software.

- In October, Argentina began issuing patents for pharmaceutical products.

d. Ongoing Initiatives

Implementation of the TRIPS Agreement

Substantial progress has been made over the past year by developing countries toward full implementation of their TRIPS Agreement obligations. The United States has worked diligently to assist countries in meeting this goal through consultations and bilateral technical assistance.

In 1999, the WTO TRIPS Council completed its review of developing country intellectual property legislation. During 2000, the Council reviewed intellectual property legislation in 19 developing countries, as well as that of Hong Kong and Macau. The Council will review legislation in more than 50 other developing countries during 2001. The United States uses this exercise to pose detailed questions to developing countries about their implementation of TRIPS Agreement obligations.

Nevertheless, this review has revealed that a number of countries are still in the process of finalizing implementing legislation. The United States will continue to work with such countries

and expects further progress in the very near future to complete this process. However, in those instances where additional progress is not likely in the near term, or where the United States has been unable to resolve concerns through bilateral consultation, we will be pursuing our rights through WTO dispute settlement proceedings. This is the case with Argentina and Brazil.

Controlling Optical Media Production

To prevent piratical activity, several of our trading partners have adopted new measures, have taken important steps toward adopting, or have committed to adopt much needed controls on optical media production. Malaysia brought into effect a strong optical media law on September 15. However, others that are in urgent need of such controls, including Taiwan, Israel, Ukraine and the West Bank and Gaza, have made insufficient progress.

Governments such as those of Bulgaria, China, and Hong Kong that implemented optical media controls in previous years have clearly demonstrated their commitment to continue to enforce these measures. The effectiveness of such measures is underscored by the direct experience of these governments in successfully reducing pirate production of optical media. We urge our trading partners facing the challenge of pirate optical media production within their borders, or the threat of such production developing, to adopt similar controls in the coming year.

Government Use of Software

In October 1998, a new Executive Order was announced, directing U.S. Government agencies to maintain appropriate, effective procedures to ensure legitimate use of software. The President also directed USTR to undertake an initiative to work with other governments, particularly those in need of modernizing their software management systems, or those about which concerns have been expressed, regarding inappropriate government software use.

USTR has achieved considerable progress under this initiative since October of 1998. To date, nineteen countries or territories have issued decrees mandating that government offices use only licensed software. USTR looks forward to the establishment of effective and transparent procedures to implement these decisions, and calls on other governments to take this very important step prior to the conclusion of the Special 301 review in April 2001.

4. Telecommunications

a. Section 1377 Reviews

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the Section 1377 review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States (1) is not in compliance with the terms of the agreement or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country. An affirmative determination under Section 1377 must be treated as an affirmative determination of a violation of a trade agreement under Section 304(a)(1)(A) of the Trade Act of 1974.

Due in large part to the 1997 WTO Agreement on Basic Telecommunications ("Basic Telecom Agreement"), which went into effect on February 5, 1998, mutually advantageous market opportunities for U.S. telecommunications equipment and service suppliers expanded greatly in 2000: U.S. firms are establishing facilities-based affiliates in countries in Africa, the Americas, Asia-Pacific, and Europe that are newly opened to competition; exports of U.S.

telecommunications and information technology equipment advanced at double-digit rates in many areas; and retail prices for international calls made from the United States dropped virtually across the board, reaching the 10 to 20 cent per minute range for a number of highly competitive routes.

The Basic Telecom Agreement also has been instrumental in opening markets to satellite services around the world. With many countries liberalizing their satellite regulations, revenue of the commercial satellite industry is projected to enjoy double-digit growth over the next decade. These trends are expected to continue as more countries open their markets to full international competition.

Interventions by U.S. officials in support of the U.S. telecommunications industry abroad, in instances where trading partners' WTO obligations are implicated, have increased and led in several instances to rapid resolution of complaints without resort to investigations under Section 1377. Notwithstanding this favorable trend, monitoring and enforcement activities under Section 1377 have increased substantially since, as a result of the Basic Telecom Agreement, the number of trading partners subject to the annual review under Section 1377 includes the entire WTO membership.

The 2000 Section 1377 review, which was completed on March 30, 2000, focused on implementation of bilateral and WTO telecom commitments by Canada, Germany, Israel, Japan, Mexico, Peru, South Africa, and the United Kingdom. In each case, substantial progress was made in meeting the concerns of U.S. industry. In each case, out-of-cycle investigations or intensive monitoring and other activities continued throughout the year.

Canada: USTR initiated a 1377 investigation after the Canadian telecom regulator (CRTC) denied a petition filed by competitive carriers to reform Canada's universal service system (known as the "contribution system"). This system, which collected funds on a per-minute basis from long-distance traffic, has the potential to overcompensate the main beneficiaries, incumbent local suppliers, which also compete in the long-distance sector. USTR has been concerned regarding the compatibility of Canada's contribution mechanism with Canada's commitments under the Basic Telecom Agreement. However, the CRTC has completed a rulemaking process to devise a more competitively-neutral collection system as of January 1, 2001.

Germany: USTR's Section 1377 review of Germany focused on: (1) continued excessive delays by Deutsche Telekom (DT) in providing interconnection to competing carriers and continuing efforts by DT to impose onerous conditions on competitive carriers for interconnection; (2) excessive fees (ranging from $1.4 to $6.0 million) that the German government imposes to obtain a telecom license; (3) non-transparent cost data that DT files with the German telecom regulator to support DT's position on interconnection fees and other matters; and (4) DT's refusal to perform billing and collection services for new entrants absent a regulatory mandate to do so. Germany has taken positive steps to address the persistent problem of DT's backlog in processing interconnection requests. Germany is also expected to take action to reduce excessive licensing fees, which the European Commission has recognized as an impediment to competitive market entry. Germany also will continue to require DT to perform billing and collection services for its competitors' customers for call-by-call long distance services.

Israel: The 1377 investigation of Israel's telecom policies focused on that country's alleged discrimination against service suppliers of international calls to and from the United States and Canada. In particular, Israel imposes a higher access fee on such calls than on calls to or from all other countries, without any cost

justifications. This access fee appears to run counter to Israel's obligations under the General Agreement on Trade in Services (GATS), particularly the obligation to treat services and service suppliers of one WTO country no less favorably than services and service suppliers of another WTO country. During the review, Israel committed to remove by December 31, 2001 its discriminatory access fee on calls to and from the United States and Canada.

Japan: Japan came under close scrutiny during 2000 for over-priced interconnection rates that inhibited competition in Japan's local market, as well as for prohibiting the routing of both domestic and international calls through combinations of owned and leased network facilities. USTR was concerned that Japan's practices were inconsistent with its WTO obligations, particularly the obligation to ensure cost-oriented interconnection.

In July 2000, the United States and Japan concluded an agreement as part of the Enhanced Initiative on Deregulation and Competition Policy under which Japan committed to lower its rates for regional interconnection by 50 percent over two years and local access by 20 percent over two years. The majority of these cuts will occur in the first year and will be made retroactive to April 1, 2000, and there will likely be further substantial cuts in the third year (2002). Japan also committed to open new points of access ("unbundling") to the network of its dominant carrier (NTT) and enact rules to ensure fair usage rates and conditions in order to allow new entrants to compete in providing high-speed internet services. The agreement will save telecommunications carriers around the world more than $2 billion over the next two years and will enhance new entrants' ability to build new networks by eliminating restrictions on their competitors' ability to construct networks in the most efficient way.

Mexico: On August 17, 2000, the United States initiated WTO consultations with Mexico regarding its compliance with WTO rules applicable to Mexico's regulation of its $12 billion telecommunications services sector. Consultations held in Mexico on October 10, 2000 failed to resolve the dispute. Accordingly, on November 10, 2000, the United States requested the WTO to establish a dispute settlement panel on the grounds that Mexico had failed to ensure:(1) timely, non-discriminatory interconnection for local competitors, which were unable to interconnect with Telmex at the local level; (2) cost-oriented interconnection for all calls into and within Mexico, including for calls to remote regions where competitive suppliers lack facilities; and (3) competitive alternatives for terminating international calls into Mexico, currently set at a rate of 19 cents per minute, or up to 15 cents per minute higher than cost.

The United States requested a second set of WTO consultations with Mexico on measures that the Mexican government adopted after the initial U.S. consultation request. These consultations concern Mexico's newly issued dominant carrier regulations as well as Mexico's proposed interconnection rates, terms, and conditions for 2001. The United States expressed concerns regarding the consistency of these measures with Mexico's WTO commitments to maintain appropriate measures to prevent anti-competitive practices and to ensure interconnection at cost-oriented rates.

Peru: Peru came under scrutiny regarding whether its interconnection regime is consistent with Peru's WTO obligation to ensure cost-oriented interconnection rates. In August, Peru's telecom regulator (OSIPTEL) approved local interconnection rate of 1.68 cents per minute and provided for the rate to drop to .96 cents by 2002. While this action marks a significant step toward expanding telephone access and bringing advanced services to users, OSIPTEL initially delayed applying these rates to key market segments – long-distance and wireless interconnection. However, in December 2000, OSIPTEL took the important step of

applying these interconnection rate reductions to these market segments as well.

South Africa: USTR's 1377 review of South Africa focused on its alleged failure to ensure that its monopoly telecommunications supplier (Telkom) provide private lines necessary for value-added network services. Although Telkom made lines available to one company during 2000, it has declared it will not honor that firm's orders for additional service. Telkom also did not provide access to any other firms and has consistently ignored rulings from South Africa's telecom regulator that Telkom must clear its backlog of interconnection orders.

United Kingdom: In its November 1999 policy statement, "Access to Bandwidth: Delivering Competition for the Information Age," the UK's telecom regulator (OFTEL) granted British Telecom (BT) an effective monopoly on the supply of high-speed internet service (known as "ADSL") until July 1, 2001. The European Union, however, approved a regulation in October 2000 requiring EU Member States to ensure that local providers open their networks to new points of access ("unbundle their local loops"), an important first step in allowing ADSL competition. In addition, on December 29, 2000, OFTEL announced final cost-base pricing for local loop unbundling. USTR has extended the 1377 review of the UK to ensure that it allows competing firms to co-locate at BT switches and provide ADSL service in a prompt and transparent manner.

b. Telecommunications Equipment

USTR also has undertaken an active telecommunications equipment trade agreement program to facilitate trade in these products. A key aspect of this program has been the WTO Information Technology Agreement, which was concluded in 1996 and provides for tariffs to be phased out over five years across a broad range of information technology equipment.

USTR also has also worked to reduce non-tariff barriers to trade in this heavily-regulated sector, by increasing harmonization of telephone equipment standards in North America, streamlining procedures for equipment testing, lowering barriers, and bolstering trade with our NAFTA partners. Similarly, the conclusion of mutual recognition agreements (MRA) governing telecommunications equipment trade with the European Union (1997), Asia-Pacific countries (1998), and the Americas (1999) will speed up necessary regulatory approvals and lower their costs. USTR and the European Commission are currently examining approaches for covering additional telecommunications equipment (i.e., marine radio equipment) under an MRA.

5. Government Procurement

Executive Order 13116 of March 31, 1999, reinstituted key elements of Title VII of the 1988 Omnibus Trade and Competitiveness Act, as amended. The Executive Order requires the USTR to identify countries that: (1) are not in compliance with their obligations under the WTO Government Procurement Agreement (GPA), Chapter 10 of the North American Free Trade Agreement, or other agreements relating to government procurement to which those countries and the United States are parties or (2) maintain, in government procurement, a significant pattern or practice of discrimination against U.S. products or services, which results in identifiable harm to U.S. businesses when those countries' products or services are acquired in significant amounts by the U.S. Government.

The Executive Order also mandates that the USTR submit a report on the identified countries and practices to the Congressional committees of jurisdiction by April 30 (for the years 1999, 2000, and 2001) and publish these reports in the *Federal Register*. Within 90 days of the submission of the report, the USTR must initiate under Section 301 of the Trade Act of 1974, as amended, an investigation with respect to any identified country unless the USTR determines

that a satisfactory resolution of the matter has been achieved.

From 1991-1996, the USTR conducted six annual reviews under Title VII. One determination remains outstanding from that period: in 1993, Title VII sanctions were imposed against the EU and its Member States for discrimination against U.S. telecommunications products. Those sanctions remain in place today. In 1999, however, the EU advised the United States that it had limited the application of the disputed provisions of its procurement regulations and suggested that the two sides seek to resolve the issue in order to terminate the 1993 sanctions. Thus, during 2000, the United States initiated bilateral consultations with the EU for this purpose.

In 1999, under the re-instituted Title VII process, the Administration determined that no countries met the criteria for identification. Similarly, in 2000, based on public responses to a *Federal Register* notice, consultations with the private sector, and its own information, the USTR determined that no countries met the criteria for Title VII identification. Moreover, the USTR decided to terminate the 1996 Title VII identification of Germany for discrimination in the heavy electrical sector, based on new German legislation that appears to effectively address the concerns raised by the United States. The 2000 report, however, does take note of countries that, while not formally identified, are of ongoing concern because of their questionable government procurement practices. These concerns include Japanese procurement practices in its public works sector and price preferences applied by Canadian provincial governments. The report also describes U.S. efforts to eliminate discriminatory foreign procurement practices by building and strengthening the international rule of law in a wide range of multilateral, regional, and bilateral fora.

6. Antidumping Actions

Under the antidumping law, remedial duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the 1979, 1984, and 1988 trade acts as well as by the 1994 Uruguay Round Agreements Act.

An antidumping investigation starts when a U.S. industry, or a representative filing on its behalf, submits a petition alleging with respect to certain imports the dumping and injury elements described above. If the petition meets the minimum requirements for filing, Commerce initiates an antidumping investigation. Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, the case shifts back to Commerce for preliminary and final inquiries into the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If

affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs bonds released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins and subsidy rates pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO antidumping agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998; 46 in 1999; and 35 in 2000. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 24 in 1995; 9 in 1996; 7 in 1997; 9 in 1998; 21 in 1999; and 19 in 2000. In 2000, Commerce initiated sunset reviews of 285 of its outstanding antidumping measures. A total of 123 measures were revoked pursuant to these sunset procedures while 132 measures remained in force, and 30 awaited final injury reviews by the USITC.

7. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies benefitting imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by an interested party. The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

The number of CVD investigations initiated in and since 1986 are: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; 11 in 1999; and 7 in 2000. The number of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; 7 in 1999; and 6 in 2000. In 2000, Commerce initiated sunset reviews of 53 of its outstanding countervailing measures. A total

of 27 measures were revoked pursuant to these sunset procedures while 23 measures remained in force, and 3 awaited final injury reviews by the USITC.

8. Unfair Import Practices (Section 337)

Section 337 of the Tariff Act of 1930 makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, usually involving U.S. patents.

The USITC conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products.

If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review process, if the importer pays a bond set by the USITC. If the President takes no negative action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC also is authorized to issue temporary exclusion or cease and desist orders prior to completion of an investigation if the USITC determines that there is reason to believe a violation of Section 337 exists.

In 2000, the USITC instituted 17 Section 337 investigations. During the year, the USITC issued two general exclusion orders and one limited exclusion order covering imports from foreign firms, as well as one cease and desist order to a U.S. firm regarding its use or further sale of imported infringing products. The President permitted these exclusion and cease and desist orders to become final without presidential action.

9. Safeguard Actions (Section 201)

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry seriously injured by increased imports. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry and may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the United States International Trade Commission (USITC) must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the

threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of March 1, 2001, the United States had safeguard measures in place on four imported products: wheat gluten, lamb meat, certain steel wire rod (wire rod), and circular welded carbon quality line pipe (line pipe).

Effective June 1, 1998, the President imposed quantitative restrictions on imports of wheat gluten for a period of 3 years and 1 day. Absent an extension, the measure will expire June 1, 2001. The measure applies to imports from all countries except Canada, Mexico, Israel, and CBI and Andean Trade Preference beneficiaries. Effective July 22, 1999, the President imposed a tariff-rate quota on imports of lamb meat, also for a period of 3 years and 1 day. The measure likewise applies to imports from all countries except Canada, Mexico, Israel, and CBI and Andean Trade Preference beneficiaries. Unless extended, the measure will expire on July 22, 2002.

During 2000, the measures on wheat gluten and lamb were under consideration by WTO panels. On July 31, 2000, a panel issued a report finding that the wheat gluten safeguard measure was inconsistent with the WTO Agreement on Safeguards. The United States appealed that finding to the WTO Appellate Body, which issued a report on December 22, 2000, upholding the panel's findings in part and reversing the panel's findings in part, but still finding that the wheat gluten safeguard measure was inconsistent with the WTO Safeguards Agreement. The EU, which had challenged the measure, announced that if the United States did not comply with the WTO ruling within five days following adoption of the Appellate Body report, the EU would impose a surcharge of five euros per metric ton on the first 2.7 MMT of imports of U.S. corn gluten feed until such time as the wheat gluten safeguard measure is terminated. In response, the United States announced that it would request consultations with the EU under WTO dispute settlement procedures, claiming that the EU had not satisfied the requirements of the Safeguards Agreement for suspending concessions.

On December 21, 2000, a second panel issued a report finding that the lamb meat safeguard measure was inconsistent with the Agreement on Safeguards and Article XIX of GATT 1994; USTR announced its intention to appeal this decision to the Appellate Body.

Effective March 1, 2000, the President imposed a tariff-rate quota on imports of wire rod from all countries except Canada and Mexico. Absent an extension, the measure will expire on March 1, 2003. Also effective March 1, 2000, the President imposed a duty increase on imports of line pipe from all countries except Canada and Mexico. The first 9,000 short tons of line pipe imported into the United States annually from each country is exempted from this increase in duty. Absent an extension, the measure will expire on March 1, 2003. On June 13, 2000, Korea requested WTO consultations regarding the safeguard measure on line pipe. The European Communities and Japan joined in these consultations, which were held on July 28, 2000. On September 14, 2000, Korea requested the establishment of a WTO panel to consider the matter, and the panel was established on October 23, 2000.

Two Section 201 petitions were filed with the USITC during 2000, one on imports of crab meat from swimming crabs and the other on imports of extruded rubber thread. The crab meat petition was filed on March 2, 2000, and the extruded

rubber thread petition was filed on June 5, 2000. The Commission made negative injury determinations in both investigations, on July 11, 2000, and October 3, 2000, respectively.

10. Trade Adjustment Assistance

a. Assistance for Workers

The Trade Adjustment Assistance (TAA) program for workers, established under Title II, chapter 2, of the Trade Act of 1974, as amended, provides assistance for workers affected by imports. Available assistance includes job retraining, trade readjustment allowances (TRA), job search, relocation, and other reemployment services. The program is scheduled to expire on September 30, 2001.

Workers seeking TAA services and benefits must file a petition with the U.S. Department of Labor. For workers to be eligible to apply for TAA, the Secretary of Labor must certify that members of the workers group have become or are threatened to become totally or partially separated from their employment; that the sales and/or production at the workers' firm have declined; and that increased imports of articles like or directly competitive with those produced by the petitioning workers have contributed importantly to the actual or threatened separations and to the declines in sales and/or production at the workers' firm.

The NAFTA Implementation Act established the North American Free Trade Agreement Transitional Adjustment Assistance program (NAFTA-TAA). Workers seeking NAFTA-TAA services and benefits must file a petition with the Governor's designated representative in the State where the workers' firm is located. For workers to be eligible to apply for NAFTA-TAA, the Secretary of Labor must certify that members of the workers group have become or are threatened to become totally or partially separated from their employment; that the sales and/or production at the workers' firm have declined; and that either (1) increased imports from Canada and/or Mexico of articles like or directly competitive with those produced by the petitioning workers have contributed importantly to the actual or threatened separations and to the declines in sales and/or production at the workers' firm or (2) that there has been a shift of production from the petitioning workers' firm to Canada or Mexico. Certification under the NAFTA-TAA program does not in any way imply that the Agreement itself caused the separations.

The U.S. Department of Labor administers the TAA and NAFTA-TAA programs through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA and NAFTA-TAA benefits and services at the nearest office of the State Employment Security Agency. Under the TAA program, workers must be enrolled in approved training, or must have successfully completed approved training, in order to be eligible for TRA. A State may waive this requirement if training is not feasible or appropriate. Under the NAFTA-TAA program, in order to be eligible for TRA, workers must be enrolled in approved training within six weeks of the issuance of the DOL certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later) or must have successfully completed approved training. No waivers of these requirements are permitted under NAFTA-TAA.

Fact-finding investigations were instituted for 1,368 TAA petitions in fiscal year (FY) 2000. In FY 2000, 838 certifications were issued covering an estimated 101,000 workers, whereas 633 petitions covering an estimated 53,700 workers resulted in denials of eligibility to apply. Fact-finding investigations were instituted for 775 NAFTA-TAA petitions in FY 2000. In FY 2000, 401 NAFTA-TAA certifications were issued covering an estimated 47,200 workers, whereas 339 NAFTA-TAA petitions covering an estimated 31,900 workers resulted in denials of

eligibility to apply.

Under the TAA program, the number of workers who entered training during FY 1999 was 28,383; during the same year, 36,108 began receiving TRA. Under the NAFTA-TAA program, the number of workers who entered training during FY 1999 was 4,462; during the same year, 1,728 began receiving TRA. Total funding for training, job search, relocation, and State administrative expenses under TAA was $94.3 million in FY 1999 and under NAFTA-TAA was $36.8 million in FY 1999.

b. Assistance for Firms and Industries

The Planning and Development Assistance Division of the Department of Commerce's Economic Development Administration (EDA) administers the TAA program for firms and industries. This program is authorized by Title II, Chapter 3, of the Trade Act of 1974, as amended, through September 30, 2001. To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers.

Under the firms and industries TAA program, EDA funds a network of 12 Trade Adjustment Assistance Centers (TAACs). These TAACs are sponsored by nonprofit organizations, institutions of higher education, and a state agency. In FY 2000, EDA provided nearly $11.0 million in funding to the TAACs. That amount included nearly $0.5 million in defense adjustment funding, which is used to assist trade-impacted firms that also have been affected by defense downsizing or are located in areas that have been affected by defense downsizing.

TAACs assist firms in completing petitions for certification of eligibility. In FY 2000, EDA certified 201 firms under the TAA program. Once EDA has certified a firm, the TAAC assists the firm in assessing its competitive situation and in developing an adjustment proposal. The adjustment proposal must show that the firm is aware of its strengths and weaknesses and must present a clear and rational strategy for achieving economic recovery. EDA's Adjustment Proposal Review Committee (APRC) must approve the firm's adjustment proposal. During FY 2000, the APRC approved 139 adjustment proposals from certified firms.

After the adjustment proposal is approved by the APRC, the firm may request technical assistance from the TAAC to implement its strategy. Using funds provided by the TAA program, the TAAC contracts with consultants to provide the technical assistance identified in the firm's adjustment proposal. The firm must typically pay 50 percent of the cost of each consultant contract, and the maximum amount of technical assistance available to a firm under the TAA program is $75,000. Common types of technical assistance that firms request include the development of marketing materials, the identification of new products for the firm to produce, and the identification of appropriate management information systems.

EDA also may provide technical assistance for industry-wide projects. In FY 2000, EDA approved a $4.8 million technical assistance grant to help the Alaskan salmon fishing industry implement a strategic marketing plan that was developed under a FY 1999 grant. Funds for both grants were transferred to EDA from the U.S. Department of Agriculture.

The Emergency Steel Loan Guarantee Act of 1999 and the Emergency Oil and Gas Guaranteed Loan Program Act (also enacted in 1999) created the Emergency Steel Loan Guarantee Board and the Emergency Oil and Gas Guaranteed Loan Board. The boards are authorized to provide loan guarantees to steel companies and to qualified oil and gas companies in amounts for up to 85 percent of the loan principal. The

programs have been structured to fulfill the two objectives of the legislation: to assist steel and oil and gas firms injured by the import crises and to protect government funds by guaranteeing only sound loans. In FY 2000, the Emergency Steel Loan Guarantee Board approved offers of guarantee for a total of $550.5 million in loans to qualified steel companies, and the Emergency Oil and Gas Guaranteed Loan Board approved offers of guarantee for a total of $14 million in loans to qualified oil and gas companies. These loans are expected to be completed early in FY 2001.

VII. Trade Policy Development

A. Congressional Affairs

In 2000, USTR worked with the 106th Congress in a spirit of bipartisan cooperation and consultation established in previous years on a wide range of important trade issues.

Last year, the Congress approved a number of pieces of Administration supported trade legislation. The Congress enacted the Trade Development Act of 2000. This legislation incorporated the Africa Growth and Opportunity Act (AGOA) and Carribean Basin Enhancement Act. The Congress also enacted legislation to provide China with permanent normal trade relations upon its accession to the WTO. Congress reauthorized the GSP and TAA programs through September 30, 2001. Congress also rejected the disapproval resolution of extension of NTR status to China and a disapproval resolution of an extension of waiver authority for trade with Vietnam. Finally, the House of Representatives defeated a resolution removing Congressional approval to continued U.S. participation in the WTO.

USTR continued to consult closely with Congress through a series of briefings and consultations with Members of Congress and staff from over a dozen Congressional Committees and offices on a myriad of issues. USTR officials testified before numerous House and Senate Committees on issues such as, U.S.-China trade, U.S.-Vietnam trade, telecommunications, intellectual property, e-commerce and high-tech issues, services, and agriculture.

Consultations and briefings were undertaken on all of the above issues as well as on the U.S.-Jordan Free Trade Agreement; implementation of the Africa Growth and Opportunity Act; implementation of the Carribean Basin Enhancement Act; the status of China's accession to the WTO; steel issues; WTO disputes including, beef hormones, bananas and FSC; accessions to the WTO; the Subsidies Agreement in the WTO; the General Agreement on Trade in Services; Global Electronic Commerce; Canadian trade issues, including the softwood lumber agreement and wheat exports; intellectual property rights including issues regarding availability of pharmaceuticals for fighting AIDS, specifically Executive Order 13141; and issues involving trade and labor and trade and the environment.

The Office of Congressional Affairs continued to respond in a timely manner to all requests for information from Congressional offices and Committees. In addition, Congressional Affairs transmitted statutorily required reports to Congress on a timely basis. Congressional Affairs also continued to provide trade-related briefing materials for foreign trips by Congressional delegations. USTR looks forward to maintaining and improving its close working relationship with Congress in 2001.

B. Private Sector Advisory System and Intergovernmental Affairs

USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) administers the federal trade advisory committee system and provides outreach to and facilitates dialogue with state and local governments, the business and agricultural communities, labor, environmental,

consumer, and other domestic groups on trade policy issues.

First, the advisory committee system, established by the U.S. Congress in 1974, falls under the auspices of IAPL. The advisory committee system was created to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. The advisory committee system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. It is managed by IAPL, often in cooperation with other agencies including the Departments of Agriculture, Commerce, Defense, and Labor, and the Environmental Protection Agency.

Second, IAPL also has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to all state and local governments on the implementation of the NAFTA and the WTO, and other trade issues of interest.

Finally, IAPL also coordinates USTR's outreach to the public and private sector through notification of USTR Federal Register Notices soliciting written comments from the public, consulting with and briefing interested constituencies, holding public hearings, and meeting frequently with a broad spectrum of groups at their request.

1. The Advisory Committee System

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. (Currently, there are approximately 700 advisors.) Recommendations for candidates for committee membership are collected from a number of sources including Members of Congress, associations and organizations, publications, other federal agencies, and individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); six policy advisory committees; and 26 technical, sectoral, and functional advisory committees. Additional information can be found on the USTR website (http://www.ustr.gov/outreach/advise.shtml).

Private sector advice is both a critical and integral part of the trade policy process. USTR already maintains an ongoing dialogue with interested private sector parties on trade agenda issues. The advisory committee system is unique, however, since the committees meet on a regular basis, and receive sensitive information about ongoing trade negotiations and other trade policy issues and developments. Committee members require a security clearance.

a. President's Advisory Committee on Trade Policy and Negotiations

The President's Advisory Committee for Trade Policy and Negotiations (ACTPN) consists of no more than 45 members broadly representative of key economic sectors affected by trade. The President appoints ACTPN members for two-year renewable terms. The 1974 Trade Act requires that membership broadly represent key economic sectors affected by trade. The ACTPN is the highest tier committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

b. Policy Advisory Committees

At the second tier, the members of the six policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. Those managed solely by USTR are the Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee on Africa (TACA). Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, Defense and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee (LAC), Defense Policy Advisory Committee (DPACT), and Trade and Environment Policy Advisory Committee (TEPAC). Members serve two-year renewable terms or until the committee's charter expires. Each committee provides advice based upon the perspective of its specific area.

c. Sectoral, Functional and Technical Committees

At the third tier, the 26 sectoral, functional, and technical advisory committees are organized in two areas: industry and agriculture. Representatives are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group (such as textiles, or grains and oilseeds) and provides specific technical advice concerning the effect that trade policy decisions may have on its sector. Presently, there are five agricultural technical committees co-chaired by USTR and Agriculture. There are 17 industry sectors committees co-chaired by USTR and Commerce. The four functional advisory committees, co-chaired by USTR and Commerce, provide cross-sectoral advice on customs, standards, intellectual property issues, and electronic commerce.

2. State and Local Government Relations

With the passage of the NAFTA in 1993, and the Uruguay Round Agreements Act in 1994, which implements WTO obligations in the United States, the United States created expanded consultative procedures between federal trade officials and state and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." IAPL carries out the functions of informing the states on an ongoing basis of trade-related matters that directly relate to or that may have a direct effect on them. IAPL also serves as a liaison point in the Executive Branch for state and local governments and federal agencies, to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms:

a. State Point of Contact System

For day-to-day communications, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each State designates a single contact to disseminate information received from USTR to relevant state and local offices, and assist in relaying specific information and advice from the states to USTR on trade-related matters. The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which affect them. SPOCs regularly receive USTR press releases, Federal Register notices, and other pertinent information.

b. Intergovernmental Policy Advisory Committee

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the 33 federal trade advisory committees discussed above.

The IGPAC is comprised entirely of state and local officials. Appointed on a bipartisan basis, the committee makes recommendations to the Trade Representative and the Administration on trade policy matters. IGPAC's membership includes governors, mayors, state legislators, attorneys general, state regulators, and county officials. In 2000, the IGPAC was briefed and consulted on top trade agenda priorities, including China's WTO accession and Permanent Normal Trade Relations (PNTR), the Africa Growth and Opportunity Act and Caribbean Basin Initiative, the WTO built-in agenda, the US-Vietnam bilateral trade agreement, the U.S.-Jordan FTA, the Executive Order on Environmental Reviews of Trade Agreements, and other pertinent issues.

c. Meetings of State and Local Associations

USTR officials participate frequently in meetings of state and local government associations to apprise them of relevant trade policy issues and solicit their views. Associations include the National Governors' Association (NGA), Western Governors' Association (WGA), National Conference of State Legislatures (NCSL), Council of State Governments (CSG), National Association of Counties (NACo), U.S. Conference of Mayors (USCM), the National Conference of Black Mayors (NCBM), National League of Cities (NLC), and other associations. In 2000, USTR addressed plenary sessions of the NGA, NACo, NCSL, and USCM regarding the Administration's top trade priorities.

There is significant support among state and local officials for market-opening initiatives. This past year, resolutions endorsing Permanent Normal Trade Relations (PNTR) with China in order to open the Chinese market to U.S. goods and services were passed by WGA, USCM, CSG, and NCBM. Furthermore, 47 governors endorsed the passage of China PNTR.

USTR also addressed various conferences at the request of state and local officials, including the Alabama International Trade Conference 2000 and the California-Mexico Summit of Mayors.

d. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and NAFTA agreements, and frequently responds to requests for information from state and local governments. Topics of interest included China Permanent Normal Trade Relations, ongoing implementation of the WTO Government Procurement Agreement, WTO services issues, NAFTA investment issues, NAFTA transportation issues, and agricultural trade with Canada.

3. Public and Private Sector Outreach

It is important to recognize that the advisory committee system is but one of a variety of mechanisms through which the Administration obtains advice from interested groups and organizations on the development of U.S. trade policy. In formulating specific U.S. objectives in major trade negotiations, USTR also routinely solicits written comments from the public via Federal Register notices, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

2000 Outreach Efforts

The 2000 trade agenda provided many opportunities for USTR to conduct outreach to, and consultations with, diverse trade policy stakeholders including the advisory committees, state and local governments, private sector and non-governmental groups.

1. World Trade Organization

Throughout 2000, USTR and the Administration worked very closely with business and

agricultural communities, environmental, consumer, and labor organizations, as well as other non-governmental organizations on the policy agenda in preparation for and negotiation of the WTO agriculture and services negotiations. IAPL assisted with outreach to, and consultations with the advisory committees, state and local governments, and numerous public groups.

2. Free Trade Area of the Americas

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the FTAA agenda and strategy as the negotiators were preparing the first set of draft texts to be presented to the ministers at the April 2001 Ministerial. USTR also briefed advisors and the public regarding the ongoing environmental review of the negotiations.

3. The Asia Pacific Economic Cooperation Forum

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the APEC agenda, issues, and strategy.

4. China Permanent Normal Trade Relations

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the U.S.-China bilateral agreement on China's accession to the WTO negotiated at the end of 1999, on China's multilateral WTO accession negotiations, and the legislation granting permanent Normal Trade Relation (NTR) status for China.

5. U.S.-Jordan Free Trade Area Agreement

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the U.S.-Jordan Free Trade Area Agreement which concluded on October 24, 2000. USTR also briefed advisors and the public regarding the environmental review of the agreement.

6. U.S.-Singapore/U.S.-Chile Free Trade Area Agreement Negotiations

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the negotiations underway to conclude free trade area agreements with Singapore and Chile. USTR also briefed advisors and the public regarding the ongoing environmental reviews of the agreements.

7. Guidelines Implementing the Executive Order on Environmental Reviews of Trade Agreements

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the final guidelines for implementing Executive Order 13141 – Environmental Reviews of Trade Agreements. The draft guidelines implementing the Executive Order were published in July 2000, a public hearing was held in August, and the final Guidelines were published in December after receiving and considering public input on the draft guidelines.

8. Review of the Trade Policy Advisory Committee System

In January 2000, the Administration announced an initiative to solicit views from the public on ways to enhance the effectiveness of Administration efforts to obtain advice from environmental, consumer, and other non-governmental groups on important trade policy matters. As part of that initiative, on April 11, 2000, USTR and Commerce published a Federal Register notice seeking comments from the public on changes to the trade advisory committee system that would help to ensure that the Administration obtains timely, relevant trade policy advice from all interested parties.

In addition to the Federal Register notice, the Administration invited the Senate Finance and House Ways and Means committees to consider

whether any legislative changes in the trade advisory committee system may be warranted. The Administration also requested all current trade policy advisory committee members to provide their views on this subject as well.

During 2000, the Administration received a number of comments from Members of Congress, trade advisory committee members, and the public. The Administration's recommendations to improve the functioning of the trade policy advisory committee system are posted on USTR's website.

9. Public Trade Education

USTR continues its efforts to promote and educate the public on trade issues. USTR's internet homepage serves as a vehicle to communicate to the public. During 2000, IAPL assisted in efforts to extensively revise the website, adding expanded information on each of the trade advisory committees, state-by-state export information and links of interest to states and localities. The USTR internet address is http://www.ustr.gov.

C. Policy Coordination

By law, USTR plays the leading role in the development of policy on trade and trade-related investment. Under the Trade Expansion Act of 1962, the President established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 60 subcommittees responsible for specialized areas and several task forces that work on particular issues.

Through the interagency process, USTR assigns responsibilities for issue analysis to members of the appropriate TPSC subcommittee or task force. Conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are taken up by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPRG and the TPSC consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, and Health and Human Services, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The United States International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

In the previous Administration, the final tier of the interagency trade policy mechanism was the National Economic Council. Chaired by the President, the NEC was composed of the Vice President, the Secretaries of State, the Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy, the Administrator of the Environmental Protection Agency, the Chair of the Council of Economic Advisers, the Director of the Office of Management and Budget, the United States Trade Representative, the National Security Advisor, and the Assistants to the President for Economic Policy, Domestic Policy, and Science

and Technology Policy. All executive departments and agencies, whether or not represented on the NEC, coordinated economic policy through the NEC.

The NEC Deputies Committee considered decision memoranda from the TPRG, as well as particularly important or controversial trade-related issues. Trade-related issues that raised important national security concerns also were taken up in the Deputies Committee of the National Security Council.

During the interagency review stage, advice is generally sought from the private sector advisory committees and from Congress. Also, while virtually all issues are developed and formulated through the interagency process, USTR advice, in some cases, may differ from that of the interagency committees.

As policy decisions are made, USTR assumes responsibility for directing the implementation of those decisions. Where desirable or appropriate, USTR may delegate the responsibility for implementation to other agencies.

During 2000, USTR conducted internal meetings to examine interagency coordination at the Trade Policy Staff Sub-Committee and TPSC levels. A wider set of interagency meetings was held to try and determine what procedures would ensure full participation of environment agencies and environmental components of agencies in the policy-making process.

ANNEX I

U.S. Trade in 2000

I. 2000 Overview

The United States is the largest trading nation in the world. It is the largest goods trading country in the world (both exporting and importing) as well as the largest services trading country in the world. Trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)[1] has increased 25-fold since 1970 and nearly 120 percent since 1990. In 2000[2], the value of U.S. trade reached a record $3.4 trillion. U.S. trade increased by 11.6 percent in 1997, but growth dipped to just 3.1 percent in 1998 under the impact of global financial and economic difficulties. The rate of trade growth then partially recovered to 7.5 percent in 1999, though mostly due to the rapid expansion in U.S. imports. In 2000, trade increased by a strong 18 percent reflecting both strong export and import expansion.

Exports of goods and services, and earnings on investment doubled between 1990 and 2000. Exports increased by 15 percent in 2000, rebounding from low growth in the preceding two years (0.3 percent in 1998 and 3.6 percent in 1999). In 2000 exports expanded at their fastest rate since 1995. Improved export growth in 2000 was due to the continued recovery of countries affected by financial crises and the improved growth in other trading partners.

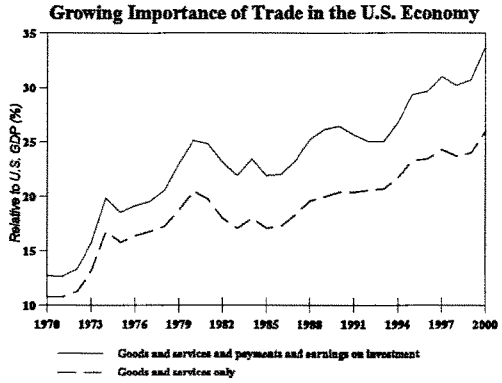
Imports of goods and services, and payments on investment expanded by 138 percent between 1990 and 2000. Imports increased by 20 percent in 2000, their highest growth rate since 1984. The stronger growth of U.S. imports than of U.S. exports expanded the overall U.S. trade deficit in 2000. Strong U.S. growth in the 2000's first half, substantial recent gains in household wealth and income, and strong investment demand contributed to the sizable increase in U.S. imports.

Even with the temporary slowdown, U.S. trade expansion was more rapid in the 1970-2000 period than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an annual average rate of 11.4 percent per year since 1970, compared to U.S. gross domestic product (GDP) whose growth was 7.8 percent. In real terms, the growth in trade was more than double the pace of GDP growth, 7.0 percent versus 3.2 percent. The value of trade in goods and services, including earnings and payments on investment, reached a record 33.7 percent of the value of U.S. GDP in 2000 (*figure 1*). This represented an increase from the corresponding figures for 1999 (31 percent), 1990 (26 percent) and 1970 (13 percent). For goods and services, excluding investment earnings and payments, U.S. trade reached 26.0 percent of the valuation of GDP 2000, up from 24 percent in 1999, 20 percent in 1990 and 11 percent in 1970.

[1] Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. The rest of this chapter, however deals with goods and services trade, excluding foreign investment earnings . All trade values are nominal unless otherwise indicated.

[2] In this Chapter, 2000 is estimated based on partial year data (January-November).

Figure 1:
Growing Importance of Trade in the U.S. Economy



Total exports + imports as a percentage of the value of U.S. GDP
Source: U.S. Department of Commerce.

U.S. exports of goods and services (excluding investment earnings) in 2000 increased by 12 percent to $1.1 trillion, more than five times the growth rate in 1999 (2.5 percent). U.S. exports of goods and services have doubled in value since 1990. Reflecting continued strong U.S. economic growth, imports of goods and services grew 18 percent in 2000 to over $1.4 trillion, significantly above the 11 percent growth rate in 1999 and the 6 percent growth rate in 1998. U.S. imports of goods and services have increased 135 percent since 1990.

With U.S. import growth overall outpacing that of exports, the total deficit on goods and services trade rose from $265 billion in 1999 (2.8 percent of GDP) to $371 billion in 2000 (3.7 percent of GDP). The U.S. deficit in goods trade alone increased from $346 billion in 1999 (3.7 percent of GDP) to $451 billion in 2000 (4.5 percent of GDP). The increase in the goods deficit was somewhat offset by the surplus on trade in services. The services trade surplus decreased slightly from $80.6 billion in 1999 to $80.1 billion in 2000. The rise in the trade deficit in recent years has largely reflected the strength of the U.S. economy – in both consumer demand and investment expansion – and financial and economic difficulties experienced by a number of trade partners. In the period 1994-1997, prior to the Asian financial crisis, the U.S. goods and services deficit was roughly stable as a share of GDP (at 1.3 percent to 1.4 percent).

II. Goods Trade

A. Export Growth

The goods exports of the United States increased 14 percent in 2000, as compared to the 2 percent increase of the preceding year. Growth was lead by industrial supplies (up 18 percent), capital goods except autos (up 15 percent) and consumer goods (up 11 percent; *table 1 and figure 2*). Further, recoveries abroad from the Asian financial crisis and improved growth in other U.S. trading partners helped reverse the declining trend in the exports of foods, feeds, and beverages.

Since 1990, exports of capital goods have risen 135 percent, and accounted for 46 percent of total goods exports in 2000. Exports of advanced technology products increased by 14 percent in 2000, and by 276 percent since 1990. Exports of manufactured products overall, of which capital goods and high technology products are subcomponents, rose 13 percent in 2000 and have increased 121 percent since 1990. Exports of agricultural products increased 32 percent since 1990, including an increase of 8 percent in 2000, reflecting the recovery of the Asian financial crisis and greater growth in our other trading partners.

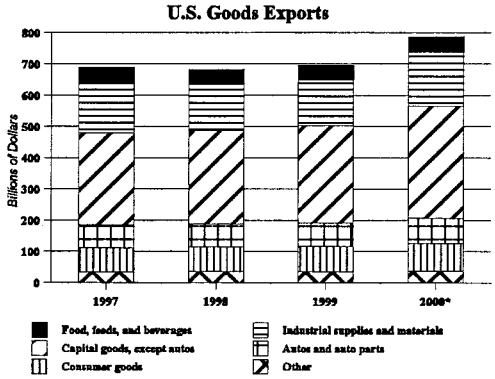
Table 1:
U.S. Goods Exports

Exports:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	679.7	670.3	684.4	778.0	13.7	99.8
Food, feeds, and beverages	51.5	46.4	45.5	48.1	5.6	37.0
Industrial supplies and materials	158.2	148.3	147.0	173.9	18.3	66.6
Capital goods, except autos	294.5	299.6	311.4	358.7	15.2	134.9
Autos and auto parts	74.0	73.2	75.8	80.4	6.2	115.1
Consumer goods	77.4	79.3	80.8	89.5	10.9	106.8
Other	33.6	35.3	35.3	36.4	3.0	75.8
Addendum: Agriculture	57.1	51.7	48.4	52.3	8.0	31.7
Addendum: Manufacturing	592.5	606.6	614.5	694.8	13.1	120.6
Addendum: High technology	179.5	186.4	200.3	229.3	14.5	275.6

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Figure 2:
U.S. Goods Exports



* Annualized based on January-November 2000 data

Source: U.S. Department of Commerce, Census Basis.

In 2000, goods exports increased to all major regions (*table 2*). Further signaling a recovery from the effects of Asia's financial crisis, U.S. goods exports to the Pacific Rim (excluding Japan and China) increased by 20 percent in 2000. This completes the reversal of the very sharp U.S. export decline of 17 percent in 1998 – bringing exports to this region above pre-Asian financial crisis levels. The export growth has, in fact, been mostly due to the economic recoveries in a number of the countries affected by the Asian crisis. For example, real GDP in 2000 is estimated to increase by 8.9 percent for South Korea, 4.1 percent for the Philippines, 9.4 percent for Singapore and 6.5 percent for Taiwan. The goods exports of the United States to these same countries increased sharply: by 25 percent to South Korea, 21 percent to the Philippines, 10 percent to Singapore, and 31 percent to Taiwan. U.S. exports to the Pacific Rim (excluding Japan and China) are up 111 percent since 1990, despite the significant export decline to this region in 1998.

Exports to our NAFTA partners increased by16 percent in 2000 and are up 107 percent since 1994, when NAFTA entered into force. Over 37 percent of U.S. goods exports to the world went to NAFTA countries in 2000, up from nearly 31 percent in 1993, the year before NAFTA's implementation began.

Table 2:
U.S. Goods Exports to Selected Countries/Region

Exports to:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Canada	151.8	156.6	166.6	180.4	8.3	115.5
European Union	140.8	149.0	151.8	164.0	8.0	58.5
Japan	65.7	57.8	57.5	65.0	13.1	33.7
Mexico	71.4	78.8	86.9	113.9	31.1	302.5
China	12.8	14.2	13.1	16.0	22.0	233.3
Pacific Rim, except Japan and China	115.3	95.3	103.2	123.4	19.5	111.3
Latin America, except Mexico	63.0	63.4	55.2	59.1	7.2	130.4
Addendum: High Income Countries	389.7	394.4	406.3	443.9	9.3	72.9
Addendum: Low to Middle Income Countries	299.1	287.3	289.1	344.4	19.1	152.7

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce, Census Basis.

Continued growth of the Canadian economy in 2000 (GDP up an estimated 4.7 percent) resulted in a 8 percent increase in U.S. goods exports to Canada (the United States' largest trading partner). Since 1990, exports to Canada have increased 116 percent. Some 23 percent of all U.S. goods exports last year went to our northern neighbor. U.S. exports to Mexico (our second largest country export market), increased by 31 percent ($27 billion), reaching nearly $114 billion in 2000. Exports to Mexico have increased over 300 percent since 1990.

Export sales to Japan, after decreasing 0.5 percent in 1999, increased 13 percent in 2000 (to $65 billion). This reversal was due largely to some improvement in the still weak Japanese economy, with GDP estimated to be up 1.7 percent in 2000 as compared to an increase of less than 1 percent in 1999 and a decline of 2.5 percent in 1998.

Since 1990, exports to Japan have risen by only 34 percent. This increase has accounted for just 4 percent of the growth of U.S. goods exports to the world. Since the start of 1990, however, Japan has experienced a decline in GDP in 15 out of 43 quarters. Real industrial production for Japan has increased by only 3 percent in Japan since 1990, while growing by roughly 50 percent in the United States.

Goods exports from the United States to China increased 22 percent in 2000, significantly reversing the 8 percent export decline in 1999. This acceleration in export growth largely resulted from increases in two major sectors: machinery (computers and other office machines) and electrical machinery (integrated circuits, semiconductors, and telephone and parts). Exports to China in these categories increased by 34 percent and 35 percent, respectively, in 2000. Despite the export decline in 1999, U.S. exports to China have increased by 233 percent since 1990. Exports to China are dominated by higher-valued capital

goods and industrial supplies, which account for some 83 percent of U.S. exports to China.

Goods exports to Latin America (excluding Mexico) increased by 7 percent in 2000, reversing the 13 percent decline in 1999. U.S. exports have increased 130 percent to Latin America since 1990, despite the downturn in 1999.

B. Import Growth

With the continued U.S. economic expansion and foreign preferences for investment in the United States, U.S. goods imports climbed in 2000, up 19 percent from the previous year. Over the last decade, goods imports have risen 147 percent as the economy moved out of the recession of the early 1990s into a period of sustained expansion, albeit with a sharp slowdown in 2000's second half *(table 3 and figure 3)*.

Import growth appears to be driven importantly by demands created by U.S. income and economic expansion (from 1990 to 2000, U.S. real GDP rose about 39 percent, or at an average annual rate of 3.3 percent). Growth has been especially strong in the past three years. In the first half of 2000, real GDP surged, growing at annualized rates of 4.8 percent in the first quarter and 5.6 percent in the second quarter. As a result, the rate of unemployment fell to 3.9 percent in October 2000, its lowest level in thirty years. However, in the third quarter, real GDP growth at annualized rates slowed to 2.2 percent, and in the fourth quarter, it further fell to 1.4 percent.

Imports of capital goods led the way, rising 203 percent since 1990 and 19 percent in 2000 alone. The share of capital goods in total imports has risen from 23.5 percent in 1990 to nearly 29 percent in 2000. Capital goods account for 32 percent of total U.S. goods import growth between 1990 and 2000.

Imports of industrial supplies and materials rose 109 percent since 1990 and 35 percent in 1999 alone due to the rising price of petroleum. U.S. imports of industrial goods accounted for 24 percent of all goods imports in 2000. Together capital goods and industrial supplies and materials account for nearly 54 percent of total goods import growth between 1990 and 2000.

In 2000, the price of petroleum imports increased 74 percent over the preceding year. Petroleum accounted for 27 percent of the increase in 2000 imports.

Table 3:
U.S. Goods Imports

Imports:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Total (BOP Basis)	876.4	917.2	1029.9	1229.5	19.4	146.7
Food, feeds, and beverages	39.7	41.2	43.6	46.2	5.9	73.6
Industrial supplies and materials	213.8	200.1	222.0	299.8	35.0	109.4
Capital goods, except autos	253.3	269.6	297.0	353.0	18.8	203.3
Autos and auto parts	139.8	149.1	179.4	199.1	11.0	128.1
Consumer goods	193.8	216.5	239.5	276.5	15.5	161.6
Other	29.3	35.4	43.1	48.7	13.2	202.7
Addendum: Agriculture	36.0	36.7	36.7	38.0	3.7	69.4
Addendum: Manufacturing	728.9	790.8	882.0	1023.2	16.0	162.6
Addendum: High technology	147.3	156.8	181.2	223.7	23.5	1416.7

*** Annualized based on January-November 2000 data.**

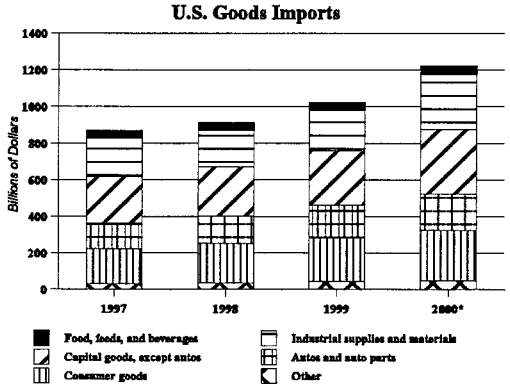
Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Imports of consumer goods increased 16 percent in 2000, as compared to the 11 percent increase in 1999. Consumer goods accounted for nearly 23 percent of total goods imports in 2000. Continuing a trend of steady growth, in part arising from the integration of the North American automobile industry, purchases of foreign autos and auto parts grew 11 percent in 2000. Since 1990, imports of consumer goods and automotive products have risen by 162 percent and 128 percent, respectively. The share of these two categories in total imports was 39 percent in 2000, somewhat down from 41 percent in 1999.

Purchases of foods, feeds, and beverages rose 6 percent in 2000. This sector's share of imports has fallen from 5 percent of goods imports in 1990 to 4 percent in 2000.

Imports of high technology products increased 24 percent in 2000, and are up more than 1,400 percent since 1990. Imports of manufactured products, of which capital goods and high technology products are subcomponents, rose 16 percent in 2000, and are up 163 percent since 1990.

Figure 3:
U.S. Goods Imports



* Annualized based on January-November 2000 data.

Source: U.S. Department of Commerce, Census Basis.

U.S. imports from low and middle income countries increased more rapidly in 2000 than imports from high income countries, 26 percent versus 15 percent *(table 4)*. Imports from Mexico increased 25 percent in 2000 and have more than tripled in the last decade, reaching nearly $138 billion in 2000. The strength of import growth from Mexico during 1995-2000 is related to the strong growth of the U.S. economy, and the increasing co-production between the two countries.

China continued to be among the fastest growing suppliers of U.S. goods imports. Purchases from China increased by 23 percent in 2000 and have increased more than six-fold since 1990. Still, U.S. imports from China accounted for only 8 percent of total U.S. goods imports in 2000. The increase in imports from China appears to be associated, in part, with the shifting of production processes dependent on lower skilled workers from elsewhere in Asia.

U.S. imports from China are primarily low value-added consumer goods, such as toys, footwear, apparel, and some areas of consumer electronics. Consumer goods now make up nearly 65 percent of U.S. imports from China.

As China's share of such U.S. imports has risen, those of other Asian countries have fallen, reflecting displacement by China of goods from other suppliers. For example, China's share of U.S. imports of footwear has increased from 9 percent to 62 percent between 1989 and 2000, while the share from four Asian countries (Hong Kong, Taiwan, South Korea, and Japan) fell from a collective 51 percent to 2 percent. Similarly, for U.S. imports of toys and sporting goods, China's share increased from 22 percent to 65 percent, while the share for the four Asian countries declined from a collective 58 percent to 18 percent. For U.S. imports of radio broadcast receivers, China's share increased from 11 percent to 34 percent, while the share

for the four Asian countries declined from a collective 49 percent to 13 percent. For 35 mm cameras, China's share increased from 4 percent to 51 percent, while the share for the four Asian countries declined from a collective 84 percent to 10 percent.

Imports from Latin America (excluding Mexico) have risen 120 percent since 1990, with an increase of 27 percent in 2000 due to the strong U.S. economic growth, the dollar's strength and the significant increase in the price of petroleum.

Imports from the Pacific Rim (excluding Japan and China) have risen 56 percent since 1990, including a 20 percent increase in 2000. This region represented 10 percent of total U.S. imports in 2000.

Imports from Canada were up 16 percent in 2000 (more than 150 percent since 1990) and represented 19 percent of U.S. goods imports in 2000. Imports from the European Union rose 13 percent in 2000 (up 123 percent in the last 10 years) and represented 18 percent of U.S. goods imports in 2000.

Imports from Japan increased 13 percent in 2000, and have increased 66 percent since 1990, reflecting a slowdown in import growth from Japan since the 1980s. Purchases from Japan in 2000 represented 12 percent of total U.S. imports, as compared to 18 percent during 1990.

Table 4:
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Canada	167.2	173.3	198.7	229.9	15.7	151.6
European Union	157.5	176.4	195.2	221.4	13.4	122.7
Japan	121.7	131.8	130.9	148.4	13.4	65.5
Mexico	85.9	94.6	109.7	137.6	25.4	356.3
China	62.6	71.2	81.8	100.6	23.1	560.2
Pacific Rim, except Japan and China	115.3	95.3	103.2	123.4	19.5	56.1
Latin America, except Mexico	53.7	50.3	58.5	74.3	27.0	120.4
Addendum: High Income Countries	470.5	497.2	552.8	633.4	14.6	113.0
Addendum: Low to Middle Income Countries	399.2	414.7	471.9	593.3	25.7	199.8

* Annualized based on January-November 2000 data.

Source: U.S. Department of Commerce, Census Basis.

III. Services Trade

The American service sector includes a vast array of industries: from finance and telecommunications to distribution, health, education, environmental, travel and tourism, construction, law, engineering, architecture and more. These industries provide 86 million private-sector jobs and over $6.0 trillion worth of production – more than 62 percent of America's private-sector economic production, and more than one dollar in seven of world production.

American service industries are highly successful exporters. In fact, the United States is by far the world's leading exporter of commercial services, with $281 billion worth of private-sector services exports in 2000 (the U.S. government also exported approximately $14 billion in services). Private sector services imports of the United States in 2000 were valued at $199 billion.

Altogether, the two-way services trade of the United States makes up roughly 20 percent of the total $1.4 trillion in world services trade. The pattern of U.S. trade in these industries is somewhat different from our trade in goods. In particular, the European Union and Japan take 42 percent ($115 billion) of our private sector services exports, as opposed to 28 percent of our goods exports.

A. Export Growth

Exports of services continued to grow, increasing more than twice as fast in 2000 as in 1999. U.S. services exports reached $295 billion in 2000, up 8.5 percent compared to the 3.5 percent increase in 1999 *(table 5 and figure 4)*. Services exports have nearly doubled in the last 10 years.

U.S. exports of services to the world were led by two of the six major services export categories: the other private services category (including business and professional services, education, and financial services) and the travel category. These two categories accounted for 65 percent of the total services exports in 2000. Travel services were the area of largest export growth in 2000 (up 13 percent) and the third largest since 1990 (up 97 percent). Other private services were the second largest export growth category in 2000 (up 10 percent) and the largest since 1990 (up 163 percent). Other transportation services exports were the third largest export category in 2000 (up 11 percent), but ranked 5th in export growth since 1990 (up only 36 percent).[3] U.S. foreign earnings of royalties and licensing fees were the second largest services export growth category since 1990 (up 120 percent). Of the $147 billion increase in U.S. services exports between 1990 and 2000, nearly half (45 percent) was in the other private services (up $66 billion) and over one-quarter (28 percent) of the export growth was in travel services (up $42 billion).

[3] Other transportation services are charges for the transportation of goods by ocean, air, waterway, pipeline, and rail carriers to and from the United States.

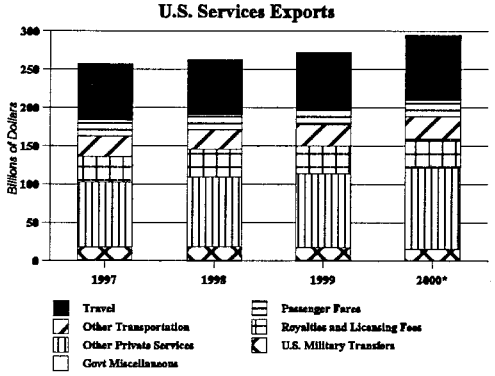
Table 5:
U.S. Services Exports

Exports:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	257.2	262.7	271.9	295.0	8.5	99.5
Travel	73.4	71.3	74.9	84.8	13.3	97.2
Passenger Fares	20.9	20.1	19.8	21.3	7.9	39.5
Other Transportation	27.0	25.6	27.0	29.9	10.7	36.0
Royalties and Licensing Fees	33.6	36.2	36.5	37.7	3.3	120.3
Other Private Services	84.5	90.9	96.5	106.0	9.8	163.0
Transfers under U.S. Military Sales Contracts	16.8	17.6	16.3	14.5	-11.5	49.1
U.S. Government Miscellaneous Services	1.0	0.9	0.9	0.8	-4.2	21.1

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 4:
U.S. Services Exports



* Annualized based on January-November 2000 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

Detailed sectoral breakdowns for exports of the other private services category are available only through 1999. In 1999, other private services exports totaled $96.5 billion. Of this, U.S. exports to business related parties (to a foreign parent or affiliate) accounted for $28.9 billion, or 30 percent of total other private service exports. For the remaining exports of other private services to unaffiliated parties, the values of export in 1999 are as follows: business, professional and technical services, $24.4 billion; financial services, $13.9 billion; education, $9.6 billion; insurance premiums, $8.3 billion; and telecommunications, $4.5 billion. The largest exporting categories within the business, professional and technical services category are construction, engineering, architectural, and mining services ($4.1 billion) and installation, maintenance and repair of equipment services ($3.5 billion).

Japan was the largest purchaser of U.S. private services exports in 1999 (latest data available), accounting for 12 percent of total U.S. private services exports. The top 5 purchasers of U.S. services exports in 1999 were: Japan ($30.5 billion), the United Kingdom ($27.2 billion), Canada ($21.1 billion), Germany ($15.3 billion), and Mexico ($12.5 billion). Regionally, the United States exported $69.5 billion to the Asia/Pacific Region ($39.0 billion excluding Japan), $84.7 billion to the EU, $33.7 billion to NAFTA countries, and $26.2 billion to Latin America (excluding Mexico).

B. Import Growth

Services imports by the United States were up 12 percent in 2000 to nearly $215 billion *(table 6, figure 5)*. Although import growth surpassed export growth in 2000 (12.3 percent vs. 8.5 percent), import growth has been less than export growth during the last 10 years (up 79.1 percent vs 99.5 percent). Services imports from the world were led by two of the six major services import categories: the travel category and other private services category (led by telecommunications and by the business, professional, and technical services subcategories). These two categories accounted for nearly 55 percent of total services imports in 2000.

Nearly all of the major services import categories exhibited strong growth in 2000, mostly ranging between 10 percent and 20 percent. Payment of royalties and licensing fees was the largest services import growth category in 2000 (up 20 percent) as well as the largest services import growth category in the last 10 years (up nearly 400 percent). Passenger fares and Other Private Services were the next two largest import growth categories between 1990 and 2000, up 130 percent and 113 percent, respectively. Of the $94.9 billion increase in U.S. services imports between 1990 and 2000, the travel services category accounted for 30 percent ($28 billion) of the increase and the other private services category accounted for 29 percent ($28 billion) of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 1999. In 1999, other private services imports totaled $46.7 billion. Of this, U.S. imports from business related parties (from a foreign parent or affiliate) accounted for $22.4 billion or 48 percent of total other private service imports. For the remaining imports of other private services from unaffiliated parties, the values of import in 1999 are as follows: insurance premiums, $21.2 billion; business professional and technical services $7.4 billion; telecommunications, $6.8 billion; financial services, $3.6 billion; and education, $1.8 billion. The largest importing categories within the business, professional and technical services category are management, consulting and public relations services ($867 million) and legal services ($844 million).

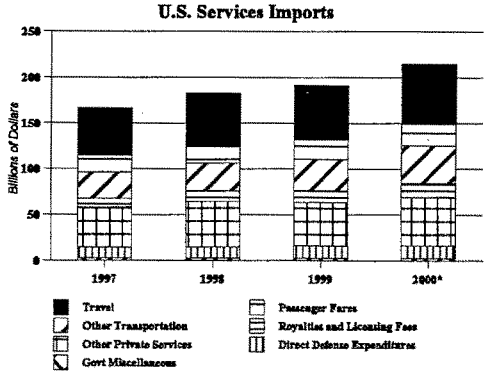
Table 6:
U.S. Services Imports

Imports:	1997	1998	1999	2000*	99-00*	90-00*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	166.5	182.7	191.3	214.9	12.3	79.1
Travel	52.1	56.5	59.4	65.3	10.0	75.1
Passenger Fares	18.1	20.0	21.4	24.1	12.8	130.0
Other Transportation	29.0	30.4	34.1	40.8	19.5	63.2
Royalties and Licensing Fees	9.6	11.7	13.3	15.9	19.8	396.8
Other Private Services	43.3	49.1	46.7	52.3	12.1	112.6
Transfers under U.S. Military Sales Contracts	11.7	12.2	13.7	13.6	-0.5	-22.4
U.S. Government Miscellaneous Services	2.8	2.8	2.8	2.9	1.2	50.3

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 5:
U.S. Services Imports



*Annualized based on January-November 2000 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

The United Kingdom remained the largest supplier of private services to the United States, providing $23.8 billion in services in 1999 (latest data available). This accounted for 13.6 percent of total U.S. imports of private services in 1999. The United States imported $15.7 billion from Japan, our second largest supplier, and $15.2 billion from Canada, our third largest supplier. Germany and Mexico were our fourth and fifth largest import suppliers, exporting $10.2 billion and $9.8 billion worth of services to the United States, respectively, in 1999. Regionally, the United States imported $62.5 billion of services from the EU-15, $46.5 billion from the Asia/Pacific region ($30.8 billion excluding Japan), $25.0 billion from NAFTA, and $10.3 billion from Latin America (excluding Mexico).

IV. The U.S. Trade Deficit

The U.S. goods and services deficit increased significantly from 1999 to 2000, by $106 billion to a level of $371 billion (*table 7*). The U.S. goods trade deficit alone increased by 106 billion to $451 billion in 2000. The services trade surplus slightly decreased by $0.5 billion to $80.1 billion in 2000.

The rise in the trade deficit was associated with several factors. The U.S. economy expanded extremely rapidly in 2000's first half with GDP growing at a 5.0 percent annualized rate, though moderating in the year's third quarter to an annualized GDP growth rate of 2.2 percent and in the fourth quarter to 1.4 percent. In addition to strong U.S. demand for imports in 2000, rising prices for petroleum imports also added substantially to the U.S. import bill. In quantity terms, U.S. imports of energy related petroleum products increased 4 percent in 2000, but price per barrel for crude increased by 74 percent (both figures comparing the first 11 months of 2000 to the same period of 1999). As a result, the value of U.S. petroleum imports rose from $68 billion in 1999 to $122 billion in 2000, or a one year increase of $54 billion.

On the export side for goods and services, the strong recovery of growth in 2000 (up 12 percent from 1999) still left the export expansion rate considerably lower than that for U.S. imports (up 18 percent from 1999). The export expansion in 2000 came after two years of little growth (down 0.4 percent in 1998 and up 2.5 percent in 1999). The weak performance of exports in 1998 and 1999 reflected the Asian financial crisis and other sources of weakness in growth and demand in many of the foreign markets to which the United States exports. Recovery of these markets from the recent financial crisis and generally better growth performance abroad gave a considerable boost to U.S. exports. Still, the stronger growth for imports from an initial higher value in 1999 meant that U.S. imports rose by $223 billion in 2000 while U.S. exports rose by $117 billion.

Another factor contributing to the recent increases in the U.S. trade deficit has been the desire of foreign residents to participate in the U.S. market through investment. The U.S. market acted as a safe haven in the face of foreign financial disruptions in recent years. In addition, the rapid adoption of new technologies, the renovation and global advance of U.S. productive capacity and the possible increase in U.S. growth potential have all served to encourage institutions and individuals from around the globe to invest in the United States. While such net capital inflows, or surpluses, have permitted gross investment in the United States to substantially exceed the level of domestic saving, they have also been associated with corresponding deficits in the U.S. current account which is dominated by trade in goods and services.

Another way of looking at the trade deficit is to normalize it relative to the growing size of the U.S. economy. As a share of U.S. GDP, the goods and services trade deficit has risen substantially in just the past few years. The deficit was 0.5 percent of GDP in 1991 – during the most recent recession – and rose to just 1.3 percent of GDP by 1997, an increase of 0.8

percentage points. As growth and investment in the United States accelerated and U.S. foreign export markets experienced slow growth or worse, the goods and service deficit as a percentage of GDP jumped by 0.6 points in 1998, 0.9 points in 1999 and 0.9 points again in 2000, reaching a level of 3.7 percent of GDP.

For goods alone, the trade deficit was 4.5 percent of GDP in 2000, up 2.1 percentage points from three years earlier. For services alone the U.S. trade surplus was 0.8 percent of GDP in 2000, down 0.3 percentage points from three years earlier (*table 8*).

Table 7
U.S. Trade Balances with the World

Balance:	1997	1998	1999	2000*
	Billions of Dollars			
Goods and Services (BOP	-105.9	-166.9	-265.0	-371.3
Goods (BOP Basis)	-196.7	-246.9	-345.6	-451.5
Services (BOP Basis)	90.7	80.0	80.6	80.1

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis for World.

Table 8
U.S. Trade Balances as a share of GDP

Share of GDP:	1997	1998	1999	2000*
	Percent			
Goods and Services (BOP Basis)	-1.3	-1.9	–2.8	-3.7
Goods (BOP Basis)	-2.4	-2.8	-3.7	-4.5
Services (BOP Basis)	1.1	0.9	0.9	0.8

*** Annualized based on January-November 2000 data.**

Source: U.S. Department of Commerce.

Economists generally believe that aggregate trade deficits, *per se*, are neither good nor bad. The reasons for the trade deficit are more relevant. While sharply rising oil prices and poor growth conditions abroad are regrettable aspects of the trade deficit increase in recent years, other aspects of the deficit increase such as the strong growth of, and investment in, the U.S. economy, are positive developments.

The fact, however, that the trade deficit has reached a high level relative to the U.S. economy – nearly 4 percent of GDP – has raised concerns in some quarters regarding its sustainability. A recent report by the U.S. Trade Deficit Review Commission, available on line at www.ustdrc.gov, discusses the issue of the U.S. trade deficit extensively.

ANNEX II

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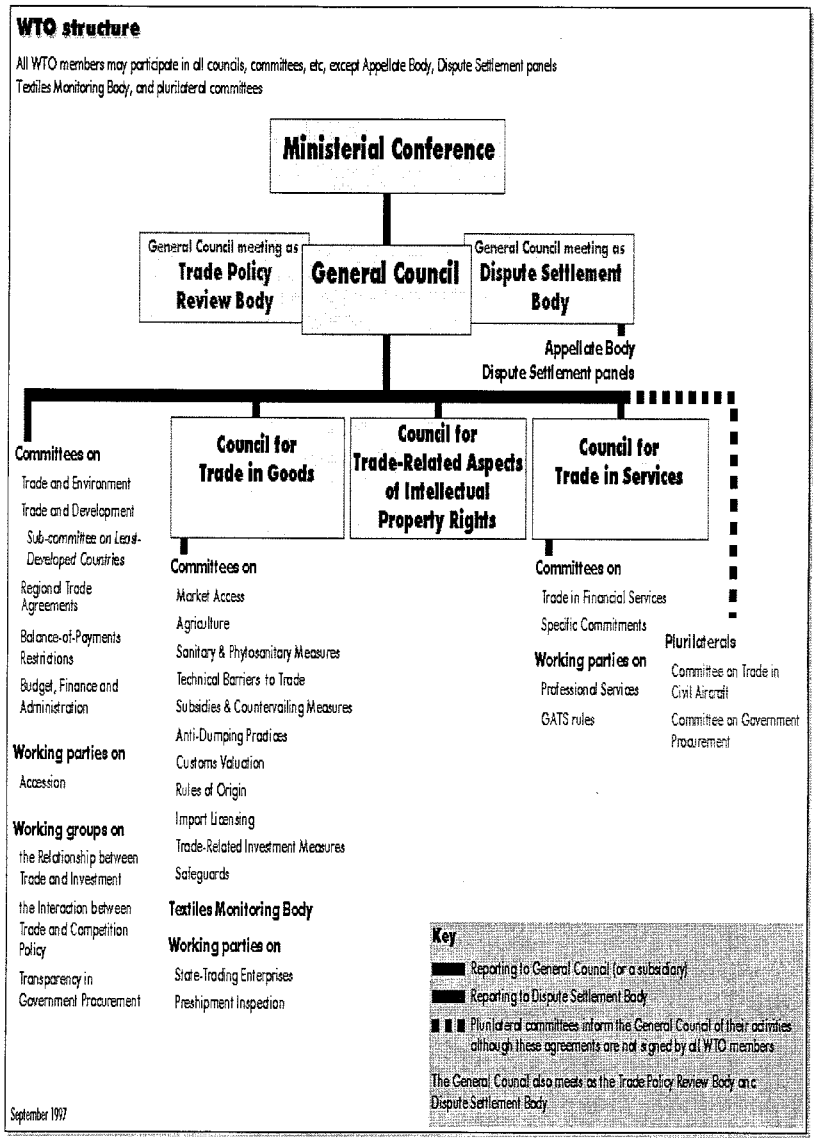
MEMBERSHIP OF THE WORLD TRADE ORGANIZATION
as of December 12, 2000 (140 Members)

Government	Entry into Force	Government	Entry into Force
Albania	8 September 2000	Croatia	30 November 2000
Angola	23 November 1996	Cuba	20 April 1995
Antigua and Barbuda	1 January 1995	Cyprus	30 July 1995
Argentina	1 January 1995	Czech Republic	1 January 1995
Australia	1 January 1995	Democratic Republic of Congo	1 January 1997
Austria	1 January 1995	Denmark	1 January 1995
Bahrain	1 January 1995	Djibouti	31 May 1995
Bangladesh	1 January 1995	Dominica	1 January 1995
Barbados	1 January 1995	Dominican Republic	9 March 1995
Belgium	1 January 1995	Ecuador	21 January 1996
Belize	1 January 1995	Egypt	30 June 1995
Benin	22 February 1996	El Salvador	7 May 1995
Bolivia	12 September 1995	Estonia	13 November 1999
Botswana	31 May 1995	European Community	1 January 1995
Brazil	1 January 1995	Fiji	14 January 1996
Brunei Darussalam	1 January 1995	Finland	1 January 1995
Bulgaria	1 December 1996	France	1 January 1995
Burkina Faso	3 June 1995	Gabon	1 January 1995
Burundi	23 July 1995	Gambia	23 October 1996
Cameroon	13 December 1995	Georgia	14 June 2000
Canada	1 January 1995	Germany	1 January 1995
Central African Republic	31 May 1995	Ghana	1 January 1995
Chad	19 October 1996	Greece	1 January 1995
Chile	1 January 1995	Grenada	22 February 1996
Colombia	30 April 1995	Guatemala	21 July 1995
Congo	27 March 1997	Guinea Bissau	31 May 1995
Costa Rica	1 January 1995	Guinea	25 October 1995
Côte d'Ivoire	1 January 1995	Guyana	1 January 1995

Government	Entry into Force	Government	Entry into Force
Haiti	30 January 1996	Mauritius	1 January 1995
Honduras	1 January 1995	Mexico	1 January 1995
Hong Kong, China	1 January 1995	Mongolia	29 January 1997
Hungary	1 January 1995	Morocco	1 January 1995
Iceland	1 January 1995	Mozambique	26 August 1995
India	1 January 1995	Myanmar	1 January 1995
Indonesia	1 January 1995	Namibia	1 January 1995
Ireland	1 January 1995	Netherlands - For the Kingdom and the Netherlands Antilles	1 January 1995
Israel	21 April 1995	New Zealand	1 January 1995
Italy	1 January 1995	Nicaragua	3 September 1995
Jamaica	9 March 1995	Niger	13 December 1996
Japan	1 January 1995	Nigeria	1 January 1995
Jordan	11 April 2000	Norway	1 January 1995
Kenya	1 January 1995	Oman	9 November 2000
Korea	1 January 1995	Pakistan	1 January 1995
Kuwait	1 January 1995	Panama	6 September 1997
Kyrgyz Republic	20 December 1998	Papua New Guinea	9 June 1996
Latvia	10 February 1999	Paraguay	1 January 1995
Lesotho	31 May 1995	Peru	1 January 1995
Liechtenstein	1 September 1995	Philippines	1 January 1995
Luxembourg	1 January 1995	Poland	1 July 1995
Macau	1 January 1995	Portugal	1 January 1995
Madagascar	17 November 1995	Qatar	13 January 1996
Malawi	31 May 1995	Romania	1 January 1995
Malaysia	1 January 1995	Rwanda	22 May 1996
Maldives	31 May 1995	Saint Kitts and Nevis	21 February 1996
Mali	31 May 1995	Saint Lucia	1 January 1995
Malta	1 January 1995	Saint Vincent & the Grenadines	1 January 1995
Mauritania	31 May 1995	Senegal	1 January 1995

Government	Entry into Force	Government	Entry into Force
Sierra Leone	23 July 1995	Thailand	1 January 1995
Singapore	1 January 1995	Togo	1 January 1995
Slovak Republic	1 January 1995	Trinadad and Tobago	1 March 1995
Slovenia	30 July 1995	Tunisia	29 March 1995
Solomon Islands	26 July 1996	Turkey	26 March 1995
South Africa	1 January 1995	Uganda	1 January 1995
Spain	1 January 1995	United Arab Emirates	10 April 1996
Sri Lanka	1 January 1995	United Kingdom	1 January 1995
Suriname	1 January 1995	United States	1 January 1995
Swaziland	1 January 1995	Uruguay	1 January 1995
Sweden	1 January 1995	Venezuela	1 January 1995
Switzerland	1 July 1995	Zambia	1 January 1995
Tanzania	1 January 1995	Zimbabwe	5 March 1995
Source: WTO Secretariat			


WTO structure
All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels Textiles Monitoring Body, and plurilateral committees
Ministerial Conference
General Council meeting as Trade Policy Review Body
General Council
General Council meeting as Dispute Settlement Body
Appellate Body
Dispute Settlement panels
Committees on
Trade and Environment
Trade and Development
Sub-committee on Least-Developed Countries
Regional Trade Agreements
Balance-of-Payments Restrictions
Budget, Finance and Administration
Working parties on
Accession
Working groups on
the Relationship between Trade and Investment
the Interaction between Trade and Competition Policy
Transparency in Government Procurement
Council for Trade in Goods
Council for Trade-Related Aspects of Intellectual Property Rights
Council for Trade in Services
Committees on
Market Access
Agriculture
Sanitary & Phytosanitary Measures
Technical Barriers to Trade
Subsidies & Countervailing Measures
Anti-Dumping Practices
Customs Valuation
Rules of Origin
Import Licensing
Trade-Related Investment Measures
Safeguards
Textiles Monitoring Body
Working parties on
State-Trading Enterprises
Preshipment Inspection
Committees on
Trade in Financial Services
Specific Commitments
Working parties on
Professional Services
GATS rules
Plurilaterals
Committee on Trade in Civil Aircraft
Committee on Government Procurement
Key
Reporting to General Council (or a subsidiary)
Reporting to Dispute Settlement Body
Plurilateral committees inform the General Council of their activities although these agreements are not signed by all WTO members
The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body
September 1997

The Plurilateral Agreements and Membership

For the most part, all WTO members subscribe to all WTO agreements. There remain, however, two agreements, originally negotiated in the Tokyo Round, which have a narrower group of signatories and are known therefore as "plurilateral agreements."

The Agreement on Government Procurement

The Agreement on Government Procurement, the successor to the plurilateral "Government Procurement Code" of the Tokyo Round, entered into force on January 1, 1996. The following WTO Members are Parties to the Agreement: Canada; the European Community and its fifteen member States; Hong Kong, China; Israel; Japan; Korea; Liechtenstein; the Kingdom of the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States. Eighteen WTO Members have observer status: Argentina, Australia, Bulgaria, Chile, Colombia, the Czech Republic, Estonia, Georgia, Iceland [submitted application to the Committee and ratification is anticipated within the year], Jordan, the Kyrgyz Republic, Latvia, Mongolia, Panama, Poland, the Slovak Republic, Slovenia and Turkey. Four non-WTO Members, Croatia, Lithuania, Chinese Taipei, and Moldova and three intergovernmental organizations, the IMF, the ITC, and the OECD, also have observer status.

The Agreement on Trade in Civil Aircraft

There are 26 Signatories to the Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Georgia, Japan, Latvia, Macau, Norway, Romania, Switzerland and the United States. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, Colombia, the Czech Republic, Estonia, Finland, Gabon, Ghana, India, Indonesia, Israel, Korea, Malta, Mauritius, Nigeria, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition, China, Chinese Taipei, the Russian Federation and Saudi Arabia have observer status in the Committee. The IMF and UNCTAD are also observers.

WTO ACCESSION APPLICATION AND STATUS (as of 2-1-00)[1]

Applicant	Status of Multilateral and Bilateral Work
Albania (1992)	Albania became the 138th Member of the WTO on September 8, 2000.
Algeria (1987)	GATT 1947 accession process never activated. One WTO Working Party held in April 1998. Additional documentation provided in early 1999. No market access offers to date.
Andorra (1997)	WP meeting held on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers. Review of revised documentation and offers expected at second WP meeting in 2001.
Armenia (1993)	WP meeting held on June 24, 1999 reviewed the draft WP report and protocol Legislative implementation underway and market access negotiations close to completion with all WTO Members. Informal WP meeting to review progress expected in early 2001.
Azerbaijan (1997)	Initial documentation circulated in April 1999 with additional information provided in July 2000. No working party meetings or market access offers to date.
Belarus (1993)	WP meeting held on April 28, 1998 continued review of the foreign trade regime. Market access bilateral negotiations on goods and services held with WTO Members in May 2000. WP meeting likely in 2001.
Bosnia Herzegovina (1999)	Application accepted at July1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Bhutan * (1999)	Application accepted at October 1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Cambodia * (1995)	Initial documentation submitted in June 1999. Additional information submitted in January 2001. Initial WP meeting likely in first half of 2001.
Cape Verde * (2000)	Accession application accepted at July 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations.
China (1986)	Negotiations well advanced. Legislative implementation underway. WP reviewing draft WP report and protocol. Market access negotiations completed with virtually all interested WTO Members (including Japan, United States, and the EU).
Croatia (1993)	Croatia became the 140th Member of the WTO on November 30, 2000.
Georgia (1996)	Georgia became the 137th Member of the WTO on June 14, 2000.
Jordan (1994)	Jordan became the 136th Member of the WTO on April 11, 2000.
Kazakhstan (1996)	Last WP meeting held October 1998. Legislative implementation underway. Revised goods and services offers issued in March and May 2000. Further market access negotiations possible, based on revised offers, on margins of next WP meeting.
Laos * (1998)	Has not yet submitted initial documentation to activate the accession negotiations.

[1] "Applicant"column Includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

* Designates "least developed country" applicant.

Applicant	Status of Multilateral and Bilateral Work
Lebanon (1999)	Has not yet submitted initial documentation to activate the accession negotiations.
Lithuania (1994)	General Council approved the accession package on December 11, 2000. Ratification is expected in first half of 2001, with Membership 30 days after the instrument of ratification is deposited with the WTO.
Former Yugoslav Republic of Macedonia (1995)	First WP meeting held July 10, 2000. Initial goods and services market access offers and additional documentation expected in early 2001, with further negotiations on the margins of the next WP, also in 2001.
Moldova (1993)	WP meeting held on December 20, 2000 adopted the WP report and protocol. Legislative implementation and market access negotiations close to completion Final WP adoption of the accession package and General Council approval expected in early 2001.
Nepal * (1989)	GATT 1947 accession process suspended in 1994. First WTO WP meeting held May 22, 2000. Market access offers circulated in July 2000. Market access negotiations planned on margins of next WP session in 2001.
Oman (1996)	Oman became the 139th Member of the WTO on November 9, 2000.
Russia (1993)	WP meeting held December 18, 2000 reviewed action plan for legislative implementation. Revised goods and services offers expected to be circulated in early 2001. Bilaterals with U.S. on market access and protocol issues held in September and November 2000.
Samoa * (1998)	Initial documentation submitted in February 2000 with additional information in November 2000. No working party meetings or market access offers to date.
Saudi Arabia (1993)	WP meeting held October 17, 2000 continued review of the draft WP report and protocol, and received updated information on progress of legislative implementation Bilateral market access discussions held with United States in July and October 2000.
Seychelles (1995)	WP meeting held in March 1998 continued review of the foreign trade regime. Next WP meeting to review status of legislative implementation. Further negotiations on goods and services market access awaiting revised offers.
Sudan * (1995)	Initial documentation circulated in January 1999 with additional information provided in November 2000. No working party meetings or market access offers to date.
Chinese Taipei (Taiwan) (1992)	Negotiations well advanced. Bilateral market access negotiations completed. Legislative implementation underway. Text of draft WP report and protocol agreed in substance, to be adopted with consolidated market access schedules at next Working Party meeting, date to be arranged.
Tonga (1995)	Initial documentation circulated in June 1998 with additional information provided in November 2000. No market access offers to date. Initial WP meeting likely in first half of 2001.
Ukraine (1993)	WP meeting held July 12, 2000 reviewed status of legislative implementation. Bilateral meetings on market access held with U.S. in July and September 2000. IPR issues also under bilateral discussion. Principal focus of bilateral and Working Party discussions in 2001 will be on Ukraine's ability to implement WTO-consistent trade regime and negotiations on revised market access offers.

Applicant	Status of Multilateral and Bilateral Work
Uzbekistan (1995)	Initial documentation circulated in October 1998 with additional information provided in September 2000. No working party meetings or market access offers to date.
Vanuatu * (1995)	WP meeting held October 29, 2000 reviewed status of legislative implementation and Vanuatu's revised offers on outstanding goods, services and protocol issues. Comments by WP Members forwarded in December 2000. Further WP and bilateral negotiations expected in 2001.
Vietnam (1995)	WP meeting held November 30, 2000 completed initial examination of the foreign trade regime and reviewed issues identified for further discussion. Next WP meeting in mid- 2001 will review status of legislative program to implement WTO provisions. No market access offers to date.
Yemen * (2000)	Accession application accepted at July 17, 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations.

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2001
(Minimum contribution of 0.015 per cent)

MEMBERS	2000 CONTRIBUTION CHF	2001 CONTRIBUTION %	2001 CONTRIBUTION CHF	INTEREST EARNED[1] CHF	2001 NET CONTRIBUTION CHF
Albania		0.015	19,935	-	19,935
Angola	77,226	0.061	81,069		81,069
Antigua and Barbuda	18,990	0.015	19,935	-	19,935
Argentina	577,296	0.534	709,686	(4)	709,682
Australia	1,648,332	1.292	1,717,068	(4,941)	1,712,127
Austria	1,905,330	1.522	2,022,738	(5,644)	2,017,094
Bahrain	96,216	0.075	99,675	(251)	99,424
Bangladesh	125,334	0.103	136,887	-	136,887
Barbados	24,054	0.020	26,580	(22)	26,558
Belgium	3,608,100	2.774	3,686,646	(9,844)	3,676,802
Belize	18,990	0.015	19,935	(115)	19,820
Benin	18,990	0.015	19,935	(15)	19,920
Bolivia	31,650	0.027	35,883	(5)	35,878
Botswana	49,374	0.039	51,831		51,831
Brazil	1,301,448	1.047	1,391,463		1,391,463
Brunei Darussalam	59,502	0.046	61,134	(99)	61,035
Bulgaria	130,398	0.099	131,571	(95)	131,476
Burkina Faso	18,990	0.015	19,935		19,935
Burundi	18,990	0.015	19,935		19,935
Cameroon	36,714	0.029	38,541	(75)	38,466
Canada	4,938,666	3.892	5,172,468	(15,158)	5,157,310
Central African Republic	18,990	0.015	19,935		19,935
Chad	18,990	0.015	19,935		19,935
Chile	424,110	0.335	445,215	(1,081)	444,134
Colombia	331,692	0.254	337,566	(836)	336,730
Congo	32,916	0.026	34,554		34,554
Costa Rica	87,354	0.095	126,255	(93)	126,162
Côte d'Ivoire	86,088	0.074	98,346	(179)	98,167
Croatia		0.155	205,995		205,995
Cuba	68,364	0.054	71,766	(191)	71,575
Cyprus	74,694	0.069	91,701	(210)	91,491
Czech Republic	641,862	0.532	707,028	(1,900)	705,128
Democratic Republic of the Congo	25,320	0.025	33,225		33,225
Denmark	1,290,054	1.001	1,330,329	(3,830)	1,326,499
Djibouti	18,990	0.015	19,935		19,935
Dominica	18,990	0.015	19,935	(82)	19,853
Dominican Republic	137,994	0.120	159,480		159,480
Ecuador	112,674	0.092	122,268	(36)	122,232
Egypt	335,490	0.271	360,159	(940)	359,219
El Salvador	62,034	0.052	69,108	(97)	69,011
Estonia	78,492	0.062	82,398		82,398
European Communities	0	0.000	0		0
Fiji	22,788	0.018	23,922	(104)	23,818
Finland	910,254	0.711	944,919	(2,495)	942,424
France	7,351,662	5.766	7,663,014	(20,281)	7,642,733
Gabon	46,842	0.036	47,844	(8)	47,836

MEMBERS	2000 CONTRIBUTION CHF	2001 CONTRIBUTION %	2001 CONTRIBUTION CHF	INTEREST EARNED[1] CHF	2001 NET CONTRIBUTION CHF
Gambia	18,990	0.015	19,935		19,935
Georgia		0.016	21,264		21,264
Germany	12,271,338	9.716	12,912,564	(22,030)	12,890,534
Ghana	40,512	0.035	46,515	(119)	46,396
Greece	419,046	0.329	437,241	(431)	436,810
Grenada	18,990	0.015	19,935		19,935
Guatemala	69,630	0.060	79,740	(176)	79,564
Guinea	18,990	0.015	19,935		19,935
Guinea-Bissau	18,990	0.015	19,935		19,935
Guyana	18,990	0.015	19,935	(68)	19,867
Haiti	18,990	0.015	19,935	(55)	19,880
Honduras	43,044	0.038	50,502	(118)	50,384
Hong Kong, China	4,586,718	3.605	4,791,045	(15,110)	4,775,935
Hungary	493,740	0.396	526,284	(1,109)	525,175
Iceland	51,906	0.045	59,805	(154)	59,651
India	1,050,780	0.828	1,100,412		1,100,412
Indonesia	1,214,094	0.929	1,234,641		1,234,641
Ireland	1,216,626	0.952	1,265,208	(3,006)	1,262,202
Israel	696,300	0.554	736,266	(1,842)	734,424
Italy	5,990,712	4.699	6,244,971	(14,130)	6,230,841
Jamaica	72,162	0.060	79,740	(83)	79,657
Japan	9,132,924	7.163	9,519,627	(14,804)	9,504,823
Jordan		0.071	94,359		94,359
Kenya	65,832	0.052	69,108	(124)	68,984
Korea, Republic of	3,358,698	2.549	3,387,621	(4,786)	3,382,835
Kuwait	273,456	0.216	287,064	(811)	286,253
Kyrgyz Republic	18,990	0.015	19,935		19,935
Latvia	65,832	0.051	67,779	(60)	67,719
Lesotho	18,990	0.015	19,935	(42)	19,893
Liechtenstein	35,448	0.028	37,212	(119)	37,093
Luxembourg	360,810	0.297	394,713	(553)	394,160
Macau, China	79,758	0.064	85,056	(221)	84,835
Madagascar	18,990	0.015	19,935	(113)	19,822
Malawi	18,990	0.015	19,935		19,935
Malaysia	1,868,616	1.465	1,946,985	(2,343)	1,944,642
Maldives	18,990	0.015	19,935	(107)	19,828
Mali	18,990	0.015	19,935		19,935
Malta	64,566	0.050	66,450	(143)	66,307
Mauritania	18,990	0.015	19,935		19,935
Mauritius	54,438	0.044	58,476	(146)	58,330
Mexico	2,500,350	1.962	2,607,498	(1,323)	2,606,175
Mongolia	18,990	0.015	19,935		19,935
Morocco	205,092	0.163	216,627	(434)	216,193
Mozambique	18,990	0.015	19,935		19,935
Myanmar, Union of	18,990	0.033	43,857	(90)	43,767
Namibia	37,980	0.031	41,199	(99)	41,100
Netherlands, Kingdom of the	4,366,434	3.440	4,571,760	(10,560)	4,561,200
New Zealand	368,406	0.290	385,410	(1,097)	384,313
Nicaragua	21,522	0.018	23,922	(14)	23,908

MEMBERS	2000 CONTRIBUTION CHF	2001 CONTRIBUTION %	2001 CONTRIBUTION CHF	INTEREST EARNED[1] CHF	2001 NET CONTRIBUTION CHF
Niger	18,990	0.015	19,935		19,935
Nigeria	289,914	0.222	295,038		295,038
Norway	1,181,178	0.927	1,231,983	(3,497)	1,228,486
Oman		0.105	139,545		139,545
Pakistan	249,402	0.196	260,484		260,484
Panama	168,378	0.132	175,428		175,428
Papua New Guinea	53,172	0.039	51,831	(93)	51,738
Paraguay	59,502	0.075	99,675	(42)	99,633
Peru	182,304	0.148	196,692	(50)	196,642
Philippines	844,422	0.663	881,127		881,127
Poland	815,304	0.711	944,919	(2,084)	942,835
Portugal	764,664	0.622	826,638	(1,820)	824,818
Qatar	69,630	0.063	83,727	(129)	83,598
Romania	226,614	0.182	241,878	(519)	241,359
Rwanda	18,990	0.015	19,935		19,935
Saint Lucia	18,990	0.015	19,935	(69)	19,866
Senegal	29,118	0.024	31,896	(119)	31,777
Sierra Leone	18,990	0.015	19,935		19,935
Singapore	3,077,646	2.302	3,059,358	(6,177)	3,053,181
Slovak Republic	270,924	0.213	283,077	(767)	282,310
Slovenia	225,348	0.177	235,233	(654)	234,579
Solomon Islands	18,990	0.015	19,935	(81)	19,854
South Africa	710,226	0.564	749,556	(1,975)	747,581
Spain	3,119,424	2.477	3,291,933	(6,063)	3,285,870
Sri Lanka	116,472	0.096	127,584	(242)	127,342
St. Kitts and Nevis	18,990	0.015	19,935	(69)	19,866
St. Vincent and the Grenadines	18,990	0.015	19,935	(32)	19,903
Suriname	18,990	0.015	19,935		19,935
Swaziland	24,054	0.018	23,922	(110)	23,812
Sweden	1,961,034	1.542	2,049,318	(4,905)	2,044,413
Switzerland	2,249,682	1.621	2,154,309	(5,675)	2,148,634
Tanzania	34,182	0.027	35,883	(1)	35,882
Thailand	1,440,708	1.131	1,503,099	(4,221)	1,498,878
Togo	18,990	0.015	19,935		19,935
Trinidad and Tobago	40,512	0.047	62,463	(23)	62,440
Tunisia	172,176	0.138	183,402	(492)	182,910
Turkey	954,564	0.838	1,113,702	(1,623)	1,112,079
Uganda	24,054	0.019	25,251		25,251
United Arab Emirates	681,108	0.533	708,357	(1,481)	706,876
United Kingdom of Great Britain and Northern Ireland	7,640,310	5.991	7,962,039	(19,523)	7,942,516
United States of America	19,897,722	15.631	20,773,599	(2,665)	20,770,934
Uruguay	81,024	0.068	90,372	(7)	90,365
Venezuela	419,046	0.335	445,215		445,215
Zambia	27,852	0.022	29,238		29,238
Zimbabwe	45,576	0.034	45,186	(131)	45,055
TOTAL	126,600,000	100.00	132,900,000	230,390	132,669,610

1 Interest earned in 1999 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2001 contribution

2001 APPROVED BUDGET FOR THE WTO SECRETARIAT
(in Swiss francs)

	SECTION	Original Estimates CHF	Decreases CHF	Enhanced Activities: Translation CHF	Enhanced Activities: Technical Assistance Services CHF	Revised Estimates CHF
1	Staff (Work/years)					
	(a) Salary	60,956,400	(767,140)		457,600	60,646,860
	(b) Pensions	11,891,600	(89,360)		89,200	11,891,440
	(c) Other Common Staff costs	10,968,000	(302,000)		280,000	10,946,000
2	Temporary Assistance	11,292,000	(1,579,150)	1,500,000	230,200	11,443,050
3	Communications					
	(a) Telecommunications	568,000				568,000
	(b) Postage charges	1,227,000				1,227,000
4	Building Facilities					
	(a) Rental	39,600				39,600
	(b) Utilities	1,601,000	(3,500)		4,000	1,601,500
	(c) Maintenance and Insurance	927,000	(20,000)			907,000
5	Permanent Equipment	4,288,500	(843,350)		29,600	3,474,750
6	Expendable Equipment	1,324,345	(59,675)			1,264,670
7	Contractual Services					
	(a) Reproduction	1,217,000				1,217,000
	(b) Office Automation / Informatics	2,741,055	(530,515)		3,000	2,213,540
	(c) Other	284,000	(40,000)			244,000
8	Staff Overhead Costs					
	(a) Training	522,000	(114,000)			408,000
	(b) Insurance	1,079,500	(2,000)		2,400	1,079,900
	(c) Joint Services	519,000				519,000
	(d) Miscellaneous	47,500	(5,000)		4,000	46,500
9	Missions					
	(a) Official	1,205,100				1,205,100
	(b) Technical Co-operation	763,200			400,000	1,163,200
10	Trade Policy Training Courses	1,490,000				1,490,000
11	Contribution to ITC	14,761,500	(400,000)			14,361,500
12	Various					
	(a) Representation and Hospitality	258,000				258,000
	(b) Dispute Settlement Panels	1,337,000				1,337,000
	(c) Permanent Group of Experts/ Arbitration under GATS	30,000				30,000
	(d) Appellate Body					
	(e) Library	590,000	(23,000)			567,000
	(f) Publications	298,000	(95,000)			203,000
	(g) Public Information Activities	260,000				260,000
	(h) External Auditors	70,000				70,000
	(i) Ministerial Meeting	400,000				400,000
	(j) ISO	60,000				60,000
	(k) Other	63,000				63,000
13	Unforeseen Expenditure	100,000				100,000
	TOTAL	133,179,300	4,873,690	1,500,000	1,500,000	131,305,610

2001 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT

PART	SECTION	ORIGINAL ESTIMATES CHF	DECREASES CHF	REVISED ESTIMATES CHF
A	1. Staff (Work/ years)			
	(a) Salary	1,368,300	(114,400)	1,253,900
	(b) Pensions	267,000	(22,400)	244,600
	(c) Other Common staff costs	483,000	(101,600)	381,400
	2. Temporary Assistance	108,500		108,500
B	3. Communications			
	(a) Telecommunications	6,500		6,500
	(b) Postal Charges			
	4. Building Facilities			
	(a) Rental			
	(b) Utilities	12,000	(1,000)	11,000
	(c) Maintenance and Insurance	10,000		10,000
	5. Permanent Equipment	103,900	(14,800)	89,100
	6. Expendable Equipment	17,700		17,700
	7. Contractual Services			
	(a) Reproduction	15,000		15,000
	(b)Office Automation/Informatics	4,500	(1,500)	3,000
	(c) Other			
C	8. Staff Overhead Costs			
	(a) Training			
	(b) Insurance	3,000	(600)	2,400
	(c) Joint Services			
	(d) Miscellaneous	8,000	(2,000)	6,000
	9. Missions	9,300		9,300
	10. Trade Policy Training Courses			
	11. Contribution to ITC			
	12. Various			
	(a) Representation and Hospitality	1,000		1,000
	(b) Dispute Settlement Panels			
	(c) Permanent Group of Experts/ Arbitration under GATS			
	(d) Appellate Body Members	615,200		615,200
	(e) Library	3,400		3,400
	(f) Publications			
	(g) Public Information Activities			
	(h) External Auditors			
	(i) Ministerial Meeting			
	(j) ISO			
	(k) Other			
	13. Unforeseen Expenditure			
	TOTAL	3,036,300	(258,300)	2,778,000

WTO Secretariat Personnel Statistics

Number of Staff Members by Job Category			
NATIONALITY	PROFESSIONAL	ADMINISTRATIVE	TOTALS BY NATIONALITY
American	21	3	24
Argentine	3	4	7
Australian	8	2	10
Austrian	3	1	4
Belgian	5	0	5
Beninese	1	0	1
Bolivian	1	1	2
Brazilian	2	1	3
British	53	21	74
Burkina Faso	1	0	1
Canadian	21	4	25
Chilean	1	4	5
Colombian	3	2	5
Congolese	1	0	1
Costa Rican	1	0	1
Cuban	0	1	1
Danish	1	1	2
Dutch	7	1	8
Egyptian	3	0	3
Ethiopian	0	1	1
Finnish	1	2	3
French	38	96	134
German	9	4	13
Ghanaian	1	0	1
Greek	3	1	4
Honduran	0	1	1
Hong Kong Chinese	1	0	1
Hungarian	2	0	2
Indian	7	4	11
Irish	3	11	14
Italian	12	4	16
Ivorian	0	1	1
Japanese	3	0	3
Lebanese	1	0	1
Malawian	1	0	1
Malaysian	1	1	2
Mauritian	0	1	1
Mexican	2	0	2
Moroccan	0	1	1

Number of Staff Members by Job Category			
NATIONALITY	**PROFESSIONAL**	**ADMINISTRATIVE**	**TOTAL BY NATIONALITY**
New Zealand	4	1	5
Nigerian	1	0	1
Norwegian	2	1	3
Paraguayan	0	1	1
Peruvian	2	5	7
Philippine	3	2	5
Polish	2	2	4
Portuguese	1	1	2
Republic of Korea	2	0	2
Romanian	2	0	2
Senegalese	0	1	1
Spanish	21	15	36
Sri Lankan	2	2	4
Swedish	5	2	7
Swiss	18	17	35
Thai	2	0	2
Tunisian	3	1	4
Turkish	1	0	1
Uruguayan	4	4	8
Venezuelan	5	0	5
Zimbabwean	1	0	1
TOTAL	**302**	**229**	**531**
Source: WTO Secretariat (as of 12/31/00)			

WORLD TRADE ORGANIZATION

WT/DSB/19
29 March 2000
(00-1284)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

2. In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

3. The attached is an updated consolidated list of governmental and non-governmental panelists.[2] The list contains the names included in the previous indicative list (WT/DSB/17) circulated by the Secretariat on 3 November 1999 and takes into account all the modifications made to that list by Members in accordance with the requirement that the list should be updated every two years. The new names approved by the DSB in the period between 28 October 1999 and 20 March 2000 are also included in the attached list.

[2]Curricula vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025). The curricula vitae which have been submitted on diskette are also available on the Document Dissemination Facility.

COUNTRY	NAME	SECTORAL EXPERIENCE
AUSTRALIA	ARNOTT, Mr. R.J.	Trade in Goods
	CHESTER, Mr. D.O.	TRIPS
	CHURCHE, Mr. M.	Trade in Goods
	GASCOINE, Mr. D.F.	Trade in Goods
	HAWES, Mr. D.C.	Trade in Goods and Services
	HIRD, Miss J.M.	Trade in Goods
	HUSSIN, Mr. P.A.	Trade in Goods
	MAY, Mr. P.H.	Trade in Goods
	O'CONNOR, Mr. P.R.	Trade in Goods
	SMITH, Mr. P.A.	TRIPS
	THOMSON, Mr. G.A.	Trade in Goods and Services
	WAINCYMER, Mr. J.	Trade in Goods
	YOUNG, Ms. E.	Trade in Goods
CANADA	BERNIER, Mr. I.	Trade in Goods and Services
	BRADFORD, Mr. M.V.M.	Trade in Goods and Services
	BROWN, Ms. C.A.	Trade in Goods and Services; TRIPS
	CLARK, Mr. P.J.	Trade in Goods and Services
	CLOSE, Ms. P.	Trade in Goods
	DE MESTRAL, Mr. A.	Trade in Goods
	EYTON, Mr. A.T.	Trade in Goods
	GHERSON, Mr. R.	Trade in Goods
	GOODWIN, Ms. K.M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. A.L.	Trade in Goods and Services
	HERMAN, Mr. L.L.	Trade in Goods
	HINES, Mr. W.R.	Trade in Goods
	MACMILLAN, Ms. K.E.	Trade in Goods
	MCRAE, Mr. D.	Trade in Goods
	OSTRY, Ms. S.	Trade in Goods
	RICHIE, Mr. G.	Trade in Goods
	THOMAS, Mr. J.C.	Trade in Goods and Services
	WINHAM, Mr. M.M.	Trade in Goods

CHILE	BIGGS, Mr. G.	Trade in Goods
	JARA, Mr. A.	Trade in Goods and Services
	MATUS, Mr. M.	Trade in Goods
	PEÑA, Ms. G.	Trade in Goods
	SAEZ, Mr. S.	Trade in Goods and Services
	SATELER, Mr. R.	TRIPS
	TIRONI, Mr. E.	Trade in Goods
COLOMBIA	CÁRDENAS, Mr. M.J.	Trade in Goods and Services; TRIPS
	IBARRA PARDO, Mr. G.	Trade in Goods
	JARAMILLO, Mr. F.	Trade in Goods and Services
	LEAL ANGARITA, Mr. M.	Trade in Goods and Services
	OROZCO JARAMILLO, Ms. C.Y.	Trade in Goods
CUBA	CABALLERO RODRÍGUEZ, Mr. E.	Trade in Goods and Services
CZECH REP.	JUNG, Mr. Z.	Trade in Goods and Services
	PALEČKA, Mr. P.	Trade in Goods and Services
	PRAVDA, Mr. M.	Trade in Goods
	ŠRONĚK, Mr. I.	TRIPS
EGYPT	ABOUL-ENEIN, Mr. M.I.M.	Trade in Goods and Services
	HATEM, Mr. S.A.	Trade in Goods and Services
	SHAHIN, Ms. M.	Trade in Goods and Services; TRIPS
	SHARAFELDIN, Mr. A.	Trade in Goods; TRIPS
	ZAHRAN, Mr. M.M.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. W.	Trade in Goods
	MARTINS, Mr. R.	Trade in Goods
	REITERER, Mr. M.G.K.	Trade in Goods and Services; TRIPS
	WEISS, Mr. J.F.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. F.	Trade in Goods

EUROPEAN COMMUNITIES
(cont'd)

BELGIUM	DASSESSE, Mr. M.P.A.	Trade in Goods and Services
	DIDIER, Mr. P.	Trade in Goods
	VANDER SCHUEREN, Ms. P.	Trade in Goods and Services
DENMARK	BOESGAARD, Mr. H.	Trade in Goods
FINLAND	BERGHOLM, Mr. K.A.	Trade in Goods
	JULIN, Mr. J.K.J.	Trade in Goods and Services
	LUOTONEN, Mr. Y.K.D.	Trade in Goods
	PULLINEN, Mr. M.Y.	Trade in Goods
	RANTANEN, Mr. P.I.	Trade in Goods
FRANCE	ARMAIGNAC, Ms. M.-C.	Trade in Services; TRIPS
	BEAURAIN, Mr. C.	Trade in Services
	COMBALDIEU, Mr. J.C.	TRIPS
	DELLEUR, Mr. P.	Trade in Services
	JENNY, Mr. F.Y.	Trade in Goods and Services; TRIPS
	METZGER, Mr. J-M.	Trade in Goods
GERMANY	BARTH, Mr. D.	Trade in Services
	BARTKOWSKI, Mr. D.H.H.	Trade in Services
	DELBRÜCK, Mr. K.	Trade in Goods
	HILF, Mr. M.	Trade in Goods and Services
	MENG, Mr. W.	Trade in Goods, TRIPS
	MÖHLER, Mr. R.	Trade in Goods
	von MÜHLENDAHL, Mr. A.	TRIPS
	OPPERMANN, Mr. T.	Trade in Goods; TRIPS
	PETERSMANN, Mr. E-U	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. S.	Trade in Goods
	WITT, Mr. P.J.	Trade in Goods
GREECE	MYROGIANNIS, Mr. G.	Trade in Goods
	STANGOS, Mr. P.N.	Trade in Goods and Services; TRIPS
IRELAND	LONG, Mr. R.	Trade in Goods; TRIPS
	MATTHEWS, Mr. A.H.	Trade in Goods
	MOCKLER, Mr. T.F.	Trade in Goods

ITALY	GERBINO, Mr. M.	Trade in Goods
	GIARDINA, Mr. A.	Trade in Goods and Services
	SACERDOTI, Mr. G.	Trade in Goods and Services
	SCHIRATTI, Mr. G.	Trade in Goods
NETHERLANDS	BLOKKER, Mr. N.M.	Trade in Goods
	HOEKMAN, Mr. B.M.	Trade in Goods and Services; TRIPS
	van de LOCHT, Mr. P.	Trade in Goods and Services
SPAIN	CASTILLO URRUTIA, Mr. J.A.	Trade in Goods
SWEDEN	ANDERSSON, Mr. T.M.	Trade in Goods
	ANELL, Mr. L.	Trade in Goods; TRIPS
	FALLENIUS, Mr. C.H.	Trade in Goods
	HÅKANSSON, Mr. G.P.-O.	Trade in Services
	HOLGERSSON, Mr. J.	Trade in Goods and Services
	KLEEN, Mr. P.	Trade in Goods
	LINDSTRÖM, Mr. J.M.	Trade in Goods
	MANHUSEN, Mr. C.	Trade in Goods and Services
	RISINGGÅRD, Mr. A.B.	Trade in Goods
	RODIN, Mr. A.	Trade in Goods; TRIPS
	STÅLBERG, Mr. L.A.	Trade in Goods
UNITED KINGDOM	ARKELL, Mr. J.	Trade in Services
	CROFT, Mr. R.H.F.	Trade in Services
	HINDLEY, Mr. B.V.	Trade in Goods and Services
	JOHNSON, Mr. M.D.C.	Trade in Goods
	MUIR, Mr. T.	Trade in Goods and Services; TRIPS
	PLENDER, Mr. R.	Trade in Goods
	ROBERTS, Mr. C.W.	Trade in Goods and Services
	TOULMIN, Mr. J.K.	Trade in Services
HONG KONG, CHINA	CARTLAND, Mr. M.D.	Trade in Goods and Services
	FOOTMAN, Mr. R.	Trade in Goods and Services
	LO, Mr. P.Y.F.	Trade in Goods
	MILLER, Mr. J.A.	Trade in Goods and Services

	SZE, Mr. M.C.C.	Trade in Goods
HUNGARY	FURULYÁS, Mr. F.	Trade in Goods
	LAKATOS, Mr. A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. D.T.	Trade in Goods and Services
	JÓHANNSSON, Mr. E.M.	Trade in Goods
	SANDHOLT, Mr. B.	Trade in Goods
INDIA	AGARWAL, Mr. V.K.	Trade in Goods; TRIPS
	BHATTACHARYA, Mr. G.C.	Trade in Goods
	CHANDRASEKHAR, Mr. K.M	Trade in Goods and Services; TRIPS
	DAS, Mr. B.L.	Trade in Goods
	DASGUPTA, Mr. J.	Trade in Goods
	GANESAN, Mr. A.V.	Trade in Goods, Services; TRIPS
	GOYAL, Mr. A.	Trade in Services
	KUMAR, Mr. M.	Trade in Goods and Services
	MOHANTY, Mr. P.K.	Trade in Goods
	MUKERJI, Mr. A.	Trade in Goods and Services; TRIPS
	PRASAD, Ms. A.	Trade in Goods and Services; TRIPS
	RAI, Mr. P.	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. P.S.	Trade in Goods
	REGE, Mr. N.V.	Trade in Goods
	SAJJANHAR, Mr. A.	Trade in Goods
	SHARMA, Mr. L.	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. K.	Trade in Goods; TRIPS
	WATAL, Mrs. J.	TRIPS
	ZUTSHI, Mr. B.K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. M.	Trade in Goods
	GABAY, Mr. M.	TRIPS
	HARAN, Mr. E.F.	Trade in Services
	SEMADAR, Mr. M.	Trade in Goods
	SHATON, Mr. M.	Trade in Goods and Services
	TALBAR, Mr. M.A.	Trade in Goods
	WEILER, Mr. J.	Trade in Goods

JAPAN	ARAKI. Mr. I	Trade in Goods and Services; TRIPS
	ASAKURA, Mr. H.	Trade in Goods
	ISHIGURO, Mr. K.	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Y.	Trade in Goods
	KANDA, Mr. H.	Trade in Services
	KEMMOCHI, Mr. N.	Trade in Goods and Services
	KOTERA, Mr. A.	Trade in Goods and Services
	OHARA, Mr. Y.	Trade in Goods; TRIPS
	SHIMIZU, Mr. A.	Trade in Goods
	TAKASE, Mr. T.	Trade in Goods and Services
	TSURUOKA, Mr. K.	Trade in Services
KOREA	CHANG, Mr. S.W.	Trade in Goods
	CHO, Mr. D.Y.	Trade in Goods and Services
	CHO, Mr. T-U	Trade in Goods
	CHOI, Mr. B.I.	Trade in Services
	KIM, Mr. J.B.	Trade in Goods
	LEE, Mr. J.	Trade in Goods
	PARK, Mr. N.	Trade in Goods
	YUN, Mr. Y. G.	Trade in Goods
MADAGASCAR	ANDRIANARIVONY, Mr. M.	Trade in Goods and Services; TRIPS
MAURITIUS	BHUGLAH, Mr. A.	Trade in Goods and Services
NEW ZEALAND	ARMSTRONG, Mr. W.M.V.	Trade in Goods; TRIPS
	CARSON, Mr. C.B.	Trade in Goods
	FALCONER, Mr. C.D.	Trade in Goods
	FALCONER, Mr. W.J.	Trade in Goods and Services; TRIPS
	GROSER, Mr. T.	Trade in Goods
	HAMILTON, Mr. P.W	Trade in Goods
	HARVEY, Mr. M.W.	Trade in Goods
	HIGGIE, Ms. D.C.	Trade in Goods
	KENNEDY, Mr. P.D.	Trade in Goods
	MACEY, Mr. A.	Trade in Goods; TRIPS
	MCPHAIL, Mr. A.H.	Trade in Goods
	NOTTAGE, Mr. M.J.	Trade in Goods
	SLADE, Ms. M.	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. M.J.	Trade in Goods; TRIPS
	WALKER, Mr. D.J.	Trade in Goods and Services

	WOODFIELD, Mr. E.A.	Trade in Goods
NORWAY	LILLERUD, Mr. K.	Trade in Goods
	LUNDBY, Mr. O.	Trade in Goods and Services; TRIPS
	SELAND, Mr. H.A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. D.	Trade in Goods and Services; TRIPS
PANAMA	GONZALEZ, Mr. C.E.	Trade in Goods and Services
POLAND	PIETRAS, Mr. J.	Trade in Services
QATAR	MAKKI, Mr. F.	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. D.	Trade in Goods; TRIPS
SWITZERLAND	BALDI, Mr. M.	Trade in Services
	BLATTNER, Mr. N.	Trade in Services
	CHAMBOVEY, Mr. D.	Trade in Goods
	COTTIER, Mr. Th.	Trade in Goods and Services; TRIPS
	GETAZ, Mr. H.A.	Trade in Services
	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services
	KRAFFT, Mr. M-C.	Trade in Goods
	TRAN, Ms. T.T.-L.	TRIPS
	WASESCHA, Mr. L.	Trade in Goods and Services; TRIPS
	WEBER, Mr. R.	Trade in Services
UNITED STATES	BIRENBAUM, Mr. D.E.	Trade in Goods
	GORDON, Mr. M.W.	Trade in Goods
	GREENWALD, Mr. J.A.	Trade in Goods; TRIPS
	HUDEC, Mr. R.E.	Trade in Goods and Services
	KASSINGER, Mr. T.W.	Trade in Goods and Services
	KIRK, Mr. M.K.	TRIPS
	LICHTENSTEIN, Ms. C.C.	Trade in Services
	PARTAN, Mr. D.G.	Trade in Goods
	REYNA, Mr. J.V.	Trade in Goods and Services
	VERRILL, Jr. Mr. C.O.	Trade in Goods

URUGUAY	AMORÍN, Mr. C.	Trade in Goods; TRIPS
	ROSSELLI, Mr. A.O.	Trade in Goods
	VANERIO, Mr. G.	Trade in Goods and Services
VENEZUELA	ESCOBAR, Mr. J.B.	Trade in Services
	MARQUEZ, Mr. G.	Trade in Services

WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/W/130
8 May 2000
(00-1885)

PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional name has been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
TURKEY	KAÇAR, Mr. B.	Trade in Goods

[1]Curriculum Vitae containing more detailed information is available on request from the WTO Secretariat (Council Division – Room 2025).

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements." The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns." It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council." A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU." The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached as an Annex.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List

1.	**Name:**	full name
2.	**Sectoral Experience**	
	List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.)	
3.	**Nationality(ies)**	all citizenships
4.	**Nominating Member:**	the nominating Member
5.	**Date of birth:**	full date of birth
6.	**Current occupations:**	year beginning, employer, title, responsibilities
7.	**Post-secondary education**	year, degree, name of institution
8.	**Professional qualifications**	year, title
9.	**Trade-related experience in Geneva in the WTO/GATT system**	
	a. Served as a panelist	year, dispute name, role as chairperson/member
	b. Presented a case to a panel	year, dispute name, representing which party
	c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof	year, body, role
	d. Worked for the WTO or GATT Secretariat	year, title, activity
10.	**Other trade-related experience**	
	a. Government trade work	year, employer, activity
	b. Private sector trade work	year, employer, activity
11.	**Teaching and publications**	
	a. Teaching in trade law and policy	year, institution, course title
	b. Publications in trade law and policy	year, title, name of periodical/book, author/editor (if book)

MEMBERSHIP OF THE WTO APPELLATE BODY

The membership of the WTO Appellate Body is as follows:

Mr. G M Abi-Saab (Egypt),
Mr. James Bacchus (United States),
Professor Claus-Dieter Ehlermann (Germany),
Justice Florentino Feliciano (the Philippines),
Mr. A V Ganesan (India),
Mr. Julio Lacarte Muro (Uruguay),
Mr. Yasuhei Taniguchi (Japan),

BIOGRAPHICAL NOTES:

Georges Michel Abi-Saab

Born in Egypt on 3 June 1933, Georges Michel Abi-Saab is Professor of International Law at the Graduate Institute of International Studies in Geneva, Honorary Professor at Cairo University's Faculty of Law, and a Member of the Institute of International Law.

Mr Abi-Saab served as consultant to the Secretary-General of the United Nations for the preparation of two reports on "Respect of Human Rights in Armed Conflicts" (1969 and 1970), and for the report on "Progressive Development of Principles and Norms of International Law relating to the New International Economic Order" (1984). He has also served as a Judge on the Appeals Chamber of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, and as a Member of the Administrative Tribunal of the International Monetary Fund and of various international arbitral tribunals.

Mr Abi-Saab is the author of two courses at the Hague Academy of International Law, and of several books and articles, including "International Crises and the Role of Law: The United Nations Operation in the Congo 1960-1964" (Oxford University Press 1978).

James Bacchus

James Bacchus of the United States, born 1949, is an attorney who has been closely involved with international trade matters in both his public and professional careers for more than twenty years.

During his tenure in the US Congress, where he served two terms of office in the House of Representatives from 1991-1994, he was appointed to the ad hoc Trade Policy Coordinating Committee. From 1979-1981, he had served as Special Assistant to the United States Trade Representative Reubin Askew. Since leaving Congress in January 1995, Mr. Bacchus has returned to the Florida-based private law firm of Greenberg Traurig where he began his legal career before he joined the USTR in 1979. He has practised widely in the areas of corporate banking and international law.

Mr. Bacchus' educational distinctions include Bachelor of Arts with High Honours in History, Vanderbilt University, 1971; Master of Arts in History, Yale University, 1973 and Woodrow Wilson Fellow; and Juris Doctor, Florida State University College of Law, 1978. He has been the Thomas P. Johnson Distinguished Visiting Scholar at Rollins College in Florida, and remains an Adjunct Professor in the Department of Politics at Rollins, where he teaches political philosophy and public policy on a variety of issues including international trade.

Claus-Dieter Ehlermann

Professor Claus-Dieter Ehlermann of Germany, born 1931, is an internationally-recognized authority on international economic law who currently holds the Chair of Economic Law at the European University Institute in Florence and is Honorary Professor at the University of Hamburg. In May 1995, after more than 34 years of service for the European Commission, he retired from his post of Director-General of the Directorate General for Competition to the Commission.

In 1961 Professor Ehlermann joined the Legal Service of the European Commission and rose to become its head in 1977. He served as Director-General of the Legal Service for ten years until 1987 when he was appointed spokesman of the Commission and special adviser of the President on institutional questions. In 1990 he became Director-General of the Directorate-General for Competition, bringing him into close contact with competition authorities in the United States (within the framework of the

bilateral US-EU Cooperation Agreement negotiated in 1990/91) and in Japan, Australia and New Zealand. He also assisted the fledgling competition authorities in the transition economies of Central and Eastern Europe.

Since 1972, Professor Ehlermann has also pursued an academic career, teaching Community Law in Bruges, Brussels, Hamburg, and, since May 1995, in Florence. He has written more than 160 publications which, since 1991, have dealt primarily with competition law and policy, industrial policy and international cooperation. He also serves as a member on several academic advisory bodies, in particular with respect to law reviews.

Florentino Feliciano

Mr. Justice Florentino Feliciano of the Philippines, born 1928, is Senior Associate Justice of the Supreme Court of the Philippines and Vice-Chairman of the Academic Council of the Institute of International Business Law and Practice of the International Chamber of Commerce in Paris.

Before joining the Judiciary in 1986, Mr. Feliciano had been a Member since 1962 of the law firm Sycip, Salazar, Feliciano and Hernandez, where he was extremely involved in trade and corporate law cases and transactions concerning anti-dumping, intellectual property rights, banking and insurance services, shipping and telecommunications.

Mr. Feliciano also has extensive experience as an arbitrator in international investment and commercial disputes at the International Centre for Settlement of Investment Disputes in Washington, and at the ICC in Paris. He has been on the Arbitrators Panel of the American Arbitration Association in New York and was also a Member of the Asian Development Bank Administrative Tribunal.

Having graduated in law from the University of the Philippines, Mr. Feliciano went on to earn his Masters and Doctorate Degrees in law from Yale University. He taught in the Faculty of Law of the University of the Philippines and of Yale University. A Member of Institut de Droit International, he has lectured at the Hague Academy of International Law. He has written and published on various aspects of international business law and public international law.

Arumugamangalam Venkatachalam Ganesan

Born in India on 7 June 1935, Arumugamangalam Venkatachalam Ganesan served in the Government of India for 34 years until his retirement on 30 June 1993. During his long career, he held various positions in his Government and at the United Nations Headquarters in New York, including: Commerce Secretary (1991-1993) in charge of India's foreign trade policy and chief negotiator of India in the Uruguay Round; Civil Aviation Secretary (1990-1991); Additional Secretary at the Ministry of Industry (1986-1989) in charge of industrial policies, foreign investment in India, administration of India's laws on patents, designs and trade marks, closely associated with the TRIPS agenda in the Uruguay Round; and Inter-Regional Adviser (1980-1985) at the United Nations Centre on Transnational Corporations in New York.

Since his retirement from government service, Mr Ganesan has been active as a consultant for the UNDP and for the private and public sectors in India. He was, until recently, a member of the Permanent Group of Experts under the WTO Agreement on Subsidies and Countervailing Measures; a member of the Indian Government's Trade Advisory Committee on multilateral trade negotiations; and a member of a WTO dispute settlement panel examining the European Communities' complaint against Section 110(5) of the US Copyright Act.

Mr Ganesan has written numerous newspaper articles and monographs dealing with the Uruguay Round, the WTO and the Seattle Ministerial Conference. He is the author of several papers on trade and investment issues published by various UN agencies such as UNCTAD and UNIDO, and has contributed to many books published in India concerning the Uruguay Round and intellectual property rights.

Julio Lacarte Muro

Mr. Julio Lacarte Muro of Uruguay, born 1918, was a career diplomat who has been involved with the GATT/WTO trading system since its creation almost fifty years ago and has participated in all eight rounds of multilateral trade negotiations under the GATT.

Mr. Lacarte served as the Deputy Executive Secretary of the GATT in 1947-48. He returned to the GATT as Uruguay's Permanent Representative in 1961-66 and 1982-92, during which periods he served as Chairman of the Council, the Contracting Parties, several dispute settlement panels, and the Uruguay Round negotiating groups on dispute settlement and institutional questions.

Mr. Lacarte has also served as the Deputy Director of the International Trade and Balance-of-Payments Division of the United Nations and as the Director of Economic Cooperation among Developing Countries of UNCTAD. He has also been Uruguay's Ambassador to several countries, including the European Communities, India, Japan, the United States and Thailand.

In his academic career, Mr. Lacarte has been a professor at the International Association of Comparative Law and at the University of Comparative Law at Strasbourg University. He has written several publications, including a recently-published book covering all the subject matter of the Uruguay Round from its inception to the Marrakesh Final Act.

Yasuhei Taniguchi

Born in Japan on 26 December 1934, Yasuhei Taniguchi is Professor of Law at Tokyo Keizai University, and an Attorney at Law in Tokyo. He has been a Visiting Professor at several universities, including: University of Hong Kong; Georgetown University Law Center, Washington DC; Stanford Law School, University of California; Murdoch University, Perth; University of Melbourne; Harvard Law School; University of Paris XII; and New York University School of Law.

Mr Taniguchi is affiliated to several legal institutions including the Japan Commercial Arbitration Association; International Council for Commercial Arbitration; the American Law Institute; and the Chartered Institute of Arbitrators. He has handled many international arbitration cases and is listed in the arbitrators' panel of the Japan Commercial Arbitration Association; the American Arbitration Association; the Hong Kong International Arbitration Centre; the China International Economic and Trade Arbitration Commission; and the Cairo Regional Centre of Commercial Arbitration.

He has written numerous books and articles in the fields of civil procedure, arbitration, judicial system/legal profession, and comparative/international law. His publications have appeared in Japanese, Chinese, English, French, Italian and German.

Source: WTO Secretariat

WORLD TRADE ORGANIZATION

WT/DSB/RC/1
11 December 1996

(96-5267)

RULES OF CONDUCT FOR THE
UNDERSTANDING ON RULES AND PROCEDURES
GOVERNING THE SETTLEMENT OF DISPUTES

I. Preamble

Members,

Recalling that on 15 April 1994 in Marrakesh, Ministers welcomed the stronger and clearer legal framework they had adopted for the conduct of international trade, including a more effective and reliable dispute settlement mechanism;

Recognizing the importance of full adherence to the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and the principles for the management of disputes applied under Articles XXII and XXIII of GATT 1947, as further elaborated and modified by the DSU;

Affirming that the operation of the DSU would be strengthened by rules of conduct designed to maintain the integrity, impartiality and confidentiality of proceedings conducted under the DSU thereby enhancing confidence in the new dispute settlement mechanism;

Hereby establish the following Rules of Conduct.

II. Governing Principle

1. Each person covered by these Rules (as defined in paragraph 1 of Section IV below and hereinafter called "covered person") shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of proceedings of bodies pursuant to the dispute settlement mechanism, so that through the observance of such standards of conduct the integrity and impartiality of that mechanism are preserved. These Rules shall in no way modify the rights and obligations of Members under the DSU nor the rules and procedures therein.

III. Observance of the Governing Principle

1. To ensure the observance of the Governing Principle of these Rules, each covered person is expected (1) to adhere strictly to the provisions of the DSU; (2) to disclose the existence or development

of any interest, relationship or matter that that person could reasonably be expected to know and that is likely to affect, or give rise to justifiable doubts as to, that person's independence or impartiality; and (3) to take due care in the performance of their duties to fulfil these expectations, including through avoidance of any direct or indirect conflicts of interest in respect of the subject matter of the proceedings.

2. Pursuant to the Governing Principle, each covered person, shall be independent and impartial, and shall maintain confidentiality. Moreover, such persons shall consider only issues raised in, and necessary to fulfil their responsibilities within, the dispute settlement proceeding and shall not delegate this responsibility to any other person. Such person shall not incur any obligation or accept any benefit that would in anyway interfere with, or which could give rise to, justifiable doubts as to the proper performance of that person's dispute settlement duties.

IV. Scope

1. These Rules shall apply, as specified in the text, to each person serving: (a) on a panel; (b) on the Standing Appellate Body; (c) as an arbitrator pursuant to the provisions mentioned in Annex "1a"; or (d) as an expert participating in the dispute settlement mechanism pursuant to the provisions mentioned in Annex "1b". These Rules shall also apply, as specified in this text and the relevant provisions of the Staff Regulations, to those members of the Secretariat called upon to assist the panel in accordance with Article 27.1 of the DSU or to assist in formal arbitration proceedings pursuant to Annex "1a"; to the Chairman of the Textiles Monitoring Body (hereinafter called "TMB") and other members of the TMB Secretariat called upon to assist the TMB in formulating recommendations, findings or observations pursuant to the WTO Agreement on Textiles and Clothing; and to Standing Appellate Body support staff called upon to provide the Standing Appellate Body with administrative or legal support in accordance with Article 17.7 of the DSU (hereinafter "Member of the Secretariat or Standing Appellate Body support staff"), reflecting their acceptance of established norms regulating the conduct of such persons as international civil servants and the Governing Principle of these Rules.

2. The application of these Rules shall not in any way impede the Secretariat's discharge of its responsibility to continue to respond to Members' requests for assistance and information.

3. These Rules shall apply to the members of the TMB to the extent prescribed in Section V.

V. Textiles Monitoring Body

1. Members of the TMB shall discharge their functions on an *ad personam* basis, in accordance with the requirement of Article 8.1 of the Agreement on Textiles and Clothing, as further elaborated in the working procedures of the TMB, so as to preserve the integrity and impartiality of its proceedings.[2]

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[2] These working procedures, as adopted by the TMB on 26 July 1995 (G/TMB/R/1), currently include, *inter alia*, the following language in paragraph 1.4: "In discharging their functions in accordance with paragraph 1.1 above, the TMB members and alternates shall undertake not to solicit, accept or act upon instructions from governments, nor to be influenced by any other organisations or undue extraneous factors. They shall disclose to the Chairman any information that they may consider likely to impede their capacity to discharge their functions on an *ad personam* basis. Should serious doubts arise during the deliberations of the TMB regarding the ability of a TMB member to act on an *ad personam* basis, they shall be communicated to the Chairman. The Chairman shall deal with the particular matter as necessary".

VI. Self-Disclosure Requirements by Covered Persons

1. (a) Each person requested to serve on a panel, on the Standing Appellate Body, as an arbitrator, or as an expert shall, at the time of the request, receive from the Secretariat these Rules, which include an Illustrative List (Annex 2) of examples of the matters subject to disclosure.

(b) Any member of the Secretariat described in paragraph IV:1, who may expect to be called upon to assist in a dispute, and Standing Appellate Body support staff, shall be familiar with these Rules.

2. As set out in paragraph VI:4 below, all covered persons described in paragraph VI.1(a) and VI.1(b) shall disclose any information that could reasonably be expected to be known to them at the time which, coming within the scope of the Governing Principle of these Rules, is likely to affect or give rise to justifiable doubts as to their independence or impartiality. These disclosures include the type of information described in the Illustrative List, if relevant.

3. These disclosure requirements shall not extend to the identification of matters whose relevance to the issues to be considered in the proceedings would be insignificant. They shall take into account the need to respect the personal privacy of those to whom these Rules apply and shall not be so administratively burdensome as to make it impracticable for otherwise qualified persons to serve on panels, the Standing Appellate Body, or in other dispute settlement roles.

4. (a) All panelists, arbitrators and experts, prior to confirmation of their appointment, shall complete the form at Annex 3 of these Rules. Such information would be disclosed to the Chair of the Dispute Settlement Body ("DSB") for consideration by the parties to the dispute.

(b) (i) Persons serving on the Standing Appellate Body who, through rotation, are selected to hear the appeal of a particular panel case, shall review the factual portion of the Panel report and complete the form at Annex 3. Such information would be disclosed to the Standing Appellate Body for its consideration whether the member concerned should hear a particular appeal.

(ii) Standing Appellate Body support staff shall disclose any relevant matter to the Standing Appellate Body, for its consideration in deciding on the assignment of staff to assist in a particular appeal.

(c) When considered to assist in a dispute, members of the Secretariat shall disclose to the Director-General of the WTO the information required under paragraph VI:2 of these Rules and any other relevant information required under the Staff Regulations, including the information described in the footnote.***

***Pending adoption of the Staff Regulations, members of the Secretariat shall make disclosures to the Director-General in accordance with the following draft provision to be included in the Staff Regulations:

" When paragraph VI:4(c) of the Rules of Conduct for the DSU is applicable, members of the Secretariat would disclose to the Director-General of the WTO the information required in paragraph VI:2 of those Rules, as well as any information regarding their participation in earlier formal consideration of the specific measure at issue in a dispute under any provisions of the WTO Agreement, including through formal legal advice under Article 27.2 of the DSU, as well as any involvement with the dispute as an official of a WTO Member government or otherwise professionally, before having joined the Secretariat.

The Director-General shall consider any such disclosures in deciding on the assignment of members of the Secretariat to assist in a dispute.

When the Director-General, in the light of his consideration, including of available Secretariat resources, decides that a potential conflict of interest is not sufficiently material to warrant non-assignment of a particular member of the Secretariat to assist in a dispute, the

5. During a dispute, each covered person shall also disclose any new information relevant to paragraph VI:2 above at the earliest time they become aware of it.

6. The Chair of the DSB, the Secretariat, parties to the dispute, and other individuals involved in the dispute settlement mechanism shall maintain the confidentiality of any information revealed through this disclosure process, even after the panel process and its enforcement procedures, if any, are completed.

VII. Confidentiality

1. Each covered person shall at all times maintain the confidentiality of dispute settlement deliberations and proceedings together with any information identified by a party as confidential. No covered person shall at any time use such information acquired during such deliberations and proceedings to gain personal advantage or advantage for others.

2. During the proceedings, no covered person shall engage in *ex parte* contacts concerning matters under consideration. Subject to paragraph VII:1, no covered person shall make any statements on such proceedings or the issues in dispute in which that person is participating, until the report of the panel or the Standing Appellate Body has been derestricted.

VIII. Procedures Concerning Subsequent Disclosure and Possible Material Violations

1. Any party to a dispute, conducted pursuant to the WTO Agreement, who possesses or comes into possession of evidence of a material violation of the obligations of independence, impartiality or confidentiality or the avoidance of direct or indirect conflicts of interest by covered persons which may impair the integrity, impartiality or confidentiality of the dispute settlement mechanism, shall at the earliest possible time and on a confidential basis, submit such evidence to the Chair of the DSB, the Director-General or the Standing Appellate Body, as appropriate according to the respective procedures detailed in paragraphs VIII:5 to VIII:17 below, in a written statement specifying the relevant facts and circumstances. Other Members who possess or come into possession of such evidence, may provide such evidence to the parties to the dispute in the interest of maintaining the integrity and impartiality of the dispute settlement mechanism.

2. When evidence as described in paragraph VIII:1 is based on an alleged failure of a covered person to disclose a relevant interest, relationship or matter, that failure to disclose, as such, shall not be a sufficient ground for disqualification unless there is also evidence of a material violation of the obligations of independence, impartiality, confidentiality or the avoidance of direct or indirect conflicts of interests and that the integrity, impartiality or confidentiality of the dispute settlement mechanism would be impaired thereby.

3. When such evidence is not provided at the earliest practicable time, the party submitting the evidence shall explain why it did not do so earlier and this explanation shall be taken into account in the procedures initiated in paragraph VIII:1.

Director-General shall inform the panel of his decision and of the relevant supporting information."

4. Following the submission of such evidence to the Chair of the DSB, the Director-General of the WTO or the Standing Appellate Body, as specified below, the procedures outlined in paragraphs VIII:5 to VIII:17 below shall be completed within fifteen working days.

Panelists, Arbitrators, Experts

5. If the covered person who is the subject of the evidence is a panelist, an arbitrator or an expert, the party shall provide such evidence to the Chair of the DSB.

6. Upon receipt of the evidence referred to in paragraphs VIII:1 and VIII:2, the Chair of the DSB shall forthwith provide the evidence to the person who is the subject of such evidence, for consideration by the latter.

7. If, after having consulted with the person concerned, the matter is not resolved, the Chair of the DSB shall forthwith provide all the evidence, and any additional information from the person concerned, to the parties to the dispute. If the person concerned resigns, the Chair of the DSB shall inform the parties to the dispute and, as the case may be, the panelists, the arbitrator(s) or experts.

8. In all cases, the Chair of the DSB, in consultation with the Director-General and a sufficient number of Chairs of the relevant Council or Councils to provide an odd number, and after having provided a reasonable opportunity for the views of the person concerned and the parties to the dispute to be heard, would decide whether a material violation of these Rules as referred to in paragraphs VIII:1 and VIII:2 above has occurred. Where the parties agree that a material violation of these Rules has occurred, it would be expected that, consistent with maintaining the integrity of the dispute settlement mechanism, the disqualification of the person concerned would be confirmed.

9. The person who is the subject of the evidence shall continue to participate in the consideration of the dispute unless it is decided that a material violation of these Rules has occurred.

10. The Chair of the DSB shall thereafter take the necessary steps for the appointment of the person who is the subject of the evidence to be formally revoked, or excused from the dispute as the case may be, as of that time.

Secretariat

11. If the covered person who is the subject of the evidence is a member of the Secretariat, the party shall only provide the evidence to the Director-General of the WTO, who shall forthwith provide the evidence to the person who is the subject of such evidence and shall further inform the other party or parties to the dispute and the panel.

12. It shall be for the Director-General to take any appropriate action in accordance with the Staff Regulations.****

****Pending adoption of the Staff Regulations, the Director-General would act in accordance with the following draft provision for the Staff Regulations: "If paragraph VIII:11 of the Rules of Conduct for the DSU governing the settlement of disputes is invoked, the Director-General shall consult with the person who is the subject of the evidence and the panel and shall, if necessary, take appropriate disciplinary action".

13. The Director-General shall inform the parties to the dispute, the panel and the Chair of the DSB of his decision, together with relevant supporting information.

Standing Appellate Body

14. If the covered person who is the subject of the evidence is a member of the Standing Appellate Body or of the Standing Appellate Body support staff, the party shall provide the evidence to the other party to the dispute and the evidence shall thereafter be provided to the Standing Appellate Body.

15. Upon receipt of the evidence referred to in paragraphs VIII:1 and VIII:2 above, the Standing Appellate Body shall forthwith provide it to the person who is the subject of such evidence, for consideration by the latter.

16. It shall be for the Standing Appellate Body to take any appropriate action after having provided a reasonable opportunity for the views of the person concerned and the parties to the dispute to be heard.

17. The Standing Appellate Body shall inform the parties to the dispute and the Chair of the DSB of its decision, together with relevant supporting information.

***

18. Following completion of the procedures in paragraphs VIII:5 to VIII:17, if the appointment of a covered person, other than a member of the Standing Appellate Body, is revoked or that person is excused or resigns, the procedures specified in the DSU for initial appointment shall be followed for appointment of a replacement, but the time periods shall be half those specified in the DSU.***** The member of the Standing Appellate Body who, under that Body's rules, would next be selected through rotation to consider the dispute, would automatically be assigned to the appeal. The panel, members of the Standing Appellate Body hearing the appeal, or the arbitrator, as the case may be, may then decide after consulting with the parties to the dispute, on any necessary modifications to their working procedures or proposed timetable.

19. All covered persons and Members concerned shall resolve matters involving possible material violations of these Rules as expeditiously as possible so as not to delay the completion of proceedings, as provided in the DSU.

20. Except to the extent strictly necessary to carry out this decision, all information concerning possible or actual material violations of these Rules shall be kept confidential.

IX. Review

1. These Rules of Conduct shall be reviewed within two years of their adoption and a decision shall be taken by the DSB as to whether to continue, modify or terminate these Rules.

***** Appropriate adjustments would be made in the case of appointments pursuant to the Agreement on Subsidies and Countervailing Measures.

ANNEX 1a

Arbitrators acting pursuant to the following provisions:

- Articles 21.3(c); 22.6 and 22.7; 26.1(c) and 25 of the DSU;
- Article 8.5 of the Agreement on Subsidies and Countervailing Measures;
- Articles XXI.3 and XXII.3 of the General Agreement on Trade in Services.

ANNEX 1b

Experts advising or providing information pursuant to the following provisions:

- Article 13.1; 13.2 of the DSU;
- Article 4.5 of the Agreement on Subsidies and Countervailing Measures;
- Article 11.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures;
- Article 14.2; 14.3 of the Agreement on Technical Barriers to Trade.

ANNEX 2

ILLUSTRATIVE LIST OF INFORMATION TO BE DISCLOSED

This list contains examples of information of the type that a person called upon to serve in a dispute should disclose pursuant to the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes.

Each covered person, as defined in Section IV:1 of these Rules of Conduct has a continuing duty to disclose the information described in Section VI:2 of these Rules which may include the following:

(a) financial interests (e.g. investments, loans, shares, interests, other debts); business interests (e.g. directorship or other contractual interests); and property interests relevant to the dispute in question;

(b) professional interests (e.g. a past or present relationship with private clients, or any interests the person may have in domestic or international proceedings, and their implications, where these involve issues similar to those addressed in the dispute in question);

(c) other active interests (e.g. active participation in public interest groups or other organisations which may have a declared agenda relevant to the dispute in question);

(d) considered statements of personal opinion on issues relevant to the dispute in question (e.g. publications, public statements);

(e) employment or family interests (e.g. the possibility of any indirect advantage or any likelihood of pressure which could arise from their employer, business associates or immediate family members).

ANNEX 3

Dispute Number: _____

WORLD TRADE ORGANIZATION
DISCLOSURE FORM

I have read the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and the Rules of Conduct for the DSU. I understand my continuing duty, while participating in the dispute settlement mechanism, and until such time as the Dispute Settlement Body (DSB) makes a decision on adoption of a report relating to the proceeding or notes its settlement, to disclose herewith and in future any information likely to affect my independence or impartiality, or which could give rise to justifiable doubts as to the integrity and impartiality of the dispute settlement mechanism; and to respect my obligations regarding the confidentiality of dispute settlement proceedings.

Signed: Dated:

WORLD TRADE ORGANIZATION

WT/MIN(98)/DEC/2

25 May 1998

(98-2148)

MINISTERIAL CONFERENCE
Second Session
Geneva, 18 and 20 May 1998

DECLARATION ON GLOBAL ELECTRONIC COMMERCE

Adopted on 20 May 1998

Ministers,

Recognizing that global electronic commerce is growing and creating new opportunities for trade,

Declare that:

The General Council shall, by its next meeting in special session, establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, including those issues identified by Members. The work programme will involve the relevant World Trade Organization ("WTO") bodies, take into account the economic, financial, and development needs of developing countries, and recognize that work is also being undertaken in other international fora. The General Council should produce a report on the progress of the work programme and any recommendations for action to be submitted at our third session. Without prejudice to the outcome of the work programme or the rights and obligations of Members under the WTO Agreements, we also declare that Members will continue their current practice of not imposing customs duties on electronic transmissions. When reporting to our third session, the General Council will review this declaration, the extension of which will be decided by consensus, taking into account the progress of the work programme.

WTO SUBSIDY NOTIFICATIONS REVIEWED IN 2000

WTO MEMBER	1997 Update Notification	1998 Full Notification	1999 Update Notification	2000 Update Notification
AUSTRALIA			X	
BAHRAIN			X	X
BOLIVIA		X	X	
CANADA			X	
CHILE			X	X
COSTA RICA			X	X
CYPRUS		X		
CZECH REPUBLIC	X			
EU (incl. 15 member states)			X (Partial)	X (Partial)
HONG KONG, CHINA				X
JORDAN			X	X
KOREA				X
LATVIA			X	
LIECHTENSTEIN				X
MACAU, CHINA		X	X	X
NORWAY		X (Supplement)	X	X
POLAND			X	
SINGAPORE				X
SLOVENIA			X	X
SWITZERLAND				X
TURKEY			X	
UNITED ARAB EMIRATES		X	X	X
URUGUAY			X	X

Regional Trade Agreements Notified to the GATT/WTO and in Force as of 14 July 2000

Agreements notified under GATT Article XXIV

Parties and Agreements	Date of Entry into Force	Notification Date
Austria/Belgium/Denmark/Finland/France/Germany/Greece/Ireland/Italy/Luxembourg/Netherlands/Portugal/Spain/ Sweden/United Kingdom		
Treaty of Rome, establishing the European Communities - EC**	01.01.58	24.04.57
EC/Andorra		
Customs Union	01.07.91	25.02.98
EC/		
Algeria	01.07.76	28.07.76
Bulgaria	31.12.93	23.12.94
Cyprus	01.06.73	13.06.73
Czech Republic	01.03.92	13.05.96
Egypt	01.07.77	15.07.77
Estonia	01.01.95	30.06.95
Faroe Islands	01.01.97	19.02.97
Hungary	01.03.92	03.04.92
Israel	01.07.75	03.07.75
Jordan	01.07.77	15.07.77
Latvia	01.01.95	30.06.95
Lebanon	01.07.77	15.07.77
Lithuania	01.01.95	26.09.95
Malta	01.04.71	24.03.71
Morocco	01.07.76	28.07.76
Palestinian Authority		30.06.97
Poland	01.03.92	03.04.92
Certain Non-European Countries and Territories (PTOM II)	01.01.71	14.12.70
Romania	01.05.93	23.12.94
Slovak Republic	01.03.92	13.05.96
Slovenia	01.01.97	11.11.96
Syria	01.07.77	15.07.77
Tunisia	01.03.98	23.03.99
Turkey***	01.01.96	27.12.95
EC/EFTA Member States:		
Iceland	01.04.73	24.11.72

** Also notified were the accessions of Denmark/Ireland/United Kingdom (1972), Greece (1979), Portugal/Spain (1985), and Austrai/Finland/Sweden (1995; currently under examination).

*** See also Ankara Agreement (1986), Additional Protocol (1971), Association Agreement (1973).

Parties and Agreements	Date of Entry into Force	Notification Date
Norway	01.07.73	13.07.73
Switzerland and Liechtenstein	01.01.73	27.10.7
Iceland/Norway/Switzerland/Liechtenstein		
Stockholm Convention, establishing the European Free Trade Association - EFTA****	03.05.60	14.11.59
Faroe Islands/EFTA Member States:		
Iceland	01.07.93	23.01.96
Norway	01.07.93	13.03.96
Switzerland	01.03.95	08.03.96
EFTA/		
Bulgaria	01.07.93	30.06.93
Czech Republic*****	01.07.92	03.07.92
Estonia	01.06.96	25.07.96
Slovak Republic	01.07.92	03.07.92
Hungary	01.10.93	23.12.93
Israel	01.01.93	01.12.92
Latvia	01.06.96	25.07.96
Lithuania	01.08.96	25.07.96
Morocco	01.12.99	20.02.00
Palestinian Authority	01.07.99	21.09.99
Poland	15.11.93	20.10.93
Romania	01.05.93	24.05.93
Slovenia	01.07.95	18.10.95
Turkey	01.04.92	06.03.92
Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russian Federation, Tajikistan, Ukraine, and Uzbekistan		
Free Trade Area	30.12.94	01.10.99
Czech Republic/Slovak Republic		
Customs Union	01.01.93	30.04.93

**** Accession of Iceland to EFTA (1970)

***** Notified as EFTA/Czech and Slovak Federal Republic. After dissolution of the CSFR in 1993, two separate succession protocols were signed which formed the basis of the continued application of the Agreement between the EFTA states and the Czech and Slovak Republics.

Parties and Agreements	Date of Entry into Force	Notification Date
Bulgaria/Czech Republic/Hungary/Poland/Romania/ Slovak Republic/Slovenia		
Central European Free Trade Area -CEFTA******	01.03.93	30.06.94
Bulgaria/Former Yugoslav Republic of Macedonia	01.01.00	21.01.00
Czech Republic/Estonia	12.02.96	03.09.98
Czech Republic/Latvia	01.07.97	13.11.97
Czech Republic/Lithuania	01.09.97	13.11.97
Czech Republic/Turkey	01.09.98	24.04.99
Estonia/Faroe Islands	01.12.98	26.01.99
Estonia/Latvia/Lithuania	01.04.94 01.01.97	19.06.99
Hungary/Latvia	01.01.00	20.12.99
Hungary/Lithuania	01.03.00	20.12.99
Israel/Czech Republic	01.12.97	30.03.98
Israel/Hungary	01.02.98	23.02.98
Israel/Poland	01.03.98	25.02.99
Israel/Slovak Republic	01.12.97	30.03.98
Israel/Slovenia	01.09.98	08.03.99
Kyrgyz Republic/Kazakhstan	---	29.09.99
Kyrgyz Republic/Moldova	21.11.96	15.06.99
Kyrgyz Republic/ Russian Federation	24.04.93	15.06.99
Kyrgyz Republic/Ukraine	19.01.98	15.06.99
Kyrgyz Republic/Uzbekistan	20.03.98	15.06.99
Kyrgyz Republic/Russian Federation/Belarus/Kazakhstan CU*******	08.10.97	06.04.99
Poland/Faroe Islands	01.06.99	18.08.99
Poland/Latvia	01.06.99	29.09.99
Poland/Lithuania	01.01.97	30.12.97
Slovak Republic/Estonia	12.02.98	03.08.98
Slovak Republic/Latvia	01.07.97	14.11.97
Slovak Republic/Lithuania	01.07.97	14.11.97
Slovak Republic/Turkey	01.09.98	24.03.99

****** Also notified were the accessions of Slovenia (1996), Romania (1997) and Bulgaria (1998).

******* As appeared in the notification of the accession of the Kyrgyz Republic on 06.04.99.

Parties and Agreements	Date of Entry into Force	Notification Date
Slovenia-Croatia	01.01.98	25.03.98
Slovenia/Estonia	01.01.97	20.02.97
Slovenia/Latvia	01.08.96	20.02.97
Slovenia/Lithuania	01.03.97	20.02.97
Slovenia/Former Yugoslav Republic of Macedonia	01.09.96	20.02.97
Romania/Moldova	01.01.95	24.09.97
Turkey/Israel	01.05.97	18.05.98
Turkey/Romania	01.02.98	18.05.98
Turkey/Hungary	01.04.98	16.04.98
Turkey/Bulgaria	01.01.99	04.05.99
Turkey/Estonia	01.06.98	23.03.99
Turkey/Lithuania	01.03.98	08.06.98
Turkey/Poland	01.05.00	14.05.00
United States/Israel	19.08.85	13.09.85
Canada/Chile	05.07.97	26.08.97
Canada/Israel	01.01.97	23.01.97
Canada/Mexico/United States		
North American Free Trade Agreement - NAFTA	01.01.94	01.02.93
Costa Rica/El Salvador/Guatemala/Honduras/Nicaragua		
Central American Common Market - CACM	12.10.61	24.02.61
Antigua and Barbuda/ Barbados/Belize/Dominica/Grenada/Guyana/Haiti/Jamaica/Montserrat/St. Kitts and Nevis/St. Lucia/ST. Vincent and the Grenadines/Surinam/Trinidad and Tobago		
Caribbean Community and Common Market-CARICOM	01.08.73	14.10.74
Jordan/Kuwait/Morocco/Syria/Egypt		
Arab Common Market	30.04.64	05.03.65
Australia/Papua New Guinea		
Australia-Papua New Guinea Agreement - PATCRA	01.02.77	20.12.76
Australia/New Zealand		
Australia-New Zealand Closer Economic Relations Trade Agreement - ANZCERTA	01.01.83	14.04.83

Regional Integration Agreements (Goods) notified under the Enabling Clause

Parties and Agreements	Date of Entry into Force	Notification Date
Argentina/Bolivia/Brazil/Chile/Colombia/Ecuador/Mexico/ Paraguay/Peru/Uruguay/Venezuela		
Montevideo Treaty (1980), establishing the Latin American Integration Association - LAIA	18.03.81	01.07.82
Argentina/Brazil/Paraguay/Uruguay Asunción Treaty - MERCOSUR	29.11.91	05.03.92
Bolivia, Colombia, Ecuador, Peru,Venezuela		
Cartagena Agreement - Andean Group	25.05.88	(12.10.92)
Egypt/India/Yugoslavia		
Tripartite Agreement	01.04.68	23.02.68
Bahrain/Kuwait/Oman/Qatar/Saudi Arabia/United Arab Emirates		
Unified Economic Agreement among member states of the Gulf Cooperation Council - GCC		11.10.84
Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, Somalia,Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe		
Common Market for Eastern and Southern Africa (COMESA)	08.12.94	29.6.95
Iran/Pakistan/Turkey		
Preferential Tariffs among members of the Economic Cooperation Organization - ECO		22.7.92
Bangladesh/Bhutan/India/Maldives/Nepal/ Pakistan/Sri Lanka		
South Asian Preferential Trade Arrangement - SAPTA	07.12.95	22.09.93
Bangladesh/India/Republic of Korea/Sri Lanka/Laos		
Bangkok Agreement	17.06.76	02.11.76
Brunei Darussalam/Indonesia/Malaysia/Philippines/Singapore/Thailand/Laos/Myanmar/Vietnam		
Agreement on ASEAN Preferential Trade Arrangements	31.08.77	01.11.77
Common Effective Preferential Tariff Scheme for the ASEAN Free trade area (AFTA)	28.01.92	30.10.92
Laos/Thailand	20.06.91	29.11.91
Australia and New Zealand / Cook Isl., Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Isl., Tonga, Tuvalu, Vanuatu and Western Samoa		
South Pacific Regional Trade and Economic Cooperation Agreement - SPARTECA	01.01.81	20.02.81
Bangladesh, Brazil, Chile, Egypt, Israel, Mexico, Pakistan, Peru, Republic of Korea, Romania, Tunisia, Turkey, Uruguay		

Parties and Agreements	Date of Entry into Force	Notification Date
Protocol relating to Trade Negotiations among Developing Countries	11.02.73	09.11.71
Fiji,Papua New Guinea, Solomon Islands, and Vanuatu		
Melanesian Spearhead Group Trade Agreement	---	07.10.99
Algeria, Angola, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Ghana, Guinea, Guyana, Haiti, India, Indonesia, Islamic Republic of Iran, Iraq, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Romania, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire and Zimbabwe		
Global System of Trade Preferences - GSTP	19.04.89	25.09.89
Benin, Burkina Faso, Cote d'Ivoire, Guinea Bissau, Mali, Niger, Senegal, Togo		
West African Economic and Monetary Union	01.01.00	27.10.99

Regional Integration Agreements (Services) notified under GATS Article V

Parties and Agreements	Date of Entry into Force	Notification Date
Austria/Belgium/Denmark/Finland/France/Germany/Greece/Ireland/Italy/Luxembourg/Netherlands/Portugal/Spain/ Sweden/United Kingdom		
Treaty of Rome********	01.01.58	10.11.95
EC/Iceland/Norway/Liechtenstein		
European Economic Area - EEA	01.01.94	10.10.96
Canada/Mexico/United States		
North American Free Trade Agreement - NAFTA	01.04.94	01.07.82
Canada/Chile	05.07.97	13.11.97
EC/		
Bulgaria	01.02.95	25.04.97
Czech Republic	01.02.95	09.10.96
Hungary	01.02.94	27.08.96
Poland	01.02.94	27.08.96
Romania	01.02.95	09.10.96
Slovak Republic	01.02.95	27.08.96
Australia/New Zealand		
ANZCERTA	01.01.89	22.11.95

Source: WTO Secretariat

******** A separate examination is underway for the Enlargement of the European Union, Services (Austria, Sweden,and Finland); consultations on the report are in process.

Waivers Currently in Force

The following waivers, granted under Article IX: 3 of the Agreement Establishing the World Trade Organization, are currently in effect. Waivers granted for a period exceeding one year are reviewed annually by the General Council. The General Council may extend, modify or terminate a waiver as part of the annual review process. The last review of multiyear waivers took place on 8 December 2000.

WTO Member/Waiver	Valid Through	Date Granted
Canada - CARIBCAN: To allow Canada to extend tariff preferences to CARIBCAN nations.	31 December 2006	14 October 1996
Cuba - Article XV:6: To Cuba not to have a special exchange arrangement, which is required for those WTO Members that are not IMF members.	31 December 2001	14 October 1996
European Community - Western Balkans: To allow the EC to extend tariff preferences to Albania, Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Republic of Macedonia	31 December 2006	8 December 2000
Harmonized System (HS) changes: A collective waiver provides 22 members additional time to finalize the conversion of their tariff classification systems to the 1996 HS nomenature. Zambia, Sri Lanka and Nicaragua were granted individual waivers to finalize conversions from pre-HS tariff systems to the Harmonized System.	30 April 2001	8 December 2000
Hungary-Agricultural export subsidies: To allow Hungary to a transition period to come into compliance with its Uruguay Round agricultural export subsidy commitments.	31 December 2001	22 October 1997
Uruguay-Implementation of Article VII: To allow Uruguay an additional period of one year come into compliance with its Uruguay Round customs valuation commitments.	1 January 2001	3 May 2000
Turkey -Bosnia: To allow Turkey to provide tariff preferences to Bosnia-Herzegovina	31 December 20006	8 December 2000
Preferential Tariff Treatment for Least Developed Countries To allow developing countries to extend unilateral tariff preferences to least developed countries.	30 June 2009	15 June 1999
US - Former Trust Territory of the Pacific Islands: To allow the United States to extend historical tariff preferences to the Mariana Islands, Palau, the Marshall Islands and Micronesia.	31 December 2006	14 October 1996
US - Caribbean Basin Economic Recovery Act: To allow the United States to extend tariff preferences to eligible Caribbean countries under CBERA.	31 December 2005	15 November 1995
US - ANDEAN Trade Preference Act: To allow the United States to extend tariff preferences to eligible Andean countries under the ATPA.	4 December 2001	14 October 1996

GATS Commitments on Telecommunications Services
All governments which have scheduled telecom commitments

Country and Level of Commitment		
a=basic telecom services listed in schedule annexed to the 4th Protocol; b=basic telecom services taken as a result of Uruguay Round, accession, or unilateral commitments; c=value-added services listed in schedule; d=incorporated all, parts, or modifications to Reference Paper; e=acceptance of 4th protocol overdue		
Antigua and Barbuda (a,c,d)	Georgia (b,c,d)	Norway (a,c,d)
Albania (b,c,d)	Ghana (a,d)	Oman (b,c,d)
Argentina (a,c,d)	Grenada (a,c,d)	Pakistan (a,c,d)
Australia (a,c,d)	Guatemala (a,d,e)	Panama (c)
Bangladesh (a)	Guyana (c)	Papua New Guinea (a,d,e)
Barbados (b,c,d)	Hong Kong, China (a,c,d)	Peru (a,c,d)
Belize (a, c)	Hungary (a,c,d)	Philippines (a,c,d,e)
Bolivia (a,d)	Iceland (a,c,d)	Poland (a,c,d)
Brazil (a,c,e)	India (a,c,d)	Romania (a,c,d)
Brunei Darussalam (a,c,d)	Indonesia (a,c,d)	Saint Kitts and Nevis (c)
Bulgaria (a,c,d)	Israel (a,d)	Senegal (a,c,d)
Canada (a,c,d)	Jamaica (a,c,d)	Singapore (a,c,d)
Chile (a,c,d)	Japan (a,c,d)	Slovak Republic (a,c,d)
Colombia (a,c,d)	Jordan (b,c,d)	Slovenia (c)
Côte d'Ivoire (a,d)	Kenya (b,c,d)	South Africa (a,c,d)
Crotia (b,c,d)	Korea (a,c,d)	Suriname (b)
Cuba (b)	Kyrgyz Republic (b,c,d)	Sri Lanka (a,d)
Cyprus (b)	Latvia (b,c,d)	Switzerland (a,b,c,d)
Czech Republic (a,c,d)	Lesotho (c)	Thailand (a,c)
Dem. Rep. of Congo (b)	Liechtenstein (b,c)	Trinidad and Tobago (a,c,d)
Djibouti (b,c)	Malaysia (a,c,d)	Tunisia (a)
Dominica (a,c,d,e)	Mauritius (a)	Turkey (a,c,)
Dominican Republic (a,d)	Mexico (a,c,d)	Uganda (b,d)
Ecuador (a,c)	Mongolia (c)	United States (a,c,d)
El Salvador (a,d)	Morocco (a,c,d)	Venezuela (a,d)
Estonia (b,c,d)	New Zealand (a,c,d)	Zimbabwe (b,c)
European Community + States (a,c,d)	Nicaragua (b,c)	
Gambia (b)	Nigeria (b,c)	

WTO MEMBERS WHICH PROVIDED NEW OR IMPROVED COMMITMENTS AS PART OF THE 1997 FINANCIAL SERVICES AGREEMENT

Australia
Bahrain
Bolivia*
Brazil*
Bulgaria
Canada
Chile
Colombia
Costa Rica
Cyprus
Czech Republic
Dominican Republic*
Ecuador
El Salvador
Egypt

EC Member States
Austria
Belgium
Denmark
Finland
France
Germany
Greece
Ireland
Italy
Luxembourg
Portugal
The Kingdom of the Netherlands
Spain
Sweden
United Kingdom

Ghana
Honduras
Hong Kong, China
Hungary
Iceland

India
Indonesia
Israel
Jamaica*
Japan
Kenya
Republic of Korea
Kuwait
Macau
Malaysia
Malta
Mauritius
Mexico
New Zealand
Nicaragua
Nigeria
Norway
Pakistan
Peru
The Philippines*
Poland*
Romania
Senegal
Singapore
Slovak Republic
Slovenia
South Africa
Sri Lanka
Switzerland
Thailand
Tunisia
Turkey
United States
Uruguay*
Venezuela

*** awaiting ratification and acceptance of Fifth Protocol**

WORLD TRADE ORGANIZATION

WT/GC/W/413/Rev.1
13 October 2000
(00-4225)

General Council

GENERAL COUNCIL INFORMAL CONSULTATIONS ON EXTERNAL TRANSPARENCY
OCTOBER 2000

Submission from the United States

Revision

The following communication, dated 10 October 2000, has been received from the Permanent Mission of the United States.

The United States welcomes continued attention to the issue of transparency and looks forward to consultations planned by the Chairman to make tangible progress in this area. This contribution supplements earlier submissions of the United States*. Earlier discussions in the General Council have addressed communication among Members ("internal transparency") and have resulted in improvements to our daily working environment. We believe that similar efforts are needed to improve communications between the WTO and the public ("external transparency"), given the increasing importance that trade and trade agreements play in the global economy and the commitment to sustainable development. Such efforts are essential to ensuring public understanding and support of the WTO's work. Advances in external transparency will also help internal transparency, particularly for Members with smaller delegations in Geneva. Progress in this area is clearly needed and can be accomplished while preserving the government-to-government character of the WTO, an institution driven by its Members.

The United States intends to work constructively with the Chairman and other WTO Members to build a consensus to improve external transparency. U.S. comments here are focused in two areas: first, ways to enhance timely access to information about the WTO at the national level and by Members acting collectively; and second, important mechanisms to ensure the credibility of the dispute settlement system. These include:

- **sharing respective Member experiences of efforts to exchange information and views on developments in the WTO at the national level;**

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* In particular, see Communication from the United States concerning Preparations for the 1999 Ministerial Conference (WT/GC/W/139, 27 January 1999), page 5. Most recently, see Letter of Ambassador Rita Hayes to Ambassador Kare Bryn, Chairman, General Council, March 22, 2000. This letter is available at www.ustr.gov.

- **further building upon the good work of the WTO Secretariat in developing the WTO website;**

- **begin opening the various WTO council and committee meetings on an experimental basis, including webcasting at least some meetings of the Trade Policy Review Body;**

- **building upon previous efforts to strengthen the 1996 Derestriction Decision, so that Members may consider experience to date and, as soon as possible, ensure that WTO documents that are most informative of WTO activities are circulated on an unrestricted basis or derestricted more quickly;**

- **strengthening the 1996 Guidelines on relations with non-governmental organizations, undertaking a regular program of seminars and symposia, and considering the outreach practices of other international organizations, to the extent they may be relevant; and**

- **in the dispute settlement area, ensuring that all parties' submissions to panels and the Appellate Body are made available to the public, developing a mechanism to permit non-governmental stakeholders to present their views on disputes, and permitting the public to observe WTO panel and appellate proceedings.**

I. Access to Information About the WTO

A. National Activity

In the 1996 Guidelines for Arrangements on Relations with Non-Governmental Organizations[2], Members recognized that closer consultations and cooperation with the public can be met constructively through "appropriate processes at the national level where lies primary responsibility for taking into account the different elements of public interest which are brought to bear on trade policy-making." While more external transparency in Geneva is essential, many delegations have stressed the importance of efforts at the national level. We share the view that more can and should be done to enhance dialogue at the national level, along with additional collective action by WTO Members.

The U.S. Government employs both informal and formal consultation processes to inform its policies with respect to the WTO. This year, for example, the U.S. Government twice solicited public comment in order to develop U.S. positions in the WTO, the first time with respect to the built-in agenda and the negotiations on services and agriculture, and the second with respect to institutional issues in the WTO, particularly the issues of transparency and outreach. The requests were published in the Federal Register and also circulated through our formal private sector advisory committees established under the Trade Act of 1974. These supplemented the normal U.S. practice of requesting public comment to prepare U.S. positions in WTO dispute settlement proceedings. Every time that the United States submits or receives a request for consultations pursuant to the WTO Dispute Settlement Understanding, the Office of the U.S. Trade Representative (USTR) solicits comment from the public regarding the matters in dispute. Submissions from the public in connection with all public comment procedures are made available in USTR's public reading room. USTR also recently expanded its website, with links to the WTO. The Uruguay Round Agreements Act, the U.S. implementing legislation for the Uruguay Round, mandated several other requirements, including annual reports on the major activities and work programs of the WTO. These are only some examples of activities at the national level to increase

[2] Decision adopted by the General Council on 18 July 1996 (WT/L/162) ("1996 Guidelines").

public understanding of the WTO and ensure that views of interested members of the public are taken into account.

Broad-based domestic discussions of developments in the WTO and the responsibilities flowing from membership can help deepen understanding of the organization. This year, pursuant to Section 125 of the Uruguay Round Agreements Act, the President was required to report to the U.S. Congress on the operation of the WTO over the first five years. The U.S. Congress then undertook a statutory five-year review of U.S. experience in the WTO. The result was an overwhelming vote of support for the continued participation of the United States in the rules-based multilateral trading system. However, the area most singled out for criticism was the lack of transparency in the WTO's operations, particularly dispute settlement, and there was a serious concern that failure to address it would further erode public support for the institution. Accordingly, Congress urged the Administration to seek further transparency in the WTO and improve public outreach.

While there is no one-size-fits-all approach to consultation at the national level, all Members could benefit from an exchange of information on national experiences and approaches. Clearly there is a growing public interest in the work of the WTO, and such a sharing of information will be useful to Members in reflecting on how best to respond. Accordingly, the United States recommends that Members be invited to provide information on their respective approaches to providing their public with information and opportunity for input on developments in the trading system. We note that a number of accession applicants have found it useful to develop national websites focusing on their work to join the WTO. Sharing information in Geneva about respective national experiences should facilitate work at the national level, particularly in providing useful information to small and medium-sized enterprises about trade opportunities and issues of interest in the trade area.

B. WTO Information on Agreements and Ongoing Activities

The WTO made important strides in 1996 when Members improved the process for derestricting some WTO documents after specified time period[3] and recognized the importance of contacts with non-governmental organizations[4]. The process initiated by Singapore to advance outreach in preparation for the WTO's first ministerial was an important contribution to WTO Members' collective interaction and outreach efforts with the NGO community.

Subsequent meetings have shown the value of outreach efforts in broadening and informing the debate about the value of the WTO. The Secretariat has done excellent work in disseminating information about the WTO, briefing non-governmental organizations on the WTO's activities and informing Members when documents are received from NGOs. The WTO has also undertaken a series of seminars and outreach programs designed to examine issues on trade and the environment, development, electronic commerce and trade facilitation, to name only a few. Nonetheless, providing timely information about WTO activities to interested members of the public, including small and medium-sized enterprises, remains a challenge. The following are some further immediate steps that could be taken to meet these challenges in the short term.

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[3] Procedures for the Circulation and Derestriction of WTO Documents (Decision adopted by the General Council on 18 July 1996) (WT/L/160/Rev.1) ("Derestriction Decision").

[4] 1996 Guidelines (WT/L/162).

Continued Improvements in the WTO Website

We commend the Secretariat for the high quality of the WTO website and the staff's ongoing efforts at further improvement. We see this as a continuing activity to which WTO Members can contribute. The use of electronic means to provide information on issues and developments in the WTO is critical, particularly to the newly emerging economies and the development of small and medium-sized enterprises around the world.

Various WTO documents provide important information about the trade regimes of different Members, and should be of interest to traders around the world. Many are not readily accessed through the WTO website, however. The TPRM reports are currently published as books; making their executive summaries available on the WTO website would help their dissemination. Moreover, to the extent the WTO website does include unrestricted documents on its website, the ease of use could be improved. For example, while the document dissemination facility includes notifications of national legislation or regulations, only those aware of notification requirements in the WTO Agreements will encounter them easily. Improved mechanisms to locate and access such documents would do much to assist small and medium-sized enterprises interested in market access opportunities.

With the same purpose in mind – assistance to small and medium-sized enterprises – the website could also be structured so as to expand the array of information on individual Members' trade regimes (including the bound and applied customs duties for a given product, trade data and the trade agreements to which they are party). This kind of information is critical to traders around the world. We recognize that some of this information is not currently readily available, but at a minimum, the website could provide directories for obtaining information from Member governments or provide hyperlinks to Members' own national websites.

Written Communications from WTO Members and the Secretariat

While the Internet and the WTO's website have accelerated access to unrestricted documents, as a practical matter, many documents pertaining to the WTO's core activities are not made available to the public in a timely manner. The WTO's document policy falls short of what is needed to ensure that the work of the WTO is fully understood – and appreciated. Moreover, excessive restriction of access to WTO documents impairs the ability of Members to consult broadly at the national level.

The General Council agreement to review the potential for improving our 1996 Derestriction Decision permits us to proceed promptly, picking up from efforts over the last year to strengthen the 1996 Derestriction Decision. A great deal of progress has been made, and it is now time to bring this review to a successful conclusion. It should be possible for Members to agree, at a minimum, on the following changes in current practices.

- **Minutes of all formal council and committee meetings should be derestricted much more quickly than under the current practice which provides for consideration of derestriction only after 6 months.**

- **Secretariat background notes, which provide factual information that is important to understanding issues being considered in the various WTO councils and committees, should normally be issued as non-restricted documents. These papers are often critical to obtaining helpful input in consultations with domestic constituencies in preparation for WTO meetings.**

- **Dispute settlement panel reports should be made available to the public on a much more timely basis.**

Open Meetings of WTO Bodies

The United States suggests that the General Council explore the convening of some of the WTO council and committee meetings as open to observers, just as the plenary sessions of the Ministerial Conference have been opened to observers. This can readily be accommodated while preserving the government-to-government character of the WTO. It may be helpful, as suggested by some other delegations, to have annual meetings of WTO bodies to which non-governmental organizations are invited, and to which they may make written submissions to contribute or respond to the WTO Body's analytical work. The United States urges the General Council to consider which council and committee meetings would lend themselves to more open practices on an experimental basis.

Perhaps no WTO meetings reveal more of the central mission of the WTO than those of the Trade Policy Review Body. The WTO has already recognized the importance to the public of the Trade Policy Review Mechanism. The final TPRM reports of both the government being reviewed and the WTO Secretariat are currently published in book form, and even the 1996 Derestriction Decision designated the minutes of the Trade Policy Review Body as unrestricted[5]. Neither these reports, however, nor the TPRB minutes, do full justice to the comprehensive and constructive interaction that takes place among the WTO Members in the exchange of views on a Member's trade policies within the framework of the numerous disciplines of the WTO Agreements. The United States very much supports Canada's suggestion that the General Council consider opening Trade Policy Review meetings as a general rule or at the initiative of the Member being reviewed. We welcome the suggestion that we explore use of webcasting these meetings.

Outreach on Current Developments

The General Council should consider how to strengthen the 1996 Guidelines for Arrangements on Relations with Non-Governmental Organizations, consistent with the WTO's government-to-government character. It is important that the WTO build upon experience to date and consider a variety of approaches. This could include greater use of the Internet, to reach small and medium-sized enterprises, and conducting regular symposia involving Members and interested members of the public, covering a broad range of subject matters relevant to the work of the WTO. The WTO should also consider establishing more formal channels of communication between the WTO and non-governmental organizations.

In considering how to strengthen the 1996 Guidelines, some comparative perspectives may be helpful. Aside from reviewing the WTO's own experience to date, Members may wish to consider the practices of other international organizations for guidance, where they may be relevant. Other organizations have a variety of experiences in their approach to outreach. We recommend that the Secretariat survey these organizations so that Members may engage in a more informed discussion of the merits and drawbacks of various approaches to outreach. In addition, as mentioned above, in line with the 1996 Guidelines, which highlight the importance of consultative processes at the national level,

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[5] See also, Appraisal of the Operation of the Trade Policy Review Mechanism (WT/MIN/(99)/2), paras. 4 and 13.

it may be useful for Members to exchange information on, and discuss, their experiences with such processes and the approaches they have found most helpful.

II. Dispute Settlement

During formal and informal discussions among delegations regarding reform of the WTO dispute settlement procedures, the United States has advanced several proposals to improve the transparency of the dispute settlement process.

The WTO dispute settlement procedures should ensure that all parties' submissions to panels and the Appellate Body are made available to the public, include a mechanism to permit non-governmental stakeholders to present their written views on disputes, and permit the public to observe WTO panel and appellate proceedings. The United States has repeatedly proposed that WTO panels and the WTO Appellate Body allow interested persons, on a first-come, first-served basis, to attend their meetings with the parties and listen while the parties make their presentations. This could also be accomplished through alternatives such as audio and video taping and webcasting.

International bodies such as the International Court of Justice and the European Court of Justice have open hearings for government-to-government disputes. National courts also have open hearings. In each case, the court has rules that create and reinforce an atmosphere of decorum and seriousness. WTO panels could do the same. The core caseload of the International Court of Justice consists of matters that are essentially government-to-government in nature: maritime and land boundaries, rights under treaties, and similar disputes about the rights and obligations of governments. The oral phase of ICJ proceedings takes place in open court in the Hague, and the fact that any interested party can attend has presented no interference with the government-to-government nature of the disputes the ICJ handles.

Greater openness in WTO dispute settlement proceedings would also benefit smaller Members and Members that are not frequently parties to disputes, because they could send their delegations to observe any dispute and gain knowledge about the particular dispute and know-how about the dispute settlement process. All WTO Members, as well as the general public, should have this opportunity.

Increased transparency of the dispute settlement process is critical to the future of the WTO. If WTO dispute settlement proceedings are to play the role of ultimate guarantor of the system, they must be open to observation by the public, and open to receiving input from the public. Openness of this sort is essential to ensuring public support for the legitimacy of WTO dispute settlement. As the WTO takes on more complex and controversial cases, there is an ever-increasing need for such transparency. The lack of openness and public access to WTO dispute settlement makes it harder – not easier – to settle disputes between WTO Members.

WORLD TRADE ORGANIZATION

WT/L/384
19 December 2000
(00-5528)

GENERAL COUNCIL

Implementation-Related Issues and Concerns

Decision of 15 December 2000

The General Council,

Having regard **to Articles IV.1, IV.2, IV.5 and IX.1 of the Marrakesh Agreement Establishing the World Trade Organization (WTO);**

Considering **the importance which Members attach to implementation-related issues and concerns as reflected in paragraphs 8 and 9 of the Geneva Ministerial Declaration, in the preparatory process for the third Ministerial Conference and in numerous subsequent discussions in the General Council;**

Considering **that the Decision of the General Council of 3 May 2000 provides that the General Council in Special Sessions shall address issues and concerns raised by Members in connection with the implementation of some WTO Agreements and Decisions;**

Recalling **further that the Decision of 3 May 2000 provides that the General Council shall assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action;**

Taking into account **the work programme on implementation issues agreed by the General Council at its first Special Session on 22 June 2000 which provides that, in the light of the progress made until then, the third Special Session will take decisions for appropriate action where possible;**

Recalling **the mandate given to the Chairman of the Council for Trade in Goods and the consultations held on the issue of transition periods under the Agreement on Trade-Related Investment Measures;**

Taking into consideration **the requests made to the Director-General to work with the relevant international standard-setting organizations and relevant intergovernmental organizations on the issue of the participation of developing countries in their work;**

Recalling **further that the following implementation-related issues were referred to the relevant WTO bodies at the Special Session held on 18 October 2000:**

- **in the area of Agriculture, the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes pursuant to Article 10.2 of the Agreement on Agriculture, taking into account the provisions of paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries;**
- **in the area of Sanitary and Phytosanitary measures, the concerns of developing countries regarding the equivalence of such measures;**
- **in the area of Technical Barriers to Trade, the problems faced by developing countries in both international standards and conformity assessment;**
- **in the area of Customs Valuation, the idea of information exchange between customs administrations on export values in doubtful cases, the addition of the cost of services in Article 8:1(b)(iv) and aspects of the residual method of determining customs value under Article 7 of the Customs Valuation Agreement; and,**
- **in the area of Trade-Related Aspects of Intellectual Property Rights (TRIPS), the issue of the relationship between the TRIPS Agreement and the Convention on Biological Diversity and the issue of the implementation of Article 66.2 of the Agreement on technology transfer.**

Noting **the reports on the above issues from the Chairpersons of the Council for Trade in Goods, the Council for Trade-Related Aspects of Intellectual Property Rights, and the Committees on Agriculture, Sanitary and Phytosanitary Measures, Technical Barriers to Trade and Customs Valuation, and from the Director-General;**

Decides **as follows:**

1. <u>Agreement on Agriculture</u>

1.1 Members shall ensure that their tariff rate quota regimes (TRQs) are administered in a transparent, equitable and non-discriminatory manner. In that context, they shall ensure that the notifications they provide to the Committee on Agriculture contain all the relevant information including details on guidelines and procedures on the allotment of TRQs. Members administering TRQs shall submit addenda to their notifications to the Committee on Agriculture (Table MA:1) by the time of the second regular meeting of the Committee in 2001.

1.2 The Committee on Agriculture shall examine possible means of improving the effectiveness of the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries and report to the General Council at the second regular meeting of the Council in 2001.

2. <u>Agreement on the Application of Sanitary and Phytosanitary Measures</u>

In accordance with the request to the Director-General to work with the relevant international standard-setting organizations on the issue of the participation of developing countries in their

work, these organizations are urged to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development.

3. Agreement on Technical Barriers to Trade

In accordance with the request to the Director-General to work with the relevant international standard-setting organizations on the issue of the participation of developing countries in their work, these organizations are urged to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development.

4. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

Noting that the process of examination and approval, in the Customs Valuation Committee, of individual requests from Members for extension of the five-year delay period in Article 20.1 is proceeding well, the General Council encourages the Committee to continue this work.

5. Agreement on Rules of Origin

Members undertake to expedite the remaining work on the harmonization of non-preferential rules of origin, so as to complete it by the time of the Fourth Ministerial Conference, or by the end of 2001 at the latest. The Chairman of the Committee on Rules of Origin shall report regularly, on his own responsibility, to the General Council on the progress being made. The first such report would be submitted to the Council at its first regular meeting in 2001, and subsequently at each regular meeting until the completion of the work programme.

6. Agreement on Subsidies and Countervailing Measures

6.1 Taking into account the unique situation of Honduras as the only original Member of the WTO with a GNP per capita of less than US$ 1000 that was not included in Annex VII(b) to the Agreement on Subsidies and Countervailing Measures (SCM Agreement), Members call upon the Director-General to take appropriate steps, in accordance with WTO usual practice, to rectify the omission of Honduras from the list of Annex VII(b) countries.

6.2 The Committee on Subsidies and Countervailing Measures (SCM Committee) shall examine as an important part of its work all issues relating to Articles 27.5 and 27.6 of the SCM Agreement, including the possibility to establish export competitiveness on the basis of a period longer than two years.

6.3 The SCM Committee shall examine as an important part of its work the issues of aggregate and generalized rates of remission of import duties and of the definition of "inputs consumed in the production process", taking into account the particular needs of developing-country Members.

7. Further Work

The General Council's Decision of 3 May 2000 on Implementation-Related Issues is reaffirmed. The General Council shall address the outstanding implementation-related issues and concerns, including

those set out in paragraphs 21 and 22 of the revised Draft Ministerial Text dated 19 October 1999 (Job(99)/5868/Rev.1), as well as any other implementation-related issues raised by Members, as envisaged in the Decision of 3 May and the work programme agreed on 22 June 2000, with a view to completing the process no later than the Fourth Session of the Ministerial Conference.

Where to Find More Information on the WTO

A great deal of information about the WTO and trends in international trade is available to the public at the following Internet sites:

- **The USTR home page: http://www.ustr.gov**
- **The WTO home page: http://www.wto.org**

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- **WTO Organizational Chart**
- **Biographic backgrounds**
- **Membership**
- **General Council activities**

WTO News, such as:

- **Status of dispute settlement cases**
- **Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others**
- **Schedules of future WTO meetings**
- **Summaries of Trade Policy Review Mechanism reports on individual Members' trade practices**

Resources including Official Documents, such as:

- **Notifications required by the Uruguay Round Agreements**
- **Working Procedures for Appellate Review**
- **Special Studies on key WTO issues**
- **On-line document database where one can find and download official documents**
- **Legal Texts of the WTO agreements**
- **WTO Annual Reports**

Community/Forums, such as:

- **Media**
- **NGO's**
- **General public news and chat rooms**

Trade Topics, such as:

- **Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, and other topics**
- **Disputes and Dispute Reports**

WTO publications may be ordered directly from the following sources:

The World Trade Organization
Publications Services
Centre William Rappard
Rue de Lausanne 154
CH - 1211 Geneva 21
Switzerland

tel: (41 22) 739-5208
fax: (41 22) 739-5792
e-mail: publications@wto.org

Berman Associates
4611-F Assembly Drive
Lanham, Md. 20706-4391

tel: 800/274-4888
301/459-7666
fax: 301/459-0056

ANNEX III

LIST OF TRADE AGREEMENTS

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (signed April 15, 1994) and the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993

  a. Multilateral Agreements on Trade in Goods

     i. General Agreement on Tariffs and Trade 1994
     ii. Agreement on Agriculture
     iii. Agreement on the Application of Sanitary and Phytosanitary Measures
     iv. Agreement on Textiles and Clothing[1]
     v. Agreement on Technical Barriers to Trade
     vi. Agreement on Trade-Related Investment Measures
     vii. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
     viii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
     ix. Agreement on Preshipment Inspection
     x. Agreement on Rules of Origin
     xi. Agreement on Import Licensing Procedures
     xii. Agreement on Subsidies and Countervailing Measures
     xiii. Agreement on Safeguards
     xiv. Information Technology Agreement (ITA) (March 26, 1997)

  b. General Agreement on Trade in Services

     i. Basic Telecommunications Services Agreement (February 15, 1997)
     ii. Financial Services Agreement (March 1, 1999)

[1] Members with whom the United States maintains bilateral quota arrangements under the provisions of the Agreement on Textiles and Clothing are: Bahrain, Bangladesh, Brazil, Bulgaria, Burma/Myanmar, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Hong Kong/China, Hungary, India, Indonesia, Jamaica, Kenya, Kuwait, Macau, Malaysia, Mauritius, Pakistan, Philippines, Poland, Qatar, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, United Arab Emirates and Uruguay.

c. Agreement on Trade-Related Aspects of Intellectual Property Rights

d. Plurilateral Trade Agreements

i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended by protocol in 1986)
ii. Agreement on Government Procurement (April 15, 1994)

- International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement; signed January 26, 1994; entered into force January 1, 1997)

- North American Free Trade Agreement (signed December 17, 1992; implementing legislation signed December 8, 1993)

i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)

ii Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)

- Joint Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea. (June 10, 1999)

- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunication Agreement (June 5, 1998)

Bilateral Agreements

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)

- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)

- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)

- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)
- Understanding on Automotive Leather Subsidies (June 20, 2000)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)
- Agreement regarding Imports of Certain Fiberglass Fabric (February 17, 2000)

Brazil

- Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement Between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)
- Agreement on Trade in Textiles and Textile Products (1999)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Trade in Softwood Lumber (April 1, 1996)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Amendment to the Softwood Lumber Agreement Resolving Dispute over British Columbia's 1998 Reduction in Stumpage Pricing (August 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Memorandum of Agreement to Renew the Bilateral Agreement on International Trade in Commercial Space Launch Services (January 27, 1995)
- Agreement on Trade Relations Between the United States of America and the People's Republic of China (signed July 7, 1979; entered into force February 1, 1980; renewed February 1, 1998)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)

- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- Agreement to Strengthen Space Launch Trade Terms (October 27, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)
- Agreements on Trade in Textiles and Textile Products (signed February 1, 1997; provisional implementation pending final exchange of notes)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)

Czech Republic

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997)

European Union

- Agreement for the Conclusion of Negotiations Between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Wine Accord (1987)
- Agreement Regarding the Application of Competition Laws (September 23, 1991)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft (July 17, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)

- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition Between the United States of America and the European Community (signed May 18, 1997; entered into force December 1, 1998)

France

- Memorandum of Understanding Relating to the Development of Technology-Based Joint Ventures between Small United States and French Companies (February 1986)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)

- Agreement on Intellectual Property Rights Protection (March 1993)
- Agreement on Import Restrictions (December 28, 1999)
- Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 1992)

Israel

- U.S.-Israel Free Trade Agreement (August 19, 1985)
- U.S.-Israel Agreement on Trade in Agriculture (December 4, 1996)
- U.S.-Israel Agreement on Almonds and Certain Other Agricultural Trade Issues (November 30, 1997)

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Measures Concerning Cellular Telephone and Third Party Radio System Telecommunications Issues (June 28, 1989)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)

- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- U.S.-Japan Framework for a New Economic partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- Action Plan on Reform of the Bidding and Contracting Procedures for Public Works in Japan (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Exchange of Letters Regarding Implementation of the Measures Regarding Cellular Telephone and Third-Party Radio Systems (March 12, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)

- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- U.S.-Japan Insurance Agreement (December 15, 1996)
- Japan's Recognition of U.S.-Grademarked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency procurement of VHF Radio Communications System (March 31, 1997)
- U.S.-Japan Agreement on Deregulation Initiative (June 19, 1997)
- U.S.-Japan Agreement on Distilled Spirits (December 17, 1997)
- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- U.S.-Japan Joint Report on Investment (April 28, 1999)
- U.S.-Japan Agreement on NTT Procurement Procedures (July 1, 1999)

Kazakstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)

- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)

- Agreement on Korean Motor Vehicle Market (October 20, 1998)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Laos

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (August 4, 2000)

Latvia

- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- Bilateral Investment Treaty (December 26, 1996)

Macedonia

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (June 2, 2000)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

Morocco

- Bilateral Investment Treaty (May 29, 1991)

Nepal

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (July 13, 2000)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (November 25, 2000)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights (November 17, 1998)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)

Poland

- Business and Economic Treaty (August 6, 1994)
- Bilateral Investment Treaty (August 6, 1994)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)

- Bilateral Investment Treaty (January 15, 1994)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Agreement on Russian Firearms & Ammunition (April 3, 1996)
- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (December 15, 2000)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)

Slovakia

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)
- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- U.S.-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Trade in Textiles and Textile Products (1997)
- Agreement on Market Access (February 20, 1998)
- Extension to Agreement on Trade in Textiles and Apparel Products (December 15, 2000)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)
- Agreement on Trade in Textiles and Textile Products (1997)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement on Trade in Textiles and Textile Products (1997)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Copyright Agreement (June 27, 1997)

II. Agreements That Have Been Negotiated But Have Not Yet Entered Into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Inter-American Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)

Bilateral Agreements

Azerbaijan

- Bilateral Investment Treaty (signed August 1, 1997; pending exchange of instruments)

Bahrain

- Bilateral Investment Treaty (signed September 29, 1999; pending exchange of instruments)

Belarus

- Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

Bolivia

- Bilateral Investment Treaty (signed April 17, 1998; pending exchange of instruments)

Croatia

- Bilateral Investment Treaty (signed July 13, 1996; pending exchange of instruments)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999; pending exchange of instruments)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Honduras

- Bilateral Investment Treaty (signed July 1, 1995; pending exchange of instruments)

Jordan

- Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (signed October 24, 2000; pending approval by both parties)
- Bilateral Investment Treaty (signed July 2, 1997; pending exchange of instruments)

Laos

- Bilateral Trade Agreement (initialed August 13, 1997)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)
- Bilateral Investment Treaty (signed January 14, 1998; pending exchange of instruments)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by both parties and exchange of instruments of ratification.)

Russia

- Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

Vietnam

- Agreement between the United States and Vietnam on Trade Relations (July 13, 2000; pending approval by both parties)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through February 2000. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Free Trade Area of the Americas
  - Summit of the Americas Declaration and Action Plan (December 11, 1994)
  - Joint Declaration of the Trade Ministers (June 30, 1995)
  - Joint Declaration of the Trade Ministers (March 21, 1996)
  - Joint Ministerial Declaration of Belo Horizonte (May 16, 1997)
  - Joint Ministerial Declaration of San Jose (March 19, 1998)
  - Summit of the Americas Declaration and Action Plan (April 19, 1998)
  - Joint Declaration of Toronto (November 4, 1999)
- Asia Pacific Economic Cooperation
  - Declaration of Common Resolve (November 15, 1994)
  - Declaration for Action (November 19, 1995)
  - Declaration on an APEC Framework for Strengthening Economic Cooperation and Development (November 22-23, 1996)
  - Declaration on Connecting the APEC Community (November 25, 1997)

- Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Declaration: the Auckland Challenge (September 13, 1999)

- U.S.-Andean Community Trade and Investment Council Agreement (October 30, 1998)
- United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)

Bilateral Agreements and Declarations

Chile

- U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

Egypt

- U.S.-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- U.S.-EU Transatlantic Economic Partnership (May 18, 1998)
- U.S.-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Ghana

- U.S.-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Japan

- U.S.-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

Jordan

- U.S.-Jordan Trade and Investment Framework Agreement (February 18, 1999)

Morocco

- U.S.-Morocco Trade and Investment Framework Agreement (March 16, 1995)

Nigeria

- U.S.-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

South Africa

- U.S.-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Turkey

- U.S.-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Uruguay

- U.S.-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)