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WTO SINGAPORE MINISTERIAL MEETING

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

FEBRUARY 26, 1997

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WTO SINGAPORE MINISTERIAL MEETING

WEDNESDAY, FEBRUARY 26, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
January 31, 1997
No. TR-1

CONTACT: (202) 225-1721

Crane Announces Hearing on WTO Singapore Ministerial Meeting

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the outcome of the recent ministerial meeting of the World Trade Organization (WTO), held in Singapore in December 1996. **The hearing will take place on Wednesday, February 26, 1997, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.** Oral testimony at the hearing will be heard from both invited and public witnesses.

BACKGROUND:

The Uruguay Round Agreements, approved by Congress in late 1994 and entered into effect on January 1, 1995, are the broadest, most comprehensive multilateral trade agreements in history. They establish the WTO as the successor organization to the General Agreement on Tariffs and Trade to implement the agreements internationally, resolve disputes, and conduct future negotiations.

Trade ministers from over 120 WTO-member countries met in Singapore in December 1996 to assess the status of world trade under the WTO. They addressed the progress made in the 2 years of operation of the WTO, the built-in agenda of 74 issues in the WTO agreements that Members have committed to review or negotiate by the year 2000, continuing negotiations on certain services negotiations under the auspices of the WTO (financial services, basic telecommunications services, and maritime services), and new issues for further negotiation.

The most significant outcome of the meeting was the endorsement of an agreement liberalizing market access in the information technology industry by ministers from 28 WTO-member countries representing 85 percent of global trade in information technology products endorsed. This Information Technology Agreement (ITA) would eliminate tariffs on information technology products by the year 2000 on a wide range of technology products. For the ITA to take effect, participating countries must constitute at least 90 percent of global information technology trade. The ITA is scheduled to become effective on July 1, 1997. Negotiations on technical details are underway.

In announcing the hearing, Crane said: "The WTO ministerial meeting in Singapore successfully provided a significant opportunity for us to assess how the WTO Agreements have been functioning and to look to the future, laying the groundwork for further negotiations on tariffs, services, and the built-in agenda. I am greatly encouraged by the development of the ITA. I hope that USTR and our trading partners can quickly work out the details of this agreement so that we may eliminate tariffs worldwide in this important sector and expand lucrative export markets for our industry."

(MORE)

FOCUS OF THE HEARING:

The hearing will examine the outcome of the Singapore Ministerial meeting, the ITA, the implementation of the Uruguay Round Agreements, the outcome of ongoing negotiations on basic telecommunications services, and the prospects for the future of the WTO, including the "built-in agenda" already set for further negotiation, further market access liberalization, the extended services negotiations, and potential new issues for further negotiation.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225-1721 no later than the close of business, Tuesday, February 18, 1997. The telephone request should be followed by a formal written request to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee on Trade staff at (202) 225-6649.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. **THE FIVE-MINUTE RULE WILL BE STRICTLY ENFORCED. The full written statement of each witness will be included in the printed record, in accordance with House Rules.**

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statement and a 3.5-inch diskette in WordPerfect or ASCII format, for review by Members prior to the hearing. **Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than 10:00 a.m. on Monday, February 24, 1997.** Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement and a 3.5-inch diskette in WordPerfect or ASCII format, with their address and date of hearing noted, by the close of business, Wednesday, March 12, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

(MORE)

WAYS AND MEANS SUBCOMMITTEE ON TRADE
PAGE THREE

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. **At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on a 3.5-inch diskette in WordPerfect or ASCII format.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS_MEANS/'.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-225-1904 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

*****

Chairman CRANE. Will all of our guests please take their seats? Good morning and welcome to the first hearing in the 105th Congress of the Ways and Means Trade Subcommittee. The purpose of this hearing is to examine the outcome of the WTO Singapore Ministerial Meeting held in December, especially the Information Technology Agreement endorsed by the Ministers at the meeting, and the basic telecommunications services agreement concluded last week.

In addition, we will study the prospects for the future of the WTO, including the built-in agenda set for further negotiation, additional market access, liberalization, the extended services negotiations and potential new issues for further negotiation.

I led a delegation of the Ways and Means Members to the Singapore meeting in December and had an opportunity to meet with WTO officials, representatives from delegations of our trading partners and business representatives. I believe that the meeting successfully provided a significant opportunity for us to assess how the WTO Agreements have been functioning and to look to the future, laying the groundwork for future negotiations on tariffs, services and the built-in agenda.

The most significant outcome was the endorsement of the Information Technology Agreement, an agreement that will reduce tariffs on information technology products. I look forward to hearing what the impact of this agreement will be on various U.S. industries.

In addition, although it was not a formal focus of the Ministerial, I was gratified that our discussions with a wide variety of other delegations demonstrated that our trading partners agree with the U.S. view that accessions to the WTO should take place only under commercially acceptable terms.

Finally, I would note my agreement with the conclusion of the Ministers that the WTO should focus on trade related issues only and that labor issues are best addressed by the International Labor Organization.

I now recognize our distinguished Ranking Member, Mr. Matsui, for any statement he would like to make.

Mr. MATSUI. Thank you, Mr. Chairman.

I want to thank you and congratulate you for holding this hearing and also for leading the delegation to the Ministerial Meeting in Singapore. I might just point out that Karen Thurman, our newest Member, was also part of that delegation and she is here today. Although, not a Member of the Trade Subcommittee, we welcome her here.

I would just like to congratulate the administration for both the information technology agreement and also the recent telecommunications agreement. I know it was very, very difficult. On the other hand, I think you achieved quite a miracle and a doubleheader, so to speak, and I think as a result of this the United States is going to be very well positioned as we approach the 21st century to compete and certainly it is going to create hundreds of thousands of jobs over the next 10, 15, 20 years.

And, so, congratulations for that effort and we look forward to working with you on other issues that Chairman Crane has spoken about, obviously investment issues and others. And, so, again, Mr. Chairman, thank you and I look forward to working with you, as well.

[The opening statements follow:]

STATEMENT OF REP. JIM RAMSTAD
WAYS AND MEANS SUBCOMMITTEE ON TRADE
HEARING ON THE WORLD TRADE ORGANIZATION'S
SINGAPORE MINISTERIAL MEETING
FEBRUARY 26, 1997

Mr. Chairman, thank you for calling this hearing today to review the successes of the first Ministerial Meeting of the World Trade Organization (WTO).

As I stated last September when the Subcommittee met to talk about the plans for the Ministerial meeting, continued progress under such trade efforts as the WTO and NAFTA is imperative to our economy. Our continued economic prosperity and growth depend on access to markets outside our borders.

I was very pleased to learn about the successful negotiations of the Information Technology Agreement (ITA), and subsequent to the Ministerial, the Telecommunications Services Agreement. The ITA liberalizes market access in the information technology industry and eliminates tariffs on these products by 2000, thus providing greater opportunities for American workers.

The Telecommunications Services Agreement also benefits American workers who will see their industry's opportunities grow from the increased access to foreign markets -- from only 17% of the top twenty telecommunications markets today to nearly 100%. That translates into the creation of approximately one million U.S. jobs in the next ten years in the telecommunications and related industries. In addition, American consumers should see the average cost of long distance calls drop by 80%.

While I am very pleased at USTR's abilities to secure these agreements, I know we can't stop there. My hope today is that we will also discuss the role Fast-Track Authority plays in our ability to push for continued negotiations and further market access liberalization in sectors under the "built-in" agenda, such as agriculture. The U.S., with its open markets, has more to gain than any other country from opening market access throughout the world. Without the clout of Fast-Track Authority, how aggressively will we be able to open these markets to our exports?

Mr. Chairman, thanks again for calling this hearing. I look forward to listening to the testimony of today's witnesses and learning more about the December meeting.

OPENING STATEMENT OF CONGRESSMAN MATSUI
SUBCOMMITTEE ON TRADE HEARING ON
WTO SINGAPORE MINISTERIAL
FEBRUARY 26, 1997

MR. CHAIRMAN, I CONGRATULATE YOU FOR HOLDING THIS HEARING TODAY TO REVIEW THE OUTCOME OF THE FIRST MINISTERIAL MEETING OF THE WORLD TRADE ORGANIZATION LAST DECEMBER AND THE RECENTLY CONCLUDED WTO AGREEMENT ON BASIC TELECOMMUNICATIONS TRADE. IT IS ESSENTIAL THAT THIS SUBCOMMITTEE MAINTAIN ACTIVE OVERSIGHT OF WTO ACTIVITIES AND OF CURRENT TRADE NEGOTIATIONS AS THEY AFFECT OUR ECONOMY.

I CONGRATULATE THE ADMINISTRATION IN EXERCISING UNITED STATES LEADERSHIP TO CONCLUDE SUCCESSFULLY BOTH THE INFORMATION TECHNOLOGY AGREEMENT TO ELIMINATE TARIFFS ON A BROAD RANGE OF GLOBAL INFORMATION TECHNOLOGY PRODUCTS AND THE AGREEMENT TO OPEN THE WORLDWIDE BASIC TELECOMMUNICATIONS MARKET TO INVESTMENT AND COMPETITION. THESE ARE BOTH LANDMARK

AGREEMENTS THAT WILL CREATE ENORMOUS TRADE AND INVESTMENT OPPORTUNITIES FOR AMERICAN BUSINESS AND MANY HIGH TECH JOBS FOR AMERICAN WORKERS.

THE SINGAPORE MINISTERIAL DEMONSTRATED THAT THE WTO IS OFF TO A GOOD START WITH A SUBSTANTIAL AGENDA TO IMPLEMENT THE URUGUAY ROUND COMMITMENTS AND A WORK PROGRAM TO PREPARE FOR FURTHER NEGOTIATIONS AND TO ADDRESS NEW ISSUES. AND THE BASIC TELECOM AGREEMENT CLEARLY ESTABLISHES THE WTO AS THE LEADING INTERNATIONAL FORUM FOR SERVICES AS WELL AS GOODS TRADE.

THE PRIVATE SECTOR IS ALSO TO BE CONGRATULATED FOR THEIR ESSENTIAL ADVISORY ROLE AND SUPPORT OF ADMINISTRATION NEGOTIATING EFFORTS. I LOOK FORWARD TO HEARING THEIR ASSESSMENT OF THE WTO AND THE RECENT AGREEMENTS. I ALSO WELCOME DEPUTY USTR JEFFREY LANG BACK TO THE SUBCOMMITTEE. THANK YOU, MR. CHAIRMAN.

Congress of the United States
House of Representatives
Washington, DC 20515–3603

Congressman Wes Watkins Opening Statement Before the Trade Subcommittee Hearing of February 26, 1997

Mr. Chairman, I would like to thank you and for allowing me the opportunity to join the subcommittee this morning and participate in this hearing. I am excited to hear of all the progress that has recently been made by the USTR's office at the Singapore Ministerial Conference and in negotiating the recent agreement on a new World Telecommunications pact. As you know, there is still a great deal of anxiety regarding the powers and procedures of the WTO, and I hope this hearing will serve to alleviate some of the concerns the public and the Congress may have regarding the WTO.

One particular concern I have about the WTO is the amount of time which has taken to reach a resolution in the EU Bovine growth hormone case. The European Union's ban on beef treated by safe hormones has been in place for eight years and has cost American cattlemen hundreds of millions of dollars. Numerous scientific studies, commissioned by both the United States and the European Union, have proven the hormones to be safe, thereby proving the ban unmerited and illegal. **The European Union's own Codex Report, which confirmed the safety of these hormones, was released in December of 1995, and yet 14 months later the ban is still in place.** It is my belief that these studies serve as proof positive the European Union is merely using the WTO's dispute settlement process to drag out the inevitable.

As the WTO dispute settlement process evolves through precedents and future ministerial conferences, it is imperative that the USTR's office push for an immediate removal of the ban on US beef to the EU and then for the long run, some sort of mechanism to prevent parties from using the WTO as a way to put off implementing their promises.

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Mr. Lang, this is a serious problem. This unmerited ban, coupled with the current economic distress of the livestock industry, is a hardship our producers should not have to incur. I am confident in the US Trade Representative's willingness to bring this matter to an acceptable conclusion. However, if this process continues to drag out much longer, I will have no choice but to search for a legislative resolution to this problem.

Chairman CRANE. Thank you, Mr. Matsui.

Today we will hear from a number of distinguished witnesses and in the interest of time, I would ask that you try to keep your oral testimony to 5 minutes, and we will include longer, written statements in the record.

Our first witness will be Deputy U.S. Trade Representative Jeffrey Lang.

Ambassador Lang, let me congratulate you on your hard work in concluding the WTO basic telecommunications services negotiations last week.

I believe that this agreement is a tremendous example of how opening markets abroad will benefit our businesses and U.S. consumers. And I might add, parenthetically, that Ambassador Barshefsky, as I understand it, is tied up with the meetings in anticipation of President Frei's speech to the Congress tomorrow. It is probably just as well because you can pay her appropriate tribute that she could not claim herself for the outstanding job she did in Singapore.

With that, I yield to you, Mr. Lang.

STATEMENT OF HON. JEFFREY M. LANG, DEPUTY U.S. TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. LANG. Thank you, Mr. Chairman and thank you, Mr. Matsui. You are absolutely right about Charlene Barshefsky, she has picked up this job in midfield and run hard with the ball and done what I think is just a spectacular job here. I truly regret that she cannot be with you, especially since so many Members have shown up. I think there is a lot to do this year in trade.

I was going to give an oral statement which was supposed to be half of the written statement, I scratched out half of that and I will now remove half of that and see if I can cut through this quickly and leave plenty of time for questions.

But I do think there are a couple of important points that I should make on behalf of the administration. First, the WTO is the center of the system. Remember the trading system is designed to ensure a rising standard of living for our people, not just opportunities for firms, but opportunities for workers and communities and everybody else in this country.

These are things that the WTO is tailormade to do and to do in a new world where we are going to have to be faster of foot and more flexible than we have been in the past with the old system of rounds.

Now, the Ministerial in Singapore was a significant meeting, because it was the first meeting of the WTO when we were going to try and put these principles into effect. So, we had to make some breaks with the past and move into an organization that was going to be able to deal with a world of 18-month product life cycles. This is going to require some different ways of doing things.

Obviously, the main things we were looking at was how the agreements are being implemented? How were we going to advance the ongoing work? And then the area that received the most press attention about these new areas that have to be explored in the future.

We are, as I take it some of you are, pleased with the results from Singapore. The ITA is obviously a major accomplishment. But also the businesslike way the meetings were conducted, the precedents they set for future Ministerials in terms of the work that can be done on paper, without Ministers having to get involved, is enormously important because we have to chew through so much more treaty text today than we ever have had to do in the past.

Ministerials are absolutely essential. We have to have political oversight of the trading system. And it was very important not only that there was an interagency team from the administration there, but that there was strong representation from the Congress and, in particular, this Committee. Everybody in the world knows exactly how the American political system operates and they know that without support and active participation by the Congress, the administration cannot move forward on a trade policy without bipartisan Congressional support.

Now, let me just mention a couple of things that I think were important at the meeting. One was, in terms of this issue of implementation—which is not particularly high-profile or sexy but is enormously important—the key thing that went on in Singapore was that the United States was able to get the system working early in 1996 to produce the basic implementation reports that we needed Ministers to approve in order to be able to move the system forward in the next 2 years.

If you take a subject like agriculture, for example, there is obviously a lot of resistance from some of our major trading partners about moving forward in agriculture in accordance with a built-in agenda.

A lot of the work that led to the decision at Singapore to immediately begin an exchange of information and analysis on agriculture depended on the Committee work that had gone on sort of below the surface in Geneva all year. Using those Committees in Geneva is an important way to advance American interests. It does not get much coverage but it does advance our interests very substantially.

With regard to the enforcement action, I would emphasize here that, of course, the high profile thing is dispute settlement and we are far and away the most active user of the dispute settlement system. Probably 40 percent of the cases involve the United States mostly as a plaintiff.

But it is also important that we use the committee system in that regard. There are many countries whose trade practices are objectionable to us. We can raise those practices in committees, like

the balance of payments committee, for example. Seven or eight countries gave up balance of payments cover in Singapore because of the committee work. I think that helps all of us. It means Turkey is more open to our exports today than they were before the Singapore meeting, just to use a small example.

I think it bears repeating, whenever I talk about dispute settlement, even if no question has ever been raised about it, that this system in no way impairs the national sovereignty of the United States; only Congress, not the WTO, can change the laws of the United States.

Now, with regard to the built-in agenda, this is the agreed agenda of things we are going to be doing in the future, that is, beyond 1997. We know the things that are coming up in 1997, things like the rules of origin negotiation and the financial services negotiation which I understand some of you might want to talk to me about.

But beyond that, there is an agenda beginning in 1999 of extremely important negotiations. I would be glad to go through it with you in detail in the Q and A, but things like agriculture, services, and safeguards are all the subject of scheduled negotiations that will go on in the future in this organization. That whole built-in agenda was approved in Singapore and it is important.

Now, let me just say with regard to the emerging issues, that we might want to discuss this in some detail, this is trade and labor standards, investment, competition, those kinds of issues. I think with respect to labor, I know it is a controversial issue on the committee, but we did move forward in the sense that we were able to get agreement from our trading partners, I think, on two basic ideas.

One is that core labor standards should be respected, and second, that the ILO and the WTO should continue to work together. We would like to work with you on how this issue can move forward in accordance with the requirements of section 131 of the act.

With regard to investment and competition, we have very modest study programs in place. We have some problems with diverting attention to investment from the OECD negotiations in Paris. But we think educating our developed country trading partners about the investment issue is important. Competition is not a well-developed issue in the WTO except for one place where it is remarkably well developed and that is in the results of the telecommunications services negotiations which I will speak about in a minute.

Let me just say with respect to market access, obviously the ITA is an enormously important agreement. It phases out tariffs on a wide range of products over a very short period of time mostly by the year 2000, $500 billion in annual trade flows, and I think that it did help to do the ITA to be able to then to ahead and complete the telecommunications negotiations.

Many of the important things we did in Singapore were meetings that occurred at American initiative on the margins of Singapore. On the margins of Singapore, for example, we had a meeting with African trade delegations to find out what their concerns about the trading system were. Similarly, we had a telecommunications meeting to which we invited representatives of the World Bank and the FCC and so on. That is when the improved offer process began.

I could talk all night about this telecommunications agreement, but I think it is a remarkable achievement in and of itself. It is even more remarkable in connection with the ITA because it increases the advantage to our workers and companies of the ITA because we will be building redundant telecommunications networks all over the world. I think it shows that we can move forward and negotiate in this forum on an ongoing basis on one basic condition. That is, a lot of other countries are willing to come forward and make commitments in the system and not just be free riders. If countries are prepared to make commitments it appears now that we can move forward on an ongoing basis.

So, there is a lot here I should have said but these are, I think, some of the most important things. I know there are a lot of issues all of you have to raise with us, but on behalf of Charlene I just want to say that working together on a bipartisan basis is important. This is an important area of our economic development and we have an administration which I think is intent on moving forward in the area and we want to work closely with you to find ways to do that.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF JEFFREY M. LANG
Deputy United States Trade Representative

before the Subcommittee on Trade
of the Committee on Ways and Means
U.S. House of Representatives

February 26, 1997

Introduction

Thank you, Chairman Crane, Congressman Matsui and other Members of the Subcommittee. It is my pleasure to speak to you today about the World Trade Organization's recent ministerial meeting in Singapore, and the accomplishments which that meeting and the ongoing work of the WTO have produced for the benefit of American workers, businesses and our economy as a whole.

In just a few days' time, the Administration will be releasing the 1996 Annual Report of the President on the Trade Agreements Program, pursuant to our responsibilities under Section 163 of the Trade Act of 1974, as amended. Like last year's report, the report this year will again feature a chapter on developments in the WTO which satisfies various reporting requirements set forth in the Uruguay Round Agreements Act of 1994. That chapter will provide a comprehensive look at the functioning of the WTO, both overall and in each of its subsidiary bodies. In essence, you can consider it a progress report -- or report card -- on where and how far the WTO has gone in accomplishing its mission, particularly vis-a-vis U.S. objectives. I urge you to review it carefully, but I plan to take advantage of your time today to highlight just a few important points.

The WTO and the multilateral trading system which it oversees are key factors in ensuring continued U.S. economic growth, a rising standard of living and new opportunities for American firms, workers and consumers to expand their horizons and provide for the future. These are the leading goals of U.S. trade policy, and the WTO is tailor-made for us to pursue these goals. At the recent ministerial in Singapore, the trade ministers of the world came together to assess compliance with existing agreements, advance ongoing work and outline directions for the future of the organization. In all three of these areas, important U.S. interests were not only defended -- but were promoted -- through the development of a sound multilateral system for expanding trade and enforcing the rules on which trade liberalization is based.

We were very much pleased with the results from Singapore, most immediately because of the success we achieved in bringing a number of countries into the Information Technology Agreement, but also because of the serious and businesslike precedent that the Singapore meeting set for future ministerials. In establishing the WTO, the countries participating in the Uruguay Round agreed that there should be regular ministerial conferences to oversee the work of the organization, occurring on at least a biennial basis. Under the previous GATT system, ministerial meetings were usually held only to launch or conclude comprehensive negotiating "rounds." These rounds gradually -- yet slowly -- reduced barriers to trade and opened up foreign markets, often taking the better half of a decade to complete. While they helped to ensure the success of Western economies and values in the decades which followed the second World War, this system of trade liberalization represents an increasingly inefficient approach for opening markets to U.S. exports.

In the fast-paced and ever more complex world in which we now live, we simply cannot afford to rely exclusively on such a stop-and-start approach to trade liberalization. The WTO was, therefore, set up to be a forum for *ongoing* consultation, negotiation and liberalization in international trade. In turn, WTO ministerials were designed to provide the needed political oversight to this ongoing work program, ensuring that it would always be the consensus-based interests of the member countries which would set the organization's agenda and pace. The outcome at Singapore, including its contribution to the recent successful conclusion of the

telecom negotiation, in many ways fulfilled this promise of the WTO for accelerating the attainment of U.S. trade and economic policy objectives.

Trade & the U.S. Economy

Part of the Administration's plan for economic prosperity -- one shared by many members of Congress -- has been the expansion of trade, in part through the negotiation and enforcement of market-opening agreements such as were achieved in the Uruguay Round. Trade (exports plus imports) in goods and services, when taken together with earnings on foreign investment, has risen from a value equal to 25 percent of GDP in 1992 to one equal to nearly 30 percent of GDP in 1995, from $1.6 trillion to nearly $2.3 trillion.

The expansion of U.S. exports has been impressive. From 1992 to 1996:

- the value of U.S. merchandise exports to the **world** has grown by 39 percent;
- U.S. exports to **Japan** have grown by 41 percent, despite the Japanese economy's being at or near recession throughout most of the period;
- U.S. exports to the rapidly growing **Asian Pacific Rim** countries, excluding Japan and China, have likewise grown by 57 percent;
- U.S. exports to NAFTA partners **Canada** are up by 48 percent and to **Mexico** by 40 percent;
- the increase to **Mexico** is particularly remarkable in light of that country's severe recession which lowered Mexican GDP by 7 percent in 1995; U.S. exports to Mexico fell by 9 percent, but recovery (to which NAFTA contributed) has been rapid U.S. exports to Mexico in 1996 were nearly 23 percent higher than a year earlier;
- U.S. exports elsewhere in **Latin America** were up by 49 percent over the four year period while, to the **European Union** (which experienced only modest economic recovery over the period), U.S. exports increased by 18 percent.

Also,

- U.S. exports of **manufactured products** were $523 billion in 1996, or 42 percent higher than in 1992.
- U.S. exports of **advanced technology products** (a sub-part of manufactured products) have grown even faster. They were $155 billion in 1996, some 45 percent higher than in 1992. The United States also enjoyed a trade surplus in advanced technology products of $25 billion in 1996, almost double the level in 1995.
- The value of U.S. **agricultural** exports, after a number of years of slow growth, has increased sharply in the last two years. They were up by 22 percent in 1995 to a level of $56 billion, and in 1996, agricultural exports are up by another 7.5 percent to a record $61 billion.
- U.S. **commercial service exports** were $224 billion, up 26 percent from 1992

The President has emphasized the reduction of barriers to and the expansion of U.S. trade as a tool for creating greater economic opportunity for U.S. citizens. U.S. exports generally represent the output of some of America's most advanced and productive industries industries where both labor productivity and wages are higher than the U.S. national average.

- Estimates place the wages paid for U.S. jobs supported by U.S. goods exports at some 13 percent to 16 percent above the U.S. national average wage.

Thus, agreements to lower barriers to U.S. trade over time help shift the composition of U.S. employment growth toward higher productivity, higher paying jobs, also helping to raise U.S. living standards.

The growth of U.S. jobs supported by exports has, in fact, been significant under President Clinton's leadership.

- Since 1992, jobs supported by exports rose by 1.5 million to an estimated level of 11.3 million in 1996.

- Of those 11.3 million jobs, an estimated 7.6 million were supported by goods exports.

Export-supported jobs have risen significantly, in part because of the underlying strong growth in U.S. exports. Goods and services exports in 1996 were $836 billion, some 35% or $218 billion higher than in 1992.

In short, there is abundant evidence that trade liberalization, generally, and the Uruguay Round agreements, more specifically, are contributing to continued vibrancy and competitiveness within the American economy, to the benefit of investors, workers and consumers. In the WTO and at Singapore, our efforts have been dedicated to ensuring that the multilateral trading system can continue to provide the United States with lucrative economic growth opportunities well into the future.

Singapore: Strengthening the System and Expanding Market Access

The ministerial meeting in Singapore was structured to address all aspects of the multilateral trading system -- its past, its present and its future. I can assure you that the objectives and priorities of our bipartisan trade policy were very much reflected in both the substance and tone of the conference. The focus and motivation of the Singapore discussions were to advance the liberalization of trade, but on terms which emphasized that liberalization could not be assured solely through the reaching of agreements. It also requires their monitoring and enforcement.

The Singapore agenda centered around: (i) assessing the implementation and enforcement of existing agreements; (ii) reviewing progress on completing the WTO's "built-in agenda" of already-scheduled reviews and negotiations; and (iii) evaluating whether to add new areas of trade-related work to the WTO's agenda. Against this backdrop, an important breakthrough was also achieved in fashioning a market access package featuring the elimination of tariffs on a range of information technology products in which the United States is a leading international competitor.

Implementation

The success of the Singapore conference was in many ways attributable to the careful preparations which the WTO had made throughout the last year. Early in 1996, all WTO bodies were directed to review their activities and report on progress made in implementing their respective agreements. While successes were certainly to be noted, we and other WTO members considered it more important that the committees identify where problems existed and, when possible, make recommendations for addressing such problems.

This process yielded a comprehensive self-assessment of the functioning of the organization, allowing the trade ministers to focus on areas where greater or more creative efforts were required in order to secure compliance. For example, the ministers noted that the implementation of scheduled commitments in industrial goods and trade in services appeared to be proceeding smoothly and that the reform program for agriculture had been advanced, but they also signaled that greater attention should be paid to improving notifications and bringing certain domestic legislation into conformity with WTO obligations. In particular, those WTO Members entitled to transition periods were urged to take steps to ensure timely implementation of obligations as they

come into effect.

In certain other areas, the reports showed that a considerable amount of quiet progress has been made in improving compliance with obligations and inducing WTO members to abandon unnecessary trade restrictions. For example, as a result of work pursued in the Committee on Balance of Payments (BOP) Restrictions, eight countries (Poland, the Slovak Republic, the Philippines, Turkey, South Africa, Israel and Egypt) had eliminated all BOP-justified restrictions by the end of 1996, and one country (Hungary) has committed to the elimination of its measures by June 30, 1997.

In sum, the preparatory process helped to reinforce the WTO's transparency and accountability, thereby setting the right tone for Singapore and underscoring the organization's practical importance in ensuring the proper implementation of agreements already reached.

Enforcement

Another important aspect of ensuring full implementation of WTO agreements is through the use of WTO dispute settlement procedures. For example, the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) offers enormous benefits for a range of U.S. industries, including those engaged in the production of pharmaceuticals, agricultural chemicals, motion pictures, sound recordings, software, books, magazines, and consumer goods. However, the rights and benefits which we enjoy under this agreement would be of limited value if they could not be adequately enforced. While we have aggressively used the TRIPs Council to press for full and timely implementation of the TRIPs Agreement by all countries, we have also made vigorous use of WTO dispute settlement procedures in order to secure and consolidate the gains in TRIPs which we achieved in the Uruguay Round.

Thus far, the United States has been the most active user of WTO dispute settlement. We have been the complainant in nearly 40 percent of the disputes brought to the WTO since its entry into force. Currently, we are a complainant in 21 cases, with five cases before dispute settlement panels, 15 cases in the pre-panel consultation phase, and one case in the post-panel, implementation phase. Of perhaps greater importance than the actual litigation of cases, the "automaticity" of the WTO system has enabled the United States to reach satisfactory outcomes in a number of cases merely by entering into consultations -- *i.e.*, without having to take the dispute all the way to a panel. Because offending governments no longer can "block" the adoption of adverse panel reports, they have less of an incentive to engage in dilatory defensive litigation when dispute settlement procedures are invoked.

For example, the Government of Japan was not providing copyright protection to U.S. sound recordings produced between 1946 and 1971, as required by the TRIPS Agreement. Following a request by the United States for dispute settlement consultations, Japan amended its domestic law in a manner that satisfied U.S. concerns. A similar outcome was achieved in a dispute with Portugal involving patent protection, in which Portugal agreed to revise its law prior to the establishment of a panel.

Of course, at this point in the WTO's history, only a handful of disputes have gone through the entire dispute settlement process. However, we expect confidence in the dispute settlement mechanism to grow in light of: (i) the increased transparency which will result from the WTO General Council's decision to circulate most documents as unrestricted; (ii) the Dispute Settlement Body's adoption of an ethical code of conduct; and (iii) the WTO Appellate Body's demonstrated willingness to correct errant panel reports. However, notwithstanding the strengthening of the system, it bears repeating that in no way does this system impair the national sovereignty of the United States. In the end, only Congress -- not the WTO -- has the ability to change U.S. law.

I assure you that this Administration is taking close account of the experience we are gaining under the new dispute settlement procedures in formulating our ongoing litigation and negotiation strategy for enforcing U.S. rights under the WTO. We will also draw on this

experience in developing the U.S. position for the general review of the Dispute Settlement Understanding that is scheduled to occur in 1999.

Before leaving the topic of dispute settlement, I would like to say just a few words about a dispute which has attracted considerable attention over the past couple of weeks -- the European Union's decision to challenge the U.S. Libertad Act of 1996 and other aspects of longstanding U.S. policy with respect to Cuba. We regret the EU's decision to force its complaints over the implementation of our Cuba policy, including measures dating back to the Kennedy Administration, into the WTO dispute settlement process. We have made every effort to convince the EU and its member states to avoid a course that could create a confrontation in the WTO over what is clearly a foreign policy dispute, with only minor trade and investment components. Frankly, we don't believe that inter-governmental differences over measures like those reflected in our Cuba policy are capable of being resolved in a trade forum. Trying to force such a resolution risks undermining the ability of the WTO to address the kinds of controversies that it was created to resolve -- namely, commercial disputes. We have deferred making a formal statement of our views in order to leave the door open to a rapid settlement of our differences. We hope we can achieve a settlement so that we avoid damaging an institution which has done -- and should continue to do -- much to advance the interests of both the United States and the world trading system. We will be sure to consult with this committee and with interested members as we proceed.

The Built-In Agenda

The 1999 review of the Dispute Settlement Understanding is but one of many existing built-in agenda items which provide for continual review, negotiation and further liberalization of the agreements reached in the Uruguay Round. Other critical built-in agenda items include completing next year the ongoing negotiation for the harmonization of non-preferential rules of origin, and commencing the next phase of comprehensive agriculture and services negotiations in 1999 and 2000, respectively.

At Singapore, the United States stressed the importance of ensuring that adequate preparations were being undertaken to pursue this work. We are gratified that ministers committed themselves to a steady progression of work towards further liberalization and rule-making, so that future negotiations are best positioned to obtain the best possible results. Importantly, the Singapore conference also confirmed that the time frames provided for conducting future reviews and negotiations would be fully respected, and the United States will act to ensure that this takes place. This is especially significant in the case of agriculture, where there was resistance from a number of quarters to getting on with the necessary preparations for the next phase of negotiations. In the end, we and like-minded countries succeeded in confirming that, where appropriate, the necessary process of analysis and exchange of information would be undertaken to ensure that no time is wasted when reviews and negotiations come due. We will continue to press this view strongly in the Committee on Agriculture and other WTO Committees.

WTO Accessions

Related to the Built-In Agenda is the ongoing work of negotiating the accession of new members to the WTO. The process of accession offers an opportunity to help ground new economies in the rules-based trading system, and the United States is pursuing high standards for accession in terms of adherence to the rules and market access. For example, the Administration believes that it is in our interest that China become a member of the WTO. At the same time, we have been steadfast in leading the effort to assure that China's accession to the WTO occurs on commercial, rather than political, grounds. China maintains many trade barriers that must be eliminated, and we need to ensure that the necessary changes are made before accession occurs. The pace of China's accession negotiations depends very much on Beijing's willingness to improve the offers now on the table.

While China's accession has attracted far more attention, the United States takes every opportunity to pursue American interests with the 28 applicants that are now seeking WTO

membership, and to give leadership to the process. Russia's WTO accession could play a crucial part in confirming, and assuring, Russia's transition to a market economy, governed by the rules of law and international trade. Although discussions on Russia's membership remain at an early stage, we have been encouraged by our contacts to date and look to achieve additional progress. We also are excited about the accession prospects of many of the former Soviet republics, and the Baltic states. Others, like Saudi Arabia and Vietnam, are also becoming more active.

Emerging Issues

Growing international economic interdependence and the reduction of traditional trade barriers are necessarily influencing both the nature of international trade and the kinds of issues that are considered relevant to ensuring that our access to foreign markets is not unjustifiably impeded. To fulfill its mission in a credible manner, the WTO must be capable of taking up new trade-related issues -- acknowledging all the while that these issues may involve other policies having independent yet equally legitimate purposes. In light of these inevitable tensions, it is often the case that work must proceed on a careful and exploratory basis, focusing as much or more on mutual education and the exchange of information and views than on a pre-negotiation work plan.

At Singapore, ministers gave careful thought to the prospect of adding new issues to the WTO's agenda. Specifically, they reviewed the progress of discussions in the existing Committee on Trade and Environment, and considered whether it would be appropriate to begin educative or analytical work in a number of other areas.

Trade and the Environment

At the Marrakesh ministerial which established the WTO, ministers agreed to establish a committee to examine the relationship between trade and the environment and to examine whether it would be desirable to consider changes to the rules of the multilateral trading system in order to foster positive interaction between trade and environment measures and to help to avoid protectionist abuse. As evidenced in the Committee on Trade and Environment's report to the Singapore Ministerial, discussions thus far have revealed widely divergent perspectives in a number of areas and much work remains to be done. At the same time, the discussion itself has helped to increase mutual understanding of the serious issues which confront the two policy communities, whose interests and activities frequently intersect. We were pleased, for instance, that the Committee 's report to ministers specifically recommends that all members should follow the obligations of the Agreement on Technical Barriers to Trade in developing and implementing ecolabeling programs -- including in particular its transparency requirements -- notwithstanding differences of view as to whether certain types of ecolabeling are covered by the WTO Agreement on Technical Barriers to Trade.

Trade and Labor Standards

In Singapore, for the first time, we gained an explicit political statement by trade ministers which reaffirmed WTO Members' commitment to observe internationally recognized core labor standards, and to support the promotion of those standards. Moreover, the ministers underscored their belief in the mutually supportive interaction of trade, economic growth and core labor standards. On this point, the ministers also recognized that the WTO and International Labor Organization Secretariats had collaborated in a number of areas, and confirmed that this collaboration would continue in the future.

While this outcome may have fallen short of the immediate establishment of a working party -- which the Administration had sought pursuant to the Congress's mandate in section 131 of the Uruguay Round Agreements Act -- we welcomed the progress which we were able to make. These steps are not insignificant, and they represent a real beginning for the WTO's involvement in a critical area of trade policy. As you know, there was significant opposition from a number of countries to the idea of including any reference in the ministerial declaration to this point. However, in the end, we believe that there was widespread acknowledgment of the need to

address adjustment issues in trade. At the same time, this is obviously only a first step. We, therefore, intend to build on what common ground does exist to promote a better understanding of the trade and labor standard relationships and to enhance the WTO's interaction with the ILO and other involved institutions. These efforts are essential to solidifying the American appreciation of how trade liberalization works to the benefit of all elements of society in an increasingly globalized economy.

Investment and Competition Policies

With respect to trade and investment and trade and competition, ministers agreed at Singapore to start exploratory work to gain a preliminary understanding of the pertinent issues, without committing to negotiations on these topics in the future. We particularly stressed that both the complexity of the topics and the important work currently being pursued in these areas by other international institutions argue against the initiation of WTO negotiations, or even the preparation for negotiations. At most, we stressed, it is first important to develop a sharper understanding of the fundamental relationships between these issues and trade liberalization. On this basis, the ministers approved the establishment of two working groups with limited mandates. In two years' time, the WTO General Council will determine how the work of each body should proceed. As concerns the working group on trade and competition, we made our view abundantly clear that this was not the forum to raise issues which were already dealt with in other agreements of the WTO -- such as antidumping and other WTO-sanctioned trade remedy measures.

Government Procurement

Drawing largely on proposals made by the United States, ministers agreed in Singapore to initiate a study program on the issue of transparency in government procurement. A working group will study government procurement practices in order to develop elements for inclusion in an appropriate agreement to foster greater transparency, openness and due process in government procurement. The United States views this as important to the immediate creation of a more competitive and predictable bidding environment for one of the most lucrative areas of international commerce. It is also a critical first step in the gradual integration of procurement disciplines into the entire multilateral system.

Trade Facilitation

Finally, ministers asked the Council for Trade in Goods to do exploratory and analytical work on the simplification of trade and customs procedures, in order to assess the scope for establishing additional WTO disciplines in this area. For the United States, effective implementation of the Agreements on Pre-Shipment Inspection and Customs Valuation and the successful conclusion of ongoing negotiations on harmonization of non-preferential rules of origin will be critical to this effort.

Market Access Successes

Information Technology Agreement

As is now well known, the Singapore ministerial also provided a conducive forum for WTO members to make landmark progress in opening world markets to trade in the goods and services that will be essential to preserving competitiveness and prosperity in the 21st century. The United States spearheaded this effort, seeking to take full advantage of the negotiating authority Congress had extended in the Uruguay Round Agreements Act to fashion a market access accord in which both "producing" and "consuming" countries would reap special benefits.

The negotiation of an Information Technology Agreement to phase out tariffs on a wide range of global information technology products over the next several years will help immeasurably to open up important new commercial opportunities for leading edge U.S. manufacturers and exporters. This agreement -- covering a sector accounting for a trillion dollars annually in global

production and approximately $500 billion in annual trade flows -- also helped to dispel the myth that trade liberalization could only occur through comprehensive negotiating rounds. The ITA showed that the approaches of the past were not necessarily the best or only means to achieve greater market access in the future. The WTO demonstrated that it could live up to the task set out for it at Marrakesh, and reaffirmed this new, important role only a few weeks ago.

Agreement on Basic Telecommunications Services

On February 15, we concluded a WTO agreement on basic telecommunications services that is firmly rooted in the Clinton Administration's long-standing efforts to open global markets for telecommunications services, and which complements the objectives which the Congress itself endorsed in passing last year's telecommunications legislation. This pact will replace a 60-year tradition of telecommunications monopolies and closed markets with market opening, deregulation and competition -- the principles championed here and embodied in the 1996 Telecommunications Act.

The agreement covers over 95% of world telecom revenue and was negotiated among 70 countries -- both developed and developing. It ensures that U.S. companies can compete against and invest in all existing carriers. Before this agreement, only 17 percent of the top 20 telecom markets were open to U.S. companies; now they have access to nearly 100 percent of these markets.

The range of services and technologies covered by this agreement extends from submarine cables to satellites, from wide-band networks to cellular phones, from business intranets to fixed wireless for rural and under served regions. In short, the market access opportunities offered through this agreement cover the entire spectrum of innovative communications technologies pioneered by American industry and workers

The agreement covers market access, investment and procompetitive regulatory principles. With respect to market access, it provides U.S. companies market access for local, long-distance and international service through any means of network technology, either on a facilities basis or through resale of existing network capacity. On investment, the agreement also ensures that U.S. companies can acquire, establish or hold a significant stake in telecom companies around the world. Finally, 65 countries adopted procompetitive regulatory principles based upon the landmark 1996 Telecommunications Act. This agreement is fully enforceable.

Today, telecommunications is a $600 billion industry. Under this agreement, it will double or even triple in the coming decade. U.S. companies are the most competitive telecommunications providers in the world; they are in the best position to compete and win under this agreement. We estimate that this accord will lead to the creation of approximately a million U.S. jobs in the next ten years -- not just in communications companies, but in the high-tech equipment sector and a range of industries such as software, information services, and electronic publishing.

This agreement will also save billions of dollars for American consumers. Projections are that the average cost of international phone calls will drop by 80% -- from an average of $1 per minute to 20 cents per minute over the next several years. Every American with relatives or friends overseas and every business that operates internationally stands to gain from this agreement.

We view this agreement as the perfect complement to the Information Technology Agreement that we reached at Singapore. U.S. makers of telecommunications equipment, among the world's most competitive producers, will profit by meeting the new demand stimulated by the deregulatory, procompetitive terms of the telecom accord. With both agreements in hand, we have genuine cause to be excited about the potential for the U.S. information technology industry to lead the growth of the American economy in much the same way the automotive industry spurred tremendous growth 40 years ago.

Building upon this positive outcome, we are turning our attention to the financial services

negotiation and will work to spur progress in these negotiations when they resume in April. We are committed to achieving a comprehensive and meaningful agreement in this sector by the end of the year. Earlier efforts did not pay off, primarily because the commitments of key countries were far below what was necessary to achieve a truly liberalizing agreement. To successfully conclude these talks, our trading partners must significantly improve their commitments based on the GATS principles of market access, national treatment and MFN. However, with the precedent that has now been established in the telecom agreement, we hope to see better offers also emerge in the financial services negotiation once we return to the bargaining table.

Conclusion

Mr. Chairman, I have only been able to touch upon some of the most important developments that have occurred in the WTO over the past year and at its first ministerial conference last December. There is a vast amount of other work under way, activities that are reviewed in greater detail in our Annual Report. What I hope that I have been able to convey in my remarks today is that the WTO is largely living up to our hopeful expectations. To be sure, we have had to swallow some disappointments and there are no guarantees of success. Greater challenges are on the horizon, and there is much additional progress to be made. However, I think that we can be legitimately optimistic that the WTO can continue to serve in the best interests of the United States and its citizens, if we are dedicated and persistent in working toward that purpose.

Chairman CRANE. Thank you, Jeff.

At the Singapore Ministerial Meeting was the U.S. capacitor manufacturing industry consulted during these negotiations and would the inclusion of capacitors in the ITA agreement affect our national security? And, finally, how do you respond to the other arguments raised by the portion of the capacitor industry in opposition to the agreement?

Mr. LANG. We have been aware since last spring that the capacitor industry in the United States was divided about the ITA and that was a concern to us. It was the reason we did not include capacitors in the U.S. offer on the ITA. However, it was true that our major trading partners who were important markets for our exports of these information technology products insisted that capacitors were an essential ITA component and that if they were excluded the deal would unravel. So, we advised all the major domestic parties, including the capacitor parties, of those considerations.

Now, we, in consulting, as the law requires us to do, with these folks along with everybody else in this industry, we discovered that they do have some significant export concerns in the nontariff barrier area. And that is one of the major reasons that we pushed so hard on those nontariff barrier provisions that are included in the agreement.

We would like to work with the whole industry to make this agreement work for them. Exports have been increasing rapidly in recent years. Imports have actually declined.

As far as the national security issue, it was not raised until after the ITA was concluded in Singapore. And since the industry has been expanding rapidly it still is unclear to the administration what specific risks might be posed by this agreement.

I might say, at the request of the industry, the Department of Defense in 1995 allowed the procurement of capacitors from offshore plants. DOD appears to believe that a broad procurement

base, including both offshore and onshore supplies, enhances rather than detracts from national security.

But, obviously, we take any national security concern very seriously and if the Department of Defense determines that inclusion of capacitors in the ITA jeopardizes our security interests then we will take whatever action is necessary to rectify the situation.

Chairman CRANE. Thank you.

Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman.

Again, I would like to congratulate you and Ambassador Barshefsky, Ambassador Lang, for the two agreements that you have entered into recently.

Mr. LANG. Thank you.

Mr. MATSUI. What I would like to ask is in view of the fact that you have been very successful in sectoral agreements in the last few months, is this the approach that you believe will be the wave of the future, rather than comprehensive trade agreements?

How do these interrelate and is there anything instructive from this or is this anecdotal?

Mr. LANG. It is early days and it is tough to say. I think that there have always been sectors in the system that require what I call internal deals. That is, in agriculture, for example, we could not make a deal on agriculture that was disadvantageous to American agriculture and tell them that the reason for it was we had a great deal in the banking sector. We always had to make that kind of deal work in that rather large sector.

I think that we are going to have to negotiate simultaneously on a lot of things and there may be tradeoffs. If you look ahead to the scheduling of the built-in agenda which is not based on any planning that I am aware of, it just is the result of the outflow of the Uruguay round negotiations, you can see that there is a great deal of simultaneity. It is not a round and I do not think a round is in our interests when we have such a flexible economy, workers that can adjust so quickly to changes in the competitive environment.

On the other hand, I think what telecommunications does demonstrate, in both the success this year and the failure last April, is that we are going to have to work very hard with a much broader range of countries than we did even 10 years ago in order to get the necessary level of commitments to be able to justify these agreements to the American people.

We cannot get by without substantial commitments in major countries in Latin America and Asia, Central Europe, even Africa and Southern Asia. All those countries are going to have to make commitments to the system and it is going to be difficult. I can tell you it is time-consuming work. You have got to go to those capitals and meet those people and talk with them for months at a time in order to do it.

But I do not think a round makes it any easier. It is important to remember for people who say that you have to have everything on the table in order to make a deal that these issues—telecom, for example—were on the table in the Uruguay round and they were the things that were too tough to get done when everything was on the table.

So, I am not sure that a round is the solution to the problem. The real solution to the problem is a commitment among our trading partners to be prepared to undertake legal obligations in the WTO. If they are prepared to make commitments commensurate with those of the United States, adjusting for their stage of development, I think we can move forward on this continuing basis and do quite well for the American people.

Mr. MATSUI. Last, one of the concerns I have is the recent actions by the Europeans taking the Helms-Burton legislation to the WTO. And with this recent success, I think almost all of the negotiating parties, countries were advantaged by both the ITA agreement and the telecommunications agreement.

I believe frankly that they are jeopardizing the WTO and I want you to know that certainly Members, like myself, support what you are doing. The fact is that you are unwilling to allow jurisdiction to attach to the United States on this issue because it is clearly a foreign policy issue, although trade issues are attached to it, it is clearly a foreign policy issue.

This is how this issue emanated from Mr. Helms and Mr. Burton, who were not at all interested in the trade aspect of this, and you have significant support on the Hill, I believe on this, maybe not from all circles, but at least significant support.

And I hope the Europeans understand that this could jeopardize the WTO because even Members like myself could have questions about it if, in fact, sanctions are held against us for this act. We may have some reservations about the legislation, some of us internally, but this was clearly a foreign policy decision. I might disagree with it, but it was clearly a foreign policy decision.

Mr. LANG. I appreciate that and we will enforce the law. We have made our position clear in Geneva.

Chairman CRANE. Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman.

I, too, am sorry that the U.S. Trade Representative Designate Barshefsky is not with us. My understanding is she is with the President and the President of Chile. It is unfortunate that had you folks not wanted to push a fundamental revision of fast track, we would have already had a fast track agreement with Chile and perhaps she could have been with us.

You made a statement just a moment ago to the gentleman from California that you could not make a deal that was disadvantageous to agriculture. Disadvantageous to agriculture is a rather broad statement. I have discovered repeatedly that you have made decisions that are disadvantageous to segments of agriculture.

And I happen to represent an area that is about $3 billion, value-added, most of it specialty agriculture, on a broad-based structure. I will not visit on you the sins of your elders and revisit NAFTA and the commitment on paper that Ambassador Kantor made to us, in part, the wine industry and failed to deliver on.

Nor will I look at the recent problem with Mexico on broom corn and the fact that they have chosen to go after relatively narrow segments for retaliation, one of them, once again, wine. That failure to deliver continues to be compounded.

I am especially disturbed by what happened between the United States and Canada on the dairy/poultry agreement, in which we

entered into in what we thought—agriculture—was an understanding between the United States and Canada which even preceded NAFTA but certainly carried through NAFTA and which with the overlay of the WTO wound up with a decision that was disadvantageous to the United States.

I guess the decision does not bother me as much as the five-O decision, meaning even the U.S. representatives failed to support what we thought was a fundamental agreement on our side. And I guess I just have to ask you, when you say you could not make a deal that was disadvantageous to agriculture, most of us visiting the recent past find that an astounding statement since you have done so repeatedly, especially in terms of segments of agriculture.

I invite a response.

Mr. LANG. Well, I am certainly concerned about the dairy/poultry panel decision. It is wrong. And——

Mr. THOMAS. I agree it was wrong. But our guys voted with them.

Mr. LANG. Well, they are still wrong. And——

Mr. THOMAS. Well, are they still employed?

Mr. LANG. They are not employees of——

Mr. THOMAS. I understand, are they still citizens? [Laughter.]

Mr. LANG. But I would say as to the larger issue, I think that we have to be concerned about the individual sectors of agriculture and I encourage you to bring these kinds of problems to me or Charlene and we will try to work on them.

Mr. THOMAS. I can assure you, we brought them repeatedly and we have gotten written letters from the then Ambassador about what was going to be done, a timeframe for correction and how it was going to be corrected and it was never done.

I hope as we enter into this new era and as you folks come to us with a fast track agreement, which—and I know you put a nice little spin in your opening statement on the labor agreement that occurred in Singapore—but I do hope that gets you to understand maybe you have got to revise the position that you had in the past on the question of labor, the environment and fast track.

But at least I would hope that you would not undercut the tariff levels and reductions that were agreed to in the Uruguay round on specialty agricultural products. And hold that as a firm line without trading off particular segments or resist it in terms of retaliation.

If I can get that out of you, at least I have a minimum comfort level.

Mr. LANG. I will take the message back.

Mr. THOMAS. Well, I would take a personal commitment from you that you would not reduce them below the Uruguay round.

Mr. LANG. Well, I am not sure I completely understand but I do not have a problem with that if that is what you are asking. The question is, if we have an overall negotiating authority, are you asking if it would exclude specialty agriculture?

Mr. THOMAS. I guess my point is we have gone through a round of reduction. We have made fundamental changes in the entire agricultural system in the United States. That area ought to set a while and not enter into new arrangements with folks in terms of further reductions on the world scene, either in terms of specialty

agriculture, and I would push it to general agriculture, but especially specialty agriculture.

And if you would not be opposed to that, that is as good as a letter I guess, based upon the way in which folks have honored previous written statements.

Thank you very much.

Chairman CRANE. Mr. McDermott.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Mr. Lang, you could probably look around this Committee for a long time for anybody to understand what a capacitor is or what it really does. And I think those kinds of issues are hard for us to understand in any kind of specificity. But what I am concerned about, in listening to Mr. Matsui's remarks and your response, I would like you to give me the arguments that the EU uses as an explanation for why they have brought the Helms-Burton Act to the World Trade Organization.

My life experience tells me that there is always another side to something. And the EU must have good arguments why they think it fits under the rubric of WTO or at least they have constructed some way that they bring it to it where we say it is foreign policy, they must have another theory under which they are bringing it to the WTO. And in order to understand how the United States involves itself with the WTO—and one of the objections in the Congress was whether we would lose our national sovereignty if we involved ourselves in the WTO—I would like to understand what their argument is on the other side.

What would a representative from the EU say if they were sitting where you are?

Mr. LANG. Well, what they would say is that because it may have an effect on commercial operators, it should be something that is taken up in the WTO, a commercial organization.

Mr. MCDERMOTT. Would that be a nontariff barrier? What is the construct they are using?

Mr. LANG. Well, it is, in fact, unclear exactly what WTO concerns it would raise. It is certainly not a tariff issue. They might argue, at some stage in this proceeding, if it were to go forward—which as I say, I hope it does not do—that somehow limiting visas for commercial operators was inconsistent with the professional services agreement or something like that.

But it has no effect on goods trade, and it has no effect on trade that I can see at all. But, as Mr. Matsui said, the problem here is that this is not a trade matter. It is a foreign policy and national security matter. And we have always said throughout our history—it is not new to this administration—that no foreign panelist or other person is in a position to judge the national security or foreign policy interests of the United States. That remains true today.

Thus, I am not a very good advocate for this position because it is so far off the mark and so dangerous for the system.

Mr. MCDERMOTT. So what?

Mr. LANG. Dangerous for the system.

Mr. MCDERMOTT. Basically, you are characterizing their position as being one in which they say "this is the only forum in which we can address this issue." So, they just grab the WTO?

Mr. LANG. Well, actually that is not true. They have been working with my colleague, Stu Eisenstadt, and in those arrangements we have been able to deal with some of their problems. In addition, they have already retaliated by enacting what they call blocking legislation, legislation that is, in effect, to offset the effects of title IV of the Helms-Burton legislation.

So, it is not clear to me that they do not have other remedies. In fact, they are exercising other remedies, I think, quite effectively from their perspective. I am not sure, to be perfectly frank, why this WTO matter needs to move forward, from their perspective.

Mr. MCDERMOTT. Does this mean that when we want to implement something, if we frame it as a foreign policy issue, that we would then be able to exclude it from WTO?

Mr. LANG. Well, I suppose taken to its extreme it might mean that. But, in fact, for over 50 years the Congress has been very cautious in such matters. I mean the Helms-Burton legislation arises from a pretty repugnant act—shooting down these unarmed civilian aircraft.

And, in my experience, when the Congress enters into this area, it exercises a great deal of caution. I would urge it to continue to do so, because so much is at stake here in a commercial sense—the standard of living of our people, potentially.

On the other hand, I think it comes close to being irresponsible to take an issue like this which is clearly a foreign policy and national security matter to the WTO because it puts us in the position of having to assert those basic propositions. Remembering now that Europe is not just challenging the Helms-Burton law. It is also challenging 30 or 40 years of legislation with respect to Cuba, including the embargo and all kinds of other actions that have been on the books as foreign policy or national security actions since the late fifties or early sixties.

Mr. MCDERMOTT. So, it is really more than Helms-Burton that is at stake here?

Mr. LANG. Yes, sir, it absolutely is.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Chairman CRANE. Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Chairman.

There is a witness that is going to be in the second panel who is from my home State, the Iowa Farm Bureau president. Since he will not have an opportunity to visit with you personally about this, I thought I would try and just touch on a couple of things here. In his testimony he said that part of the reason why the U.S. agricultural leaders went to Singapore was to try and push a twofold agenda.

One was to make sure that we were proceeding successfully toward renegotiating the GATT in 1999. And the second was that they would be taken a little bit more seriously as a player in the world and that our government would be more willing to commit to resolving some of the agricultural trade problems.

I guess what I am curious about is how did they do in fulfilling that two-pronged agenda?

Mr. LANG. Well, I hope they feel they did very well. They certainly had an effect on galvanizing the U.S. delegation. As I said in my opening statement, the issue here, in taking agriculture in

general, was to make sure that our negotiating partners who are reluctant about moving forward with opening their markets for American agricultural exports be prepared to do so in accordance with this built-in agenda which has negotiations beginning in 1999.

And the accomplishment that they wanted—and I met with them several times during the meetings in Singapore—was to make sure that we begin exchanging data and analysis now so that there is no reason for stalling those negotiations when they are supposed to begin in 1999.

I am going to Geneva in a couple of weeks and I think it is time to begin that process of working out the exchange of data and analysis with our trading partners. I encourage the Iowa group to come talk to me directly about what their specific concerns are.

Let me say on this agricultural issue that this is a huge portion of our exports—something like $60 billion in exports last year. It is actually a high-technology sector that is very successful. We have been concerned about the implementation of the agriculture agreements.

Let me give you one example. When the agreements first kicked into place in July 1995, we discovered that Europe was putting into place a so-called reference price system which was not giving us the benefit of the bargain. We did not wait for the industry to file a 301 petition or hire lawyers or anything like that. We asked them if they had any objection to our suing Europe. And when they did not, we proceeded to do so on our own initiative.

Now, we are still working on that matter and Europe has been extremely reluctant to come into compliance with that. But it is not for lack of attention on our part, I do not think.

In any event, if there is something they need to talk to me about in a specific crop area or something like that, I welcome them coming in and seeing me as soon as possible.

Mr. NUSSLE. Well, my understanding is that it was just yesterday the administration received a letter from, I believe, 26 different groups suggesting that their concerns have not yet been adequately addressed in agriculture. The president of the Farm Bureau from Iowa is going to be here later on suggesting that farmers and ranchers are not convinced that the WTO and NAFTA Agreements are actually helping them.

I think the message that Mr. Thomas was suggesting and that I am suggesting is that for fast track to be successful we have got to have that kind of support. It is number one. It is not as sexy as some of the other issues and condensers and all sorts of things that Mr. McDermott was talking about—microchips and processors—that is for him to worry about. We are just talking about corn and beans.

It is not quite as sexy, but as a result there are a lot of votes in them there hills and when we are talking about fast track we have to show success.

My understanding from the testimony is that we are going to receive today, as well as my own constituents in Iowa, they are not convinced and that is the message that we need to be able to report to you.

The final thing that I was curious about is what effect do you believe passage of the farm bill, recent reforms in farm legislation,

has had on the 1999 negotiations? What effect do you see that having on our long-term agriculture strategy with regard to trade, now that you have had a chance to monitor that?

Mr. LANG. Well, let me say first that with an increase last year in agricultural exports of something like 14 percent from $53 or $54 billion to $60 billion, we are doing considerably better in agriculture. I remember a lot of years when we were under $30 billion in agriculture exports. So, we are doing a lot better. But I continue to offer to work with your people and find out what the problems are and jump on them.

With respect to the farm bill, I think that our trading partners are going to have to go a long way to come up to the standards of that farm bill. We are, in terms of domestic policy, ahead of our obligations and many of them are behind in their obligations. That is why we are bringing so many cases on these matters in the WTO, on beef hormones, on grains, on barley, on rice, on wheat, on corporation and we are going to continue to push to enforce those agreements.

I think the 1999 negotiation is going to be very tough because a lot of these folks are not ready for a competitive farm environment and the fact is, our farmers are ready for that.

Mr. NUSSLE. But, see, that is not the message they necessarily need. We know they are going to be tough, they have always been tough.

But the point is that if, in fact, we are ahead—and we are—and they are behind, and nothing seems to be resolved in the meantime, granting fast track and giving more authority to have continuing agreements that do not seem to hit the mark and cannot get us to that mark will be frustrating to agricultural sectors of all kinds and make it very difficult for us who would like to support fairer and freer trade, and understand the need of the administration to have a little bit of more autonomy in these negotiations through the fast track, it would be very difficult for us to support those things.

Mr. LANG. Well, as I say, I will take that concern back but I do not accept that we are not doing better because of these agreements. I think I can go through crop-by-crop and show you that.

Mr. NUSSLE. Well, food sells itself.

Mr. LANG. Sir.

Mr. NUSSLE. Food sells itself.

Mr. LANG. Yes. But you have to have access to the market.

Mr. NUSSLE. Thank you, but we have to eat and the world has to eat. So, with all due respect, I do not think it is because of you that we are doing $30 billion better. I think we are doing better because food sells itself. And I think that we miss our mark in many respects if we forget that. If we have open markets, if we have the ability to trade, we do quite well, food sells itself.

Mr. LANG. Yes, that is right, if the markets are open. That is a big "if" in a lot of these things.

Mr. NUSSLE. That is the job we are asking you to help us with, otherwise, it is going to be difficult to get that kind of legislation in the future.

Mr. LANG. OK.

Chairman CRANE. Mr. Jefferson.

Mr. JEFFERSON. Thank you, Mr. Chairman.

In a few minutes, I suppose after the second panel, you will hear from Representative Donna Christian-Green about a concern she has about rum of the Virgin Islands. Inasmuch as you may not be available to answer her question, I wanted to raise one for her, if I might.

Mr. LANG. Yes.

Mr. JEFFERSON. I understand that white spirits are included in the Singapore tariff package as a concession to the EU in view of their status as a major exporter of white spirits, particularly vodka and gin.

Can rum be excluded from the agreement reached in Singapore without undermining the purpose or balance of the agreement?

And can you detail for the Subcommittee the potential effect on the economy of the U.S. Virgin Islands if the tariff phase-out includes rum?

Mr. LANG. Say the second part again, I am sorry.

Mr. JEFFERSON. Can you detail for the Subcommittee, the potential effect on the economy of the U.S. Virgin Islands if the tariff phase-out includes rum?

Mr. LANG. Yes. I appreciate your raising this question. I have discussed it a couple of times with Congresswoman Christian-Green. In fact, I talked to her yesterday or the day before.

We are very concerned about this. It is going to be difficult to remove rum from the agreement because it is so critical to the balance of concessions. You have to remember that Europe is making a bigger tariff cut than the United States is. Part of that is compensated for by this distilled spirits agreement which includes rum that we negotiated on the margins of the ITA.

However, the important thing to preserve in the case of the Virgin Islands is their access to the U.S. market on favorable terms. It turns out that we think we can negotiate a type of side agreement with Europe that will preserve the benefits the Virgin Islands get.

I was working on that negotiation earlier this morning. It is not completed yet. But we do seem to be within reach of being able to do that. It essentially has to do with the differential price of the rum and it would be covered by the agreement. We may be able to exclude from the agreement rum that would be of importance to the Virgin Islands and that would preserve the tax carryover that they need and so on. So, we are hopeful that we can work something out with the Europeans on the matter.

In fact, they have a similar problem which makes it a little easier to work it out. But I am in close touch with her and I am open to any suggestions you have about how to resolve the problem. It is a critical part of the overall agreement, but I think we do not need to pull all of the rum out in order to solve the Virgin Islands' problem.

Mr. JEFFERSON. Well, it is a very important issue and I hope you will continue working hard to square it away.

Mr. LANG. Yes, sir.

Mr. JEFFERSON. You mentioned that on the margins, there was some discussion about African trade policy in these negotiations in Singapore. Can you elaborate on that for a moment?

Mr. LANG. Yes, sir.

We are very aware that Members of the Subcommittee have been concerned about trade with Africa and at the same time we have been carrying out the statutory mandate to study this matter. In connection with that study we decided that it would be useful at the Singapore Ministerial to ask African Trade Ministers, who were uniquely collected at this meeting, to come to a meeting with my colleagues and from other Federal agencies to discuss their concerns as a way of having some sort of direct input to our policy formulation process. That was very helpful and they were extremely forthcoming and frank. There were some very interesting things they said.

For example, they said they knew the era of foreign aid was over and they had to rely on trade and investment in order to develop. Their thinking is quite advanced and we have moved forward on that basis trying to develop a program that will be responsive to both congressional concerns and concerns of countries in the region.

I think this matter should be the discussion of continued consultations with the Committee over the next couple of weeks and hopefully we can come up with legislation that would be consensus bipartisan legislation and a real important addition to our trade policy. It is a very important area. There are 600 million people who are not participating very actively in the trading system there and that is a loss to us and to them.

Mr. JEFFERSON. How do you see it as being structured in the next several months, this continuation of the contacts and the discussion?

Mr. LANG. Well, we would be happy to structure it any way you want to do it. I think meetings with individual members or groups of concerned members would be fine. I think it is our responsibility to propose some ideas to you.

One interesting thing about this subject is that in the past the trade agencies, development agencies and financing agencies like the Treasury Department have not worked closely on this kind of problem.

I am pleased to say that in this situation we are working very closely together. My colleagues and I at Treasury and State and AID and so on have had an interagency working group on this subject since about October or November, I cannot remember exactly when it was. We are moving forward and we hope to have some pretty concrete suggestions for you in the next few weeks.

Mr. JEFFERSON. Thank you very much, Mr. Chairman.

Chairman CRANE. Mr. Houghton.

[No response.]

Chairman CRANE. Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

Mr. Lang, not long ago Ambassador Barshefsky reached an agreement between the television monitor advocates and the computer monitor advocates for the television screen. While the compromise seemed satisfactory and congratulations in your direction, how are you going to monitor those agreements?

Mr. LANG. Actually, we have several ways of doing that. One is there is a review mechanism in the ITA which will allow us to consult informally with our trading partners. This particular area you

are talking about has been very sensitive, particularly in Europe where some reclassifications have gone on that we are very concerned about.

So, I think that a monitoring and consultation process may be a helpful way of getting some early warning about what they are thinking and how they are going to implement the agreement.

In addition, this agreement will fall squarely within the dispute settlement process of the WTO. And I have not said this before but I should say it somewhere in this hearing, that dispute settlement process is turning into a more powerful weapon than we had anticipated because it cannot be stalled the way the old GATT system could.

So, most of our cases, where we are a plaintiff, are being settled on favorable terms before a panel is even appointed, usually in 4 or 5 months. I would hope that in this case the system would prove useful too. But we will certainly monitor the situation closely and be glad to stay in touch with you, whatever you need us to do to make sure it works out the way it is supposed to work out.

Mr. NEAL. Thank you.

The second question, worker rights, pages 8 and 9 of your testimony. It is fairly descriptive about how you treat the issue of worker rights. But could you verbally speak a bit to how you intend to enforce worker rights?

Mr. LANG. Yes, sir.

First, worker rights are an element of U.S. law in a number of programs, for example, the Generalized System of Preferences. We continue to receive information and petitions from nongovernmental organizations and other organizations about worker rights' problems with respect to the GSP Program and we are investigating those actively.

We have just had a team come back. I understand there is going to be a report on my desk when I get back to the office today about an investigation we just carried out in Indonesia where we will have interviewed not only government officials but labor leaders and opposition leaders and other people concerned about the problem.

Second, we have, in accordance with section 131 of the act, raised the question of core labor standards in the WTO as a whole, which is a difficult issue to move forward. There is a lot of fear and concern about it. Frankly, there is some division of opinion among your colleagues on the question. But, nonetheless, as I said in my opening statement, we were able in Singapore to get other governments to recognize these core labor standards, the right to organize, freedom from child labor and so on, and we were able to get recognition that the ILO and the WTO should work together closely in the future.

We now have to decide how to proceed with those kind of basic understandings, how to move forward on them in other words, and I think we are going to have to consult closely with you on it. It will, obviously, I think, based on the discussion today, be an element of the fast track debate. But we are trying to move forward on it in a multilateral context as well and we have some support.

Mr. NEAL. I do not profess to know more than my colleagues on the democratic side but I can say that worker rights is a unifying theme on our side and we will be monitoring it very, very carefully.

Mr. LANG. I understand.

Mr. NEAL. Thank you.

Chairman CRANE. Mr. Herger.

Mr. HERGER. Thank you, Mr. Chairman.

Mr. Ambassador, the longest standing section 301 case before your agency is a case involving canned fruit. Europe has been subsidizing their canned fruit producers with hundreds of millions of dollars annually for many years. Fifteen years ago the California canned peach producers and the U.S. Government sought to stop the EU from disrupting the world market by challenging EU practices in GATT dispute settlement. They won that case and a bilateral settlement was subsequently reached with the EU.

We now have data developed by the USDA that shows that the bilateral settlement has collapsed. EU canned fruit subsidies are way up as are EU production and exports. The Greeks now have so many peaches in the ground that they are dumping them into pits the size of football fields.

I am aware that the United States joined with five other countries last week in Brussels to protect EU canned fruit practices. I also understand that continued informal talks such as these are expected by no one to produce the type of broad-based reform we need from Europe in this sector. section 301 law requires that if a bilateral accord is not being satisfactorily implemented, USTR would take all measures in its power to correct the problem.

Can you tell me what measures will be taken to get this longstanding dispute resolved on a permanent basis?

Mr. LANG. I certainly agree that this is a longstanding dispute. I was actually involved 15 years ago in this dispute, so, nobody is more frustrated with the European lack of implementation than I am and the people at USTR.

Charlene has repeatedly raised this issue with Sir Leon Brittan, her opposite number in Europe. So far there has been nothing forthcoming. We have been forced to take the matter back to the WTO. I do not want to say exactly what we will do but we are very concerned by this. We are going to pursue it and one way or another we are going to have to resolve this thing.

But our objective is to get rid of the practice and sell more canned fruit, not to retaliate for the sake of retaliating. But, in any event, we will take the necessary actions to get some action on this. You are absolutely right, this has been a long standing dispute.

Mr. HERGER. Now, the end of your answer was that you say you will take steps to correct this. Now, the big concern that I have and I am sure that many of us have is that if accords like this one which are a direct result of international settlement are not adhered to——

Mr. LANG. Absolutely.

Mr. HERGER [continuing]. It really brings grave question into just how effective these settlements are. So, I would urge you to follow through with your last statement that we will stand very firm and take appropriate actions.

Mr. LANG. I appreciate your saying that especially in public. Thank you, sir, we will follow up on that.

Mr. HERGER. Thank you.

Chairman CRANE. Mr. Ramstad.

Mr. RAMSTAD. Thank you, Mr. Chairman.

Ambassador Lang, good to have you here. I know that my colleagues Mr. Thomas and Mr. Nussle referred to agriculture and fast track and coming from Minnesota I must also.

As you know, under the WTO built-in agenda timeframes, the deadline for reaching an agreement on agriculture is December 31, 1999. And given what is left to do as far as fast track is concerned, that is not much time. It is really a short timeframe.

And I am concerned, like my constituents, that without the clout of fast track authority we are not going to aggressively be able to push for greater access for our agricultural products or participate in the discussions at all.

I have two questions, Ambassador Lang. The first, when will the administration present a fast track proposal? And, second, if we are not involved, how aggressive would any agreement be in this area, as far as agriculture is concerned?

Mr. LANG. With respect to the first question we are working through a proposal now and consulting widely in the Congress. I am hopeful we can get up here with a bill fairly soon. I do not want to predict a time now because I have learned from sad experience that predicting timing in the administration is a difficult business. But this is——

Mr. RAMSTAD. Next month is reasonable though?

Mr. LANG. Yes. I think so. It is well advanced and I would be hopeful about that kind of timing. The problem without fast track becomes very serious. I might say I was out at Farm Fest. I do not think Farm Fest was in your district, it was out in southwestern Minnesota. But I got a chance to interact with some people who actually farm for a living, which I have not done for a long time.

It is obvious that we need to explain to people who do this for a living why these trade agreements are important. I think it is absolutely essential that we have this authority on as broad a basis as possible. Because we are going to have to be—this is, in part, an answer to Mr. Matsui's question earlier pretty opportunistic about trade agreements.

If we can do better on a regional basis then we can on a multilateral basis, we ought to do it. We ought to have the freedom, after consulting with you all and with the interested industry people, to make those kinds of choices without having to come back repeatedly over short periods of time for the authority.

But I agree with you that we have to establish the confidence in the agricultural community which is going to be used in a way that serves their advantage. I think we just have to work that out in the process of figuring out what this bill actually says to make sure that we earn that confidence from our constituents.

Mr. RAMSTAD. And certainly the administration and the Congress have had a good track record in recent years of working together in a bipartisan, pragmatic way on trade issues. I really hope that continues and carries over as far as fast track is concerned, because it is so critical as you recognize and know first hand.

I think you make a good point about the need to communicate that better. All of us need to communicate the importance of that more effectively.

Let me just shift gears if I may in my remaining minute or so. Let me ask you, Ambassador Lang, what are the administration's objectives for dealing with the issues surrounding import-oriented state trading enterprises in the WTO discussions? Is there a consensus for dealing with this issue?

Mr. LANG. Yes, I think there is a developing consensus about it. We are very concerned about these State trading enterprises. We have actually raised it with some of our trading partners. Generally I find they object very strongly to our assertions that these wheat boards and milk boards and things like that are essentially monopoly buyers and that state agencies are distorting markets and do not behave in ways that are consistent with commercial considerations.

But Congress has been concerned about this since at least 1988 when the provision about article XVII was inserted in the law. We have received a lot of letters, not only from you but from many of your colleagues, particularly in the midwest about these problems. We have been raising them but I think until we get into a real negotiation where there is some give and take going on, it is probably unlikely that we will get much done about it. But we continue to raise the issue, for example, in the WTO agriculture committee.

I appreciate your concern.

Mr. RAMSTAD. Finally, Ambassador, let me ask you whether or not you believe the Ministerial Meeting adequately addressed whether there have been significant problems with the WTO member countries meeting Uruguay round implementation obligations.

Mr. LANG. No, I do not think it did completely. I am afraid a number of those problems are going to have to be addressed in dispute settlement.

It is just that some of the countries are unwilling to move forward just on the basis of consensus and we are going to have to use dispute settlement which we are using today. In fact, today or yesterday, the dispute settlement body met in Geneva and we pressed forward on several agricultural cases including barley, wheat, corn, rice. So, we are going to have to use that remedy, I am afraid.

Mr. RAMSTAD. Are the notification obligations too onerous? Is that part of the hold up?

Mr. LANG. I think in developing countries the notification obligations are proving burdensome. We have been trying to provide some technical assistance but we do not really have adequate funds to be able to do as complete a job as we would like.

But there is no excuse for the failures to implement among our industrialized trading partners. They know how the law works and they have all the people they need. And those are the cases—I mean we have cases that we are planning to move forward on pork in the Philippines and some other cases in developing countries where we have tried to work with them for a period of time, been unable to work them out, so, we will have to proceed in dispute settlement.

But that is not the situation in these industrialized countries. They know what the obligations are.

Mr. RAMSTAD. Of course.

Well, thank you very much, Ambassador Lang. I appreciate your responses to all three areas of inquiry. I am particularly encouraged by your representation that we will see a fast track agreement from the administration next month.

Mr. LANG. Well, I hope I can deliver.

Mr. RAMSTAD. I do not mean to put you on the spot or anything but I will yield back to my Chairman.

Thank you.

Chairman CRANE. Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman.

I appreciate the chance to participate in this hearing. The main focus of it, as scheduled, was on the information technology agreement. So, I do not want to veer too much from that. But, you know, it is has been interesting to hear the discussion between a number of members and Mr. Lang about agriculture and about the attitude of many within the agricultural community about the impact of fast track and there has also been reference here to the need for pragmatism.

I would just suggest that we take to heart those comments and that we be willing to apply them to other sectors of the American economy including the industrial and the service sectors. Because I think one of the problems with fast track has been this. There was an effort early on in this hearing to shift the onus to the administration and say the President of Chile is coming and if the administration had acted more quickly we would have had a fast track agreement. But I do not think, as evidenced by the comments on agriculture, that is really a fair comment.

There are some complexities to the proposal to renew fast track. And I think there has been some inflexibility about, for example, the ability of the administration to talk about environmental and so-called labor issues. And I think if the agricultural sector is asking for some pragmatism and some attention to the complexities of fast track relating to agriculture, there has to be the same willingness to provide the ability of an administration to negotiate on issues that are relevant to the industrial sector and to the service sector.

And I think one reason fast track is where it is today is because there has been some inflexibility on those issues relating to the environment and labor.

And, so, I think this hearing has been important in showing the need for openmindedness and setting aside inflexibility on those issues. So, I simply wanted to say that to you. We are looking forward to a proposal from the administration on fast track but if it is going to go anywhere there is going to have to be a willingness on the part of people on both sides of the aisle in this institution, in the Congress, to provide the same kind of flexibility to the administration that some have asked for in the agricultural sector.

Thank you, Mr. Chairman.

Chairman CRANE. Mr. Watkins.

Mr. WATKINS. Thank you, Mr. Chairman.

I would like to say a special thanks to you and the Members of the Committee for allowing me to come by and participate in this particular outstanding Subcommittee of Ways and Means, the Trade Subcommittee. So, I want to say thanks to you and the entire Committee.

Chairman CRANE. You are welcome.

Mr. WATKINS. Mr. Lang, I am pleased with the progress that has been made on several fronts, especially the World Telecommunications Agreement at the Singapore Ministerial Conference. I think you should be commended.

I have watched with great interest on numerous fronts what has transpired in our dealings with the WTO and also our role in the United States.

But, Mr. Lang, I do have a real concern pertaining to agricultural issues. I think that Congressman Nussle here and others have brought that to your attention on a more general front. I have a real concern, specifically about our lack of progress in getting the European Union's ban on hormone treated beef lifted. It has been in effect for more than 8 years or longer, and has cost our producers hundreds of millions of dollars.

There have been numerous scientific studies over the last number of years by the EU, as well as the United States, that these hormones are safe. I have a chronological listing of every step that has been taken in this case, dating back into the eighties. I submit to you these are nothing but stalling tactics. I think the latest study, which confirmed the safety of the hormones, was released in December 1995. This was 14 months ago and still nothing has happened. The ban is still in place.

And it is my belief that this proves we are up against people who are violating their agreements. This ban is unmerited and basically illegal.

Now, I hope we can see some actions taken to move this matter forward. So, I would like to ask the USTR's Office, what it feels might be achieved in getting this ban lifted, and maybe installing a longer term mechanism into place that might prevent this from happening again with the WTO.

There are some real questions concerning the WTO, about whether or not it is working against us here. Could you bring us up to date on the latest meeting concerning this on February 17, 1997. They met on this case and they are planning to have a report April 1. Could you enlighten me?

Mr. LANG. Yes, sir.

This has been a continuing problem with Europe. Your position is exactly the same as ours, that it is inconsistent with their trade agreement obligations. Now, originally what we did was to just retaliate against them. Forget about the GATT or whatever it was and just take an offsetting action.

Unfortunately, that did not move them. They continued to keep the ban in place. So, we have now taken this matter to the WTO dispute settlement system. We started out on that late last fall. We have now submitted our briefs. Earlier this week, as you mentioned, or maybe late last week—I forget when it was—the team of experts that had been appointed by the dispute settlement panel

to advise them on the sound science about this thing reported subject to questions by us, by them.

As your question indicates, even European scientists have said that these six hormones are completely harmless and have no adverse health effects. We are expecting that panel to report and we would hope report favorably on whatever the deadline is. I would hope it was sooner than April 1, but anyway by April 1.

Mr. WATKINS. I would hope you would keep the Committee and my office up to date on this. Because you are going to be asking for fast track authority and this has sure not been on a fast track in getting a solution over the past 8 years. It has been delay after delay after delay, illegal tactics. I know I am not only speaking for Oklahoma, but a lot of the States in the southwest that are deeply concerned about whether they can support fast track if we cannot get something done to end such illegal tactics.

So, Mr. Lang, I hope you will try to do everything in your power, the power of USTR, to try to get this ban lifted by April 1. Please let us know where we might stand on this particular issue.

Mr. LANG. I will be glad to keep you advised and I will push with everything I have got to get this resolved in a favorable way.

Mr. WATKINS. Mr. Chairman, I do thank you and the Subcommittee for allowing me to be here to discuss this issue.

Chairman CRANE. Mrs. Thurman.

Mrs. THURMAN. Thank you, Mr. Chairman.

And thank you, Mr. Matsui for inviting me today. I really appreciate this opportunity and also to let me participate.

Ambassador, it is nice to see you again.

Mr. LANG. Thanks.

Mrs. THURMAN. Ambassador, I guess you know that I actually am surprised at this Committee because I did not realize there was that much interest in agriculture. I love it. Because it is an area that I am very concerned about with Florida and just coming off of the Agriculture Committee certainly has made this an emphasis.

Prior to this meeting, I did talk with Florida and the Department of Agriculture there to just get some sense of what some of their concerns might be, particularly as it relates to some of our exports and some of the problems that they are having and with the fact that we are coming up, in 1991, to really look at the agricultural agreements.

Just to maybe ask some questions, particularly as it relates to phytosanitary measures. This seems to be an issue that has been discussed and rediscussed and was supposed to have been taking place in Canada in the agreement and then with NAFTA and has just kind of been laid to the side.

And yet, for a State like Florida it is $150 million that we have spent. And on the other side of it, it is actually causing us barriers of not being able to get into places like Korea, Sweden, Mexico and areas of that. Can you give me some indication of whether there is discussion going on in this area or if this might be included?

Mr. LANG. It absolutely is. Sanitary and phytosanitary measures were the subject of a special standards agreement in the Uruguay round. Essentially the idea of that agreement is to prevent the use of these measures as a disguised barrier to trade but still allow us to determine the risks we are going to take. So, that means any

country can choose any risk level they want for something that is going into the food supply. But then they must take measures with respect to that risk level that is based on sound science.

Now, we have had a lot of concerns, as you indicate, in a lot of countries about the application of this agreement. In Europe, it affects biotechnology products, principally. In Asia, it tends to affect pharmacological issues, such as pesticides, Alar in apples and that kind of thing.

In Asia, we tend to be able, it seems, to work these problems out through consultations and negotiation. In Europe we have more difficulty, although so far after a lot of struggling and hand wringing we have gotten most of these biotechnological products in, BT corn, the round-up ready soybean and so on.

It continues to be a very important area especially in light of the almost worldwide consumer concern about what is in our food supply. And we are very careful about those things, of course, in the United States and we need to be able to continue to be careful and choose our own risk levels on a completely sovereign basis. But we are able to do that on the basis of sound science. We need to hold our trading partners to that standard. We are trying very hard to do that. If you have got specific problems or the Florida people do, I would encourage them to get in touch with us as soon as possible and we will try to address them.

Mrs. THURMAN. So, you believe that we are challenging them on those areas where we have the science?

Mr. LANG. Yes, and if there is one we are missing, I need to know about it. I mean we do not increase by 20 percent 1 year and 14 percent another year our agricultural exports without somebody opening their market somewhere. That is a success story in agriculture. We need to keep saying that and in these places where the system is not delivering what was promised, we need to know about those cases and take them forward urgently.

Mrs. THURMAN. Actually I think we would have probably a better number than the $60 billion if some of these other areas were taken care of.

So, I certainly will bring these to your attention and make sure that the Department of Agriculture in Florida has that opportunity to discuss these with you.

Mr. LANG. Great, I appreciate it.

Mrs. THURMAN. Thank you very much for being here.

Mr. LANG. Thanks for your help.

Chairman CRANE. And I want to thank you also, Ambassador Lang, for coming to testify this morning and give Charlene our best. We look forward to her appearance in a couple of weeks, and we look forward to working with you, too, to continue to advance our bipartisan trade agenda.

Mr. LANG. Thank you, sir.

Chairman CRANE. Thank you.

Our next witness will be JayEtta Hecker, Associate Director for International Relations and Trade Issues at the U.S. General Accounting Office.

Welcome, Ms. Hecker and let me remind you, as I did the Ambassador earlier, if you could try and keep your presentation to 5

minutes, any other written testimony will be made a part of the permanent record.

You may proceed as you will.

STATEMENT OF JAYETTA Z. HECKER, ASSOCIATE DIRECTOR, INTERNATIONAL RELATIONS AND TRADE ISSUES, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Ms. HECKER. Thank you, Mr. Chairman.

Mr. Chairman and Members of the Committee, I am really very pleased to be here today, to share GAO's observations on the results of the first Ministerial of the WTO. Today, we will focus on three areas: the new liberalization that occurred, the progress and continuing commitment to the implementation of the Uruguay round as well as the built-in agenda and, finally, an overview of some actions on the new issues.

Before I begin, I would like to acknowledge the hard work and dedicated GAO staff, who have supported me in this review. Obviously, we could not speak to the scope of these issues without their hard work, Adam Cowles, Anthony Moran, Carolyn Black-Bagdoyan and others.

To give you the highlights, the short version really is that, there was some notable and significant progress in new liberalization. There was a real continued commitment—no backsliding—to the substantial commitments that were reached at the Uruguay round. There was actually progress, as Ambassador Lang noted, on some of the built-in agenda by taking advantage of the members and the Ministers being brought together, particularly on basic telecom. There was some action in each of the areas of what is seen as the next generation of issues.

So, there really was some movement in each area and, in that sense, a lot of people have called Singapore a success. We think it really is necessary to look behind all that and take a deeper look at each of those issues. I will do that in a very short version.

On liberalization, I think what is important is, that the ITA was not on the agenda. This makes it even more notable that with what really was a private initiative, the United States and other countries moved to force it. On the agenda, it was discussed at the Quad and then it got more momentum at the APEC meetings. The idea that a brandnew item, a new liberalization could be placed on the agenda really brought to life the original concept that this Ministerial could bring together political leaders and could provide a forum for continuing liberalization. So, I think that is really significant. This was not a built-in agenda item. There was not a deadline. There had been no commitment to negotiate in this area. So, that makes this liberalization all the more significant.

Now, regarding the stock taking, what we did really, typical GAO, was dig into the WTO committee reports. Really, that is the nitty-gritty of where you see the progress, where you see the monitoring, where you see the assessment of progress. Now, it is tough reading, because those are definitely negotiated documents. It is not the kind of material that you pick up and you say, "OK, so *that* is what is going on in agriculture or SPS or any other given issue." We went through those reports basically.

In general, people were concluding, Ministers were concluding that implementation was good "generally satisfactory" is the word that they used. But a couple of areas were noted. I talked about this before, before this Committee.

Notifications are not satisfactory. The countries are not really submitting the required details of their implementation plans about law changes to the WTO committees. That fundamentally can impair the oversight process.

On the built-in agenda, as I said, there was progress on telecom, which was important. Because there had been concern that deadlines passed in each of these areas, there was some question about the viability of sector-specific negotiations. This recent success really is testimony that this is a viable option.

The new issues were diverse, from government procurement transparency, investment, labor, environment, and competition policy. If I could take just another minute, I will highlight the results very quickly.

In procurement, there was a promising result, which is important to the United States because we really have not had a lot of results from the strategy that was being followed in procurement. This is a new approach, not an all-or-nothing approach, but an approach that allows countries to have some moderate contribution by opening and providing more transparency in their procurement.

The second and third areas are investment and competition. There are, as Ambassador Lang said, new working groups—but with very modest work programs and absolutely no consensus on any future commitment to negotiate. So, even though there is some sense that these areas do represent new barriers, there are limited prospects for major progress in those new groups with a lack of consensus on their scope of debate and general scope of work.

I think that is also reflected in the environment committee where there was very limited progress. Unfortunately, all the Ministerial did was, basically, renew the charter of that committee to work under the same terms of reference. There was no review why they had made no progress and why they had not been able to come to any conclusions. They just said, "keep working under the same terms of reference."

Finally, in the labor area, it really was a modest result, if anything. The Ministers' recognition of core labor standards intrigues us because we are not able to find anyone who has defined core labor standards. Congress has in different laws, had different definitions. The ILO does not have one definition. There are 174 conventions that the ILO has that set different labor standards. Our concern is that, this result is not as promising and fruitful as it sounds—although the ILO took from this outcome a renewed commitment to deepen and broaden their own effort in this area.

That concludes my summary, Mr. Chairman.

Chairman CRANE. Thank you, Ms. Hecker.

What steps do you think should be taken to assure that an appropriate assessment of notifications and implementation obligations are being made within the WTO?

Ms. HECKER. Mr. Chairman, I think that something actually is occurring in every committee. They know when there are not notifications being made. There is a working group within the WTO that

is working on giving consolidated report cards to countries saying, "OK, you owe us these 22 notifications." There is even an effort, particularly with the least developed countries, to give them more help, saying. "Well, here is what we need from you on this one and here is what we need on that one" and also providing some technical assistance to support countries doing that.

So, I think procedurally, there are definite efforts to stay on top of what countries have not notified and to work with them to complete that process.

[The prepared statement follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives

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WORLD TRADE ORGANIZATION

Observations on the Ministerial Meeting in Singapore

Statement of JayEtta Z. Hecker, Associate Director,
International Relations and Trade Issues, National Security and International Affairs Division

GAO/T-NSIAD-97-92

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to provide some observations about the results of the World Trade Organization's (WTO) ministerial meeting in Singapore that took place in December 1996. Specifically, my testimony addresses (1) trade liberalization; (2) implementation of Uruguay Round (UR) agreements; (3) areas of ongoing WTO negotiation; and (4) emerging trade issues that are being debated in the WTO and in other international forums. My observations are based on our past and ongoing work,[1] our review of the ministerial declaration and related documents, and our discussions with U.S. and foreign government officials both at the Singapore ministerial meeting and in Washington. Before I get into the specifics of these topics, let me provide a brief summary.

SUMMARY

The Singapore ministerial meeting produced progress toward greater trade liberalization and a continued commitment to full implementation of existing UR agreements and planned negotiations. It also took the first steps in the WTO toward addressing a new generation of issues that challenge free and fair trade. Nevertheless, the true promise for furthering U.S. interests lies in the review, negotiation, and enforcement of commitments to be done by the dozens of WTO committees, councils, and groups – rather than in the outcome of what was the first of periodic trade minister gatherings.

More specifically, the United States, as well as many of our major trading partners including the European Union (EU), Canada, and Japan, declared the ministerial meeting a success and a reaffirmation of the WTO. While at Singapore, the members laid a foundation for an Information Technology Agreement that would cut tariffs on certain high-technology products. The ministers were able to achieve a consensus on a final declaration that encompassed several contentious subjects, despite their differences. In the declaration, the ministers summarized their progress regarding implementation to date and reaffirmed their commitments to finish the "built-in agenda" of ongoing negotiations. However, most of the work regarding these two areas took place earlier in committee meetings in Geneva as members prepared for Singapore. Finally, the ministers took steps to address some contentious new issues that were previously outside the scope of detailed trade negotiations. These new issues involved (1) transparency in government procurement, (2) investment policy, (3) competition (antitrust) policy, (4) trade and the environment, and (5) trade and labor standards. After much debate, ministers agreed to language about all these issues in the declaration; in some cases they agreed to form WTO working groups to address them.

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[1]See attached list of some related GAO products.

Nevertheless, just as important to judging the success of the meeting were some things that did not happen at Singapore. Differences on a variety of contentious issues often seemed to divide the WTO members along developed/less developed nation lines before the ministerial, but fears of a stalemate in the talks never materialized. For example, besides the new initiatives, implementation of the Agreements on Textiles and Clothing and on Agriculture were sources of friction between members before Singapore, but they reached consensus on language for the ministerial declaration.

BACKGROUND

The first biannual WTO ministerial meeting took place from December 9 to 13, 1996, in Singapore. The purpose of the meeting was to "strengthen the WTO as a forum for negotiation, the continuing liberalization of trade within a rule-based system, and the multilateral review and assessment of trade policies," according to the ministerial declaration. This meeting of trade ministers was to be attended by nearly 5,000 delegates, including officials from over 150 countries, intergovernmental organizations, nongovernmental organizations, and members of the press from around the world.

The administration believed that this meeting would be an important test of the WTO's credibility as a forum for continuous consultation, negotiation, and trade liberalization. Before this first WTO meeting, ministers' participation was not routine, and they generally met only to launch or conclude new rounds of trade negotiations. This ministerial-level meeting provided WTO member countries the first opportunity to take stock of how well they have implemented the UR agreements so far and to discuss new issues. The UR agreements – which resulted from the most comprehensive and far-reaching set of trade negotiations ever – generally went into force on January 1, 1995.[2] Implementation of these agreements is complex, and many commitments are to be phased in over a 10-year period; thus, it will take years before the results can be fully assessed.

Prior to the meeting, participants and observers debated over what would and should happen at Singapore. In fact, WTO members failed in their attempt to reach consensus on the text of the declaration in November, before the ministerial. As a result, a significant portion of the ministers' time at Singapore was devoted to debating final language for the ministerial declaration. Before the meeting, public statements from various foreign government officials, business groups, and nongovernmental organizations voiced a wide range of interests and expectations for the ministerial meeting. For example, Ambassador Charlene Barshefsky, the acting U.S. Trade Representative (USTR), viewed this as the first of many "board of directors" meetings and argued it be "realistic in its aspirations." Nevertheless, others, such as the European Commission's Vice President

[2]According to the WTO Secretariat, the almost 500 pages of text comprise 19 agreements, 24 decisions, 8 understandings, and 3 declarations. There are also approximately 24,000 pages of specific market access commitments.

Sir Leon Brittan, were calling for the ministers to launch a new "round" of trade negotiations. Also, there were differences over whether to focus on the existing agreements or on areas of further liberalization and whether topics like labor standards and competition policy should be placed on the ministers' agenda. Ongoing disputes over members' use of unilateral trade measures, including U.S. sanctions related to investment in Cuba, added to premeeting tensions.

TRADE LIBERALIZATION

Much public attention was focused on a new trade liberalization initiative, namely an Information Technology Agreement that is intended to eliminate tariffs on products including semiconductors, telecommunications and computer equipment, and software products by the year 2000.[3] This was an international private sector initiative, advanced by the United States and joined by 27 other countries at Singapore. This agreement could boost U.S. exports and jobs in a competitive domestic industry that already exports over $90 billion and employs 1.8 million, according to USTR estimates. Economic benefits are to accrue in stages as tariff reductions are phased in by each signatory. The agreement provides that subsequent meetings of the signatories may discuss implementation issues, such as the classification of goods, incorporating additional products, and related nontariff barriers.

Nonetheless, there is still work to be done before this agreement can enter into force on July 1, 1997, and before any economic gains can be realized. Under the terms negotiated in Singapore, a "critical mass" of countries must sign the agreement for it to become effective.[4] Since Singapore, these countries have been discussing technical details concerning the timing of specific tariff cuts applicable to specific products for each country. USTR officials recently told us that they are confident about the countries being able to meet the April 1, 1997 deadline for completion.

In addition to the Information Technology Agreement, some progress toward liberalization was made in other areas. There was agreement by some members about tariff cuts in other products, notably pharmaceuticals. Also, there was an initiative to help least developed countries.

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[3]In some limited cases, the schedule for tariff cuts is to be extended until 2005, according to USTR.

[4]Members representing 90 percent of the world trade in information technology products must join.

Action Plan for Least Developed Countries

The members took steps to address the problems of least developed countries that are WTO members. They agreed to a Plan of Action that proposes giving these countries preferential market access (such as the Generalized System of Preferences), besides offering them technical assistance regarding implementation. However, such actions by WTO members are voluntary. The plan also outlines building closer ties between the WTO and other international organizations, including the United Nations Conference on Trade and Development (UNCTAD), the World Bank, and the International Monetary Fund, to help these least developed countries enhance their trading opportunities.

IMPLEMENTATION OF THE URUGUAY ROUND AGREEMENTS

"Implementation is the functional equivalent of enforcement," according to Ambassador Barshefsky. In their declaration, the ministers concluded that "implementation thus far has been generally satisfactory, although some members have expressed dissatisfaction with certain aspects." Despite this attention in the declaration, much of the WTO members' "stock taking" took place at earlier meetings in Geneva rather than in Singapore. In these committee meetings, WTO members established procedures, reviewed their compliance with the many UR agreements, planned future work, discussed their differences, and issued reports.

Some WTO members have yet to implement all the commitments created by the UR agreements. Accordingly, the ministerial declaration exhorts members "to complete their domestic legislative process without further delay." Also, WTO committee reports prepared before Singapore, including those on market access and customs valuation, discuss how often members take advantage of waivers allowing them to delay implementation. Some members, including the United States, are concerned about the number of members that have not yet amended their domestic laws and have exercised their waiver rights with regard to various agreements, according to USTR officials.

Notifications

The WTO committee reports indicate that a number of members are still struggling to fulfill their commitments and implement various agreements. The UR agreements require each member to submit various notifications; this information provides the transparency necessary for the members to monitor each other's progress. The ministerial declaration states that "compliance with notification requirements has not been fully satisfactory." Earlier reports from the Committees on Technical Barriers to Trade, Subsidies and Countervailing Measures, Antidumping Practices, Rules of Origin, Import Licensing, Trade Related Investment Measures (TRIMS), and Safeguards all recognized delays and/or deficiencies in members' notifications. A WTO working group on notifications issued a report and made recommendations to facilitate members' compliance.

Some of our past work on state trading enterprises (STE) illustrates the importance of seemingly mundane notification requirements.[5] While STEs are recognized in the General Agreement on Tariffs and Trade (GATT) as legitimate trading entities, their activities are subject to GATT disciplines. In order to provide some transparency over STE activities, members must report regularly about their STEs' structures and functions. However, as we noted in August 1995, compliance with this reporting requirement has been poor, and information about STE activities has been limited. U.S. officials are working within the WTO's working party to develop a modified questionnaire that would help make STE activities more transparent. U.S. government and agricultural industry officials hope to negotiate additional disciplines on STEs when agricultural negotiations resume in 1999. The importance of STE issues may increase as countries with historically state-run economies, like China, Russia, and Ukraine, are considered for WTO membership.

Agriculture

Leading up to Singapore, the WTO Committee on Agriculture studied the implementation of the UR Agreement on Agriculture, including aspects needing additional attention or review. The committee's report concluded that overall, the review process had been conducted in an efficient and effective manner. However, it also recognized that some instances of apparent noncompliance with commitments had not yet been resolved. U.S. officials were concerned that some countries were balking at carrying out their commitments or implementing new, disguised, trade-distorting measures. At the end of the ministerial, Ambassador Barshefsky and Deputy Secretary of Agriculture Richard Rominger stressed that implementation issues were of particular importance to U.S. agriculture. They also stated that the results of the ministerial will allow the members to attack problems like import barriers, STEs, export subsidies, and unjustifiable sanitary and phytosantitary regulations.

Dispute Settlement

When members have particular concerns about other members fulfilling their WTO commitments, they can use the WTO's dispute settlement mechanism. For example, the United States has initiated proceedings regarding the EU's measures concerning hormones and imports of meat and meat products. At Singapore, members reaffirmed the fundamental importance of this process in fostering the implementation and application of the UR agreements. They also noted the role the mechanism plays in avoiding disputes through procedures that include consultation between the parties.

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[5]In our work, we define STEs as governmental or nongovernmental enterprises that are authorized to engage in trade and are owned, sanctioned, or otherwise supported by the government. For example, the Australian government has notified the WTO that the Australian Wheat Board meets the criteria for being considered an STE. See GAO/GGD-95-208 noted in the related GAO products list.

Review of Regional Trade Agreements

Related to implementation, WTO members took steps, which were affirmed by the ministers in Singapore, to better address questions about the integration of regional trade policies with the multilateral trading system. In February 1996, the WTO General Council established a Committee on Regional Trade Agreements that would examine agreements upon notification by members and would consider the implications of these agreements. Over 100 regional trade agreements and customs unions like the North American Free Trade Agreement (NAFTA), the Mercado Común del Sur (MERCOSUR), and the Asia-Pacific Economic Cooperation forum (APEC), were established by early 1996 throughout the world. Their proliferation has raised many apprehensions about their relationship with the multilateral trading system, according to the WTO's 1996 annual report. For example, there have been fears that these agreements could create incompatible obligations or fragment efforts to establish a rule-based system for trade that would conflict with the principles of most-favored-nation (MFN) treatment.

ONGOING WTO NEGOTIATIONS

Trade ministers affirmed the importance of completing the WTO's ongoing work program, including commitments regarding both future tariff reductions and planned negotiations. This program is often generically referred to as the WTO's "built-in agenda." The ministers' affirmation of the built-in agenda at Singapore, is significant – if undervalued – according to USTR officials. USTR has stated previously that the full and timely implementation of the built-in agenda is critical to the WTO's credibility. As such, confirmation of schedules and other technical details for future negotiations is a necessary component in assuring that liberalization may occur.

Some negotiations in the built-in agenda have been ongoing since the end of the UR. U.S. negotiators sought to take advantage of the ministerial meeting to build momentum for completing these negotiations within established deadlines. Progress in services has been difficult. At the end of the UR, four main areas under the General Agreement on Trade in Services (GATS) were left uncompleted: telecommunications, financial services, maritime services, and the movement of natural persons.[6] GATS set out a timetable for the completion of these negotiations, but negotiations in the first three areas had to be extended. (The negotiations for the movement of natural persons concluded in 1995.) The WTO ministerial declaration acknowledged the difficult nature of the negotiations while noting that results have been below expectations.

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[6]The "Movement of natural persons" refers to foreigners entering a country to provide services.

Telecommunication Services

WTO members recently concluded negotiations for substantial market opening in basic telecommunications services, taking advantage of the momentum established during meetings at Singapore, to reach an agreement on February 15, 1997. "Basic telecommunications" refers to voice telephone, data transmission, facsimile, and cellular mobile telephone services, among others. Although in April 1996 the WTO Council on Trade in Services had accepted a final report by the basic telecommunications negotiating group, the period to submit revised schedules was delayed, essentially extending the negotiating timetable. By the original deadline of April 1996, the United States was dissatisfied with the tabled offers of key trading partners and lack of offers from a number of important countries. However, the United States successfully obtained an extension of the negotiations until February 15, 1997, in hopes of developing a "critical mass" of offers. On that date, WTO members reached an agreement that should open up this important sector to global competition. The results are expected to replace the tradition of government monopolies on telecommunications, dramatically reduce the cost of telephone services, permit greater foreign investment, and promote the adoption of regulatory policies based on competition.

Financial Services

WTO members face an upcoming deadline for completing difficult negotiations on another important service sector. The WTO financial services negotiations are currently suspended and they are to resume in April 1997. Financial services, including the banking, securities, and insurance sectors, are often subject to significant domestic regulation, making the negotiations quite complex. Dissatisfied with the commitments offered in the extended financial services negotiations in mid-1995, the United States committed to only protect existing investments of financial services providers; the United States exercised its right to take an MFN exemption with respect to new and expanded activities in this sector. As a result, WTO members agreed to an interim arrangement. They also agreed that during a 60-day period beginning November 1, 1997, members will have the opportunity to modify, improve, or withdraw all or part of their specific commitments and MFN exemptions under GATS in this sector. At Singapore, the ministerial declaration reiterated that WTO members must significantly improve their commitments with a broader level of participation to successfully conclude these talks.

Maritime Services

Negotiations on maritime services after the conclusion of the UR were unsuccessful and were suspended in June 1996 until the year 2000, when negotiations for all services sectors are to be reopened. This sector has proven very difficult to negotiate because it is organized in complex ways. For example, some service providers are STEs, and some are highly protected with strong domestic lobbies and long-established labor union practices, according to the WTO Secretariat. When suspending the negotiations,

participating members agreed to refrain from applying new measures that would affect trade in this area during this time (except in certain circumstances). The United States has said that other participating members to the negotiations did not offer "to remove restrictions so as to approach current U.S. openness in this area."

Other Areas in the Built-in Agenda

Over the next several years, other built-in agenda items are to be implemented through the process of review and negotiation in a number of key sectors and rules. For example, the WTO Ministerial Conference is required to review the implementation of the Agreement on Preshipment Inspection in 1997. Also, WTO members must complete a 3-year work plan on harmonizing rules of origin by July 1998. Other negotiations will begin in upcoming years. For example, negotiations are scheduled to begin in 1998 to broaden and improve the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and in 1999 to improve and extend the Agreement on Government Procurement. Even though there was some discussion in Singapore on whether to accelerate agricultural reform negotiations, member countries reaffirmed their intention to begin these negotiations on schedule in 1999. USTR officials noted the importance of the WTO Committee on Agriculture's preparatory work to ensure these negotiations begin on schedule.

EMERGING TRADE ISSUES

At Singapore, members debated what the WTO should do regarding what many observers believe are the next generation of international trade issues: (1) transparency in government procurement, (2) investment policy, (3) competition (antitrust) policy, (4) environmental measures, and (5) labor standards. These issues have previously been outside the scope of detailed trade negotiations and have traditionally been seen as domestic concerns.

As tariff and nontariff barriers to trade are reduced, however, these areas have drawn attention, reflecting a broader concept of what factors may affect market access opportunities in a global economy. For example, although the United States has strict standards for ethics, accountability, and transparency in government procurement practices, many countries either lack or do not adequately enforce domestic laws prohibiting bribery and corruption in their procurement. Some observers argue that this inconsistency can put U.S. businesses at an economic disadvantage. Likewise, foreign investment restrictions can limit a firm's ability to establish a commercial presence and to conduct business operations, both of which greatly facilitate U.S. exports. Foreign anticompetitive private business practices, such as price-fixing and market sharing, raise costs to U.S. consumers, and government measures can restrict market access for U.S. exports. Finally, some U.S. interest groups argue that foreign firms should not gain a comparative advantage by failing to protect the environment or observe basic labor standards.

Ministers considered new initiatives involving (1) transparency in government procurement, (2) investment policy, (3) competition (antitrust) policy, and (4) labor standards. Specifically, the United States forwarded a proposal for the negotiation of an agreement on transparency in government procurement, and the ministers agreed to establish a working group that is to study transparency in government procurement practices. Ambassador Barshefsky said that this was a "first step" toward a transparency agreement. On the issue of investment and competition policy, several members, including the EU and Japan, proposed that working groups be established. The United States and other members agreed to support the establishment of working groups in both areas, after securing agreement that no negotiation would move forward in either area absent an affirmative action by all the parties. Finally, the United States sought the establishment of a working party to begin examining the relationship between trade and labor standards. The ministers did not agree to establish such a working party but instead affirmed their support for ongoing work on labor issues being conducted outside of the WTO. While the initiative on environment is not new, members also agreed that the WTO Committee on Trade and Environment, which had been characterized as being "disappointing" according to some observers, would continue under its existing mandate.

Bringing new issues into the WTO framework has been very controversial. Some developing countries were fiercely resistant to discussing these new issues at Singapore, preferring that ministers focus their attention on how the general implementation of the UR agreements was progressing. Some WTO members feared that the debate over whether to include some of the new issues might create a "North-South" divide during the ministerial. However, members managed to reach a compromise on language in the declaration in each area.

Procurement

Prior to Singapore, the United States proposed that the ministers endorse the negotiation of an agreement on procurement that would extend disciplines on transparency, openness, and due process in practices to all WTO members.[7] Ambassador Barshefsky testified, in September 1996, that under such an arrangement "suppliers from all WTO members would have equal access to information on procurement, the procurement process and to bid challenge mechanisms." Some developing countries were skeptical of this initiative, questioning its scope and purpose. Nevertheless, at Singapore, WTO

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[7]The UR produced an Agreement on Government Procurement with broad coverage that sought to promote transparency and improve access in government procurement by requiring that countries not discriminate against foreign or foreign-owned suppliers or otherwise allow practices that would preclude competitive procurement. The agreement built on the 1979 GATT procurement code. However, the number of signatories to these agreements has been limited, and broadening membership, especially to developing countries, has been an unfulfilled objective.

ministers agreed to establish a working party "to conduct a study on transparency in government procurement practices . . . and to develop elements for inclusion in an appropriate agreement." Following the ministerial, Ambassador Barshefsky said that this WTO effort would serve to reduce the influence of corruption and create a fairer business environment. Other forums that are addressing issues related to bribery and corruption in international business transactions include the Organization of American States, Organization for Economic Cooperation and Development (OECD), and the World Bank.

Investment and Competition Policy

Ministers also agreed at Singapore to form WTO working groups to study investment and competition policy issues. There was some resistance to forming these groups by some developing countries, which argued that investment and competition policy should be addressed as part of a scheduled review of the TRIMS agreement in the year 2000. However, the EU and Japan were strong advocates of creating working groups on both issues in the WTO. The administration stated the United States would support work programs that were modest in scope and educational in nature. Furthermore, the ministerial declaration states that work undertaken by these groups will not prejudge whether any negotiations will be initiated in the future.

On investment, the United States was concerned that any WTO work on investment not undermine negotiations currently underway in the OECD on a multilateral investment agreement (MAI). The MAI is intended to include high standards for foreign direct investment and is scheduled for completion in May 1997. Investment issues are also being addressed in other trade forums, including APEC and the Free Trade Area of the Americas (FTAA).

On competition, the United States was concerned that any working group not focus on antidumping rules, but instead on issues concerning cartels and other private anticompetitive practices. Some WTO members, including Japan, Korea, and Hong Kong, had proposed that any working group consider the relationship of trade remedies, especially antidumping measures, and competition. The ministerial declaration states that the working group will study "issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify areas that may merit further consideration in the WTO framework." Following the ministerial, the EU and USTR issued a joint statement to clarify this language, which emphasized that the working group should not cover issues already dealt with in the WTO, including antidumping measures. However, members did not reach a clear consensus at Singapore on the future scope of the working group's mission, according to one WTO official. Some observers expect the debate over the terms of reference for this working group to continue until the next scheduled ministerial in 1998. Some WTO members, including the United States, are discussing and studying competition policy issues in several other forums including APEC, FTAA, NAFTA, OECD, and UNCTAD.

Environment

At Marrakesh in 1994, the WTO ministers decided to establish the Committee on Trade and Environment to identify the relationship between trade and environmental measures and make appropriate recommendations within the context of open and equitable trade. Some WTO members believe that enforcing certain environmental policies can be a disguise for imposing protectionist trade barriers. The United States had advocated the committee's establishment as a way to help ensure that multilateral trade and environmental policies are mutually supportive. During its first 2 years of operation, the committee has discussed several complex issues, including (1) the relationship between trade measures in multilateral environmental agreements (MEA) and the WTO; (2) the question of whether ecolabeling programs[8] need greater transparency; and (3) the effect of environmental measures on market access, particularly in relation to developing countries. The committee did not have recommendations for the ministers to consider at Singapore, because of a lack of consensus on the major issues discussed.

The work of the committee had received mixed reviews from members and other interested parties. For example, the United States found parts of the committee's final report useful, such as its recognition of the importance of transparency in ecolabeling and its emphasis on coordinating national trade and environmental policies, but U.S. officials stated that the committee has not done a great deal to advance the understanding of environmental concerns. On the other hand, environmental groups have been highly critical of the lack of progress made in the committee; as a result, some groups have called for its dissolution. Specifically, they were displeased with the report's statements that recognized that WTO members have the right to challenge MEA trade provisions within the WTO dispute settlement framework. Nevertheless, the committee urged parties to settle these disputes within the MEA process and recognized the important role that trade measures have played in some MEAs and may play in the future. Similarly, the EU voiced concerns over the committee's lack of concrete results thus far.

Because the committee did not have any major recommendations for ministers at Singapore, the ministerial declaration directed the committee to continue its work under its existing terms of reference. USTR plans to work with the U.S. Trade and Environment Policy Advisory Committee, among others, to develop the U.S. agenda for the next round of discussions. The WTO committee's future work, particularly with respect to ecolabeling issues, could take into account the work of other multilateral forums, such as the United Nations and OECD, according to its report.

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[8]Ecolabeling programs, most of which are voluntary, allow businesses to obtain a label indicating a product is environmentally friendly or safe.

Labor Standards

Discussions about the relationship between trade and international labor standards proved to be very contentious at Singapore. The UR implementing legislation[9] directed that the President seek the establishment of a working party, which would examine the relationship between trade and internationally recognized worker rights.[10] In order to build consensus for WTO work in the face of strong opposition, the Administration proposed a modest work program that would not entail (1) an agreement on minimum wages, (2) changes that would take away the comparative advantage of low-wage producers, or (3) the use of protectionist measures to enforce labor standards. However, because many WTO member countries in both the developed and developing world feared that the creation of a work program in the WTO would lead to mandated international labor standards that could inhibit their economic development or serve as protectionist barriers, they opposed having a trade-labor standards link through the WTO.

USTR was not successful in having a labor standards working party established at Singapore, but members did renew their commitment to the observance of internationally recognized core labor standards in the ministerial declaration. Members reached a compromise, and the declaration recognized that the International Labor Organization (ILO)[11] is the competent body to set and deal with internationally recognized core labor standards. The declaration also stated that the WTO and ILO Secretariats will continue their existing collaboration. In statements following the ministerial, U.S. and EU officials argued that the declaration is a breakthrough, signaling an opportunity to work toward further discussions about labor issues in the WTO. However, other members have rejected the idea that such an opportunity was created. Future progress on labor issues may emerge from work ILO undertakes: since Singapore, the ILO Director-General announced his intention to intensify ILO's work aimed at protecting basic worker rights.

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[9]Section 131 of Public Law 103-465, Dec. 8, 1994.

[10]Congress provided guidance for U.S. negotiators in section 131 of the UR Agreements Act by specific reference to section 502 (a)(4) of the Trade Act of 1974, as amended by section 503 of Public Law 98-573, Oct. 30, 1984. This legislation defined internationally recognized worker rights to include (1) the right of association, (2) the right to organize and bargain collectively, (3) a prohibition on the use of any form of forced or compulsory labor, (4) a minimum age for the employment of children, and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

[11]ILO is a specialized agency of the United Nations that traditionally has addressed labor issues. Created in 1919, ILO has a mandate to improve working conditions and living standards for workers throughout the world.

Labor issues are also being discussed in the OECD and under various NAFTA-related organizations.

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Thank you Mr. Chairman, this concludes my prepared remarks. I will be happy to answer any question you or members of the Subcommittee may have.

RELATED GAO PRODUCTS

International Trade: The World Trade Organization's Ministerial Meeting in Singapore (GAO/T-NSIAD-96-243, Sept. 27, 1996).

International Trade: Implementation Issues Concerning the World Trade Organization (GAO/T-NSIAD-96-122, Mar. 13, 1996).

State Trading Enterprises: Compliance With the General Agreement on Tariffs and Trade (GAO/GGD-95-208, Aug. 30, 1995).

International Trade: Long-Term Viability of U.S.-European Union Aircraft Agreement Uncertain (GAO/GGD-95-45, Dec. 19, 1994).

International Trade: Impact of the Uruguay Round Agreement on the Export Enhancement Program (GAO/GGD-94-180BR, Aug. 5, 1994).

The General Agreement on Tariffs and Trade: Uruguay Round Final Act Should Produce Overall U.S. Economic Gains (GAO/GGD-94-83A&B, July 29, 1994).

General Agreement on Tariffs and Trade: Agriculture Department's Projected Benefits Are Subject to Some Uncertainty (GAO/GGD/RCED-94-272, July 22, 1994).

International Trade: Efforts to Open Foreign Procurement Markets (GAO/T-GGD-94-155, May 19, 1994).

International Trade: Observations on Issues in the Uruguay Round Agreement (GAO/T-GGD-94-98, Feb. 22, 1994).

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Chairman CRANE. What do you believe are the best vehicles for progress within the WTO? For example, another Ministerial Meeting or higher level meetings or the launching of a new round, what in your opinion is the best way to go?

Ms. HECKER. Well, you know, the Ministerial was an interesting process to observe. I know you were there. Actually, the Ministers' meeting was in a room that was as big as a football field. So, I am not sure that the actual gathering of Ministers in one room is where meaningful progress takes place.

Actually, I would turn it around to a topic that has been discussed here today. I think fast track and the negotiation of this Committee, and the rest of the Congress, to reach agreement with the administration of what our trade agenda should be will play a big role in giving renewed focus and direction to the administration's efforts. I think frankly that, absent fast track, they clearly do not have a mandate. As to and whether it is a Ministerial, or

a new Round, or sessions in Geneva, I think that mandate is one of the key factors to further direction and progress.

Chairman CRANE. Thank you. Mr. Matsui.

Mr. MATSUI. I have no questions, Mr. Chairman.

Chairman CRANE. Mr. Nussle.

[No response.]

Chairman CRANE. Mr. McDermott? He is not with us.

Mr. Jefferson.

Mr. JEFFERSON. Thank you, Mr. Chairman.

I want to ask a question about this notification. How serious an issue is that in the overall process, where you find deficiencies?

Ms. HECKER. It is a serious process, because the basic, underlying element of compliance is the transparency of countries reporting what they are doing to implement their obligations. So, the substance of it is important. But, also understanding and flexibility and support for developing countries for whom this burden is quite substantial is similarly important. That is why this working group has been set up and procedures are being worked on to try and facilitate that process for developing countries.

Mr. JEFFERSON. Well, have you made any suggestions as to how this can be dealt with from your point of view? I know this suggest "working group" is set up to look at it, but what do you think should be done in this area, if you can come up with any suggestions?

Ms. HECKER. We have not evaluated it in detail. This is one of a number of issues that we have concerns about, but that would be something that we would have to look at in greater detail to evaluate how effective this new working group is, and whether it is really taking effective measures.

Mr. JEFFERSON. Don't you think the major problem is the burden it places on individual developing countries to comply with notification requirements as opposed to simply not living up to the—not taking the requirements seriously enough to live up to them?

Ms. HECKER. I think it may be a little bit of both. I think the burden, without any doubt, is far greater than anyone anticipated. A lot of these agreements were negotiated separately, by separate negotiators. I think at the end of the day, no one had any idea that there were over 200 notification requirements that were in place by countries. It took a lot of work to even get an overview pulled together. So, I think there was a breadth to it that no one anticipated, but I think there have been issues of noncompliance as well that may be associated with the late reporting. There have been a number of WTO reports about countries requesting waivers and other actions that are really delaying effective implementation.

Mr. JEFFERSON. What timeline do you see for this Committee to do its work?

Ms. HECKER. I do not have the information on that. I could provide it for the record.

Chairman CRANE. Mr. Houghton.

[No response].

Chairman CRANE. Mr. Herger.

[No response].

Chairman CRANE. Mr. Neal.

[No response].

Chairman CRANE. Well, we want to thank you, Ms. Hecker, for your testimony.

We will now convene our panel made up of company representatives from various sectors of the information technology industry, to discuss the information technology agreement that was endorsed at the Singapore Ministerial Meeting.

The panel is made up of Aaron Cross, public policy director of IBM in Washington, DC, who serves as chairman of the Information Technology Agreement Coalition and chairman of the International Committee of the Information Technology Industry Council. Second, Timothy Regan, division vice president and director of public policy at Corning; John Boidock, vice president and director of government relations at Texas Instruments and chairman of the government affairs committee of the Semiconductor Industry Association; Donald Poinsette, vice president for Asia, at Kemet Electronics and James Kaplan, Jr., vice president of the Cornell Dubilier Co., both here on behalf of the Passive Electronics Coalition; and, finally, Kevin Rafferty, senior marketing manager of Philips Components, a division of the Philips Electronics North America Corp.

Gentlemen, I would remind you, probably unnecessarily that, any printed statements you have will be made a part of the permanent record, but please try and confine your oral presentation to 5 minutes or less. We will proceed in the order in which I introduced you.

STATEMENT OF AARON W. CROSS, PUBLIC POLICY DIRECTOR, IBM; CHAIRMAN, INFORMATION TECHNOLOGY AGREEMENT COALITION AND CHAIRMAN, INTERNATIONAL COMMITTEE, INFORMATION TECHNOLOGY INDUSTRY COUNCIL

Mr. CROSS. Thank you, Mr. Chairman. I am Aaron Cross, public policy director in IBM's Governmental Programs Office in Washington, DC. Today, I appear on behalf of the Information Technology Industry Council where I chair ITA's International Committee. I also chair the ITA Coalition. It was also my privilege to be a member of the U.S. delegation at the Singapore WTO Ministerial Meeting.

The ITA breaks new ground with significant implications for U.S. trade policy. This was one of the most successful negotiations in U.S. trade history. We should consider the precedent set by the ITA, because the United States stands much to gain if we can learn from its innovations.

First the ITA departs from the world's traditional approach to trade talks. Very importantly, it places the focus of trade negotiations where it rightly belongs, on meeting the needs of consumers and not on balancing trade concessions among product sectors. Next, the ITA points to the importance of having the right people in office, for insuring that the United States is represented by the most highly qualified people possible.

In delivering the ITA and the recent global basic telecommunications agreement, Ambassador Barshefsky has proven the case for her confirmation as U.S. Trade Representative. Third, the WTO proved itself to be a worthy and more flexible organization that its

predecessor, the GATT. The ITA might have been negotiated under the GATT, but it would have probably taken another GATT round.

The ITA also serves as a model of industry-government cooperation on trade issues. The USTR worked closely with our coalition throughout the entire process. This was augmented by the industry advisory system authorized by U.S. law. Clearly, such communications vehicles give our negotiators a significant leg up during trade talks by having them so well prepared.

Fifth, we can expect more such negotiations in the future and we need your support. In October, European Commission Vice President Sir Leon Brittan, started talking about the ITA formula, saying he expects more such industry-led initiatives soon. Indeed, he said he would promote them. In light of this, we reiterate our strongest support for expanding USTR's negotiating authority through fast track this year. We need this negotiating authority because we are already planning for ITA II. These are negotiations provided for in the agreement which will cover additional and new nontariff elimination measures.

We are looking forward to using these new talks to promote further liberalization in global IT trade and investment.

Mr. Chairman, our enthusiasm obviously stems from what the ITA means for the future of our industry. The tariffs savings will be substantial, but that is only a small piece of a much larger picture. Throughout the negotiations, we focused on one message; that this is a global initiative aimed at putting the power of information technology in the hands of the users of the global information infrastructure or GII, what many call the information superhighway. While much of our focus was on the Quad countries, we knew that we could turn a good agreement into a landmark initiative if we could get non-Quad countries to join.

The tariff rates in many of these countries are quite high. A number of them, most of them are developing or advanced developing economies, now understand that leveling the global playingfield for users in terms of access to IT products is essential to their economic growth. In short, the ITA will narrow the gaps between the world's information haves and have-nots.

Beyond these immediate benefits, the ITA will have a broader beneficial impact on our corporate performance in American trade policy. My written statement elaborates on some of these.

Staff has asked me to address the product coverage under the agreement, particularly regarding capacitors.

As we built our coalition, we had in mind an agreement that would cover computer hardware and software, semiconductors, semiconductor manufacturing and test equipment, telecommunications products and other high technology instruments. From the start, we established a process to evaluate requests for including other products. We had only one guideline. For a product to be included on our recommended list, we had to have a consensus among the coalition members.

Very early in our work, two of our member associations told us that several of their member companies opposed including capacitors. They also reported, however, that a number of their other members wanted these components to be included. These opposing

views led us to a neutral position on including capacitors and we informed the USTR of that position.

As you know, in the final outcome, capacitors and other passive components were included. Our coalition regrets it some, but not all capacitor companies are unhappy with the agreement. My own company and virtually every other coalition member company regard these firms as valued suppliers. All of us need a vital, global passive components industry.

In conclusion, Mr. Chairman, the ITA is a landmark agreement. It is a model for how industry and government can work cooperatively to achieve common goals. The basic aim of these negotiations were exceeding in almost every respect. That aim, to significantly enhance the degree to which the benefits of the GII will be made available quickly and less expensively to IT users worldwide.

We note in closing that, by the year 2000, the global IT industry will be the world's largest. The ITA will help to make this happen.

We are pleased to have been invited to testify today. We appreciate Mr. Crane's and Mr. Matsui's initial opening remarks this morning endorsing the ITA. We look forward to working with you and the Subcommittee to make the ITA a success and a reality.

Thank you.

[The prepared statement follows:]

INFORMATION TECHNOLOGY INDUSTRY COUNCIL

Written Submission of
Aaron W. Cross
House Ways & Means Subcommittee on Trade
February 26. 1997

I am Aaron Cross, Public Policy Director in IBM's Governmental Programs Office in Washington, DC. Today, I appear on behalf of the Information Technology Industry Council. As chair of ITI's International Committee, I also have served as chairman of the Information Technology Agreement Coalition -- the industry group that developed a global industry consensus to promote the ITA and that worked daily with USTR and other government representatives around the world to arrive at an acceptable agreement. It was also my privilege, as a member of the Industry Functional Advisory Committee on Customs, to participate in the Singapore WTO Ministerial meeting as a member of the United States delegation.

Our evaluation of the Singapore Ministerial outcome: ***The ITA is a landmark trade agreement -- revolutionary in its scope and approach. It's a model for how industry and governments around the world can work cooperatively to achieve common goals. The basic aim of these negotiations was exceeded in almost every respect. That aim -- To significantly enhance the degree to which the benefits of the Global Information Infrastructure will be made available quickly and less expensively to information technology (IT) users worldwide. The members of this subcommittee and the Administration -- especially Ambassador Barshefsky and her team -- merit our sincerest gratitude for their foresight, hard work, and cooperation from the time of the ITA's inception to its negotiation in Singapore.***

The Challenges Behind the ITA

The ITA's origins stem from the conclusion of the Uruguay Round. The implementing legislation for the Round provided residual authority for USTR to negotiate tariffs on product sectors that had been included in the U.S. zero-for-zero package. That was very helpful , but we had to find a new vehicle. Fortunately, one was available -- the WTO.

As we looked at the situation, we knew that we would have to do things differently -- First, to find a way to work within the new WTO framework; second, to do this on a sectoral basis; third, to use USTR's residual negotiating authority; and finally, to work on a global

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industry basis rather than from a national one.

The ITA's Product Coverage

From our Uruguay Round experience, we knew already that computer companies throughout the Quad countries had supported the idea of zero-for-zero on computers. So, our first thought was to target only computers. We had known that during the Uruguay Round, European semiconductor and telecommunications companies had opposed tariff elimination. But as ITI went to our sister associations in Europe and Japan, we found that in the brief year that had elapsed since the conclusion of the Round, those attitudes had changed.

We therefore broadened our proposal to encompass computer hardware and software, semiconductors, semiconductor manufacturing and test equipment, telecommunications products, and other high technology instruments. That early outline of proposed product coverage formed the basis for the joint U.S. Government and industry ITA strategy and remained intact all the way through Singapore.

As ITI and AEA formed the ITA Coalition, we encouraged any association or company with operations in the U.S. to join our efforts.[1] We quickly found that some of our members wanted broader product coverage. As we evaluated their requests to add products to our suggested coverage list, we developed one guideline for considering their requests. Unless we had consensus among the Coalition members on a product's inclusion, we would not suggest it for ITA inclusion.

I go into this, because the subcommittee staff has asked that I address the question of capacitor coverage under the agreement. Early our work on product coverage, two of our member associations -- AEA and the Electronic Industries Association -- advised the Coalition that two of their companies -- Kemet and Vishay -- opposed including capacitors. They told us as well, however, that several of their other members supported capacitor coverage.

These opposing views led the Coalition to take a neutral position on the capacitor coverage issue, and we informed USTR of that position. Nevertheless, this was a critical issue, because the EU negotiators -- in response to their own industry -- were insisting that capacitors be included. I know, from my time in Singapore, that Ambassador Barshefsky and her team spent long hours with their EU counterparts on this issue. Frankly, the U.S. was alone among the Quad parties in holding out against the inclusion of capacitors. The EU was joined by Canada and Japan. In the final outcome, capacitors and other passive components were included in the ITA.

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[1] A list of the Coalition's members is attached to this statement.

The coalition regrets that Kemet and Vishay are unhappy with the agreement. My own company -- and virtually every other coalition member company -- regard both companies as valued suppliers. They, like we, are in a highly competitive industry, and we need a vital passive components industry.

"Keeping an Eye on the Big Picture"

Throughout the negotiations, USTR and we kept pressing home the message that this is a global initiative aimed at putting the power of computers, telecommunications, and related products into the hands of users of the GII. We knew from the start that without the Quad countries' support, the ITA would never take root as a WTO plurilateral agreement. That's why we spent so much time focusing on the advanced economies. But in truth, with a handful of exceptions, the tariff rates of the Quad countries were relatively low.

The real benefits of the ITA would be realized if we were to secure the participation of countries outside the Quad, where the tariffs in many countries are high. The Agreement negotiated in Singapore contains a provision that in order for the ITA to take effect on its July 1, 1997 target date, 90 percent of the world's trade volume in IT products must be accounted for by the signatory countries. The original 28 signatories accounted for about 84 percent, so our target has been to get as many other countries to sign up as possible.

These countries primarily fall into the advanced developing economy and other developing country categories. Again, a number of these have higher tariffs on IT products than do the Quad countries.

Still, we believe it very likely that the 90 percent target will be met and exceeded. The reason? It goes back to this government/industry view that the ITA's overriding intent is to focus on greater access to IT technology. We have cited a couple of case histories where bringing high tariffs down has worked greatly to increase the productivity and export competitiveness of countries like India and Malaysia. These case histories have shown that high tariff barriers only keep more productive segments of an economy -- such as software developers -- from having access to the tools that will make them more productive. Lowering those tariffs have direct and measurable impact on increasing productivity.

So, when we consider the question of "balance", the ITA's real innovation is that it levels the playing field for all sectors of the global economy in terms of access to this productivity tool. The ITA will have a major impact on narrowing the gap between the world's information "have's" and "have-nots". We see a growing acceptance of this new thinking among the world's trading partners. And it is for that reason that we are confident that the 90 percent target under the ITA will be exceeded.

"A Total Greater than the Sum of Its Parts"

The ITA goes well beyond the immediate cost savings to manufacturers and customers in ways that may not be well appreciated --

- It will help to resolve customs classification disputes between the U.S. and other countries, as computer and telecommunications technologies continue to converge. With no tariff differential to exploit for self-advantage, there will be no incentive for any government to manipulate classification rules.

- Similarly, customs valuation cases are likely to disappear in many areas. The most obvious beneficiary in this area is the American software industry. Software companies need no longer be concerned that governments who belong to the agreement will try to impose tariffs on the value of the content of software, as opposed to the medium of the software itself. Valuation is not as important when there is no tariff rate to apply.

- Rules of origin similarly will cease to be an area of exposure to manipulation by countries who belong to the ITA.

- There will be a number of additional administrative efficiencies that accrue to IT companies. As the members of this subcommittee well know, customs compliance procedures, while much better than they used to be since the enactment of the Mod Act, are nevertheless expensive. When a company like mine sees over one million part numbers cross international frontiers in a given year, some of these areas -- like classification, valuation, and origin determination -- can be costly to determine. We will still have to do the work -- but for statistical reporting reasons, not in terms of ensuring against the loss of revenue for the U.S. Government.

Implications for U.S. Trade Policy

Mr. Chairman, this has been one of the most successful negotiations in U.S. trade history. We ought to consider what happened here in the ITA, because we stand much to gain if we can apply the lessons we have learned from the process.

- First and most importantly, the ITA departed from the traditional approach of trade talks in that it placed the focus of the outcome where it rightly should belong -- on the consumers and users of products that were being discussed, not on the exporters and importers.

- Second, the ITA points to the paramount need for ensuring that the U.S. Government has qualified people who have the capacity to "think outside the box." In her support for the ITA -- and, and again with the recently concluded talks on Global Basic Telecommunications -- Ambassador Barshefsky proved persuasively that USTR can do this. It is for that reason that ITI supports her confirmation as U.S. Trade Representative.

- Third, the WTO as an institution proved itself to be a worthy, and much more flexible organization than its predecessor, the GATT. Director General Ruggiero spoke forcefully in Singapore about the need for agreement on the ITA. You could sense it in his remarks -- if the ITA were to fail, then perhaps the future of the WTO as an institution would be at risk. If it were to succeed, then the WTO would have put its mark on the map.

- Fourth, the ITA points to the importance of industry/government cooperation on trade issues. We saw it manifest itself in several ways:

  1. USTR worked very closely with the Coalition throughout the negotiation process. We exchanged very useful information, and by the time our negotiators went to Singapore, or Manila during the APEC meeting leading up to Singapore, or any of countless other negotiations, the U.S. negotiators were the best briefed and prepared delegation.

  2. The industry advisory system in U.S. law also helped. I was impressed with Ambassador Lang's daily briefings for the U.S. private sector advisors and found it gratifying that the U.S. negotiators went out of their way to ensure that at each step along the way, they had the latest thinking from these advisors. The private sector advisory system we have in U.S. law clearly gives us a leg up.

- Fifth, we can expect more of the same in the future, and we need your support. During the Trans Atlantic Business Dialogue meetings in Chicago last October, Sir Leon Brittan said in his concluding remarks that he is going to start referring to what he calls the "ITA Formula", explaining that he expects industry-led initiatives to proliferate in the future that should pave the way to plurilateral WTO agreements. In this regard, ITI wants to stress to the members of the subcommittee our strongest support for expanding the negotiating authority for USTR through fast track this year.

- Finally, we want to use this negotiating authority because the ITA will not cease its forward momentum when it goes into effect on July 1. There is a broader agenda that we intend to pursue. In October, ITA members will start to what some are referring to as "ITA II". These are negotiations provided for in the agreement to consider additional tariff elimination measures for ITA coverage, and to start consideration of non-tariff measures. I am confident that our industry coalition will have much to offer in terms of our ideas, advice, and support for this next round.

Mr. Chairman, on behalf of the Information Technology Industry Council, we appreciate very much this opportunity to appear. We appreciate very much your strong statement of support for the ITA when you announced these hearings. I will be pleased to answer any of your questions.

ITA
Coalition

Association Members

ITI - Information Technology Industry Council - U.S. Co-Chair
AEA - American Electronics Association - European Co-Chair

AIA - Analytical Instrument Association
BSA - Business Software Alliance
CCIA - Computer & Communications Industry Association
EIA - Electronic Industries Association
EACC - European American Chamber of Commerce
IPC - Institute for Interconnecting & Packaging Electronic Circuits
OIDA - Optoelectronics Industry Development Association
SEMI - Semiconductor Equipment Manufacturers International
SIA - Semiconductor Industry Association
SPA - Software Publishers Association
TIA - Telecommunications Industry Association

Corporate Members

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Northern Telecom
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Uniden
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Chairman CRANE. Thanks, Mr. Cross, very much.
Mr. Regan.

STATEMENT OF TIMOTHY J. REGAN, DIVISION VICE PRESIDENT AND DIRECTOR OF PUBLIC POLICY, CORNING, INC., CORNING, NY

Mr. REGAN. Mr. Chairman, thank you for the opportunity to appear here. I want to talk about a unique situation, a little different than that others might talk about.

As is the case with most negotiations, this one involved give and take. They always do. Unfortunately, Corning and the industries

we are involved with, the fiber optics industry and the television industries, were on the give side of that "give and take" equation. The European Community wanted some major concessions from the United States which would have hurt both of these industries and there was not going to be anything in the agreement that was going to offset the pain.

Now, of course, Corning, being a leader in these industries resisted and, as a result, we became a bit controversial. That is why I am here today.

Fortunately, with the help of Members of this Committee, in particular, Mr. Rangel, Mr. McNulty, Mr. Neal, Mr. Houghton, yourself as well as Mrs. Thurmond, we were able to work with USTR to find some solutions. USTR was openminded. They allowed us to work with them and figure out a way to come up with some solutions that worked for them and for our trading partners, but at the same time, did not sacrifice our fundamental interests.

In the final analysis, USTR established a good process and a good process always results in a good outcome.

Now, before I get into the details, what I want to do is show you some props. This is a copper cable. It has 400 wires in it, 200 copper pair. This little piece of fiber, which you cannot even see, has the information carrying capacity, using relatively inexpensive, off the shelf electronics, as 48 of these. Now, if you want to do really sophisticated electronics that is available off the shelf today, this little fiber here can do the work of 781 of these. If you want to use the advanced technology that we have tested in the lab, this little fiber can do the work of 6,400 of these.

Now, this is a great technology and it was invented in this country. Unfortunately, the ITA negotiations were headed toward undermining the ability to be able to make fiber optics here in this country. Thankfully, we were able to get into the ITA process early enough and to get some changes.

Specifically we told USTR not to put this product on the table. We said do not put optical fiber, optical, cable optical couplers on the table. They said: Why? We are the best in the world in these areas. We are the world's leaders. We ought to put them on the table.

The response really is quite simple. The ITA was exporting designed to deal with tariffs. The problems we have exporting these products overseas is nontariff barriers. So, any zero for zero tariff deal is, by definition, imbalanced against us. We face nontariff barriers that must be dealt with and they could not be dealt with in the context of the ITA.

So, USTR accepted our position. Unfortunately, the European Community continued to press and they pressed very, very hard on these issues. In the end, Ambassador Barshefsky was forced to compromise or face the prospect that the ITA would not be successfully concluded. Now, she worked with us to find a compromise. In the end, she agreed to cut the tariff on fiber optic cable to zero by the year and to exclude optical fiber and optical components from any tariff cuts whatsoever.

More importantly, she said, OK, guys. You have a problem in export markets. I am going to help you. I am going to help you tear down those nontariff barriers to your exports, outside of the context

of the ITA, bilaterally. I will use other tools to make sure that we can push these products overseas.

So, from our perspective, this was a good result. We are working closely with her right now to implement a plan that will aggressively promote export of this very, very important technology and make sure it is made here and not over overseas.

The other issue is televisions. Now, televisions are a different situation all together. It is related to fiber optics only in the sense that Corning also makes glass for televisions as we do fiber optics.

The television industry is one which really has had a terrible saga, a saga of dumping and of unfair trade that spans 20 years. Realizing this USTR wanted to exclude the TV products from the ITA and we applauded that decision. Unfortunately, a big issue arose over the definition of a monitor. Normally that would not be a big deal, but in this case, it was controversial because there is a technological change occurring in the marketplace.

This is fundamentally rooted in the fact that distinction between a television (and related video monitor) and a computer and (related computer monitor) is being blurred by technological change. The two are beginning to merge. We call this convergence.

In the past, a television had a big screen and relatively poor resolution and a computer monitor had a small screen and very good resolution. That is changing. HDTV, for example, and standard digital television now are going to have higher resolution with picture quality that approximates 35 millimeter film. On the other side, computers are going to get larger screens and broadcast video capabilities. So, the distinguishing factors will be eliminated. Yet, we still had to come up with a definition for a monitor.

We worked very hard to work up one, but we encountered all kinds of problems. The computer industry and television industry worked together to find a solution. We could not work it out. USTR took the lead and came up with a compromise. That compromise defined a computer monitor by three primary characteristics. Number one, it has a dot pitch of below 0.4, a technical term for resolution. Number two, it has used cathode ray tube technology. Number three and most importantly—and this wording is kind of carefully done—it must not be capable of receiving and processing television signals without the assistance of a computer.

Now, in addition, USTR said we are going to revisit this definition in 2 years. So, that gives us some time to work this thing out. We will have some more market data. We will be able to make a decision about modifying this. We frankly wanted to have a resolution definition below what USTR proposed, but we understand why USTR had to accept this definition and why USTR had to close the deal.

We are going to work very hard over the next 2 years monitoring the market. If we find monitors coming into the United States that are principally used as televisions, we anticipate that USTR will be quick to act to make sure that the duties are properly assessed.

Thank you, Mr. Chairman and thank you everybody in this Committee for all your help throughout this rather difficult process.

[The prepared statement follows:]

Testimony before
the House Ways & Means Committee
Subcommittee on Trade

by
Timothy J. Regan
Division Vice President and Director of Public Policy,
Corning, Incorporated

"The Other Side of the ITA"

Introduction

Mr. Chairman, I appreciate the opportunity to appear before you to discuss our experience, a unique one, with respect to the Information Technology Agreement ("ITA").

For the most part, you've heard nothing but praise for the ITA. While I'm not here to criticize it, I am here to discuss the other side of the ITA -- the experience of an industry that stood little to gain from the ITA, but had much to lose.

As is the case with most trade negotiations, the ITA process involved both give and take on the part of all countries involved. By that I mean, every country involved in the negotiation is expected to make concessions, as well as to receive them. As one would expect, this give and take process results in some winners and some losers.

The ITA negotiations were no different. The United States had certain goals it intended to achieve in terms of tariff concessions, largely to benefit computer and semiconductor industry exports to Europe. Likewise, the European Union ("EU") expected tariff concessions from the United States on products of export interest to European industries.

Unfortunately, Corning and the industries that we are associated with were on the "give" side of this "give and take" equation. Other governments, mostly the EU, demanded concessions from the United States which would have hurt the U.S. fiber optics and television industries. The ITA did not include benefits for these industries to offset the pain associated with the concessions sought by the EU.

Of course, Corning as the leader in these industries resisted. As expected, we became a bit controversial.

Fortunately, with the help of Members of this Subcommittee, we were able to work out a solution with USTR. I would like to commend USTR, especially Ambassador Barshefsky, for its openness, accessibility, and creativeness in finding a meaningful compromise that addressed our principal concerns. And, I'd like to thank them for the tenacity they showed in selling this compromise to the EU during the negotiating process.

In the final analysis, the process worked. USTR kept us informed, listened to our counsel, and did their level best to address our concerns in the negotiating process. And, as is usually the case, when you have a good process, you have a good outcome -- one that's fair and reasonable to all affected parties.

Now I'd like to discuss the details.

Fiber Optics

When the ITA negotiations began early in 1996, we asked USTR to exclude fiber optics products from the negotiations, specifically optical fiber, optical cable, and optical components. At first, USTR was somewhat incredulous, asking the obvious question: Why should we exclude these products when we are the world's leaders?

The answer lies in the fact that the ITA was designed to deal with tariff barriers, and only tariff barriers. However, the barriers to our exports of these products are generally not tariffs. Some large potential export markets, like Japan, have zero tariffs on these products. Yet, real market access remains elusive.

The fact is, our products face huge barriers overseas in the form of non-tariff measures. These measures include such practices as:

- the tolerance of cartel-like behavior that excludes imports;
- government procurement that demonstrates a clear preference for domestically-produced product;
- investment performance requirements that link market access to the transfer of technology and investment in the home market; and
- the discriminatory application of standards and product certification procedures.

Unfortunately, these rather serious restrictions on our exports were beyond the scope of the ITA negotiations. The negotiations focused on tariff, not non-tariff measures. So, we concluded that the ITA would hold little promise for our industry but pose a serious threat.

The serious threat arose from the fact that the elimination of the U.S. tariffs would have totally opened the U.S. market without achieving meaningful market access concessions.

Obviously, a zero-for-zero tariff deal in the area of optical fiber, optical cable, and optical components would be totally imbalanced against U.S. interests. Foreign suppliers would gain virtually unrestricted access to the U.S. market, while we would continue to face a plethora of restrictions on our exports, or otherwise be forced to transfer sensitive technology overseas in order to avoid discrimination against our exports.

In light of these arguments, USTR agreed that optical fiber, optical cable, and optical components, should be excluded from the ITA. But, the Europeans had a different agenda. They wanted these products covered by the Agreement realizing that the tariff was the only serious U.S. barrier to their exports.

The European position made sense from Europe's point of view. Since the U.S. tariff is the only barrier standing between Europe and 40% of the world's optical fiber market located in the United States, duty-free access to the U.S. market would be a significant benefit to European suppliers. USTR, for good reason, resisted the European request, but the EU persisted. As a result, fiber optics became quite controversial during the Singapore Ministerial.

In the end, USTR was forced to strike a deal to save the ITA. USTR worked closely with us in structuring a compromise that would have as minimal an impact as possible on the U.S. industry, while at the same time giving the Europeans some of what they wanted.

Specifically, USTR offered to reduce the duty on optical cable to zero by the year 2000, but refused to make any concessions on optical fiber or optical components.

More importantly, to help offset the potential negative effect on the industry of this concession, Ambassador Barshefsky agreed to pursue aggressively bilateral elimination or substantial reduction of the non-tariff barriers to U.S. optical fiber and cable exports. We are now working closely with USTR to implement a plan to secure access to certain critical export markets and are optimistic that USTR's efforts will succeed.

Televisions

The situation affecting the U.S. television industry was substantially different than that of the optical fiber industry. They are connected only in the sense that Corning makes the primary optical devices for both industries. We are the inventor of optical fiber and the inventor of the process for making glass for cathode ray tubes. This is where the similarity ends.

The saga of the television industry is one with which this Committee is very familiar. The industry has been the target of substantial unfair trade for over two decades and has been found to be injured by unfairly traded imports on eight different occasions. As a result, antidumping duty orders are outstanding against imports of televisions sets from Japan, Korea, and Thailand, as well as the imports of television tubes from Japan, Korea, Singapore, and Canada.

Through the administration of these dumping orders, and through some very creative provisions included in the NAFTA, the North American television industry has made a tremendous recovery. Today, about 90% of the medium and large color televisions consumed in North America are manufactured here. This was not true 10 years ago when the industry faced 50% import penetration.

Being aware of this difficult history, USTR agreed to exclude televisions from the ITA. Of course, the industry applauded this decision.

But, a issue arose in defining "monitors" that were to be included under the terms of the Agreement. This controversy was fundamentally rooted in the fact that the distinction between a "television" (and its related video monitor) and a "computer" (and its related monitor) is being blurred by technological.

In the past, televisions and computers, and the related monitors, were easily separated by screen size and resolution. A television and its related video monitor generally had a screen size of 19" and larger and lower resolution that lent itself to the viewing of VCR quality video.

Computers, on the other hand, generally tended to have smaller screens largely because they were intended for close-in use in an office setting. Moreover, the resolution required of a computer and its related monitor was much higher than that of a television. Higher resolution is necessary to view characters as opposed to full motion pictures.

But now, this distinction is being blurred. Televisions, particularly with the advent of high definition television ("HDTV") and standard digital TV, are becoming higher resolution. And, computers with video capability are moving toward larger screen sizes and toward displaying full motion video.

This convergence has given rise to what Andy Grove, Chairman of Intel, describes as the "battle for the eyeballs." The computer industry and the television industry are now competing to some degree for the same viewer. This, obviously, made developing a simple definition for monitors covered by the ITA more difficult.

It is important that products which enter the United States are properly classified as a computer and related monitor or as a television and related video monitor because of the tariff implications. If it is a television, video monitor, color picture tube, or television

glass, it is assessed a 5% - 15% tariff. Plus, color television sets and picture tubes are assessed a dumping duty if they're shipped from Asia.

These duties have been maintained in the television sector to defend it against import injury, a large part of which is due to unfair trade.

On the other hand, if the monitor is classified as a computer monitor, or a computer system, it would be duty-free under the ITA.

So, the television industry wanted to make certain that the definition of a computer monitor covered by the ITA was sufficiently narrow so as to exclude "video monitors" which are used principally for the purpose of television viewing. This sounds simple to do, but it turned out to be nearly an impossible task.

For weeks, the two industries negotiated to find a compromise solution. But, the negotiations failed to achieve a meaningful result. In the meantime, the EU endorsed a definition which the U.S. television industry could not support, further complicating the negotiations. In addition, the EU requested the inclusion of cathode ray tubes for monitors in the Agreement.

To USTR's credit, especially Ambassador Barshefsky, it pushed hard against the Europeans on both the definition and the inclusion of monitor tubes. In the end, a compromise was negotiated which excluded monitor tubes from the ITA and included a modified definition which the television industry can support.

This compromise definition included in the ITA monitors which meet three characteristics:

1) it must be a cathode ray tube display (as opposed to flat panel display);
2) it must have a dot pitch (technical measurement of resolution) smaller than 0.4mm; and
3) it must "not be capable of receiving and processing television signals...without the assistance of a central processing unit of a computer...".

In addition, USTR was able to get participants to agree to review this definition in January 1999.

This result gives us an opportunity to test the marketplace and use real market data to determine what the definition should correctly be. No doubt, many changes will occur over the next two years which will give us better information upon which to modify this definition.

We believe this result is good for now. We intend to continue to monitor imports very closely over the next two years to determine if any monitors are imported into the United States under the ITA and are principally used as televisions. Obviously, the importation of such products under the ITA would be in serious conflict with both the letter and intent of this Agreement.

Conclusion

As you can see, Mr. Chairman, the ITA posed quite a challenge to both the fiber optics and television industries. Fortunately, USTR worked with us to find a solution to all our challenges. USTR is one agency that really works. While I'm sure we made USTR's job more difficult, it made every effort to hear our views and to address them in the negotiating process. Without their help, our report to this Committee, which I believe is quite positive, would have been rather pessimistic.

I hope the Committee will find these views useful in evaluating the ITA and will approve its full implementation.

Thank you for the opportunity to present our views to the Committee.

Chairman CRANE. Thank you very much, Mr. Regan.

Mr. Boidock.

STATEMENT OF JOHN BOIDOCK, VICE PRESIDENT AND DIRECTOR, GOVERNMENT RELATIONS, TEXAS INSTRUMENTS, INC.; AND CHAIRMAN, GOVERNMENT AFFAIRS COMMITTEE, SEMICONDUCTOR INDUSTRY ASSOCIATION

Mr. BOIDOCK. Thank you, Mr. Chairman. I appreciate this opportunity to present the views of the Semiconductor Industry Association on the Information Technology Agreement.

The members of our association along with our customers and our suppliers believe that the ITA will substantially open foreign markets. We believe it is a major accomplishment for the whole world trading system. By signing on, countries have agreed to eliminate their tariffs on information technology products by the year 2000. This is something that our industry has been working on for over a decade.

Semiconductors are increasingly a pervasive part of everyday life. They are the enabling technology for the information age and the Internet. They have enhanced the functioning of such diverse products as the family car, advanced medical equipment and modern defense systems. We in the semiconductor industry employ 250,000 people throughout the United States. We are the technology behind the nearly $400 billion U.S. electronics industry, which employs two and a half million people.

We are currently the world market share leader with 1996 world sales reaching $60 billion, which represents 46 percent of the world's semiconductor market. We are a global industry. Roughly half of our revenues are derived from overseas sales. As a consequence, we have dedicated ourselves since the inception of the Semiconductor Industry Association to promoting free trade and opening world markets and we have made much progress, especially in Japan.

We have not always been the world leader, however. In the mideighties, we lost the lead due to a combination of Japanese dumping of semiconductors on the world market and nontariff barriers in Japan, which I might add is the second largest market for semiconductors. During that period, concerns about the continued existence of our industry in the United States were voiced by many, both in and out of government, because of the significant implications that its demise would have for our Nation's security.

The industry's response to this problem was a several part strategy, which included, first, the elimination of tariffs on semiconductors and related products throughout the world, including here in the United States. At our urging, the United States, Canada and Japan eliminated their tariffs on semiconductors in the mideighties. As a result, our industry has had to compete on the basis of quality, technology and cost in our home market for over 10 years, unprotected by tariff barriers.

Second, we worked to secure more equitable access for foreign semiconductor suppliers in the Japanese market. We did this with

the help of the Office of the U.S. Trade Representative. As you know, Mr. Chairman, the United States recently secured the third United States-Japan semiconductor trade agreement, thanks to the tireless efforts of Ambassador Barshefsky and her highly dedicated staff.

As a result of these and other efforts, the U.S. semiconductor industry has regained the world leadership position and we remain the most competitive semiconductor producers in the world. Today, the SIA along with our suppliers in the semiconductor manufacturing equipment industry and our customers in the information technology business are pushing for other nations to eliminate their tariffs on information technology products through the Information Technology Agreement.

Currently many nations of Asia as well as the European Union maintain duties on semiconductors. For example, EU duties on semiconductors range up to 7 percent. Elimination of these duties will save U.S. semiconductor makers and our European customers $1.4 billion between now and the end of the century. The benefits do not end there. Consumers and businesses that utilize information technology products worldwide will also gain.

The ITA, by lowering the costs of access to computers and software, has the potential to increase educational opportunities for children throughout the world, and by making computers and telecommunications equipment more affordable for small businesses, productivity will rise. This agreement truly provides a win-win scenario for all nations choosing to participate.

Mr. Chairman, thank you very much for the opportunity to present the views of the semiconductor industry.

[The prepared statement follows:]

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STATEMENT OF JOHN BOIDOCK
VICE PRESIDENT AND DIRECTOR
GOVERNMENT RELATIONS
TEXAS INSTRUMENTS, INC., AND
CHAIRMAN, GOVERNMENT AFFAIRS COMMITTEE
SEMICONDUCTOR INDUSTRY ASSOCIATION

HEARING ON
THE SINGAPORE MINISTERIAL MEETING OF
THE WORLD TRADE ORGANIZATION

FEBRUARY 26, 1997

I appreciate this opportunity to appear before the Subcommittee on Trade of the Committee on Ways and Means to present the views of the Semiconductor Industry Association (SIA) on the outcome of the Singapore Ministerial Meeting of the World Trade Organization (WTO) and the Information Technology Agreement (ITA), which was agreed to in Singapore.

The members of the SIA, along with both our customers in the information industries and our suppliers in the semiconductor manufacturing equipment business, believe that the ITA – which will significantly open foreign markets – represents a significant achievement for the world trading system. Thirty countries, representing approximately 85 percent of world trade in information technology products, have now signed onto the ITA with more expected to join by the first of March.

Among the signatories are some of this nations largest trading partners – as well as some of our strongest competitors – including the European Union, Japan, South Korea, Indonesia, Taiwan, Singapore, Australia and Canada. By signing onto the ITA, these countries have agreed to eliminate their tariffs on information technology products such as semiconductors, semiconductor manufacturing equipment, telecommunications equipment, computers and computer parts, and software by the year 2000. Mr. Chairman, the members of the SIA agree fully with your statement that the ITA, by eliminating tariffs on these important sectors, will expand export markets for America's high technology manufacturers.

Before discussing further the SIA's position on the ITA, I would like to take a minute to give some background on the U.S. semiconductor industry.

The U.S. Semiconductor Industry

Semiconductors are an increasingly pervasive aspect of everyday life, enabling not only the creation of the information age and the Internet but also the functioning of everything from automobiles to advanced medical equipment. Semiconductors are also the linchpin underlying this nation's advanced military weapons systems. A growing proportion of the value of these systems is dependent upon electronics products – up to 40 percent in some cases. The current design of the F-16 Fighter, for example, includes 17,000 electronic components. Semiconductors are also intrinsically important in such equipment as radars, weapons guidance and control systems.

U.S. semiconductor makers employ over 260,000 people nationwide. Their products are the enabling technology behind the nearly $400 billion U.S. electronics industry, which provides employment for 2.5 million Americans.

The U.S. semiconductor industry is currently the world market share leader, with 1996 world sales reaching $60 billion, representing 46 percent of the $132 billion world market. Moreover, the world semiconductor market is expected to double by the year 2001, with projected sales of over $260 billion.

U.S. semiconductor producers are highly committed to maintaining their lead in both semiconductor manufacturing and technology. The U.S. semiconductor industry devotes on average 20 percent of its revenues to capital spending and another 11 percent to research and development – among the highest of any U.S. industry. The bulk of these investments, and therefore the bulk of the employment these investments create – including 90 percent of R&D employment – are made in the United States.

While investing heavily in the industry's future competitiveness and technological capabilities, SIA members also have always actively sought to open foreign markets for U.S. products. Because the semiconductor industry is so global in nature – roughly half of the U.S. industry's revenues are derived from overseas sales – the SIA has been dedicated since its inception to promoting free trade and continuing the process of opening world markets. Without adequate access to foreign markets, the U.S. semiconductor industry could not sustain its technological base in the United States. We have made much progress in our efforts to secure foreign market access, especially in Japan. However, the job is not yet done.

Benefitting from Free Trade

Semiconductors were invented in the United States. In fact, this year marks the 50th anniversary of the invention of the transistor by Bell Labs. Although this technology was invented and commercialized by U.S. companies, the U.S. semiconductor industry lost its world market share lead in the 1980s due to a combination of Japanese dumping of semiconductors on the world market and non-tariff market access barriers in Japan – the second largest semiconductor market in the world.

The semiconductor industry's response to these problems was a several part strategy, the first part of which was to push for the removal of trade barriers generally throughout the world. For example, the U.S. semiconductor industry has been in the forefront of efforts to eliminate tariffs on semiconductors and related products worldwide, including here in our home market. At the SIA's urging, the United States, Canada and Japan eliminated their tariffs on semiconductors in the mid-1980s, when the U.S. semiconductor industry was struggling for survival. At the same time they eliminated their semiconductor tariffs, the U.S., Japan and Canada also eliminated their tariffs on computer parts. The SIA pushed for the elimination of tariffs in our own home market because the health of the semiconductor industry depends very largely on the health of our customers in the information technology industries, and our customers in the United States can produce the best products when they do not have to pay the costs and undertake the administrative burdens associated with paying duties.

Following the elimination of semiconductor tariffs in the United States and Japan, the SIA also vigorously pursued a specific strategy aimed at securing more equitable access for foreign semiconductor suppliers in the Japanese market. We did this with the help of the Office of the U.S. Trade Representative (USTR), which negotiated a series of bilateral U.S.-Japan Semiconductor Agreements in 1986, 1991 and 1996. As you know, Mr. Chairman, just six months ago Ambassador Barshefsky secured the third of these agreements, which seeks to continue the process of opening the Japanese market to competitive foreign semiconductors. SIA member companies also invested heavily to serve the Japanese market in order to achieve increased sales in that country.

Because of the need from a national security perspective of maintaining a strong domestic semiconductor technology base, the Department of Defense also teamed up with the industry to form SEMATECH to promote new manufacturing technologies. The joint industry-DoD effort on SEMATECH complemented the activities of the USTR to open foreign markets, as the DoD understood that to maintain the technological base necessary for our national security, the United States needed an industry that could compete worldwide.

Once the United States eliminated its own semiconductor tariffs in 1985, the U.S. semiconductor industry also launched an effort to remove foreign tariff barriers to its exports worldwide. In 1994, the Uruguay Round negotiations resulted in a commitment by the Republic of South Korea to eliminate its semiconductor tariffs by 1999, as well as a commitment to reduce semiconductor duties in the European Union. In 1995, at the request

of the European semiconductor industry, the European Union further reduced its semiconductor duties from as much as 14 percent to a high of 7 percent. However, the remaining European Union duties, while significantly reduced from their previous levels, continue to impede the sale of U.S. and other foreign semiconductors in Europe. The ITA will now finish this many year effort because the European semiconductor industry has joined the SIA in pressing for full elimination of EU semiconductor duties. The EU semiconductor industry supports the ITA because the EU industry recognizes that in order for both them and their European customers in the information technology industries to remain competitive, those tariffs must be removed.

Since this country eliminated its semiconductor tariffs, the U.S. semiconductor industry has regained the lead in world market share and we remain the most competitive semiconductor producers in the world. This competitiveness is due to a number of factors, including both increased market access in Japan and reduced costs for our customers resulting from elimination of U.S. semiconductor tariffs. The reduction in costs to our customers has had a direct impact on the U.S. semiconductor industry, because the health of our industry depends on the health of our customers, and our customers in this country are more competitive when they are free from the costs and the administrative burdens associated with paying duties. By eliminating semiconductor tariffs in key world markets, the ITA will now lower costs for the information technology industries worldwide. This will greatly strengthen the competitiveness of the U.S. semiconductor industry, and the U.S. electronics industry in general. This, in turn, will further strengthen this country's technological and industrial base.

Benefits of the ITA for the U.S. Semiconductor Industry

For the semiconductor industry, the ITA provides a three-fold benefit: first, through the elimination of semiconductor duties in the nations of Asia and the European Union; second, through the elimination of duties on our suppliers, the semiconductor manufacturing equipment and materials industry; and third, by opening up markets and increasing opportunities for our customers in the information technology industries.

Currently, many of the nations of Asia as well as the European Union (EU) maintain duties on semiconductors. For example, the EU has duties on semiconductors which range up to 7 percent. Elimination of these duties as agreed the ITA will save both U.S. semiconductor makers and our European customers approximately $1.4 billion cumulatively by the turn of the century. In addition to these direct duty savings, we anticipate increased sales for some semiconductor products due to the lower cost to our customers made possible by the elimination of duties.

Global exports of semiconductor manufacturing equipment (SME) exceeded $12 billion in 1995, and the worldwide equipment market is expected to grow more than 12 percent per year through the turn of the century. The United States is home to the largest manufacturer of semiconductor manufacturing equipment in the world, in addition to a large number of medium and smaller sized firms. Like American semiconductor makers, these equipment makers derive on average more than half of their revenues from overseas sales. The ITA will eliminate the remaining foreign tariffs on semiconductor manufacturing equipment, such as Korea's tariff of 8 percent. In addition, the ITA will eliminate the tariffs frequently imposed on spare parts for this equipment, such the 5-8 percent duties currently imposed by Taiwan – a major semiconductor producing nation.

The vast majority of the investments in research and development and in capital equipment made by the members of the SIA are made in the United States. However, in order to gain market access and to serve customers in the rapidly growing markets of Asia as well as Europe, U.S. semiconductor makers at times must invest overseas. Elimination of foreign tariffs on both semiconductor manufacturing equipment and spare parts will benefit the U.S. equipment industry, but also U.S. semiconductor makers with facilities overseas.

Today, the computer industry utilizes approximately 50 percent of the annual world's semiconductor output and the communications industry accounts for the consumption of another 15 percent of world semiconductor output. The ITA will largely eliminate foreign

tariffs on these products by the turn of the century – and will expand foreign opportunities for American manufacturers of both telecommunications and computers and computer parts. By expanding markets for these important customers, the ITA will again benefit the U.S. semiconductor industry.

The benefits that accrue to the semiconductor industry because of the ITA will have a direct impact here in the United States. SIA member companies base the overwhelming majority of their employment in this country. Our industry bases almost all of its research and development in the United States – 95 percent of all R&D expense and 90 percent of all R&D employment is in this country – in addition to expending almost 70 percent of all labor expenses here.

Conclusion

So far I have focused my comments on the benefits the ITA will generate for U.S. manufacturers of semiconductors, semiconductor manufacturing equipment and information technology and their employees. I would also like to direct a few remarks to the benefits that will accrue to consumers and businesses that utilize information technology products worldwide. The ITA, by lowering the cost of access to computers and software, has the potential to increase education opportunities for people around the world. Computers and telecommunications equipment will be more affordable for small businesses here, in Europe and in Asia, thereby raising productivity. This agreement truly provides a win-win scenario for all nations choosing to participate.

Thirty nations, which account for approximately 85 percent of world trade in information technology products, have already signed onto the ITA. As I note at the outset, among the signatories are countries that are home to both some of our toughest competitors as well as our best customers, including Japan, the European Union, and Taiwan. Ambassador Barshefsky and her very capable staff at USTR have been working tirelessly to secure additional signatories. Their efforts have succeeded in winning commitments from both Malaysia and Thailand that they will sign onto the agreement by the first of March, thereby raising the ITA's coverage to 90 percent of world trade in information technology products.

In addition to the immediate benefits that will accrue from a reduction in foreign tariffs, the ITA will continue to benefit America's high technology manufacturers in the future. The ITA has set a new standard of openness for WTO member countries as well as for those nations hoping to join the WTO in the future.

Mr. Chairman, thank you for this opportunity to present the views of the SIA. I would be pleased to answer any questions.

Chairman CRANE. Thank you very much, Mr. Boidock.

Mr. Poinsette and Mr. Kaplan, I think you are sharing the time; is that right?

Mr. POINSETTE. Excuse me, sir?

Chairman CRANE. I think you are sharing your time, the 5 minute time; is that right?

Mr. POINSETTE. That is correct.

Chairman CRANE. Go right ahead, please.

STATEMENT OF DON POINSETTE, VICE PRESIDENT, KEMET ELECTRONICS CORP., GREENVILLE, SOUTH CAROLINA; AND JAMES KAPLAN, JR., VICE PRESIDENT, CORNELL DUBILIER, LIBERTY, SOUTH CAROLINA, ON BEHALF OF THE PASSIVE ELECTRONICS COALITION

Mr. POINSETTE. Mr. Chairman and Members of the Subcommittee on Trade, my name is Don Poinsette, vice president of Kemet Corp., located in Greenville, South Carolina, with facilities also in North Carolina and Texas. Sitting to my left and also testifying today is James Kaplan, Jr., vice president of Cornell Dubilier. Also with us today but not at the witness table are my colleague, James Jerozal, chief financial officer of Kemet, Mike Ritter, national sales manager of Industrial Midwec Corp., which is in the Chairman's congressional district, Joe Bstandig, communications manager for Vishay Intertechnologies, with facilities in 14 States and Les Glick of the law firm of Porter, Wright, Morris and Arthur here in Washington.

We represent the newly formed Passive Electronics Coalition that includes many companies producing capacitors and resistors in 18 different States and 25 congressional districts. We share a commonality of interests in preserving our companies, preserving our technologies and protecting the more than 20,000 jobs threatened by this information technology agreement. A complete list of these companies is in the written statement filed on Monday and we request that it be included in full in the hearing record.

Mr. Chairman, I will begin by saying that, the word passive in our name should not mislead you. The word defines our products but not our members. Mr. Chairman, we are a very angry and extremely motivated group, due to what we consider has been a grave injustice, perpetrated on us, on our industry and perhaps, even on the very security of these United States themselves by the U.S. Trade Representative in negotiating the ITA.

That negotiation took place without a single consultation with any company in our part of the electronics industry. It took place without regard for the Federal statutes which require that consultation. It took place in spite of two letters sent by Senator Strom Thurmond in May and December of last year, neither of which were even acknowledged by the USTR.

I digress here just a minute. He did in fact bring it to the attention of the USTR at that time, that there was a defense issue involved, counter to what Mr. Lang said this morning.

It took place in spite of several repeated assurances by the USTR itself that capacitors were not included in the agreement. The latest of these assurances was made when the USTR was meeting with other country representatives in the far away reaches of Singapore, far from the communications channels in Washington. Once again, both we and our attorneys were told that capacitors were not included. Then in the December 11 issue of the "New York Times" we were stunned to read that capacitors were in the ITA.

Mr. Chairman, by definition, successful negotiations are supposed to result in win-win situations for the parties involved. In this ITA, as far as passive electronic components are concerned, it is all win-win for everyone outside the United States and is totally

lose-lose for the American companies inside the United States. The Europeans win. The Koreans win and even Iceland can win if they want to. The big winner, one more time, is the Japanese. The Japanese give up absolutely nothing—I repeat—absolutely nothing in order to get these huge concessions. This is because their tariff is already zero.

They use a complex system of nontariff barriers in Japan which make it impossible for our companies to sell there. So, what do we get in the ITA as it is currently written? In a word, we get had, to wit, number one, the Japanese finally get that which they have wanted for a very long time, totally duty-free access to an already open and competitive market in the USA. Number two, American companies get no additional access to the totally closed Japanese markets since duties have never been an issue there.

Number three, while we are told that Europe has been insisting on the inclusion of passive devices in the ITA, we know for a fact that the EU has been heavily influenced by Japanese companies already located there. Number four, true, we get a reduction of duties such as Australia, Canada and Norway. It is also true that such reductions make absolutely no difference to any of us in this room.

Number five—and this may be the single most important point of all. Our own USTR has handed to the other countries, again, most notably to the Japanese, a 9.4-percent reduction in their cost of doing business in the USA. Mr. Chairman, I assure you and other Members of your Committee that a near 10-percent reduction of costs in this already extremely competitive and low margin business can only be compared to a gift from God.

Finally, as if protecting American companies, technologies and 20,000 jobs was not sufficient, we would respectfully draw your attention to the national security. I would like to quote from a decision brief prepared by the Center for Security Policy directed by a former deputy Secretary of Defense, dated February 7, 1997. The article was entitled: "Hold Everything, Barshefsky's New Infotech Trade Deal Promotes Trade at Expense of U.S. Security Interests."

The article notes that, and I quote: "Should the United States lose the one or two American companies still available to supply capacitors and resistors required for such systems, military readiness could be materially degraded." The newsletter goes on to say:

> And this is no abstract proposition. In Operation Desert Shield/Desert Storm, U.S. officials were alarmed to discover that dependency on foreign suppliers for spare parts or replacement components of vital weapons systems could translate into unacceptable shortfalls in defense capacities and/or serious strains in relations with allied nations. For example, Washington had to ask the Japanese government for supplies of display screens for U.S. weapons systems that were not available for U.S. manufacturers.

Mr. Chairman, we have raised these concerns with the Armed Services Committee in both Houses and hopefully you and Acting Trade Representative Barshefsky will be hearing from them soon.

Gentlemen, the simple fact is, not a single integrated circuit, not a single microprocessor will work without having many of our type of products alongside it. Our best estimates are, today, on average, every integrated circuit has five Tantalum capacitors, 100 ceramic capacitors and an equal number of resistors arrayed around it. Not only does that allow your television to work, your VCR to work, the engine in your car to run, the security system in your house to

work, but it also permits the Patriot missile to work. It permits Trident to work. It permits TOW antitank systems to work and it permits our space shuttles to make their way back and forth.

Kemet Corp. and Vishay are the two lone surviving American companies manufacturing these two capacitor products. The rest of the world is supplied, for all practical purpose, by the Japanese. Except for the presence and continued success of these two American companies, Japan can control the world markets of Europe, South Africa, South America, Asia, China, NAFTA and, of course, Japan itself. If our government, this time the USTR, persists in destroying every competitive advantage we might have in the United States then all we can look forward to is being held hostage by foreign suppliers and/or to foreign manufacturing operations.

Chairman CRANE. Well, Mr. Poinsette, are you about to finish up?

Mr. POINSETTE. Yes, just if I may——

Chairman CRANE. We are in a bit of a time bind here.

Mr. POINSETTE. Thank you, Mr. Chairman, if I might have 2 more minutes, please.

Chairman CRANE. Well, I will tell you, we have to go and vote.

Mr. POINSETTE. OK.

Chairman CRANE. If you could sort of wrap it up in about 30 seconds, I would appreciate that.

Mr. POINSETTE. I will do that.

Chairman CRANE. Then I have sort of an announcement to make.

Mr. POINSETTE. I will do it. Thank you, sir.

It should be clear then that these products are not—repeat—not related in any way to information technology. They do not store or transmit information. They do not belong in the Information Technology Agreement.

So, what does our coalition want? Do we ask that the ITA be destroyed?

No, but what we do ask is that you and your Committee with all urgency insist that the USTR remove passive components from this agreement. Our best estimates are that these components make up less than 1 percent of the value of the agreement. Now, I think it is much less from what I heard earlier. It cannot possibly harm the agreement to have them removed. Please help us preserve our companies, our jobs and our very ability to compete. We ask you to please not be a party to giving away another vital industry to overseas interests.

Thank you, Mr. Chairman.

[The prepared statement and attachments follow:]

BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE
FEBRUARY 26, 1997

STATEMENT OF THE PASSIVE ELECTRONICS COALITION IN OPPOSITION TO THE INFORMATION TECHNOLOGY AGREEMENT (ITA) AS PRESENTLY CONSTITUTED AND IN FAVOR OF ELIMINATION OF CAPACITORS AND RESISTORS FROM THE SCOPE OF THE ITA

Mr. Chairman and members of the Subcommittee on Trade. My name is Don Poinsette, Vice President of Kemet Electronics located in Greenville, South Carolina with facilities also in North Carolina and Texas. We produce only two products, tantalum capacitors and multilayered dielectric ceramic capacitors. Also testifying today will be James Kaplan Jr. of Cornell Dubilier a small producer of mostly aluminum capacitors with plants in Liberty, South Carolina, Wayne, New Jersey, and New Bedford, Massachusetts. Also with me today but not at the witness table due to space restrictions is Jim Jerozal, Chief Financial Officer of Kemet, Joe Bstandig, Communications Manager of Vishay Intertechnology/Dale-located in Nebraska and South Dakota, Mike Ritter National Sales manager of Industrial Midwec Capacitor Corporation located in Rolling Meadows Illinois, in the 8th Congressional District; and our legal counsel, Mr. Les Glick of the law firm of Porter, Wright Morris and Arthur, Washington, D.C.

Our group, the Passive Electronics Coalition, includes numerous different companies that produce capacitors and resistors in 18 different states and 25 different congressional districts.We are all U.S. owned companies and all have a commonality of interest in preserving our U.S. jobs threatened by this Information Technology Agreement. A complete list of these companies is listed below:

Kemet Electronics Corporation, Greenville, South Carolina; Shelby, North Carolina; and Brownsville, Texas
Vishay Intertechnology, Inc. Malvern, Pennsylvania
Cornell Dubilier, Liberty, South Carolina; Wayne, New Jersey; New Bedford, Massachusetts
Magnetek Capacitors, Bridgeport, Connecticut
Industrial/Medwec Capacitor Corp., Rolling Meadows, Illinois (8th Congressional District)
Aerovox Corp., New Bedford, Massachusetts; Dartmouth, Massachusetts
Dale Electronics, Columbus, Nebraska; Norfolk, Nebraska; Tempe, Arizona; Yantron, South Dakota
Sprague Companies, Sanford, Maine; West Palm Beach, Florida; Concord, N.H.
Vitramon, Inc., Bridgeport, Connecticut; Roanoke, Virginia
Vishay Measurements Group, Inc., Raliegh, North Carolina
Techno, Inc., Van Nuys, California
Roederstein Electronics, Statesville, North Carolina
Angstrom Precision, Inc., Hagerstown, Maryland
York Capacitors, Winooski, Vermont
Barker Microfarad, Inc., Hillsville, Virginia
Ohmteck, Inc., Niagara Falls, New York
Ultronix, Junction, Colorado
Commonwealth Sprague Capacitors, North Adams, Massachusetts

Mr. Chairman our group is called the Passive Electronics Coalition because we produce passive electronics products--capacitors and resistors. These are products that do not store or transmit information. They are passive in the sense that they are used to reduce the flow of electrical current (in the case of resistors) or to store and release electrical energy in the case of capacitors. In the first place. Unlike chips or microprocessors, they have no memory or information storing functions. I point this out for two reasons. First so that you do not think that the use of the word passive in our name means that our coalition is in anyway passive or complacent about the ITA agreement. In fact, Mr. Chairman, we are a very angry and extremely motivated group due to what we consider a very grave injustice that has been done to us by the Acting U.S. Trade Representative in Negotiating the ITA agreement. Second, we strongly believe that our products,

capacitors and resistors, generically have no place in any Information Technology Agreement. Unlike the many other included products, from word processing machines to calculators to machines for producing semiconductors, our products are not information products at all and have no place in this agreement. Some capacitors are as large as a tin can (show sample) and are used in refrigeration systems and having nothing whatsoever even to do with electronics. They couldn't even fit into a laptop computer or cellular phone. Others do go into computers and electronics devices but their functions do not relate to "information technology." Indeed the technology in capacitors and resistors is really very low. In short, we believe that generically these products have no place in this agreement.

What is interesting, but also the cause of our anger and frustration, is that apparently the Acting U.S. Trade Representative also agreed that capacitors did not belong in the ITA. They were not part of the U.S. offer or part of any draft of the agreement ever shown to the capacitor industry. In fact we were told , and we and our attorneys had many calls to USTR that capacitors were not part of the agreement. If we had been told otherwise, Mr. Chairman, we would have been here speaking to you a year ago in addition to today. But either purposely or inadvertently we were misinformed by the Acting U.S. Trade Representative concerning inclusion of capacitors in the ITA. We are particularly concerned because Acting Trade Representative Barshefsky is now telling members of Congress that she did not know of all the concerns and issues about capacitors. First this is not true, since as early as May 16, 1996 Senator Strom Thurmond, Chairman of the Armed Services Committee and Senator from the state where Kemet has its main plant, sent her a letter which stated in part about the ITA,". . . It is my understanding that these negotiations are attempting to reduce the duties on various electronic products and that capacitors have been suggested as one item to be targeted. This could result in considerable injury to Kemet, particularly since any tariff removal or reduction given to the Europeans would also be extended to the Japanese. Furthermore, none of the companies which initiated these negotiations produce capacitors nor has Kemet had the opportunity to have formal input into this process." This letter was sent in May 1996. Ms Barshefsky never responded to Senator Thurmond so he wrote her again in on December 12, 1996, before the ITA was announced. Again, Acting Trade Representative Barshefsky did not respond to the letter. In fact, Senator Thurmond, had to make a personal call to our Acting Trade Representative before he could get an answer on this issue and was then told that there was not much she could do.

This Mr. Chairman is the issue that concerns us. Why our government and our acting trade representative have chosen to ignore the concerns of a major industry in the U.S., those companies that produce capacitors and resistors and in fact sacrifice us on the alter of expediency so it could announce with fanfare and glory this new ITA agreement as if it were some great accomplishment for all U.S. industries. This simply is not the case. The ITA may benefit some U.S. companies that produce consumer products like computers and cellular phones, but it will not benefit capacitor and resistor makers at all and in fact will severly injure us. These are the reasons why.

Reduction in the tariff on capacitors (currently 9.6%) and resistors (currently 6%) would devastate the U.S. producers and workers. This is already a very competitive business. These tariffs have intentionally been left high, much higher than the weighted average U.S. tariff, due to recognition that these are import sensitive industries and ones that are important to the national defense. The profit margins on these products are small. Japan is already very successful in the U.S. market even with these high duties in place. Removing them would be like turning over one of the last surviving U.S. electronics industries to the Japanese that already dominate or control most others. We don't have any more U.S. made televisions or radios. Do we want to have a situation where there are no more U.S. made capacitors. Attached to this statement is a bar graph illustrating the Japanese shipments of various capacitors to the U.S. It shows a tremendous growth. Particularly in Tantalum capacitors that are one of the mainstays of Kemet. Japan more than doubled their exports of these capacitors to the U.S. from 1993 to 1996. They also more than doubled their exports of aluminum capacitors during this period. The bottom line is that the Japanese do not need any more help in trying to take over the U.S. capacitor industry. Certainly not from the U.S. government. Why does our government want to make it easier for them by removing these duties? We ask the Committee this because it is a question we cannot answer. It is not the Europeans that really want this duty off but the Japanese. There are few independent European capacitor producers. This deal was struck because the Japanese who are part of the ITA quad group that was behind the negotiations wanted this U.S. industry and the Europeans went along and our Acting Trade Representative politely complied by handing it over on a silver platter. At stake are thousands of U.S. jobs many in small towns without many other industries. The 9.6% tariff on capacitors is what is preserving these U.S. jobs against the cheaper

costs of producing these products abroad. After years of negotiations in the Uruguay Round of the GATT, the prior trade negotiators left this tariff. Now the current ones in one clandestine action in Singapore have destroyed the protection so carefully crafted by their predecessors who were concerned about this industry.

American capacitor makers get little in return for surrendering our market to the Japanese capacitor invasion. In Japan , Kemet has not been able to even sell one capacitor. This is not only to Japanese companies in Japan but even Japanese companies located in other countries. We were told by some U.S./Japanese joint ventures where we already supply the same capacitor to the U.S. partner and they know our product; and that they were interested in our products but when we tried to make a sale we were given insurmountable bureaucratic obstacles. The game the Japanese play is called "specsmanship" or the "art of delay." They tell us that we cannot meet their spec even though Kemet and Vishay are the U.S. leaders in technology. Our products are good enough for Hewlett Packard and Compaq and for the Patriot Missile but the Japanese say we don't meet their specs. They tell us the specs are in Japanese and they don't have time to translate it. If we offer to translate it our self they say these translations are not acceptable or must be submitted to them for refinement. When we approach these companies were are told "they buy from Oki" or some other Japanese company. In short, their is a close knit club in Japan that the Japanese suppliers and customers have no interest or desire to break. In short, Japan has an institutionalized non tariff barrier that is keeping out U.S. capacitors and resistors. Vishay has had the same experience.

Thus ITA results in the following situation for our industry.

1. The Japanese have complete duty free access to our market that is an open and competitive one.

2. We have no market access to the Japanese market although the duties are not an issue, non-tariff barriers make sales impossible. Duty wise we are receiving nothing since the Japanese duty is already zero. They can afford to keep it at zero due to their complex system of non-tariff barriers that makes sales impossible, not only in Japan but even to Japanese companies based in the U.S. and third countries.

3. The ITA does not address non tariff barriers in Japan which makes it a flawed and incomplete agreement.

4. The supposed opening of the European market is a meaningless gesture since the duties there are already very low, around 2.6% so that we gain very little by the trade off. We were already competing very well in Europe and did not ask for nor do we need the alleged benefits of this agreement.

5. Concerning reduction of duties in other countries, other than Japan this means very little. In a meeting we had the representatives of the USTR thought we should be happy that we would face lower duties in places like Australia. This is very nice but the amount of capacitors and resistors that are bought there are insignificant. The agreement has opened no markets for us that we were not already able to sell in.

In short, our Acting Trade Representative made a very bad negotiation for capacitors and resistors. We gave up high duties that have been helping the industry meet the already voracious Japanese appetite for our market. In return we got no access to Japan due to the fact that the agreement did not cover non tariff barriers. We got about a 3% reduction in the European tariff that means little competitively and more substantial reductions in tariffs from other countries where there is little demand for capacitors and resistors. If the U.S. Trade Representative is proud of such a negotiation , this pride was earned at the expense of our industry and thousands of potential jobs. Simply put, it was a bad deal for the U.S. capacitor and resistor industry.

What makes this situation even more outrageous is that we were never consulted. Although the trade act talks about a consultive process and the use of advisory committees there were none at least for capacitors. There was an advocacy group called the International Technology Agreement Coalition (ITAC) that consisted mostly of computer and electronics equipment manufacturers that wanted the agreement. No capacitor maker was a member. We tried to participate and were told we could not. We were told that our rights were represented through the Electronics Industries Association (EIA) that was a member even though the EIA's members included the very same computer and equipment makers who were pushing the agreement and

whose interests were different and adverse to ours. The U.S. Trade Representatives office regularly met and consulted with this ITAC group even though it was a one sided advocacy group that included many European and Japanese owned companies which we feel is improper. USTR did not once call a meeting to discuss any issues with any capacitor or resistor manufactures. We had to call them and what we got were assurances that at least for capacitors, "they were not in the agreement ".

There is a very clear legislative history and intent of the Trade Act of 1974 as well as the Trade Reform Acts of 1973 and 1974 which was its predecessor to have a private sector advisory committee consultation process before any major trade negotiations . In this regard I might quote from the Committee Report of the Senate Finance Committee on the Trade Reform Act of 1974, HR 10710 which ultimately was enacted as the Trade Act 1974 that stated

ADVICE FROM THE PRIVATE SECTOR

(Section 135)

> . . . the need for the Government to seek information and advice from the private sector is more important than ever before. The purposes of this section are to establish the institutional framework to assure that the representative elements form the private sector have the opportunity to make known their views to U.S. negotiators and to provide the latter a formal mechanism through which to seek information and advice from the private sector with respect to U.S. negotiating objectives and bargaining positions before and during . . . the multilateral trade negotiations.
>
> This section would provide for the creation of three general types of advisory committees and in addition would require the President to provide opportunity for the submission of information and recommendations on an information basis by other private organizations or groups. . . the requirement that the president also establish advisory committees for particular product sectors to be representative, so far as practicable, of all industry, labor or agricultural interests in such sector <u>reflects the Committee's concern that in the past trade negotiations there have not been adequate input from U.S. producers who are in the best position to assess the effects of removing U.S. and foreign trade barriers</u>. (Emphasis added).
>
> (See Senate Report No 93-129S) at 101

Clearly Congress was aware how important input was from the actual producers of a product which the USTR may be negotiating about, but incredibly the USTR has chosen to ignore this. Their meetings have been with the ITAC advocacy group, many of whose members are foreign owned and dominated companies such as Ericcson. Why weren't they setting up meetings with capacitor and resistor producers. The fact is that USTR has tried to do an end run around our industry. They belatedly (I believe in November) informally asked the ITC to check with capacitor producers about how they felt within the industry and some calls were made on a very informal unscientific way. The ITC apparently reported to USTR that the industry was divided, having spoken to many of the Japanese and European owned or controlled capacitor producers in the U.S. such as Phillips, which we all know is a huge European owned company and AVX (which is owned by one of the largest Japanese Capacitors producers). Belatedly now, that the criticism has been made the USTR has been apparently asking the ITC to do more of an investigation, apparently to cover its tracks. However, we have received reports that this is not in good faith and is only a gesture to go through the motions. For example, in an article in the February 17, 1995 issue of the Electronics Buyers News, it was reported as follows:

> A capacitor industry analysis firm the Paumanok Group Apex, N.C. was asked by the United States Trade Representative and the International Trade Commission to supply capacitor data for the subcommittee hearings but declined said the firms president, Dennis Zogbi. He said that the requests were politically motivated". At page 116.

What the USTR should have done, many months ago was to set up an advisory committee of capacitor and resistor makers and talk to us. If they wanted advice from the International Trade Commission, which may have been appropriate, it should not have been a last minute hurry up job to support what they already did but a comprehensive Section 332 investigation where all the facts could have been developed.

Instead Mr. Chairman, Our acting trade representative, ignored our concerns, and 10,000 miles away, in Singapore, out of the sight and scrutiny of the U.S. taxpayers, capacitors were added the last minute to the agreement without any advance knowledge or consultation with our industry. In fact we had to read about this in the New York Times, a rather sad turn of events. It appears that our negotiators seemed more concerned with what Sir Leon Brittan, head EU negotiator felt than the U.S. industries back home. In the December 11, 1997 issue of the New York Times, we read a quote from Augusto Fantuzzi the trade minister of Italy where he was quoted as saying that "the draft accord included tariff cuts on capacitors, fiber optic cables and digital photocopiers -- all products that Washington had wanted excluded from an accord But he noted that graphic display tubes and optic fibers would be excluded as hoped for by the United States." Thus apparently the U.S. fought to save some of these other products while sacrificing capacitors. There was a picture in the article of acting USTR Barshefsky toasting Sir Leon Brittan of the EU with both of them smiling. Mr. Chairman, I can't tell you how sick that photo made me and members of my industry. Our own trade representative celebrating after the betrayal of our industry.

Mr. Chairman, I do not use the word "betrayal" lightly. The word "betrayal" is defined as a "break of faith," or to "lead astray" (Webster's New World Dictionary, Second College Edition). This is what happened to the U.S. capacitor industry in Singapore. Now when we try to talk to the U.S. Trade Representative, they are spending their time trying to cover their tracks and find ways to attack or discredit our industry instead of trying to help us. We have had several meetings at the level of the Assistant USTR (the acting trade representative herself has not been willing to meet with us) and we are told, "we are sorry there is nothing we can do". We are told that we should be happy that we have a four year phase out of the duty when the Europeans would like to accelerate our phase out. This does not make us feel any better. What we want, is the duties removed, or at the minimum a phase out of maybe 8 or 9 years at 1 percent a year so we can have the maximum time needed to adjust.

Mr. Chairman, there is one other very important reason for this duty to remain and that is for the national defense and to protect the mobilization base. The Defense Production Act requires the maintenance of a mobilization base. Tantalum and multilayer dielectric ceramic capacitors have many uses in military applications.

There are only two surviving U.S. owned and based producers of these products. Kemet and Vishay. These products are used in the Patriot missile, the , the Trident and Peacekeeper missiles the TOW anti tank weapon system, HARM anti radar systems and the MILSTAR communications systems to name a few. I would like to quote from a Decision Brief prepared by the Center for Security Policy directed by a former Deputy Secretary of Defense from the February 7, 1997 issue. (Attached) The article was entitled "Hold Everything Barshefsky's New Infotech Trade Deal Promotes Trade at Expense of U.S. Security Interests" and is attached in full to our Statement. The article notes that "Should the United States lose the one or two American companies still available to supply capacitors and resistors required for such system, military readiness could be materially degraded."

The newsletter goes on to say that "this is no abstract proposition. In Operation Desert Shield/Storm, the U.S. officials were alarmed to discover that dependency on foreign suppliers for spare parts or replacement components of vital weapon systems could translate into unacceptable shortfalls in defense capacities and or serious strains in relations with allied nations. For example, Washington had to ask the Japanese government for its help in assuring supplies of display screens for U.S. weapon systems that were not available from U.S. manufactures." Mr. Chairman, we have raised these concerns with the Armed Services committees in both houses and hopefully you and Acting Trade Representative Barshefsky will be hearing from them soon. We ask you, if it came to national emergency and we were relying on our Patriot missiles for defense against enemy attack and spare capacitors were needed as replacement parts, if you would want our country to have to go to Japan to ask them for these, perhaps to be told that this was a lower priority than their computer or cellular phone makers. This could happen if capacitors and resistors are not removed from the ITA. Our industry will go the way of the television and radio manufacturers, U.S. names but no U.S. production. One of the largest

Japanese capacitor makers has already bought AVX, formerly one of the largest U.S. owned capacitor producers. Kemet and Vishay are all that stands between a totally Japanese owned U.S. production base for tantalum and multilayered dielectric ceramic capacitors.

Mr Chairman, I would now like to turn the microphone over to Jim Kaplan, Jr. of Cornell Dubilier.

Thank you Mr. Chairman, my name is Jim Kaplan, Jr. and I am a Vice President of Cornell Dubilier. We employ 270 people in making electrolytic capacitors in Liberty South Carolina and also have distribution and corporate facilities in New Bedford, Massachusetts and Wayne, New Jersey that together employ another 80 people. Compared to Kemet and Vishay we are a small company. One of our main products that is over half our sales is aluminum electrolytic capacitors. We are competing with Japan and Europe for a total domestic market of about 250 million. We have about 10% of this market. We do not understand why aluminum capacitors are even in this Information Technology Agreement. None of our capacitors are used in computers or information devices. and they don't belong at all in this ITA agreement. Moreover, we are completely clueless as to why we want to give any breaks to the Japanese manufacturers who will not buy any of our capacitors. They will only buy from Japan. Even the Japanese companies in the U.S. won't answer our phone calls. For example Toshiba buys all its aluminum capacitors for Hitachi in Japan and pay 20% over what they can buy them for here. We have been in business for 11 years and only started making money last year. Another company that produces aluminum capacitors is Aerovox, part of our coalition and they lost 3 million last year. The other company in this aluminum capacitor business is Phillips a European owned company that we understand is also testifying. Phillips' facility has been on the market for several years and we believe their strategy is to become an importer instead of a producer thus eliminating many U.S. production jobs. We hope the Committee will remember that even though Phillips may be a member of groups like the Electronic Industries Association they are not an American owned or controlled company and they produce almost nothing in the U.S. They sold their tantalum capacitor production facility to Vishay and their resistor facility went out of business and Vishay purchased the machinery. Essentially they are importers from Europe and the Far East with minor U.S. production of a few specialty products. Yet they are allowed to testify here as a U.S. industry--which they are not. We are attaching to this statement a position paper on this issue from Aerovox that indicates that their capacitors are also not utilized in PC's monitors or electronic equipment but in household appliances such as washers and room air conditioners. They are also puzzled by what "information technology" is furthered by including their product. In another letter we received from coalition member Commonwealth Sprague Capacitor in Greenwich, Connecticut they state, "none of our capacitors have applications in computer or telecommunication products" are tariffs on air conditioners being eliminated. If not why eliminate the tariffs on a component only used in a air conditioners". I think this is a very good questions

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FAX MESSAGE

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Page 1 of 1

To: *Mr. Les Glick*
Company: Porter, Right, Morris & Arthur
From: J. Chmura
Subject: ITA Tariff Reduction

FAX No.: (202) 778-3063
Date: February 21, 1997

Dear Les:

Aerovox Inc., a $125M manufacturing company of AC metallized film, AC motor-start capacitors, aluminum electrolytic capacitors and large DC aluminum electrolytic capacitors with operations in the U.K., Massachusetts, Alabama, and Mexico, is strongly opposed to the recently negotiated ITA tariff reduction due to the following:

1. Aerovox products are not utilized in PCs, monitors, or other types of electronic equipment. Aerovox's products are utilized in industrial and large household appliances; i.e. washers, refrigerators, room air conditioners, industrial pumps and motors. Thus, there is great difficulty in understanding the "technology" driven needs to reduce duties for components used in these products.

2. Aerovox has facilities in several countries and has not found the present tariffs to be a hinderance to business. However, Aerovox has found non-tariff issues are far more difficult to overcome, and essentially bar sales of components to the Japanese and Korean markets. Combined with these non-tariff barrier issues and what at times appears to be a predatory pricing philosophy to maintain full employment in some of the Far East countries, the ITA tariff reduction/elimination proposal will truly jeopardize AC film, AC motor start and large can aluminum electrolytic manufacturers.

Aerovox also believes the present phase-out schedule which will effectively eliminate duties and tariffs from 9% to 0 in three years and four months is overly aggressive. A more responsible time phase-out, similar to the Canada/U.S. trade agreement of 1%/yr., would allow present U.S. manufacturers to adjust. Any consideration of accelerating tariff schedules would inflict harsh consequences upon Aerovox and its industry in general.

Thus, Aerovox truly believes the present agreement opens the U.S. market to all competition while not reducing foreign non-duty trade barriers and the present proposed schedule is unfair to local manufacturers. We strongly believe the section affecting capacitor manufacturers should be eliminated from the proposed ITA agreement.

Regards,

Jack Chmura

Jack Chmura

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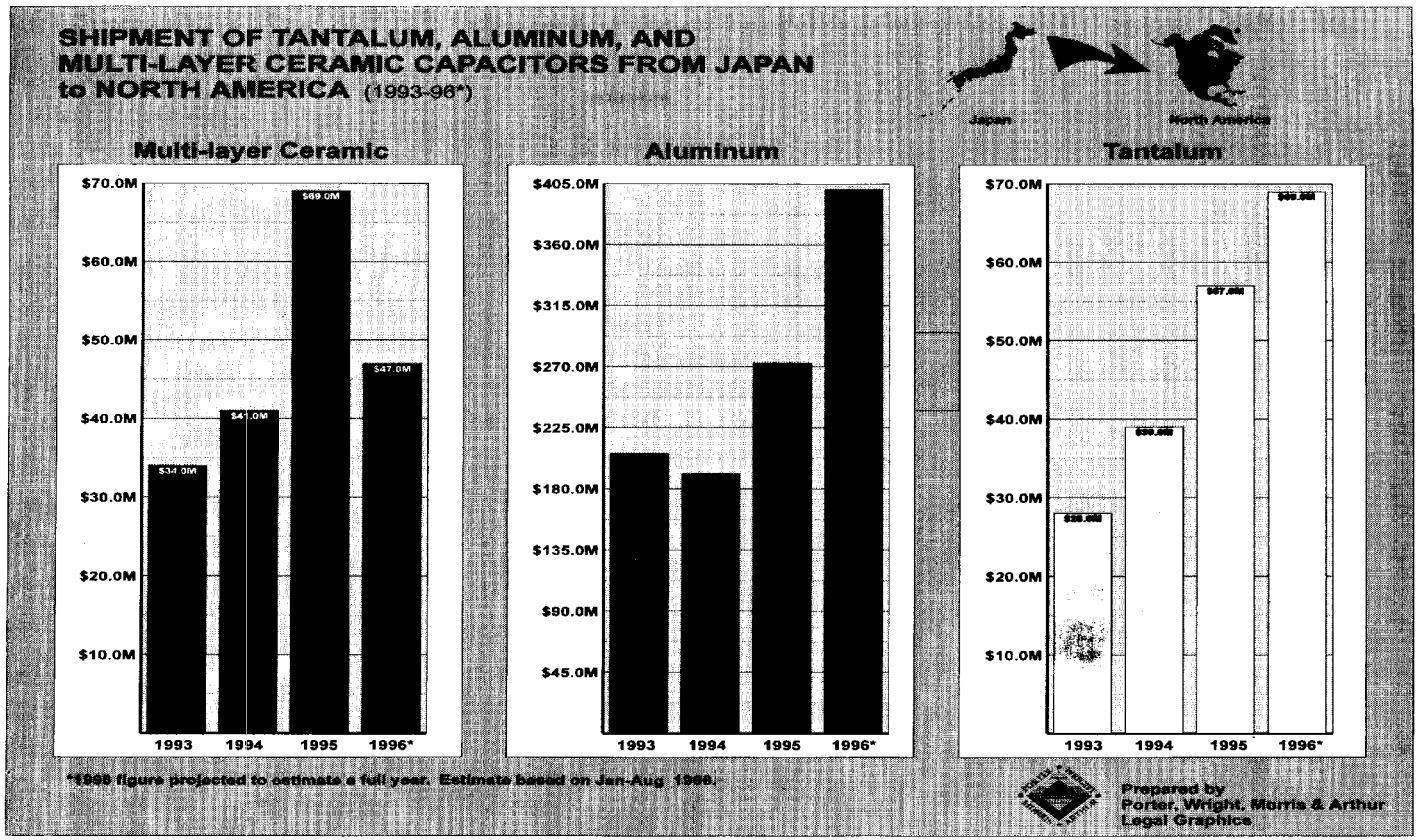
SHIPMENT OF TANTALUM, ALUMINUM, AND
MULTI-LAYER CERAMIC CAPACITORS FROM JAPAN
to NORTH AMERICA (1993-96*)
Japan
North America
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$20.0M
$10.0M
$34.0M
$41.0M
$69.0M
$47.0M
1993
1994
1995
1996*
Aluminum
$405.0M
$360.0M
$315.0M
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*1996 figure projected to estimate a full year. Estimate based on Jan-Aug 1996.
Prepared by
Porter, Wright, Morris & Arthur
Legal Graphics

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DECISION BRIEF
For Immediate Release

No. 97-D 23
7 February 1997
(202) 466-0515

'HOLD EVERYTHING': BARSHEFSKY'S NEW INFO TECH TRADE DEAL PROMOTES TRADE AT EXPENSE OF U.S. SECURITY INTERESTS

(Washington, D.C.): Last December, the Acting U.S. Trade Representative, Ambassador Charlene Barshefsky, presided over the completion of a "Ministerial Declaration on Trade in Information Technology Products" by members of the World Trade Organization. This agreement was drafted with a view to reducing tariffs and thereby promoting trade in computers, telecommunications equipment, copiers, radio and video technology and related components. The result is widely expected to be that American businesses will benefit from increased access to foreign markets, and consumers will enjoy reduced costs for foreign-produced goods in these areas.

Unfortunately, as negotiated, Ambassador Barshefsky's info tech trade deal may have significant -- and highly deleterious -- implications for U.S. national security. **This agreement clears the way for foreign manufacturers of capacitors and resistors to have completely duty-free access to the U.S. market. This may translate into distinct competitive advantages for foreign firms anxious to *wipe out* the last remaining U.S.-owned and -based manufacturers of these products, items critical to virtually every modern weapon system in the American arsenal.**

An illustrative sample of the military programs that rely upon these components includes: the AEGIS air defense system, AMRAAM air-to-air missiles, Patriot anti-aircraft and anti-missile missiles, TOW anti-tank weapons, key communications systems such as MILSTAR and SINCGARS, the HARM anti-radar weapons and the Peacekeeper and Trident strategic missiles. **Should the United States lose the one or two American companies still available to supply the capacitors and resistors required for such systems, military readiness could be materially degraded.**

This is no abstract proposition. In Operation Desert Shield/Storm, U.S. officials were alarmed to discover that dependency on foreign suppliers for spare parts or replacement components of vital weapon systems could translate into unacceptable shortfalls in defense capabilities and/or serious strains in relations with allied nations. For example, Washington had to ask the Japanese government for its help in assuring supplies of display screens for U.S. weapon systems that were not available from U.S. manufacturers.

'What, Me Worry?'

It appears, however, that **no thought was given by Ambassador Barshefsky or her team to the national security implications of the information technology agreement.** Indeed, the decision to include capacitors seems to have been almost an afterthought as earlier drafts and USTR consultations with affected industries gave no indication that such components would be affected. Even after the agreement was initialed in Singapore on 13 December 1996 and a number of legislators -- including, notably, the Chairman of the Senate

- more -

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Armed Services Committee, Sen. Strom Thurmond -- began raising questions about the potential adverse repercussions of this agreement for U.S. security interests, **Mrs. Barshefsky has evinced little willingness to consider these repercussions or changes to the agreement that might be made to mitigate them.**

The Bottom Line

The good news for those concerned about the Clinton Administration's tendency to subordinate national security interests to the monomaniacal pursuit of trade opportunities is that Ambassador Barshefsky currently awaits Senate confirmation of her nomination to fill the post of U.S. Trade Representative on a permanent basis. What is more, because of her past lobbying activities on behalf of foreign entities, a waiver requiring the approval of *both houses* of Congress must precede Mrs. Barshefsky's confirmation by the Senate.

There is, accordingly, ample opportunity for legislators determined to ensure that vital U.S. defense capabilities do not become unduly dependent upon potentially unreliable foreign suppliers to reason with Mrs. Barshefsky about the need to "perfect" her information technology agreement with regard to militarily-relevant capacitors and resistors. As it happens, Ambassador Barshefsky informed the Senate Finance Committee on the occasion of her nomination hearing on 29 January that the info tech agreement would be "finalized within the next few weeks." Accordingly, **there should also be an opportunity to effect the sorts of changes required *before* that diplomatic process is completed and work on her nomination is concluded.**

During that period, **the Senate may also wish to take up with the Administration its determination to exercise its right to advise and consent to the finished agreement** -- a constitutional role the Clinton team would like to prevent Senators from playing in this area (as in several others of import for the national security -- notably, changes to the Conventional Forces in Europe and Anti-Ballistic Missile Treaties). **Such a review could be an important starting point for a more fulsome examination of the larger question of the military implications of foreign dependency in what President Clinton likes to call the "global economy."**

Chairman CRANE. Thank you very much, Mr. Poinsette. I am sorry we did not hear from you, Mr. Kaplan.

Gentlemen, we have got to go and vote and there are going to be three votes between now and 12:30. So, what I would suggest because of other business, if you can, you come back at 1:30.

I am sorry, Mr. Rafferty, that we have not been able to hear your testimony. We would like to do it at that point. Then we can ask some questions. If you cannot stay here or come back, we would perfectly understand. If you can, it would certainly help us. So, we are adjourned until 1:30.

[Whereupon, at 12:02 p.m., the Subcommittee recessed, to reconvene at 1:30 p.m., the same day.]

Chairman CRANE. First, we want to apologize to our witnesses for the disruption. I think Mr. Rafferty is the only one who has not yet testified.

Mr. RAFFERTY. Correct.

Chairman CRANE. Will you proceed, please.

STATEMENT OF KEVIN RAFFERTY, SENIOR MARKETING MANAGER, PHILIPS COMPONENTS, PHILIPS ELECTRONICS NORTH AMERICA CORP., JUPITER, FL

Mr. RAFFERTY. Thank you, Mr. Chairman. Good afternoon and Members of the Subcommittee as well. I am Kevin Rafferty. I am the senior marketing manager for capacitors for Philips Components.

Philips Components is an operating business of Philips Electronics North America Corp., which is in turn a subsidiary of Phil-

ips Electronics N.V., headquartered in Eindhoven, The Netherlands. Philips Electronics North America Corp. has more than 20 business operations in North America, employing 35,000 people. It has more than $7 billion in annual sales in a variety of electronics businesses, including semiconductors, consumer business electronics, lighting, consumer communications, electronic components, security systems and information technology services.

Philips Components, headquartered in Jupiter, Florida, supplies passive, magnetic and professional components to the electronics market. Philips Components employs approximately 1,000 people in locations in, again, Jupiter, Florida, Columbia, South Carolina, Slatersville, Rhode Island and Saugerties, New York. We manufacture capacitors, resistors, magnetics, camera tubes and imaging products. Our broad line of components serves the major electronic original equipment manufacturer markets, including automotive, telecommunications, computer and industrial.

I am here to testify today to support the Information Technology Agreement or ITA, which was agreed to by the United States and many other countries, as you know, at the World Trade Organization in Singapore last December and which will eliminate tariffs on information technology products by the year 2000. In particular, I am here to support the inclusion of capacitors in the ITA.

As a general matter, Philips supports the ITA because it is a free trade company and believes that the elimination of tariffs on a broad range of information technology products will profoundly benefit high technology suppliers and the American economy generally. Philips chose to support the ITA despite the cost that such support portends for our company. While Philips would stand to gain from an ITA in terms of tariffs savings per year, the company would also lose significant tariff protection presently applicable to numerous products manufactured in the United States and elsewhere.

Despite such losses, Philips supported the ITA because it believes it is in the best interests of the company as well as the United States and world economies to embrace such competition-forcing measures.

Today, I would like the record to emphasize that the decision to include capacitors in the ITA is logical because of the capacitor's role in information technology products and their inclusion would facilitate open markets that will stimulate the world economy. As you may know, capacitors are electronic components that are storage devices for electric energy that are found in various applications within the electronics industry. There are many types of capacitors. Some form of capacitor is almost universally found in hardware that supports information technology products.

Capacitors are found in information applications, such as, computer motherboards, disk drives, modems and cellular telephones. Worldwide, Philips manufactures many different kinds of capacitors, such as, ceramic multilayer, film foil and aluminum electrolytic. We manufacture capacitors in the United States at our plant in Columbia, South Carolina where we employ approximately 400 people. In South Carolina, we manufacture aluminum electrolytic capacitors; production value is approximately $50 million per year. We have invested substantially in all our U.S. locations in the past

2 years, upgrading our facilities so as to better serve our U.S. OEM customers.

At present, capacitors are subject to approximately a 9 percent tariff. Philips recognizes that it loses 9 percent tariff protection if the ITA is ratified.

We have decided to support the inclusion of capacitors in the ITA nonetheless for several reasons. First, given that capacitors are found in hardware that support information technology products, it seems only logical that they be included in the agreement. Second, we believe our growth to be based on customer partnerships. Eliminating tariffs on capacitors and other components will allow our U.S. customers, OEM manufacturers to be more competitive.

Finally, Philips believes that the inclusion of capacitors would both allow the ITA to achieve its goal of providing access worldwide to information technology, and force the competitive open markets that are so necessary for the development of the global economy. As a company, we are willing to take this competitive challenge.

In closing, Philips supports the ITA again and commends Acting U.S. Trade Representative Charlene Barshefsky and her staff in negotiating an agreement that will, through the inclusion of among other electronics products, passive components such as capacitors, enrich the American economy. Philips hopes that other companies are also willing to accept competitive challenges and opportunities that only an ITA can provide.

Mr. Chairman, we appreciate this opportunity to comment. Thank you.

[The prepared statement follows:]

TESTIMONY OF PHILIPS COMPONENTS BEFORE THE TRADE SUBCOMMITTEE OF THE HOUSE WAYS AND MEANS COMMITTEE
FEBRUARY 26, 1997
PRESENTED BY KEVIN RAFFERTY, PHILIPS COMPONENTS

Good morning, Mr. Chairman and members of the subcommittee. My name is Kevin Rafferty and I am the Senior Marketing Manager for capacitors for Philips Components. Philips Components is an operating business of Philips Electronics North America Corporation, which is, in turn, a subsidiary of Philips Electronics, N.V., headquartered in Eindhoven, The Netherlands. Philips Electronics North America Corporation has more than 20 business operations in North America, employing 35,000 people. It has more than $7 billion in annual sales in a variety of electronics businesses, including semiconductors, consumer and business electronics, lighting, consumer communications, electronic components, security systems, and information technology services.

Philips Components, headquartered in Jupiter, Florida, supplies passive, magnetic and professional components to the electronics market. Philips Components employs approximately 1,000 people at locations in: Jupiter, Florida; Columbia, South Carolina; Slatersville, Rhode Island; and Saugerties, New York. Philips Components manufactures capacitors, resistors and magnetics, camera tubes and imaging products. The Philips broad line of components serves the major electronic original equipment manufacturer (OEM) markets including automotive, telecommunications, computer and industrial.

I am here to testify today to support the Information Technology Agreement, or ITA, which was agreed to by the United States and many other countries at the World Trade Organization in Singapore last December and which will eliminate tariffs on information technology products by the year 2000. In particular, I am here to support the inclusion of capacitors in the ITA.

As a general matter, Philips supports the ITA because it is a free trade company and believes that the elimination of tariffs on a broad range of information technology products will profoundly benefit high technology suppliers and the American economy generally. Philips chose to support the ITA despite the "costs" that such support portends for our company. While Philips would stand to gain from an ITA in terms of annual tariff savings per year, the company would also lose significant tariff protection presently applicable to numerous products manufactured in the United States and elsewhere. Despite such losses, Philips has supported the ITA because it believes that it is in the best interest of the company as well as the U.S. and world economy to embrace such competition-forcing measures.

Today I would like the record to emphasize that the decision to include capacitors in the ITA is logical because of capacitors' role in information technology products and because their inclusion will facilitate open markets that will stimulate the global economy. As you may know, capacitors are electronic components that are storage devices for electric energy that are found in various applications within the electronics industry such as discharge of stored energy, blockage of DC current, coupling of circuit components, by-passing of an AC signal, frequency discrimination and transient voltage and arc suppression. There are many types of capacitors, but some form of capacitor is almost universally found in hardware that supports information technology products. Capacitors are found in such information technology applications such as computer motherboards, disk drives, modems and cellular telephones.

Worldwide, Philips manufactures many different kinds of capacitors, such as ceramic

multilayer, film foil, and aluminum electrolytic. Philips Components manufactures capacitors in the United Sates at its plant in Columbia, South Carolina, where we employ approximately 400 people. In South Carolina, we manufacture aluminum electrolytic capacitors; production is approximately $50 million per year. We have invested substantially in all our United States locations in the past two years, upgrading our factories so as to better serve our OEM customers.

At present, capacitors are subject to approximately a 9% tariff. Philips recognizes that it will lose this 9% tariff protection if the ITA is ratified. Philips decided to support the inclusion of capacitors in the ITA nonetheless for several reasons. First, given that capacitors are found in hardware that supports information technology products, it seemed logical that they be included in the agreement. Second, Philips Components believes our growth to be based on customer partnerships. Eliminating tariffs on capacitors and other components will allow Philips' U.S. customers, OEM manufacturers, to be more competitive. Finally, Philips believes that the inclusion of capacitors would both allow the ITA to achieve its goal of providing access worldwide to information technology and force the competitive open markets that are so necessary to the development of a global economy. As a company, Philips is willing to take this competitive challenge.

In closing, Philips supports the ITA and commends Acting United States Trade Representative Charlene Barshefsky and her staff for negotiating an agreement that will, through the inclusion of passive components such as capacitors that are in all information technology products, enrich the American economy. Philips hopes that other companies are also willing to accept the competitive challenges and opportunities that only an ITA can provide. Philips appreciates the opportunity to comment. I will now be pleased to answer any questions you may have.

Chairman CRANE. Thank you, Mr. Rafferty.

Mr. Cross, you have described that two members of your coalition are opposed to the inclusion of capacitors. Two questions. One, could you describe the position of other capacitors within your coalition and how many are there?

Mr. CROSS. Well, Mr. Chairman, in my statement, I believe that I said that, two of the member companies of two of our associations that belong to the coalition expressed opposition to the inclusion of capacitors. Besides Philips, we also have AVX, which is a major company based—it is 75 percent Japanese-owned but its headquarters are in South Carolina. They have, I think, 4,000 employees down there. They are entirely U.S. managed and U.S. staffed. They are listed specifically as a corporate member of our coalition.

In addition to that, Mr. Chairman, I would like to go back to one of the things that I was trying to get across in my message. That is, throughout the negotiation of the ITA, the central message that we tried to carry forward—and I know the U.S. Trade Representative's Office did the same—was that if this agreement was going to succeed, first, we had to recognize that it was a nontraditional trade negotiation where you were not going to get exact balance in terms of tariff offers from the various countries involved.

We knew that, for example, as it was pointed out, Japan has virtually no tariffs on information technology products. The U.S. rates were much lower than those of Europe. So, if you are going to be looking for trading concessions or balancing concessions, you were

never going to win that argument in the first place. The key to the success of the ITA was, therefore, not in terms of trying to look at it from a product by product balancing effort, but to look at it from the viewpoint of the users of the information technology products that are covered under the ITA.

From that standpoint, as far as the capacitor issue goes, we have a very broad and substantial number of members of the coalition. I do not think I could give you an exact number right now—who are the users of capacitor, who buy these capacitors and, therefore, in terms of their own production costs would like to see those costs come down. Therefore, they were very supportive of including capacitors under our proposal for ITA coverage.

We, however, because of the opposition of just two companies out of a coalition that probably represents about 7,000 companies in total, when you consider all the members of the associations, because of that opposition, we took no position on whether or not capacitors should be included under the ITA. Now, that it is done, now that we have an agreement, our strong position despite this concern about capacitors is, that we need to go ahead and get this done.

There are 397, I believe, tariff line items that are included in the ITA. The only organized opposition we have heard since then has been expressed on one. Now, baseball batting averages, that comes out to a 998 batting average and it is not bad.

So, we applaud Ambassador Barshefsky. We think that despite this concern about capacitors, we regret that we have this problem, but we would like to see it resolved.

Finally, just one point in passing that I would like to point out.

The representative that we had earlier talking about the capacitor issue had mentioned the lack of balance because of nontariff barriers in Japan and elsewhere. That specifically is provided for in terms of future negotiations under the second phase of the ITA. We invite, as we did from the very beginning, we invite these companies to my left and any others who have concerns about nontariff measures in terms of increased access and information technology, to come and join with us as we prepare for ITA II.

Thank you.

Chairman CRANE. Thank you.

For Mr. Poinsette or Mr. Kaplan, does the elimination of tariffs on inputs such as capacitors made in the United States in return for tariff elimination on a broader range of products in the information technology industry help your customers buy more of your products?

Mr. POINSETTE. I think that is a very good question. The answer to the question is probably fundamentally yes. A better question is, does it have them buying more of our products? That is our issue with this. The answer to that is fundamentally no. I would take exception with several of Mr. Cross's comments.

First of all, he said earlier that the ITA's mission was to put information technology into the hands of the users. I would defy any user to know that he had a capacitor laying in his hand, should it have been put there. We think that capacitors, as a part of information technology, are as includable as steel, glass, plastic, screws, nuts and bolts. It is to say that, if you are putting a personal com-

puter together, you have to have plastic. You have to have screws and nuts and bolts. Well, why aren't they in the agreement?

You cannot have an electronic circuit without the capacitors that we produce, predominantly the ceramic and the Tantalum.

Now, let me say again, our issue is not with the ITA. I say that again. Our issue is with the inclusion of these capacitors in this ITA. We are the two surviving companies, Vishay and Kemet, in the United States, American-owned and American-headquartered with a lot of employees at stake.

Having said that, a reference was made to AVX earlier. That AVX is 75 percent Japanese-owned. Three years ago, AVX was 100 percent an American company. Shortly, after that, it was 100 percent owned by Kyocera and only recently for financial reasons, did they go on to the U.S. stock market. My recollection is that, they actually issued 20 percent of their stock on to the U.S. stock market.

So, what has happened to AVX? What has happened to the Corning capacitors, for that matter? Corning used to be in the capacitor making business. They are no longer. Philips, for that matter, used to manufacture the kinds of capacitors that we make in the United States and they do no longer. They closed those facilities. We are the two remaining companies.

It comes down to a decision. Does this country want to sacrifice these two remaining companies as well as a lot of other smaller companies—Jim Kaplan here can speak for himself—but a lot of other smaller companies in the niche business of capacitors? Jim, you might say a word—on the address he never got to make, just about 10 or 20 seconds.

The USTR, as I said earlier, with the granting to these competitors that we have around the world, predominantly Japanese, of 10 percent off the cost is an enormous number in our business. This is not a high margin business. This is a commodity, very high volume product, both in ceramic capacitors and Tantalum capacitors. I realize that it may be difficult to understand this technology, but when you appreciate that there are multiples of these capacitors alongside every IC, no matter where it is used, every microprocessor, we are getting ready to sacrifice these companies on that altar of expediency called the ITA.

We are suggesting that we should not be doing anything like that. At this juncture, that would be the end of my points.

Mr. KAPLAN. I would like to add, if you do not mind, that there are hundreds of types of capacitors. Vishay and Kemet are large and they supply Tantalum and ceramic, but there are literally hundreds of types of capacitors. We are one small player. We do about $60 million in capacitors, but ours go in the military. We are sole-sourced capacitors in the military programs. We supply capacitors for the F–16, the Bradley Fighting Vehicle, Northrup, Gruman Lucas, Aerospace and Hewlett-Packard. These are some of the types of capacitors we make. Less than 5 percent of our product is affected by this agreement. The rest do not go into informational devices or computers.

Yet, 95 percent of our product is going to be affected and we get tremendous pressure from the Japanese. So, everybody gets affected by this, not just Kemet and Vishay. There are hundreds of

family-owned businesses like ourselves who are employing thousands of people. It just makes it very difficult for us to even stay in business and we do a very good job. Our capacitors are significantly cheaper than the Japanese capacitors.

Not only can we not get into the Japanese market, but we have been in this business for 60 years. We cannot get into the Japanese original equipment manufacturers located in the United States. We can offer them cost savings of up to 20 percent, and our capacitors are good enough for Northrup and Lucas and the U.S. Government, but the Japanese will not buy them and we can still save them 20 percent. They are bent on buying exclusively from Japan. We just feel that it is not fair.

We are just giving them another foothold, letting them get more of our market. We are giving them 9½ percent more profit. It is just going to go right to their bottom line, to give them more money for more equipment to automate, to compete with us more effectively. It just makes it difficult for small businesses like us to stay in business.

Mr. POINSETTE. Mr. Chairman, if I may add a point as well to Jim's comments.

On the subject of recourse, when it comes to addressing the nontariff barriers of Japan, we do not have enough years left in our lives or enough resources in our company to address that issue in Japan. I have been trying to sell in Japan four different products for 33 years. I have not succeeded in doing any of them. When I took over this present job that I have with Kemet Electronics in 1979, we made a pact and a commitment to 3 years of resources to finally break through the veneer in Japan and sell our products.

We finally had to decide that a company of our size, especially then—we were a $185 million company at that time—we decided at that time that, if we were going to spend those resources on breaking markets, we were going to have a great deal more success, a great deal more benefit for our employees, for our stockholders and what not, if we went after markets that would be more receptive to us. Therefore, we addressed the markets of Singapore. We addressed the markets of Taiwan, Hong Kong, even the European market. We have not had difficulty entering and competing well in the European market. The Europeans buy from us. There is a trade between these two areas of the world.

However, it is not possible in Japan and we cannot tolerate, when Japan has given up nothing, to provide for them this 10 percent duty.

Now, I will say this, we have been open to discussion with the USTR all along. We have been absolutely willing to discuss any sort of solution. The USTR has refused—I say refused. Maybe that is too strong a word—simply avoided us, has not come to address these issues with us. Vishay and Kemet, as big as we are, have the same problems that Mr. Kaplan's Cornell Dubilier has. It does not matter where the Japanese customer company is. They will not buy our products.

Now, having said that, if the USTR can get a commitment from the Japanese that details what their side of this bargain is in the ITA, that details what they are going to do to open their markets to the Tantalum capacitors, the high grade aluminum capacitors,

the ceramic capacitors in Japan, we say, fine. You have our blessing and let's do this. But let's have no reduction in duty in these capacitors for, let's say, 2 years. If in the third year the Japanese have demonstrated good faith by opening that market or providing some sort of document through negotiation with the USTR that we can enter that market, we will drop half of the duty right then, the third year. Maybe the fourth year, we will drop the other half of the duty. It is not much longer than we are talking about right now. Let's do it that way.

Let's get something in return when it comes to that Japanese market in return for what we are giving up. Why do we, the U.S. market, the singular most powerful market in the world, not get something in return when we do this? It is a mystery to us, sir.

Thank you.

Chairman CRANE. Thank you.

Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Gentlemen, it is nice to see you.

I sort of relate to the issues that you two gentlemen, Mr. Poinsette and Mr. Kaplan, are talking about because industry after industry in the components of the consumer electronics business has just been cut away. It is really hard when you can enter somebody else's market and prevent those companies or that industry from entering their markets and, therefore, you can price whatever you want and still make money and dump on the rest of the world.

Let me just ask you a question. Do you gentlemen, your companies produce outside of the United States?

Mr. POINSETTE. Are you addressing the question to me?

Mr. HOUGHTON. Yes, Mr. Poinsette, do you?

Mr. POINSETTE. Yes, yes, we have——

Mr. HOUGHTON. Why did you go outside the United States, I mean, for an outside the U.S. market or do you produce there to bring back here or what?

Mr. POINSETTE. Why?

Mr. HOUGHTON. Yes.

Mr. POINSETTE. It was a matter of synergism. In order to remain competitive in this market, our philosophies of doing business were that we had to have what we called a focused plant philosophy. That means building as much stuff of the same kind, of the same order of product in one place as we possibly can. As that——

Mr. HOUGHTON. You produce outside to sell here?

Mr. POINSETTE. Excuse me?

Mr. HOUGHTON. You produce in another country to sell here in this country?

Mr. POINSETTE. No, the way our production works—I will start from the beginning. We have two primary products, multilayer ceramic capacitors and solid Tantalum capacitors. Within both of those capacitors there is what we call a raw element or a key element. In the case of a Tantalum capacitor, it is called a Tantalum anode. We manufacture all of those anodes in the United States. In ceramic capacitors it is called the ceramic element or the chip element. We manufacture most of those in the United States.

Now, those—as we have developed over the years—and by the way, we have been in Mexico now about 30 years. That is where we have our facilities. They are in Mexico and in the United States.

What we do is——

Mr. HOUGHTON. They interchange products back and forth, right?

Mr. POINSETTE. No, not really. It is a continuation of the integrated line. We build what we call a higher technology——

Mr. HOUGHTON. This is what I am trying to say. If you have a plant outside, that most of the products ultimately end up back here in the United States.

Mr. POINSETTE. Oh, no, sir. We export about somewhere between 40 and 45 percent of our production.

Mr. HOUGHTON. I see and that will be back here into this country?

Mr. POINSETTE. These two areas are synergistic. I want to make an important point here. We have not moved——

Mr. HOUGHTON. I do not think I got an answer on the first one. Then you can make yours.

What you are saying is, about half of your production from Mexico comes back here into the United States?

Mr. POINSETTE. In a sense, yes.

Mr. HOUGHTON. Is that right? OK, go ahead. Go ahead with your question.

Mr. POINSETTE. What we are doing is, we are continuing the manufacturing process that we begin in the United States and we finish a lot of it in Mexico.

Mr. HOUGHTON. Right, right.

Mr. POINSETTE. Not all of our product, however, is finished in Mexico. That part of the product that is finished in Mexico goes around the world. About 40 percent goes somewhere else. Fifty percent goes around the world and the other 50 percent back to the United States.

May I make one point, because I think it is very important?

Mr. HOUGHTON. Yes and then I would like to get Mr. Kaplan because I have a couple of other things.

Mr. POINSETTE. Sure.

This question comes up. Well, if you are so interested why do you have these facilities in Mexico and haven't you really moved jobs over? I want to emphasize the synergistic point. In 1987, we had about 3,000 employees. About 1,500 of them were in Mexico and about 1500 of them were in the United States. Today, we are approaching 11,000 employees and about 5,000 of them are in Mexico and about 5500 are in the United States.

The point being that, for every time we are adding a job in the United States, we are adding a job in Mexico and vice-versa. If it was not for the existence of both of those places, Kemet Electronics, Kemet Corp. would not exist. We could not compete in the world.

Mr. HOUGHTON. I see. What would it require to have all of those jobs here in the United States?

Mr. POINSETTE. What would it require?

Mr. HOUGHTON. A higher tariff?

Mr. POINSETTE. I do not believe it is possible and the honest answer to that is labor rates.

Mr. HOUGHTON. OK. All right, now let me ask Mr. Kaplan because you come from a very distinguished company that has been in business I do not know how many years, but years and years.

Do you produce overseas?

Mr. KAPLAN. We had a facility in Taiwan. We were the second American company in Taiwan. Nine years ago, we shut it down and moved it to Mexico. That product is an old product. It was invented in 1912, 1913. It has changed relatively little in that time and it is very difficult to automate. It has about 40 percent labor and the only way we can continue to stay in the business is to provide that product with low labor as well. So, we chose to move it to Mexico, but we never had the jobs here in the States that we moved to Mexico.

Mr. HOUGHTON. I guess, Mr. Chairman, that what I am trying to reach for is an understanding of what some of the economic dynamics are here, not from the standpoint of you gentlemen and you make your case very well, but from what the U.S. policy should be. The fact is, that despite some of the inequities in the marketplace, it is not a high tech business and there is nothing wrong with that.

The DOD, if I understand, has not said that this is military necessity to have production capabilities in this country.

Mr. POINSETTE. They should. I am surprised at that.

Mr. HOUGHTON. They do not, do they?

Mr. POINSETTE. That this is a military necessity? Yes, sir, I think——

Mr. HOUGHTON. Yes, the DOD has not said that it is essential that we have this capacity because you can buy it in so many ways and in so many forms.

Also, if I understand it, Kyocera really sort of dominates this. Is that right?

Mr. POINSETTE. They?

Mr. HOUGHTON. Dominate the market?

Mr. POINSETTE. Kyocera?

Mr. HOUGHTON. Yes.

Mr. POINSETTE. No, I would not say that. Are you talking about Kyocera AVX or are you talking about Kyocera as a——

Mr. HOUGHTON. I am talking Kyocera Japan.

Mr. POINSETTE. Kyocera is a long——

Mr. HOUGHTON. But only 75 percent of AVX.

Mr. POINSETTE [continuing]. Kyocera is a dominant player in the ceramic materials business. That is not capacitors. That is——

Mr. HOUGHTON. Who is the leading producer of capacitors in this world?

Mr. POINSETTE. The leading producer of multilayer ceramics is Muraa, Japanese. The second leading producer is TDK, Japanese. The third leading producer is AVX Kyocera, Japanese. The fourth leading——

Mr. HOUGHTON. So, it is all Japanese, right.

Let me ask Mr. Regan a question, because you know a little bit about the capacitor business also. Also, you were touching on these nontariff barriers. That is something that you worry about as far as fiber optics is concerned and I am sure other people worry about in terms of their own products. Could we talk a little bit about the nontariff barriers?

You say that you have to monitor this thing very carefully. We are all right for the moment. You are saying, if I understand it, that you produce at a lower cost than the Japanese. There is a zero tariff and you still cannot get in the market.

Mr. REGAN. That is correct.

Mr. HOUGHTON. So, are those nontariff barriers something which is germane to all the discussion we have had today? Maybe others would like to join in this. I do not want to take too much time, Mr. Chairman, but I think this is an essential issues.

Mr. REGAN. Well, I think the point the gentleman down at the end of the table made was precisely the same point we were concerned about in fiber optics. The U.S. market is 40 percent of the world market for fiber optics. The only barrier to our market is the tariff. However, we have a very difficult time breaking into foreign markets.

Why? We have discriminatory government procurement we have to deal with. We have behaviors which demonstrate a clear preference for domestic product. In some countries, we have investment requirements which basically say, look, if you want to sell it here, you have to make it here, which involves a transfer of sensitive technology to other parts of the world. We have the discriminatory application of domestic taxes which tends to raise the price dramatically for a product that is imported versus one that is made domestically.

We had one case in one country, which I will not mention, where were prepared to go in and supply the product. The big buyer which is a PTT has said, you guys have the greatest fiber in the world, but we are not going to certify you. We are not going to give you certification to sell in our market, not because you do not meet a standard, not because you are not good, but because you do not have a plan to make it here. That is the kind of unfairness that we face around the world.

Our concern about the ITA was that we were going to engage in unilateral disarmament. We were going to give away our tariff and hence, the access to our market and get nothing of meaningful back. I think what we were able to get was something like the gentleman down the table presented, a commitment to work on these nontariff barriers going forward and on a commitment to work very hard on it. Now, in exchange for that, we have given up a modicum of protection as it applies to fiber optic cable, not to optical fiber or not to optical componentry.

We hope that this works out. If in fact USTR is successful in opening up these markets, then we will have negotiated a good deal. If not, I am probably going to get fired. No, I am only kidding. [Laughter.]

Mr. HOUGHTON. Would anybody else like to make a comment? Yes, Mr. Boidock. Would you mind if I continue this just a minute, Mr. Chairman? We will not take too much longer.

Mr. BOIDOCK. No, I will be brief.

I just want to say that you asked an excellent question. This is a very, very important agreement and provides $1.4 billion, as I said in my testimony, in duty reductions or savings for our companies in Europe alone just because the Europeans are lowering their

7 percent tariff. However, that pales in getting access to the Japanese market, which these gentlemen are having trouble with.

Now, we had trouble with it in the semiconductor industry in the eighties and we have worked very hard getting access to it. That has been a significant boost to our revenues. So, I think it is an excellent point and you need to be aggressive and you need to work it everyday.

Mr. HOUGHTON. Mr. Cross, do you have anything? Mr. Rafferty, would you like to say anything?

Mr. CROSS. Again, on the nontariff measures side, I think every company here at the table share concerns about nontariff measures. My concern is that we have singled out Japan for all of the criticism here. Nontariff measures are common throughout the world, included in the United States. So, we have to look at this in terms of the overall balance of interests to the United States.

Therefore, when we are looking, for example, at the second round of ITA negotiations when nontariff measures specifically will be brought up, we want first of all to be aggressive in going out and pursuing market-opening measures. At the same time, we want to do so in such a way that it is consistent with the overall interests of the United States.

The round of questions I have heard you raise, Congressman Houghton, I think they are all very good and to the point in terms of where do you manufacture, where do you source from, why do you make these kinds of economic decisions. The plain fact of the matter is, there is no more global industry than there is in the information technology industry.

Mr. HOUGHTON. Yes.

Mr. CROSS. If you take a look at Kemet, if you take a look at Vishay, if you take a look at IBM, if you look at Philips, if you look at Texas Instruments, if you look at Corning, we are all global companies. We invest widely around the world because of any number of economic factors. Some companies, for example, may choose Israel or they may choose Mexico, not only because of lower wage rates but also because you get advantages of free trade agreement preferences. So, there are advantages built into the system there.

But do not tell me as a consumer of a product that I am going to have to pay a 10 percent penalty for buying a product that is competitive. I want, as a consumer of that product, to be able to go in there and get the best quality at the best price.

Mr. HOUGHTON. Well, if I could just interrupt you.

You know, that may be fine for a consumer and that consumer can buy a variety of different products with his or her money. It is sort of tough for the fellow whose job is totally dependent upon that product. I guess maybe we are all set.

Thank you very much for your time.

Chairman CRANE. Well, thank you and I want to thank all of our panelists for their patience and your testimony today. We look forward to further communication with all of you.

With that, this panel is adjourned.

Chairman CRANE. Our next panel is composed of—and I would like for you to testify in this order—Ed Wiederstein, president of the Iowa Farm Bureau Federation on behalf of the American Farm Bureau Federation; Robert Vastine, president of the Coalition of

Service Industries; Laird Patterson, counsel at Bethlehem Steel on behalf of the Labor-Industry Coalition for International Trade; Terence Stewart, partner with Stewart and Stewart; and Mark Sandstrom, partner with Thompson, Hine & Flory.

[Pause.]

Chairman CRANE. I understand, Ed, that you have a flight to catch.

Mr. KEELING. Well, in fact, I am not Mr. Wiederstein. I am John Keeling with the American Farm Bureau. He had to leave even earlier than he thought because of an emergency back in Iowa. So, I would like the indulgence of the Chair, if I could summarize his testimony.

Chairman CRANE. Oh, certainly, absolutely.

STATEMENT OF JOHN KEELING, DEPUTY DIRECTOR, AMERICAN FARM BUREAU FEDERATION, PRESENTING STATEMENT OF ED WIEDERSTEIN, PRESIDENT, IOWA FARM BUREAU FEDERATION, AND AMERICAN FARM BUREAU FEDERATION

Mr. KEELING. I will be very brief. I know it is getting late in the day.

At the risk of refocusing the Committee, I would move from capacitors to soybeans and corn and hogs and chickens and other things agricultural. We really bring a very simple message to the Subcommittee today and it is a success story I think.

Agriculture last year did over $60 billion in exports. We had a $28 billion export net balance of trade which ranked us very high in all the sectors of the economy. We are doing well in world trade. We could do much better if we could lower the barriers that exist to our products moving into other countries.

Recently Dean Kleckner, who is president of the American Farm Bureau, attended the WTO Ministerial Meeting in Singapore. Just to give you an idea of how important agriculture thought that meeting was and thought the future of the WTO is and the success of the WTO, of the 100 private-sector representatives who were in Singapore, about 50 percent of those were representatives of agricultural groups, agricultural, agribusiness.

And that is at a time when the focus of those meetings was not even particularly agricultural. So, we view our future as exports. Right now we are sending 30 percent of our products overseas and we have a tremendous opportunity to continue to do better than that.

What did we want to get out of the Ministerial Meetings and what happened there and what was our reaction? We really wanted to see two things. We wanted to be sure that the negotiations that are to begin in 1999 are still on schedule and set to go forth on that timeframe.

Number two, we wanted to ensure that in the time period between now and when those negotiations begin in earnest, that the proper background work is done, that the data is collected so that we could flat-out hit the ground running in 1999.

We cannot afford in agriculture another trade round that takes seven or 8 years to get accomplished. We have immediate needs

and need to make some changes immediately. I will get into some of the political problems in the countryside a little bit later.

We were pleased with the WTO meetings. Deputy Secretary Rominger from USDA was there. He was not allowed to present a paper and we were a little bit disappointed at that but we were generally pleased with the Trade Ambassador's stance on things. We are, however, offering some ideas for change in USTR that we think would better position agriculture.

We feel strongly that we need a Deputy Ambassador for Agriculture in USTR. If you look at the trade disputes that are being brought before the WTO, a significant portion of those trade disputes are relative to agriculture. If you look at the barriers that exist out there, a significant portion of them are relative to agriculture. Having someone in USTR who's primary job is to focus on expanding the successes of a very successful sector we think is very important.

We sometimes believe that because we have been so successful in terms of exports, that we are really not looked at as the squeaky wheel. If you have two kids and one of them makes all As and the other one makes Cs you tend to focus on the one that makes Cs. Now, as the one who is getting the good export numbers, we want some attention too and I guess that's the message we are trying to send to the administration and to USTR.

I guess I will finish with looking at where we see the political landscape and what problems that is causing us. I think that agriculture had a very significant impact on delivering both NAFTA and GATT. We were there very solidly as a block to counter some of the protectionist measures that were being talked about at that time.

If we do not see significant wins coming from the trade dispute arena and a strong, strong stance by the administration to ensure that they are very, very serious about continuing to negotiate hard for agriculture, although our organization remains committed to supporting an extension of the fast track, supporting continuing to grow into South America with NAFTA and to supporting MFN, we are going to be short on the political grassroots base to do that unless some of our people out there in the country can see some wins. The Canadian dairy decision and poultry decision, things like that really undermine our strength and our ability to be strong spokesmen for that.

So, I guess we look to you all for your leadership and help and appeal to those in the administration to ensure that agriculture remains important on the negotiating table.

Thank you.

[The prepared statement follows:]

STATEMENT OF
THE AMERICAN FARM BUREAU FEDERATION
TO THE
TRADE SUBCOMMITTEE
OF THE
HOUSE WAYS AND MEANS COMMITTEE
REGARDING
THE WORLD TRADE ORGANIZATION

Presented by

Ed Wiederstein, President
Iowa Farm Bureau Federation

February 26, 1997

Mr. Chairman, members of the Committee, my name is Ed Wiederstein and I am president of the Iowa Farm Bureau Federation. My wife, Nicki, and I operate a 1,200-acre grain and livestock operation in Iowa. International trade agreements are critical to the success of our farm as they are to the other 4.7 million member families of the American Farm Bureau Federation, the nation's largest organization of farmers and ranchers.

I will be testifying today on behalf of the American Farm Bureau Federation and our president Dean Kleckner, who is on a trade mission to Australia and New Zealand. President Kleckner, attended the Ministerial Meeting of the World Trade Organization (WTO) in Singapore and believes as I do that the actions taken there were crucial to the future of the WTO and especially to moving forward in reducing agricultural trade barriers.

Not only did the Farm Bureau view this meeting as important enough to attend, but about half of the 100-member, private sector U.S. delegation represented agriculture and agribusiness. This was a significant investment in time and resources by agriculture to be sure they have a voice in shaping world trade policy. Even though it was recognized that the discussions in Singapore were not to focus on agriculture, the industry clearly recognizes the importance of the WTO and appropriately had a large presence.

The U.S. agriculture leaders attending the Singapore meeting went with a two-fold agenda. As the work to liberalize international trade for agriculture is far from complete, they support the WTO agenda proceeding as scheduled in 1999 to renegotiate the Uruguay Round of the General Agreement on Tariffs and Trade. The agriculture delegates were in Singapore to also send a message to our negotiators--that United States agriculture must be taken seriously as a player in the world and our government must be willing to fully commit to resolving agriculture's trade problems.

We believe that agriculture is basic to the economic development and well-being of the world. But too often agriculture is taken for granted by our policy makers who tend to focus on flashier issues such as information technology and intellectual property rights, or on social concerns like

such as labor standards. Before these issues can take center stage, they must first be proceeded by economic developments that meet the people's basic needs for food and employment. Agriculture allows these steps to take place in developing countries. If agriculture policies are in place to meet primary needs, countries can move toward further development and trade.

I must report that the industry group in Singapore was very encouraged by the outstanding support from the Department of Agriculture team led by Deputy Secretary Richard Rominger. Deputy Secretary Rominger and his team worked many long days and nights to keep agriculture on the Singapore agenda. We were somewhat disappointed that the U.S. Trade Representative's office (USTR) did not take any of its experienced agricultural staff to Singapore.

It was extremely unfortunate that Mr. Rominger was not permitted to present a statement before the delegation as was originally planned. However, we recognize and applaud acting Ambassador Charlene Barshefsky for taking time from her busy schedule to talk with the three agriculture representatives on the President's Advisory Committee on Trade Policy and Negotiations that includes AFBF President Dean Kleckner, Tom Camerlo, Jr. from National Milk Producers and Roger Baccigaluppi of RB International.

Two significant things did happen in Singapore that are crucial to agriculture in the WTO. First, the next round of agricultural talks in 1999 as agreed to in the Uruguay Round are still on track. This is important because the playing field is not yet level and several of our major trading partners would like to delay the next round as they would like to preserve many of their protectionist measures. I am referring particularly to Japan, the European Union and Korea.

The second and equally important agreement was to begin preparatory work in 1997 to get ready for the 1999 talks. The Ministers agreed to a process of "analysis and information exchange," recognized as an euphemism for the desired wording of a "work program," which was objected to by Japan and several other countries. Time is too critical to allow the next round of negotiations to drag on for seven years as did the previous round. We will work hard to ensure that the proper background work is done so that negotiations can begin in earnest in 1999.

Mr. Chairman, the WTO and the GATT are critical to the future success of international trade for agriculture. My industry depends on foreign markets for over one-third of its sales. But to make the WTO work as it must for American agriculture, Farm Bureau believes that American agriculture must be better represented in the Office of the U.S. Trade Representative.

Farm Bureau is seeking the creation of a position of Deputy Ambassador for Agriculture in the USTR. This must be an individual who understands both trade and U.S. production agriculture. This is important for several reasons.

First, the agri-business industry is made up not only of farmers and ranchers, but also processors and packers, food preparation and service employees, truckers and rail operators. Added together, all workers who provide your food and fiber make up the largest employment sector in this country. Approximately 20 percent of the U.S. work force depend on agriculture for their jobs.

Second, agriculture has consistently returned the largest trade surplus of any sector of the U.S.

economy over the last decade. In 1996, U.S. agriculture returned a trade surplus of over $28 billion. We can not continue to do this if trade barriers to agriculture are allowed to increase.

Third, with the removal of quotas under the Uruguay Round, our trading partners are finding other ways to disrupt trade. Consequently, the greatest number of disputes currently before the World Trade Organization involve agricultural products. A Deputy Ambassador for Agriculture at the USTR office would provide the support needed by the industry and would also send the message to our trading partners that the U.S. is serious about enforcing our trade agreements.

Finally, the U.S. population represents only five percent of the world's consumers. In order to prosper American farmers and ranchers must have free access to the other 95 percent of the world's food and fiber market. We must have access to international markets to fully utilize our tremendous investment in capital and infrastructure necessary to continue to provide reasonably priced food and fiber to American consumers. Today, Americans spend less than 10 percent of their income on food--among the lowest levels in the world because we are able to sell about one third of our production overseas. This will not continue without strong international markets and quick resolution to trade disputes. A Deputy Ambassador for Agriculture is needed to move our industry forward in world markets and successfully resolve our trade issues.

Farm Bureau remains strongly committed to the pursuit of freer trade and expanding trade agreements. However, we must acknowledge that some American farmers and ranchers are not convinced that the WTO and NAFTA agreements are actually helping them. Several major trade disputes have not been resolved in a manner consistent with establishing freer and fairer trade as promised by the WTO and NAFTA. For example, the Canadian government is being allowed to put tariffs as high as 350 percent on dairy and poultry products. Unresolved disputes with the European Union, such as the ban on meat produced using growth enhancers and harmonization of standards for meat processing are costing livestock producers millions of dollars each year.

We at Farm Bureau believe that without some very visible commitments to, and wins for agriculture, we may not be able to deliver the support to pass such issues as Fast Track and MFN for China. To further emphasize this I call your attention to the attached letter to President Clinton signed by 26 agricultural organizations concerned about the future of trade agreements.

I want to thank you for your interest in the WTO and international trade. Thank you for holding this hearing so that we might have the opportunity to voice our commitment to continued expansion of free trade and the critical efforts needed to make international trade a fair deal for American agriculture and the American people.

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STATEMENT OF
THE AMERICAN FARM BUREAU FEDERATION
TO THE
SENATE AGRICULTURAL, NUTRITION AND FORESTRY COMMITTEE
REGARDING
CAPITAL GAINS AND ESTATE TAXES

Presented by

William Sprague, President
Kentucky Farm Bureau Federation

February 25, 1997

My name is Bill Sprague. I am a farmer who operates a 3,000-acre corn, soybean, beef and hog farm in Union County, Kentucky. I serve on the Board of Directors of the American Farm Bureau Federation and as president of the Kentucky Farm Bureau Federation. My statement today is made on behalf of the 4.7 million families who belong to the American Farm Bureau Federation.

Production agriculture is a capital intensive industry with total assets of more than $1 trillion. Yet, despite its size, it is an industry dominated by family businesses, many of which are multi-generational. Like so many of my fellow farmers, the operation of my business involves family members. My wife, Julia, and children, Andy and Shelly, are my partners and, in fact, keep things going when I am away on Farm Bureau business.

I have been farming for a lifetime and so it goes without saying that I am the senior member of our family farm business. As I attend farm meetings across Kentucky and the United States, I realize how many others, like me, are concerned about transferring our farm businesses to our sons and daughters when we die. Like me, they worry about the negative impact the capital gains tax has on the operation of our businesses. When you consider that 47 percent of farm and ranch operators are 55 years or older, you realize that agriculture is fast approaching a transformation.

The timing of this hearing on estate and capital gains taxes could not be better. These taxes greatly impact the efficient use of farm capital and the transfer of assets from one generation to another. Estate tax and capital gains tax reform is long overdue. Thank you for providing this forum where the reasons for reform can be put forward and for allowing me to speak today.

ESTATE TAXES

Farm Bureau's position on estate taxes is straightforward. We recommend repeal. Farmers and ranchers work long, hard hours over a lifetime to build their businesses. Along the way they paid income taxes on their earnings and it is wrong to tax those earning again at death. Farmers and ranchers should be able to save for the future without having to worry about sharing the outcome of their efforts with the federal government after already paying a lifetime of income taxes. Family farms and other family businesses should be passed from generation to generation without complex and costly estate planning.

Until repeal is possible, Farm Bureau supports increasing the exemption to $2 million and cutting the tax rate by half for assets over $2 million. The gift tax should be increased from $10,000 to $50,000 per year. These changes would lift the burden of estate taxes for thousands of farmers and ranchers. Internal Revenue Service figures show that by increasing the estate tax exemption to $1 million, over 37,000 estates, 54 percent of the returns filed, would no longer have to file estate tax forms.

A $2 million exemption would eliminate the tax on most farms and ranches. Failure to increase the exemption discourages the continuation of family farms. Often, farm heirs must sell business assets to pay estate taxes. When taxes drain capital from a farm business, the profit-making ability of the farm is destroyed and the farm business dies.

The story of a Fauquier County, Virginia, farmer makes clear the need for estate tax reform. His

wife inherited an 85-acre beef farm that he now operates with his family. Through extensive estate planning and use of Section 2032A special use valuation, a portion of the farm was passed from father to daughter. The family wants to continue to farm but will be unable to pay the estate taxes on the mother's portion because the tax due will exceed their ability to pay. When asked if selling a part of the farm to obtain cash was an option, he said, "There won't be much left."

The estate tax exemption hasn't been increased since 1981. Since then, average prices in the U.S. economy have increased by 70 percent. Farm Bureau believes that the exemption should be increased to $2 million and indexed for inflation. This would provide the same protection from inflation as is provided by the adjusting of income tax brackets, personal exemptions and the standard deduction.

Two million dollars may seem like a lot of money to some. But for many farmers and ranchers, it is simply a family business. According to Purdue University, good Indiana farmland sells for $2,300 an acre. A multi-generation family farm may involve 1,000-2,000 acres, with half the land owned and half rented. One thousand acres of land at $2,300 per acre is worth $2.3 million. That doesn't include buildings, livestock, farm equipment and other assets whose value would easily be worth another third of a million dollars on a 1,000-acre farm.

Some people argue that estate taxes do not impact small business if estate planning is effectively used. While sometimes effective at protecting farm businesses from estate taxes, estate planning tools and life insurance are costly and constantly drain resources that could be better used by farmers and ranchers to upgrade and expand their operations.

The situation of an orchard and farm market operation in Allegheny County, Pennsylvania, illustrates this point. Knowing that the estate tax burden will be great, this family operation of a mother, father and four children has developed an estate plan requiring money to be set aside for estate taxes. The amount of money that the business puts into a trust each year is almost as great as the individual earnings of each of the children. According to the family, this significantly reduces funds for things that the farm could use to operate more efficiently, like equipment purchases and building improvements.

The Indiana and Pennsylvania examples show that the estate tax is not a tax on the rich, as opponents of estate tax cuts argue, but rather a penalty on middle-class men and women who chose to make their living by operating their own businesses. Internal Revenue Service data from 1995 clearly shows that those with the greatest worth are also the best at using estate tax planning to reduce or eliminate taxes at the time of death.

While farmers spend hundreds of hours and thousands of dollars for estate plans and life insurance, relatively little revenue is generated for the federal government. In fact, Internal Revenue Service figures for 1995 show 54 percent of returns (37,000 estates) had assets of less than $1 million and generated only $650 million. The estate tax raised a total of about $14.8 billion in fiscal year 1996, as reported by the Office of Management and Budget. But, the estate tax can also cause huge revenue losses. People who believe they will be subject to the estate tax seek ways to transfer assets to avoid the tax. That often includes investing in less productive assets that reduce taxable income in the short term.

It follows that one of the reasons that revenue collected from the estate tax is low is that not very many people pay the tax. During 1995, 31,565 estates paid estate taxes. This is roughly 1.4 percent of the estimated 2.3 million adults who died that year. Opponents of estate tax reform say there is no reason to change a tax that affects so few middle income Americans. But each death affects children, grandchildren and other close family members. The impact is greatest for multi-generation family farms and ranches and other family businesses.

Farm Bureau supports changes in Section 2032A of the tax code that allows land to be appraised at its agricultural value for estate tax purposes. While beneficial to farms that operate near towns and parks, the amount that land value can be reduced is limited to $750,000. Use valuation is sound public policy and the limit should be removed so that the program can be applied to all farm and ranch land.

In addition, Section 2032A requires that the land be kept in agricultural production and "operated" by the heirs for 10 years. The rules have become so complex that some choose not to

use the program because they fear they may not be able to comply with all the rules. Farm Bureau recommends improvements in the law so that cash leasing to family members and the harvest of timber does not trigger the recapture of estate taxes.

Farm Bureau also supports the deferral of estate taxes until a farm is sold outside the family. In addition, land protected by a conservation easement or participating in a farmland preservation program should not be subject to estate taxes.

CAPITAL GAINS TAXES

Farm Bureau supports repeal of capital gains taxes. Until repeal is possible, Farm Bureau supports cutting the rate to no more than 15 percent. Capital gains taxes result in the double taxation of income from capital assets. I don't know any farmers who have bought farmland, buildings, equipment or livestock with untaxed dollars. It is wrong to tax earnings twice. In addition, the tax interferes with the sale of farm assets and causes asset allocation decisions to be made for tax reasons rather than business reasons. The result is the inefficient allocation of scarce capital resources, less net income for farmers and reduced competitiveness in international markets.

Farmers need capital gains tax relief in order to insure the cost and availability of investment capital. Access to affordable capital influences agriculture's ability to compete with overseas production. Most farmers and ranchers have limited sources of outside capital. It must come from internally-generated funds or from borrowing from financial institutions. The capital gains tax reduces the amount of money available for reinvestment by farmers and ranchers. Financial institutions look closely at financial performance, including the impact of the capital gains tax on the profit-making ability of a business.

Capital gains taxes affect the ability of new farmers and ranchers to enter the industry and expand their operations. While many think of the capital gains tax as a tax on the seller, in reality it is a penalty on the buyer. Older farmers and ranchers are often reluctant to sell assets because they do not want to pay the capital gains taxes. Buyers must pay a premium to acquire assets in order to cover the taxes assessed on the seller. These higher costs for asset acquisition negatively impact the ability of new and expanding farmers and ranchers to make a profit and compete in international markets.

Farm Bureau supports adjusting capital gains for inflation so that only real gains in the value of assets would be taxed. Under current law, many farmers and ranchers pay an effective tax rate that is extreme and sometimes end up paying more in capital gains taxes than the increase in the real value of the assets. Farmers and ranchers are reluctant to sell land and farm assets and reinvest in other assets, even when that may make the best business sense. For assets held for long periods of time, adjusting their value for inflation is a matter of fairness.

Farmland provides a good example. Farmers and ranchers on average hold farmland for about 30 years. In 1966, farmland in Kentucky was selling for an average of $196 per acre. In 1996, the average was $1,377. A farmer who bought 300 acres of land in 1966 for $58,000 and sold it in 1996 would have a taxable gain of $354,000 and owe $99,120 at a 28 percent tax rate. The average prices in the U.S. economy are now 4.26 times what they were 30 years ago. This means that the real increase of value on those 300 acres was $162,600, making the effective tax rate on the real capital gain 61 percent.

Farm Bureau supports allowing receipts from the sale of farm and ranch assets to be placed directly into a pre-tax individual retirement savings account (IRA). Withdrawals would be taxed at the regular applicable income tax rate. Farm and ranch assets accumulated over a lifetime are often the "retirement plan" for farmers and ranchers. Allowing these funds to be placed into a pre-tax account would treat farmers and ranchers in the same manner as other taxpayers who contribute to IRAs throughout their working life.

A similar result for yearly income could be achieved by allowing farmers and ranchers to establish individual investment accounts. Taxes on money placed in these accounts would be deferred, as with IRAs. Funds could be withdrawn for any purpose with taxes due at the holder's regular tax rate. This would allow farmers and ranchers to save for future needs as well as for retirement. Because farmers and ranchers could save money before taxes in high-income years and draw that money out in low-income years, they would pay taxes at a rate similar to people

earning the same aggregate amount with more stable incomes.

Farm Bureau also believes that the current once-in-a lifetime exclusion of $125,000 on the sale of a primary residence by a taxpayer over 55 years of age should be increased to $500,000 and expanded to include farms and ranches. The exclusion should not be limited to a single use by a taxpayer over age 55 and, if not used, should be added to an individual's estate tax exemption.

TAX REFORM

Farm and ranch concerns over capital gains taxes and estate taxes raise many questions about the need to fundamentally reform the current tax system. Consideration should be given to a new and different taxing systems that encourage savings, investment and entrepreneurship. Changes are needed to simplify tax laws, reform Internal Revenue Service rules and regulations and simplify tax forms. Fundamental tax reform which completely replaces the current personal income tax and corporate income tax should eliminate estate taxes and capital gains taxes.

CONCLUSION

American farmers and ranchers are the most productive in the world, producing 16 percent of the world's food on just 7 percent of the land. Farm and ranch productivity allows U.S. citizens to spend only 9.3 percent of their income on food, the lowest percentage in the world.

Agriculture and related industries provide jobs for more than 21 million people. Nearly 3.5 million people operate farms or work on farms. Another 3.6 million produce the machinery and inputs used on the farm or process and market what farmers produce. More than 14 million work in wholesale or retain businesses helping get farm products from the farm to consumers.

In order for farmers to continue this high level of productivity, reform of estate tax and capital gains tax laws is needed without delay. The results will benefit farmers, consumers and the economy.

APPENDIX

FARM BUSINESS STRUCTURE

According to the 1992 Census of Agriculture, 85.9 percent of the farms and ranches are individual or family proprietorships and 9.7 percent are partnerships. Family corporations make up 3.4 percent of the farm and ranch operations. Most of these have 10 stockholders or less.

DISTRIBUTION OF FARM ASSETS BY AGE

According to the 1992 Census of Agriculture, 477,650 farm and ranch operators were 65 years old or older, out of a total of 1,925,300 farm and ranch operators. Thus, roughly one-quarter of the farm operators are over 65 years old. They owned and rented land and buildings valued $153 billion, 22.3 percent of the total value of land and buildings for all farms and ranches of $687 billion. They also had farm machinery and equipment valued at $17.8 billion, 19.1 percent of the total of $93 billion. Another 429,839 of the farm and ranch operators were 55-64 years old, 22.3 percent of farm and ranch operators. They owned and rented land and buildings valued at $165 billion, 24.0 percent of the total, and had equipment valued at $21.1 billion, 23.7 percent of the total.

INTERNAL REVENUE SERVICE 1995 ESTATE TAXES COLLECTIONS

Estates with a gross value of $600,000 or more are required to file an estate tax form even if no tax is owed. In 1995, 69,772 estate tax forms were filed with a gross value for estate tax purposes of $117.7 billion. Of that total, 38,207 filers, 54.8 percent, did not owe any estate taxes after the various adjustments were made. The category called farm assets includes only machinery and livestock and not land, buildings or other farm assets. The IRS does not accurately identify the assets of farmers and ranchers.

Over half of the estate tax forms filed in 1995, 37,328 or 53.5 percent, had estates valued at $600,000 to $1 million. Of this total, only 13,830, 37.0 percent actually owed any tax. They paid a total of $651.2 million in taxes, an average of $47,085 per return, and 5.5 percent of total estate taxes.

For 1995, 61,887 of the 69,772 estates that filed, 88.6 percent, had estates with a gross value of $2.5 million or less. They paid $3.65 billion in taxes, 30.9 percent of the $11.8 billion paid.

Three hundred estate tax returns were filed with gross assets of $20 million or more with a total gross value of $15.5 billion, $51.6 million per estate. Of those 300 estates, 69 or 23 percent, with a gross value of $2.8 billion, owed no estate taxes at all. For those who did pay estate taxes, they had gross estates of $12.7 billion, but adjusted taxable estates of only $5.4 billion.

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STATEMENT OF ROBERT VASTINE, PRESIDENT, COALITION OF SERVICE INDUSTRIES

Mr. VASTINE. Good afternoon, Mr. Chairman.

The Coalition of Service Industries was founded in 1982 for the exact purpose of ensuring that liberalization of trade in services was made a major focus of international trade negotiations. The service sector now creates three-quarters of U.S. GDP, 80 percent of U.S. employment. Last year, 2.4 million of the 2.6 million jobs created here were service jobs.

The U.S. service sector racked up a trade surplus of almost $75 billion last year on record exports of about $225 billion. To give you an idea of the pace of growth of services exports and its potential for U.S. business and U.S. jobs, the service surplus in 1985 was only $300 million, about a 75 percent average annual growth a year since then.

The Uruguay round was the first multilateral trade negotiation to include services. But its major service achievement was the general agreement on trade and services, the GATS, which provides the general framework for services trade. But there was little effective liberalization of trade and services as a result of the Uruguay round.

Since the end of that round in 1994, the WTO's main task has been to complete the round's unfinished agenda of financial, telecommunications, professional and maritime services negotiations. Its record has not been one of success until Saturday, February 15, when a tremendous success was scored in a broad agreement to liberalize basic telecommunications services.

That was a huge achievement because the telecommunications agreement is the very first trade agreement to open up world commerce in a single service sector and this is important for several reasons. Mainly it proves that negotiations concentrated on one sector can, in fact, succeed. Ever since the failure of the first round of financial services talks in 1995 it has been popular in some policy circles here and in Europe to decry sectoral negotiations as impossible because it was argued there was not enough trading material in any given sector to make a deal.

It was argued, for example, that perhaps concessions could be made in agriculture and the United States could make concessions in agriculture in order to achieve benefits in financial services in other countries.

The success, in fact, of the telecommunications sectors quashes these speculations. The world trading community knows now that it can proceed with a sectoral trade agenda and that it can succeed.

Another major reason why this is an important negotiations, telecoms, is that it makes much more likely the success in financial services can be concluded this December, and the progress can be achieved later in the professions and in the maritime services.

With regard to the Singapore Ministerial and service sector liberalization as the Committee has heard and knows, the Singapore Ministerial concentrated on information technology products and other issues not directly related to services trade. Indeed, the final declaration of the Ministerial contains conflicting messages about services trade. But, while the Ministerial did not significantly advance the telecommunications financial and other services negotiations, its declaration did provide a very necessary endorsement for the completion of the key elements of the services trade agenda.

We believe that the next major test of the WTO is to complete the negotiations on trade and financial services with a broadly liberalizing agreement. I would like to let you know briefly about the efforts of the U.S. financial community to achieve this success. As background you should know that the United States has a surplus of $4.5 billion in financial services in 1996 on exports of $6 billion.

The financial services group of CSI has led in forming an international group of businessmen to create a network of private-sector support for the financial services negotiations. On February 4, this group issued at the World Economic Forum Annual Meeting in Davos, a statement of objectives for financial services negotiations which is attached to my statement.

This statement of objectives expresses the unanimous agreement of these financial leaders that offers on the table at the end of the negotiation in 1995 were not sufficient. That new and improved offers must be tabled for the negotiations to succeed this time.

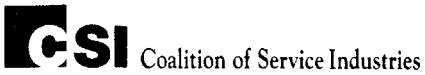
In short, the U.S. financial services community is united in its desire to achieve an agreement that brings true liberalization. It has developed an international program to support the negotiations and it is optimistic that the negotiations can succeed this time but it is aware that they will be difficult and that 9 months is not much time to generate the momentum and sense of urgency that motivated the telecommunications talks.

The Singapore Ministerial regrettably gave very scant attention to the requirement for the new year 2000 services round. Our government should begin soon to consult with others to prepare for the year 2000 round because these negotiations, the negotiations ahead must clear away the residue of restrictions to trade in the most promising and dynamic sectors of the world economy, that is the transportation, telecommunications and financial services areas.

Opening trade in these crucial sectors will help improve standards of living and the pace of growth for people, business and governments worldwide.

Thank you, Mr. Chairman.

[The prepared statement and attachments follow:]



Statement of Robert Vastine
President, Coalition of Service Industries
Before the Subcommittee on Trade,
Committee on Ways and Means
Wednesday, February 26, 1997

The WTO and Liberalization of World Trade in Services

It is a pleasure to contribute the views of the Coalition of Service Industries (CSI) to this important hearing. The Coalition was founded in 1982 for the precise purpose of ensuring that liberalization of trade in services was made a major focus of international trade negotiations. It represents US companies engaged in global financial, telecommunications, professional, maritime, and information technology services. The service sector racked up a trade surplus of almost *$74 billion* last year, on record exports totaling about $210 billion. To give you an idea of the pace of growth of services exports, and its potential for US business and US jobs, the services surplus in 1985 was only *$300 million*.

Thanks to the efforts of CSI and determined US negotiators, the Uruguay Round was the first multilateral trade negotiation to include services. Its major achievement was the General Agreement on Trade in Services (GATS), which provides a general framework for services trade. But there was little effective liberalization of trade in services as a result of the Uruguay Round.

Since the Uruguay Round ended in 1994, the World Trade Organization has concentrated on fulfilling the Round's unfinished agenda in financial, telecommunications, professional, and maritime services.

Until last week, the record has not been one of success. Negotiations on financial services ended in July 1995 with an Interim Agreement which calls for their resumption, and conclusion this year. Maritime services negotiations ended unsuccessfully in June of last year with an agreement that they begin again in the year 2000. The first round of the telecommunications negotiations ended last April in a postponement. In professional services, work on the accountancy agenda is targeted for completion this December.

But on Saturday, February 15, a tremendous success was scored in a broad agreement to liberalize basic telecommunications services.

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That was a huge achievement, and it is substantially the result of US determination to obtain agreements that bring true market liberalization, and, equally, to walk away from agreements that do not.

The agreement on basic telecommunications services was the very first trade agreement to open up world commerce in a single service sector. This is extremely important on several levels.

First, of course, it will lower costs and spur technological innovation in a sector on which businesses spend more than they spend on oil.

Second, it proves that negotiations concentrated on one sector can succeed. Ever since the failure of the first round of financial services talks in 1995 it has been popular in some policy circles here and in Europe to decry sectoral negotiations as impossible. Why? Because, it was argued, there is not enough trading material in any given sector. The only way to make progress in services, the argument went, is to lump services together with goods in another big trade round where there could be "cross sectoral tradeoffs".

The success in the telecommunications sector puts to rest these speculations. The world trading community knows now that it can proceed with the sectoral trade agenda, and that it can succeed.

Third, this successful negotiation makes it much more likely that successful financial sector negotiations can be concluded this December, and that greater movement can be achieved in the professions, and in maritime services.

The Singapore Ministerial and Service Sector Liberalization

As the Subcommittee knows, the Singapore Ministerial concentrated on information technology products, and other issues not directly related to services trade.

The Ministerial dealt directly with services trade only in its Final Declaration, specifically paragraph 17. But that paragraph gives a conflicted mandate. On the one hand it calls for "a progressively higher level of liberalization in services on a mutually advantageous basis with appropriate flexibility for individual developing country Members." That formula of words was designed to satisfy those countries that see liberalization as a decades long process in which developing countries, even relatively rich, fast growing ones, would not be pressed to commit to market access.

On the other hand paragraph 7 calls for completion of the services trade agenda, specifically for resumption of "financial services negotiations...with the aim of achieving significantly improved market access commitments with a broader level of participation...." This formula was insisted on by countries like the United States, that share ambitious goals for the coming round of financial services negotiations.

At the end of the day the Ministerial did not measurably advance the telecommunications, financial, and other services negotiations. Its Declaration did, however, provide a very necessary endorsement for completion of the key elements of the services trade agenda.

The Next WTO Goal: Liberalization of Financial Services

I would like to tell you about the efforts of the US financial services community to achieve success in the financial services negotiations this year. As background, you should know that the US had a surplus of $4.5 billion in financial services in 1996, on exports of $6.1 billion. The US financial industry has a big stake in expanding foreign markets, and these negotiations are thus very important to the future of this industry and to our country's competitive position in world trade.

The Financial Services Group of CSI, Chaired by Ken Whipple, President of the Ford Financial Services Group, concluded early last year that success in financial services negotiations would be more likely were financial leaders here and in Europe to work together to ensure a success.

Mr. Whipple and Andrew Buxton, Chairman of Barclays Bank, thus developed a network of financial business and association leaders from North America, Europe, and now East Asia. Called the Financial Leaders Group (FLG), its purpose is to provide private support for government efforts to reduce barriers. This effort has been spurred by the World Economic Forum, which has been the catalyst for key international meetings among US and EC negotiators, and business representatives.

On February 4 the Financial Leaders Group issued - at the World Economic Forum's annual meeting in Davos - a statement of Objectives for Financial Services Negotiations, which is attached, with a list of FLG members. It is, in a sense, a "bill of rights" for world financial services trade in the 21st Century. Its cornerstone is the conviction that financial markets liberalization is necessary so that developing economies can mobilize the enormous amounts of capital they will need for infrastructure and other development during the next decade.

This statement is based on the unanimous agreement of these financial leaders that the offers on the table at the end of the negotiation in 1995 were not sufficient: that new and improved offers must be tabled for the negotiations to succeed this time. Just as in the telecommunications sector, new and better offers led to final success. You will note that the statement calls for the right of financial firms to establish in foreign markets and to operate competitively in those markets on the same basis as domestic companies. It calls for existing investments to be grandfathered, and it asks that remaining impediments be liberalized progressively on an agreed transition schedule.

The Financial Leaders Group is also working at a practical level to agree on lists of trade barriers in countries that are key new markets for financial services products. It believes that if government negotiators can work toward the same objectives, the chances of success will be much improved. Here I must call attention to an important difference between the gains made in the telecommunications talks, and the objectives of financial services negotiations.

In telecommunications 56 countries made commitments to permit majority control of basic telecommunications facilities by foreigners. However, a number of key emerging markets fell short of this critical goal. For example, Thailand, India, and Malaysia respectively offered 20 percent, 25 percent, and 30 percent limits on foreign control. These levels would not be sufficient if offered in financial services.

In short the US financial services community is united in a desire to achieve an agreement that brings true liberalization. It has developed an international program to support the negotiations. It is optimistic that the negotiations can succeed this time, but it is aware that they will be difficult, and that nine months is not much time to generate the momentum and sense of urgency that motivated the telecommunications talks.

If financial services talks can succeed this year, in the wake of the success of telecommunications, it can be said that the World Trade Organization will have at last engaged the international trade agenda of the 21st Century. Services now account for about two-thirds of GDP in advanced countries, and in general these are the industries - finance, telecommunications, transportation - that have been most highly regulated, both in rich and poorer countries. They are the industries where the greatest gains can be made from competition and where the greatest growth in output and jobs will occur in the decades to come.

A new round of WTO services negotiations must begin by January 1, 2000. This offers the opportunity to give the major items remaining on the services trade agenda a needed fresh look.

In professional services, the WTO Working Party on Professional Services has set a target date of December 1997 to complete its work on accountancy services. Work on other professional services would continue into 1998.

Maritime issues have been postponed to 2000. We should consider whether to broaden these negotiations to include all surface freight services, both sea and land, thereby acknowledging the increasing integration of these transportation modes.

Mobility of business personnel is also an objective of the General Agreement on Trade in Services, and it is an important issue for most global companies. But it has literally disappeared from the WTO agenda. It deserves to be given a new impetus.

The Singapore Ministerial gave scant attention to the requirement for a new round of services negotiations to start in 2000. Even if financial services negotiations are successful there will be important services issues to consider in this new round. Our government should begin soon to consult with others in preparing the ground for the year 2000 services negotiations because these negotiations must clear away the residue of restrictions to trade in the most promising and dynamic sectors of the world economy. Opening trade in these crucial sectors will help improve standards of living and the pace of growth for people, business, and governments worldwide.

GENERAL OBJECTIVES FOR THE WTO FINANCIAL SERVICES NEGOTIATIONS

1. Liberalization of financial service markets is critical to enhancing economic growth globally, regionally and for individual countries, both developed and developing.

2. WTO financial services negotiations provide an excellent opportunity to achieve meaningful liberalization on a global scale. The General Agreement on Trade in Services (GATS) has created the necessary framework for financial services liberalization, establishing the general obligation to non-discrimination (most-favored nation treatment) and providing for specific commitments in market access and national treatment.

3. The WTO financial service interim agreement in 1995 was a first constructive step forward in achieving global liberalization of financial service markets.

4. The liberalization commitments scheduled in 1995 established a positive base upon which WTO members, both developed and developing countries, can add the additional liberalization commitments necessary for the successful completion of the upcoming WTO financial services negotiations. These should lead to the conclusion of a definitive agreement on financial services, based on the GATS and with the widest possible participation.

5. The commitments made in financial services negotiations should reflect the following goals:

    a. The right to establish and operate competitively.

    b. Foreign investors should have the same access to domestic markets as domestic companies and be treated on the same basis as domestic companies.

    c. Removal of restrictions on provision of cross-border services, except those restrictions absolutely necessary for supervisory purposes and for any other purposes covered by the GATS.

    d. Reduction of barriers to the posting of key personnel.

    e. Exceptions to commitments should be precise, transparent, temporary and limited to the minimum required for their purpose.

    f. Existing investments should be grandfathered.

    g. No new restrictions may be created.

6. Remaining impediments to substantially full market access and national treatment should be liberalized progressively on an agreed to transition schedule.

FINANCIAL LEADERS GROUP

Co-Chairmen

Andrew Buxton
Chairman, Barclays Bank PLC

Ken Whipple
President, Ford Financial Services Group

Members

Jean Jacques Bonnaud
Former President, GAN

Victor Fung
Chairman, Hong Kong Trade Development Council

Bruce Galloway
Vice Chairman, Royal Bank of Canada

Richard K. Goeltz
Vice Chairman and Chief Financial Officer, American Express Company

Evan Greenberg
Executive Vice President, American International Group, Inc.

David Holbrook
Chairman, Marsh & McLennan Incorporated

Douglas Hurd
Deputy Chairman, NatWest Markets

David Komansky
President, Merrill Lynch & Co., Inc.

Mariano De Martino
Director, Assicurazioni Generali SpA

Rodney McLauchlan
Managing Director, Bankers Trust Securities Corporation

Peter Middleton
Chief Executive, Salomon Brothers International, Inc.

Dean R. O'Hare
Chairman and Chief Executive Officer, The Chubb Corporation

John Price
Managing Director, Government Affairs, The Chase Manhattan Bank

Robert Pozen
Managing Director and General Counsel, Fidelity Investments

Ralph Schauss
Group Executive, Bank of America

Sir David Walker
Executive Chairman, Morgan Stanley Group (Europe) PLC

FINANCIAL LEADERS WORKING GROUP (FLWG)

Alastair Ballantyne
Vice President, Morgan Stanley Group (Europe) PLC

Sir Nicholas Bayne
Chairman, LOTIS Committee, British Invisibles

Josh Bolten
Executive Director, Goldman Sachs (London)

Nickolaus Bömcke
Secretary General, Federation Bancaire de L'Union Europeenne

Bill Canis
Vice President, International Corporate Affairs, American Express Company

Thomas Dawson
Director, Financial Institutions Group, Merrill Lynch & Co., Inc.

Brant Free
Vice President, International External Affairs, The Chubb Corporation

Harry Hassanwalia
Deputy Chief Economist, Royal Bank of Canada

Bill Hawley
Vice President and Director, International Government Relations
Citicorp/Citibank

Jean-Luc Herrenschmidt
Director, International Affairs, Credit Industriel et Commercial de Paris

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Carl Modecki
President, National Association of Insurance Brokers

Marlene Nicholson
Director, Government Relations, Barclays Bank PLC

Mary Podesta
Associate Counsel, International, Investment Company Institute

Raymond Protti
President and Chief Executive Officer, Canadian Bankers Association

Peter Russell
Vice President, Government Affairs, The Chase Manhattan Bank

John Standen
Chief Executive Officer, Emerging Markets, Barclays Bank PLC

Bob Vastine
President, Coalition of Service Industries

Mr. HOUGHTON [presiding]. Thank you very much, Mr. Vastine. Mr. Patterson.

STATEMENT OF LAIRD PATTERSON, COUNSEL, BETHLEHEM STEEL, BETHLEHEM, PA, ON BEHALF OF LABOR-INDUSTRY COALITION FOR INTERNATIONAL TRADE

Mr. PATTERSON. Thank you, Mr. Chairman.

My name is Laird Patterson. I am here on behalf of the Labor-Industry Coalition for International Trade or LICIT and its sister organization, the Coalition for Open Trade or COT. These organizations bring together companies, unions, and organizations to develop mutual positions on international trade policy issues.

While LICIT has been active across the spectrum of WTO issues, this statement will focus on a few select areas that are of particular importance to our membership in the aftermath of the Singapore Ministerial.

The first is the formation of the new competition working group. This is an area that LICIT and COT, in particular, have been very active in over the past few years. Attached to our formal statement are executive summaries of two reports that COT has produced on this. They cover multiple sectors—paper, glass, steel, autos, auto parts, heavy electrical equipment, and so forth—pointing out the way that private anticompetitive practices can be a very effective barrier to market access around the world.

And it is only logical that as we are increasingly successful through the Uruguay round and its aftermath in breaking down other, more formal governmental nontariff trade barriers that there will be increasing resort to private anticompetitive practices and, in fact, their toleration by governments as a market access barrier.

So, we think the formation of this working group could provide a very useful forum for, in particular, educating the WTO population on the perniciousness of these practices and the need to eliminate them. I do not think it is appropriate at this point to see that process going into the dispute settlement area, but as an educational process we think it can be a very valuable and useful exercise.

A caveat, there clearly was at Singapore an effort on behalf of many nations to include in this exercise the issue of antidumping. The United States and the EU made it very clear that they thought this was not an appropriate area for this exercise. Indeed, there is an antidumping committee in the WTO and that is where the antidumping should stay. And our membership very strongly supports the position of the U.S. administration that as the competition policy exercise goes forward that it not get into antidumping or other trade matters covered elsewhere in the WTO.

A second issue of particular concern to our membership at this point is the terms of the Chinese accession. We have been doing some reports on that, and I believe another one is in progress.

But in one particular area we have a special concern and that is the continued use of nonmarket economy practices for antidumping investigations involving China. It is a priority objective of the

Chinese to eliminate that and to be treated as a market economy. They are not. And certainly we believe that the terms of accession should explicitly require the Chinese to be treated as a nonmarket economy for as long as any transition period provided in the accession.

Just very briefly, there are a couple of areas that are up for reconsideration, the first being dispute settlement which has to be renewed in another 2 years. We think the system has been working well but we think it is important that it continue to be complemented by bilateral measures where the WTO does not have jurisdiction. We think it is important that we preserve our sovereignty, be willing to take measures unilaterally and compensate, if necessary, but not afraid to do that. And we certainly endorse the efforts of the United States to improve the transparency of the WTO dispute settlement system.

Finally, just very quickly, the WTO subsidy rules are up for renewal at the end of a 5 year period. We think it was very unfortunate that the concept of green-lighting subsidies got into the Uruguay round and we would hope that when this comes up for renewal at the end of the first 5 years that that green-lighting concept not be continued.

Thank you, Mr. Chairman.

[The prepared statement and attachments follow:]

Statement of

The Labor-Industry Coalition for International Trade (LICIT)

on

The WTO Singapore Ministerial Meeting

Submitted to the Committee on Ways and Means Subcommittee on Trade

February 26, 1997

This statement sets out the views of the Labor-Industry Coalition for International Trade (LICIT) on the WTO Singapore Ministerial meeting. LICIT, along with its subsidiary, the Coalition for Open Trade (COT), brings companies and unions together on international trade policy issues. Companies and labor organizations that have joined in recent LICIT statements on trade policy include: American Flint Glass Workers; Association for Manufacturing Technology; Bethlehem Steel; Chrysler Corporation; Cincinnati Milacron; Communications Workers of America; Corning Inc.; Industrial Union Department (AFL-CIO); International Brotherhood of Electrical Workers; International Union of Electronic Workers; Motorola Inc.; UNITE; United Paperworkers International Union; United Rubber Workers; and United Steelworkers of America.

LICIT welcomes the Trade Subcommittee's oversight of WTO activities, and was pleased to participate in both the September 1996 hearing in anticipation of the Singapore Ministerial and the October 1996 hearing on the WTO accession of China and Taiwan. While LICIT has been active across the spectrum of WTO issues, this statement briefly addresses five issues that are of particular importance in the aftermath of the Ministerial:

- the WTO's new competition policy working group;
- the WTO dispute settlement system;
- the terms of China's proposed WTO accession;
- WTO subsidy rules; and
- domestic steps the U.S. Government should take in light of WTO developments.

I. Competition Policy Working Group

This new working group could begin to respond to a major problem in international trade -- or, it could become a forum for unwarranted attacks on WTO-sanctioned trade remedies. With active Congressional oversight, the U.S. officials participating in the working group must ensure that the former, not the latter, occurs.

LICIT and COT are deeply concerned about the problem of private anticompetitive practices (ACPs) abroad and government toleration of such practices. COT in particular has led the way in documenting this problem and spurring debate on solutions, starting with our first report published in 1991, *The Limits of the GATT: Private Practices in Restraint of Trade*. In 1994, we followed that initial study up with *Dealing With Japan* (subtitled *Responding to Private Practices in Restraint of Trade: An Assessment of Policy Tools*), an even more detailed study with several policy prescriptions.

These studies, whose executive summaries are attached, show that inadequate discipline over ACPs harms U.S. interests and is one of the major trade policy problems the U.S. Government will have to tackle in the years ahead. Among the many sectors where we have documented ACPs as a market access problem are paper, glass, steel, autos and auto parts, and heavy electrical equipment. Primarily a concern with respect to Japan and Europe today, this

problem will only magnify as other trading nations shed their more formal trade barriers and private restraints take on added commercial significance.

From the working group, the United States should demand "affirmative progress" on ACPs and "no harm" on antidumping.

- *"Affirmative progress" on ACPs.* The working group should concentrate its efforts on private restraints that close many markets to imports. The focus should be on the ACPs themselves, and only secondarily on the manner in which local competition laws are (or are not) applied in response. Further, as an essential backdrop to these discussions, the United States must continue to address bilaterally, through section 301, government toleration of private restraints that block U.S. exports to, or investment in, foreign markets.

- *"No harm" on antidumping.* Whether or not it makes affirmative progress on ACPs, the working group must not be misused as a way of reopening the Antidumping Agreement. The correct focus is on how private restraints affect competition within markets. While trade policy measures also affect competition within markets -- this is true of antidumping duties, safeguard measures, normal customs duties, balance-of-payments restrictions, etc. -- each of these is expressly authorized under existing WTO rules, and has its own appropriate place in the WTO system. There is no reason why a competition policy initiative needs to involve any consideration of antidumping or other trade measures. In any event, WTO antidumping rules were just recently renegotiated; they should be allowed to work, and the Committee on Antidumping should be used for airing any reform proposals in the future. LICIT welcomes the public statements made by EU and U.S. officials that the new working group is being created to focus only on antitrust issues and lacks any mandate to look at antidumping rules or practices.

II. WTO Dispute Settlement

The WTO's new Dispute Settlement Understanding is up for review after two more years. While the Ministers at Singapore reaffirmed their existing commitment to the system, extending it beyond the initial trial period requires a new commitment. Setting aside individual cases, how can WTO dispute settlement command U.S. industry's support?

- *Complement bilateralism.* The WTO agreements do not address all the important barriers in the world, and they must not be allowed to impede the U.S. Government's bilateral market-opening efforts. This should be a key criterion in the U.S. decision on extension.

- *Operate transparently.* The U.S. Government should continue to seek greater transparency in the WTO dispute settlement system. Subject to narrow exceptions to protect clearly business proprietary information, non-governmental parties should be permitted: (1) to review the litigating governments' written submissions to a panel while the panel proceeding is in process; (2) to witness panel meetings and oral arguments; and (3) where generally supportive of their government's position and directly interested in the outcome, to submit amicus briefs.

- *Preserve sovereignty.* WTO Members retain the sovereign right to keep in effect measures found to violate WTO rules, and to compensate injured trading partners or accept trade retaliation. This flexibility must not be eroded.

III. Proposed Accession of China

China's proposed accession to the WTO is a matter of great interest to LICIT's members. LICIT has communicated its concerns to the Trade Subcommittee in the past and is currently working on a more detailed paper. For purposes of the present hearing, we want to focus on just one accession-related issue that has gained attention recently: the "nonmarket economy" methodology used under U.S. antidumping law for goods originating in state-controlled economies like China's.

This methodology, authorized by GATT Art. VI, is critical to ensuring a fair comparison of the normal value of goods produced in China with the export price of those goods in the United States. We have been alarmed to hear arguments that China -- or at least some Chinese goods -- should no longer be subject to nonmarket economy provisions. To eliminate any possibility of problems in this area, language should be included in China's protocol of accession specifically permitting application of nonmarket economy antidumping provisions to China, at least with respect to sectors where there is a significant degree of state ownership or control.

IV. WTO Subsidy Rules

The experimental "greenlight" category in the WTO Subsidies Agreement, added during the Uruguay Round, creates a hole in multilateral anti-subsidy rules and encourages the trade-distorting behavior of other governments. The United States should refuse to participate in any extension of greenlighting after the initial 5-year trial period.

V. Internal U.S. Steps

Along with sound international rules, the United States also needs appropriate internal mechanisms to make and implement its trade policy in light of the international rules. Domestic issues of particular importance include:

- *WTO Review Commission.* The WTO Review Commission bill should be enacted promptly. This mechanism is critical to the WTO's credibility in the United States, and to effective oversight by Congress.

- *Effective trade law enforcement.* This includes strong antidumping and countervailing duty regulations and, as discussed above, forceful use of section 301 where appropriate. Congress should continue to reject trade law-weakening proposals, particularly the current effort to superimpose a "short supply" mechanism on the antidumping and countervailing duty laws. Strengthening amendments to these laws will likely be needed when China joins the WTO.

- *Anticompetitive practices and competition policy.* Careful work is needed to determine the appropriate position for the United States to take in multilateral fora with respect to private restraints that deny market access. As a starting point, Congress should sponsor some empirical work on the subject, focusing on trade flow anomalies and their causes.

- *Trade agency reform.* In any reform, enforcement functions should remain insulated and adequately funded. Structural reform should be approached cautiously and with the explicit goal of improving: (1) the effectiveness of U.S. market opening efforts; (2) U.S. preparations for negotiations; and (3) staffing for U.S. participation in international dispute settlement proceedings.

THE LIMITS OF THE GATT: PRIVATE PRACTICES IN RESTRAINT OF TRADE

Anticompetitive Practices and Options for Reform

Coalition for Open Trade
COT

EXECUTIVE SUMMARY

Introduction

Over the past forty years, the developed world has witnessed a dramatic reduction in tariffs and other formal barriers to trade. This process has resulted in greatly increased, but far from free, trade. Trade continues to be constrained by private restrictive business practices which are too often ignored, approved, or even promoted by a number of the world's major trading nations.

While the parties to the GATT have sought to liberalize trade in many important respects up to and including the current Uruguay Round trade talks, GATT negotiations have failed to address private restrictive practices. The continued existence of such practices, which are subject to inadequate bilateral and multilateral discipline, seriously distorts world trade and provides an extremely important challenge for U.S. trade policy. These practices must be thoroughly analyzed. Appropriate changes to U.S. laws and policies must be made to combat these practices so that U.S. producers can take full advantage of their competitiveness. New multilateral rules should be crafted to assure the elimination of significant private barriers to international trade.

Private Procurement

In some countries, a relatively small number of large, diversified companies or corporate groups control a significant share of the national economy. As companies tend to favor other group companies in their purchasing, the effect of this corporate structure is to exclude foreign suppliers from the market. The two best-known examples of this type of structure are Japanese *keiretsu* and Korean *chaebol*.

Cartels

Cartelization of foreign markets significantly distorts international trade and depresses U.S. exports. The European market traditionally has been marked by a high degree of cartelization.

In Japan, attitudes towards cartels remain quite tolerant, and enforcement procedures remain weak and under-utilized. The Government of Japan has expressly authorized cartels for a wide range of purposes. Private Japanese anticompetitive activity has been widely cited as a factor in restricting sales of U.S. polysilicon, semiconductors, soda ash, construction services, amorphous metals, machine tools, and forest products.

Distribution

Restrictions on access to a nation's distribution system can serve to shut U.S. exports and other foreign goods out of a market. These restrictions can result from producer ownership of wholesalers and/or retailers, from agreements that restrict distributors from handling competing goods, or simply from the unwritten threat of retaliation by powerful suppliers should a distributor behave "disloyally" by handling foreign goods.

Shareholding and Shareholders' Rights

Foreign companies continue to find it very difficult to invest in, much less take control of, Japanese corporations. The very structure of the Japanese corporate economy, and particularly the pervasiveness of cross-shareholding, can serve to impede foreign investment.

Patent Abuse

In Japan, the patent system has been abused by large firms seeking to force the licensing of new technologies. The abuses include patent flooding, in which a company files numerous patents that vary slightly from an important new patent and then, by threatening litigation, forces the original patentee to cross-license.

Objective Indicators and Effects of Anticompetitive Practices in Foreign Markets

Foreign firms have an incentive to bar imports if they are engaging in anticompetitive activities and collecting monopoly rents. However, in addition to focusing on this direct link to the suppression of imports, U.S. trade policy should also consider several related effects and objective indicators of restrictive activities including stable market shares,

high foreign prices, and an unusually high level of industrial concentration.

Anticompetitive Direct Investment in the United States

In the past, anticompetitive activities were primarily a market access concern (although to the extent they permitted dumping, they did have effects in the United States). The evidence now suggests, however, that as foreign direct investment in the United States increases, restrictive practices are being brought to the United States as well.

Possible U.S. Responses

A wide range of measures are available to assist the United States in confronting the problem of private restrictive business practices that distort trade. U.S. options to reach practices occurring in *foreign markets* include improving statutory remedies, increasing U.S. Government antitrust enforcement actions against the overseas activities of foreign companies, pursuing bilateral negotiations, and seeking international competition or antitrust agreements.

Possible steps to be taken with respect to the *U.S. market* include upgrading private antitrust remedies, amending the criteria for administrative reviews of foreign investment, and improving the rules governing joint production ventures.

Policy Implications

No comprehensive trade policy today can ignore the tremendous distortions to world trade that are caused by private restrictions. As traditional barriers have fallen away, private restrictions have become more and more important. It is increasingly clear that the U.S. and other governments must take action against anticompetitive activities, in order to ensure enhanced export opportunities and protect competition in home markets.

The governmental response should result in more than the elaboration of new rules. Ultimately, the reduction of private restrictions on trade must be measured according to objective criteria, such as increased import penetration and shrinking price differentials between formerly protected home markets and external free markets.

DEALING WITH JAPAN

Responding to Private Practices in Restraint of Trade: An Assessment of Policy Tools

COALITION FOR OPEN TRADE

March 1994

EXECUTIVE SUMMARY

This study assesses policy measures undertaken by the United States to respond to anticompetitive foreign business practices that have harmed U.S. industries. The study began as a survey of U.S. policy measures against restrictive business practices *worldwide,* but as the work progressed, it became apparent that the preponderance of cases centered around *Japan*. Thus, while the problem of restrictive business practices in international trade extends far beyond Japan -- and this study offers some examples -- any comprehensive approach to this problem must address the restrictive private practices that characterize many areas of the Japanese economy.

The U.S. government has not undertaken an effort to reduce foreign private restraints on trade comparable to the sustained effort it has mounted since World War II to reduce government-administered restrictions. The U.S. has not pressed for coverage of restrictive business practices by the General Agreement on Tariffs and Trade (GATT) or mounted any other major multilateral initiatives in this area. The Uruguay Round of Multilateral Trade negotiations does not address restrictive private conduct and indeed, may place constraints on the use of the most important U.S. tools for responding to such conduct, Section 301 of the Trade Act of 1974 and the antidumping law.

Since World War II, U.S. government efforts to respond to foreign anticompetitive practices have been reflected in two broad initiatives:

- The U.S. Occupation partially dismantled large industrial groups in Germany and Japan, and in the early postwar era U.S. government prodding led both countries to adopt antitrust legislation and to establish competition authorities. Following the U.S. example, many other countries have subsequently created agencies to regulate competition, including the European Union. However, in few instances has antitrust been enforced as vigorously as in the United States.

- Since the mid-1980s, the U.S. government has undertaken a series of bilateral negotiating initiatives with respect to "structural" barriers to foreign access to the Japanese market. Many, if not most, of Japan's "structural impediments" consist of anticompetitive arrangements between private companies. To date, however, U.S. negotiating efforts have achieved at best limited results.

Apart from these efforts, the U.S. response to restrictive foreign business practices has been driven by complaints brought by individual producers and industries that have been harmed. The result has generally been a haphazard pattern of remedial action, often implemented only after a U.S. industry had been severely damaged.

- In one case, *televisions*, U.S. initiative failed completely and an important industry disappeared from our economy.

- In *semiconductors*, *steel*, and *machine tools*, policy measures have proven partially effective, halting the rapid erosion of key industries and providing the basis for recovery. In most of the other sectors summarized here, the results have fallen somewhere between these extremes.

- In *soda ash* and *construction*, bilateral U.S. negotiating efforts have produced some increase in U.S. sales in Japan, but the structural barriers themselves remain largely intact.

- In *autos* and *auto parts*, bilateral negotiations have resulted in the establishment of quantifiable measurements for expanded U.S. sales in Japan, but the principal structural barriers remain largely intact, and imports from all sources account for only about 3 percent of Japanese consumption.

- In *amorphous metals*, *insurance*, *paper*, and *glass*, U.S. negotiating efforts have been largely ineffective even in securing a significant increase in U.S. sales, much less eliminating the barriers themselves.

- In no case can U.S. policy measures be credited with breaking up a foreign cartel or syndicate.

The U.S. policy actions which have achieved positive, albeit limited, results are worth studying in any consideration of new remedial initiatives. The most successful measures appear to have been

- Antidumping measures applied in a timely manner, and

- Market access agreements which (a) are based on specific market share targets, and (b) contain a credible threat of major sanctions if targets are not met.

Both of these policy measures have significant limitations. They do not attack the problem at its root. Relief is unpredictable at best. Antidumping can be used only in certain circumstances. Clearly, if the problem is to be addressed effectively, new policy tools are needed.

This study does not recommend specific solutions to the problems which it documents. It is intended as a resource for encouraging debate over possible new remedies. It is evident that if the U.S. is to succeed in addressing the problem of private restraints on trade, creative uses of existing remedies and the fashioning of altogether new measures must be considered. Possibilities include, but are not limited to:

- Initiatives by the Department of Justice, including antitrust actions against foreign anticompetitive practices that injure U.S. producers;

- Strengthening of U.S. antitrust laws to clarify their applicability to foreign anticompetitive practices; and

- Creation of new legal remedies which could be invoked by U.S. firms which are injured by foreign anticompetitive practices.

More important than any single initiative, however, is the need for U.S. government recognition that private anticompetitive practices overseas represent a serious threat to the U.S. economy. This problem must be given a higher priority than it has received to date.

Mr. HOUGHTON. Thanks, Mr. Patterson.

Mr. Stewart, and then Mr. Sandstrom.

Mr. Stewart.

STATEMENT OF TERENCE P. STEWART, MANAGING PARTNER, STEWART AND STEWART, WASHINGTON, DC

Mr. STEWART. Thank you, Mr. Chairman.

It is a pleasure to be here this afternoon. For the record, my name is Terence Stewart, managing partner of Stewart and Stewart, a law firm here in town.

I am here on my own behalf today. With regard to the panel that preceded this, I think there is general agreement that the ITA is a very substantial positive benefit. What is unfortunate for both the ITA and I think for the basic telecommunications agreement is that there are disputes between the Congress and the administration on lack of clarity with regard to whether or not these agreements conform to existing law or need to be implemented through additional law. For an agreement of this magnitude, I think that is a great misfortune and one that hopefully the Congress and the administration will resolve quickly.

I would like to focus on an issue that has not been much addressed that is highly technical but for most companies is the heart of the WTO and that is the implementation of the various obligations. In the reports that came out in Singapore, it was acknowledged that the implementation and notification of implementation across-the-board has been quite weak.

And, in fact, there are a few areas where implementation and notifications have exceeded 50 percent. This should be of substantial concern to the Congress, as I know it is to the administration and our major trading partners, and should put a caution on the speed with which one expands a trading system. If you cannot implement that to which you have agreed there is a question, why are you seeking to agree to more?

In that connection I would have three recommendations for the Subcommittee's consideration. First and foremost is to assure through other committees that there is adequate funding for both USTR and the other agencies that are responsible for the oversight of the implementation of our trading partners, as well as our own implementation of our obligations.

What you see in Geneva and what you see in most agencies is a reduction in staff, and what has happened in Geneva is that there has been an exponential growth in demands on the time such that even the United States is not able to cover all of the committee meetings that occur in Geneva on a day-to-day basis.

Second, there needs to be a cooperation between the Congress and the administration to speed the public dissemination of information from the WTO. One of the major accomplishments in the first 2 years was an agreement that USTR was instrumental in accomplishing to release, make public the vast majority of the material that is submitted to the WTO—the laws, the regulations, the practices, the decisions.

That was done in July of last year. We are now at the end of February 1997. Virtually no information has been disseminated since that point despite this very important agreement. Private organizations, labor groups, companies are the best guarantee that

there will be implementation of obligations abroad. The data base is the best way to accomplish that.

Third, much of the lack of implementation abroad is due to the fact that the countries that have not implemented it are developing or least developed countries. There is a grossly inadequate technical assistance funding——

Mr. HOUGHTON. Say that again, I did not hear what you said last sentence.

Mr. STEWART. If you take a look at the countries who have not implemented their obligations under the WTO, the more than roughly 50 percent of countries, the vast majority of them are least developed or developing countries and a substantial reason that they have not implemented their obligations is that they do not have the technical means in-country to do so.

The WTO has technical assistance but that technical assistance is minuscule in amount and the United States and our trading partners need to assure that there is adequate funding from multilateral organizations or otherwise to permit that to go on.

The same thing I believe is true with regard to the built-in agenda. I agree with the comments of the gentleman from the Farm Bureau. I would note that one of the lacks that currently exists is a coordination between our domestic legislative initiatives and our negotiating objectives. Last year in the farm bill those sectors of U.S. agriculture that are vulnerable because of large subsidies abroad that saw their own subsidies reduced, over time, faced substantial dislocations because of the fact that we do not have as a primary negotiating objective the leveling of the playingfield with a reduction of subsidies abroad.

I have other issues, Mr. Chairman, and they are in my statement. I see that my time is just about out. Let me just turn quickly to two. I agree with Mr. Patterson with regard to the importance of the competition policy issue and the limitations on that initiative that are there.

With regard to investment, I believe that what we accomplished in Singapore is not significant, that if we are to expand what we achieved through the OECD, it will first and foremost be through an expansion of the FTAA, through other regional and bilateral agreements, and I think through the experience of developing countries who have led the way in terms of liberalizing their investment regimes.

With regard to textiles, I would like to note just briefly, that the Congress should be concerned with the developments in Singapore to the extent that those developments suggest a changing of the basic underlying agreement and I would suggest there are two shifts.

One is the apparent belief amongst many countries in some panel decisions that the intermediary category of goods and textiles are subject to the same standard as an escape clause case. And, second, that all cases must have findings and recommendations even when there is not a consensus.

Last with regard to dispute settlement, I agree with Mr. Patterson that the system has worked quite well or reasonably well to this point in time. I would only put a caution that the European Union challenge to the U.S.-Cuba policy presents a major problem,

I believe, for the survival of the dispute settlement system. Hopefully we will get that resolved without a formal panel decision.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF
TERENCE P. STEWART, ESQ.
MANAGING PARTNER
LAW OFFICES OF STEWART AND STEWART

BEFORE THE HOUSE WAYS AND MEANS COMMITTEE'S
SUBCOMMITTEE ON TRADE
HEARING ON WTO SINGAPORE MINISTERIAL MEETING
(TR-1)
FEBRUARY 26, 1997

I. Introduction.

Mr. Chairman, members of the Subcommittee and staff, I am Terence Stewart, the managing partner of my law firm Stewart and Stewart. I thank you for the opportunity to appear here today to provide my views on the Singapore Ministerial meeting of the WTO last December. Our firm has been actively involved in international trade issues since its founding in the 1950s and has actively monitored developments in the GATT and now the WTO. I have written extensively on GATT and WTO issues and had the privilege of being in Singapore during the Ministerial meeting. The comments which follow reflect my personal views and not necessarily the views of my colleagues at my firm or of any of our clients.

II. The Singapore Ministerial Meeting

A. Overview

One of the features of the World Trade Organization is its built-in ministerial meeting requirement every two years. The Singapore Ministerial held this past December was the first WTO ministerial meeting and was widely anticipated as the first checkpoint in implementation of Uruguay Round Agreement obligations and consideration of the future agenda of the organization.

Going into Singapore, the agenda appeared to be focused on (1) a review of the implementation of existing obligations, (2) a consideration of what, if any, steps should be taken to prepare for built-in future negotiations, (3) review of ongoing negotiations (e.g., certain service sectors, rules of origin harmonization exercise), (4) a consideration of other matters.

B. The Information Technology Agreement and Movement on Basic Telecommunications

While not part of the formal Singapore Ministerial agenda, the focus of much of the energies of the U.S., EU and other developed and advanced developing countries during the week in Singapore was the Information Technology Agreement. Mr. Chairman, your release on this hearing and the materials from USTR on the ITA establish the potential importance of this agreement which affects a half trillion dollars of trade (1995 basis). Coupled with the recently announced conclusion of the basic telecom negotiations which were also bolstered by U.S. efforts in Singapore, the potential benefits to the U.S. and our trading partners from these two agreements are impressive. I join all those who have congratulated Ambassador Barshefsky and the rest of the talented U.S. team of negotiators for their efforts before and since Singapore to make these major agreements a possibility.

As recent issues raised by certain members of Congress demonstrate, however, it is critical that Congress and the Administration establish a mutual understanding of the basis for trade negotiations or

their implementation in the U.S. Before and during Singapore there were questions raised about the legal authority of the Administration to eliminate tariffs on such a broad range of products as are covered by the ITA without specific Congressional authority--questions being raised as to whether all products under the ITA were covered by the Congressional authorization in the Uruguay Round Agreements Act. And in recent weeks there has been controversy over whether the basic telecom agreement must be implemented into U.S. law through an act of Congress or rests within the existing authority of the Administration. Agreements of this magnitude and potential importance to the country should not suffer from lack of clarity in legal authority.

C. A review of the implementation of the commitments of the Uruguay Round Agreements.

With the large number of agreements entered into as part of the Uruguay Round Agreements and resulting WTO, member countries have had a formidable challenge to implement commitments undertaken and to provide notifications to the WTO of all of the information required. All countries, including the major trading nations such as the U.S., EU and Japan, have had problems with providing timely notifications in many areas. A large part of the work program in Geneva during the first two years of the WTO has been focused on reviewing implementation, engaging in a process of questions and answers on how individual nation's implementing process conforms to WTO obligations. While not attention grabbing, the hard work of assuring implementation of and compliance with WTO obligations goes to the real value of the trading system for U.S. companies, workers and communities. An agreement that is not effectively implemented is not of much value to member countries.

In preparation for Singapore, each of the Committees prepared annual reports summarizing the work of the Committee. While substantial progress was reported in many areas (including tariff reductions for industrial goods), significant problems exist pretty much across the board in terms of the number of member countries who have not implemented obligations after two years and/or who have provided few if any of the notifications required of the countries. Consider the following excerpt from the Report of the Working Group on Notification Obligations and Procedures [G/L/112, 7 October 1996, page 13]:

> 66. The goal of improving the compliance with the notification obligations and procedures under Annex 117 was recognized as a key responsibility of all Members to maximize transparency of trade policies and measures. Accordingly, the Group considered that the question of compliance deserved very careful examination as it touched upon the very functioning of the WTO system. To consolidate the gains of the Round, each and every agreement must be fully and faithfully implemented. That requires very detailed monitoring by the responsible committees and councils which, in turn, could only be achieved if there is sufficient transparency - which means compliance with the notification obligations.
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> 68. * * * The exact rates of compliance with one-time and periodic notification obligations were sometimes difficult to calculate as not all Members were obligated to provide all notifications at that time; nevertheless, it was clear that compliance rates varied greatly and few exceeded 50 per cent.

Critical issues in some agreements have very poor responses by member nations. Take the Agriculture Agreement as an example. The Report of the Committee on Agriculture [G/L/131, 7 November 1996, page 6] shows

that only 35 of 96 countries required to provide notifications on export subsidies did so, as did only 25 of 75 required to report on domestic support levels. These two areas are the most sensitive for U.S. agriculture export interests yet show the worst reporting by trading partners. Other reporting requirements in agriculture have had better performance. It is understood that there may be significant problems in the actual implementation of trade liberalization in agriculture for some of our trading partners -- another problem related to implementation.

Similarly, the Report of the Committee on Subsidies and Countervailing Measures [G/L/126, 28 October 1996, page 2] indicates that 61 of 125 WTO members at the time had submitted no notification (including, e.g., Poland, Israel, South Africa). Problems were also indicated with the content of the notifications (i.e., beliefs that various subsidy programs were not being reported). In antidumping, 40 countries had made no notification and 36 other countries notified that pre-Uruguay Round law was still in effect. In safeguards, 45 members had provided no notification. There are also significant delays in implementing obligations under the Technical Barriers to Trade, Rules of Origin, Customs Valuation, Import Licensing and Sanitary and Phytosanitary Agreements.

The Working Party on State Trading Enterprises, while making some progress in the last two years, indicated that it had received initial notifications from only 45 of 108 countries and updates from only 16 of 108. In addition, limited progress has been made in getting the state trading enterprise questionnaire modified.

Many of the countries failing to provide notifications are the same for virtually all of the agreements, often least developed countries and developing countries. But there is also concern about the timeliness and completeness of notifications for major members. Certain areas, such as state trading, are of major importance, particularly with many of the countries seeking accession still having important parts of the economy handled by state trading enterprises.

The above brief overview is not to suggest that there hasn't been substantial effort by many of the members to implement their obligations. However, the lack of assurance that the existing rights and obligations are being implemented calls into question how fast the base of rights should be expanded. It also reduces the benefits of the agreement for U.S. companies and workers.

The Singapore Ministerial addressed both implementation and notifications and legislation in the Singapore Declaration. The Declaration notes that monitoring of implementation would be improved through the timely availability of trade and tariff data, that all countries should fulfill their notification requirements and review the content of the notifications to assure completeness, that countries that have not implemented obligations because of the need for domestic legislation complete the process as quickly as possible and that all countries review existing and proposed legislation for WTO compatability.

While the Singapore Declaration's call for compliance is appropriate, there are some structural issues that should be considered by the Congress. I have three suggestions for the Subcommittee's consideration.

First, while the Administration is obviously committed to improving implementation, Congress should be sure that USTR and the other agencies involved in the various agreements have sufficient funding for the important functions involved in both implementing U.S. obligations and safeguarding that other countries implement their obligations as well. Funding is critical both for the agencies that must monitor developments in the U.S. and for the level of staffing in Geneva and elsewhere. Virtually all Missions in Geneva have reduced staff levels since the conclusion of the Uruguay Round negotiations. Yet since the

WTO was launched, the amount of work at just formal meetings within the WTO has increased by more than 50%. While the U.S. has a large staff in Geneva, the press of business in Geneva severely strains the ability of even our country to handle the existing obligations. In 1995, the WTO had 1,650 meetings that the U.S. had to staff. In 1996, the WTO reports that the level of meetings had increased an additional 17% -- roughly 40 formal meetings a week. I have been told that the U.S. is unable to cover all meetings at the WTO (for most developing countries and some developed countries, staffs are so small that a substantial part of the total work program cannot be covered by personnel in Geneva). The formal meetings are obviously only one small part of the work program that flows from the WTO.

With the very heavy workload within the Dispute Settlement Body, USTR's resources are severely taxed to provide the legal representation needed for the large body of disputes to which the U.S. is a party.

Because there are thousands of notifications of laws, regulations and other provisions, the Congress must provide the resources to all of the agencies involved in the various agreements to permit a thorough review and critique of our trading partners' compliance. While the U.S. makes a good faith effort to comment, the level of effort is obviously affected by the level of personnel assigned to the tasks.

Second, Congress should work with the Administration to speed the public dissemination of information generated by the WTO notification process so that the private sector can provide input on the completeness of the notifications, identify practical problems that are occurring in individual countries that contradict the claims of practices, and receive the benefit of knowledge of the positions being taken by our trading partners in all areas. Thanks to the hard work of USTR over the last two years, the WTO has agreed to a much broader dissemination of documentation submitted to the WTO. However, despite the decision by the WTO last July, the flow of information to the public has not significantly changed to date.

Third, while the WTO Committees recognize the need for improved performance and have made recommendations for continued focus on and attention to technical assistance for the least developed and developing countries, the major member countries need to examine whether the level of funding provided through the WTO for technical assistance and that provided by individual nations is sufficient to the task at hand. In my view, the funding available falls far short of the needs of the least developed and developing countries.

Let me discuss one of the regions where there are a number of least developed and developing countries that have not provided notifications to the WTO -- Africa. There has been interest in Congress for special trade rights for countries in Africa. While I support special treatment for such countries as a general matter, Congress and the Administration must be mindful that developing institutional competency in the least developed and other developing countries so those governments can inform their businesses of rights and obligations is just as critical -- indeed, likely much more important for trade expansion with the U.S. or with other developed countries.

D. Built-in agenda and ongoing negotiations

The Uruguay Round Agreements contained a large built in agenda. In part this was due to the fact that the U.S. and other countries were unable to obtain the level of market opening commitments desired in the timeframe available. In other situations, the built-in agenda permitted a review of novel provisions to determine whether the provisions should be continued, modified or expanded to other areas. While some areas had extensive agendas -- such as the ongoing negotiations in four service sectors (basic telecom, financial services, maritime services, movement of persons) and on three service rule areas (safeguards, government

procurement, subsidies), most agreements under the WTO had some work program, whether large or relatively small.

For example, in the Rules of Origin Agreement, the Agreement called for technical work over three years leading to a harmonized approach to rule of origin determinations for all non-preferential purposes. This important work program has been underway for some time and is critical to the Agreement's full implementation.*

By contrast, in the Antidumping Agreement, one of the Marrakesh Ministerial Decisions requires a review of the standard of review contained in Art. 17.6 of the Antidumping Agreement "after a period of three years with a view to considering the question of whether it is capable of general application." That review should commence in 1998. Similarly, in the Subsidies Agreement, Articles 6.1, 8 and 9 apply for five years unless extended or modified [see Article 31].

Some of the areas of the built-in agenda had disappointing results during the first two years of the WTO. For example, results acceptable to the U.S. were not obtained in any of the ongoing service sector negotiations. However, as noted before, Singapore was used by the Administration and other countries to push for renewed commitment to the conclusion of the negotiations. The agreement announced earlier this month offers hope for the financial services exercise still ongoing.

Similarly, in the plurilateral Civil Aircraft Agreement, the U.S. and EU had hoped to have the 1992 bilateral agreement they reached incorporated into the terms of the GATT, now WTO, agreement. As the 1996 Report of the Committee on Trade in Civil Aircraft makes clear, there has been no breakthrough in reaching agreement on revisions of the existing agreement. See WT/L/193 (11 November 1996).

However, in Singapore, much of the attention on the built-in agenda centered on the next round of agriculture liberalization negotiations. Because the trade liberalization in agriculture during the Uruguay Round left market opening quite limited for many sensitive products and the level of export and domestic supports quite large for some countries (e.g., the EU), great emphasis was placed on getting a start on the preparation for the next round of negotiations so that slippage does not occur in the process. The Cairnes group countries were particularly insistent on language being included on agriculture.

At the end, there was no separate language in the Singapore Ministerial Declaration on agriculture. Rather, paragraph 19 of the Declaration reviews the large built-in agenda in virtually all areas and only agrees

> to a process of analysis and exchange of information, where provided for in the conclusions and recommendations of the relevant WTO bodies, on the Built-in Agenda issues, to allow Members to better understand the issues involved and identify their interests before undertaking the agreed negotiations and reviews. We agree that:

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* While the U.S. proposed position for presentation in Brussels has been released to the public and subject to public input, there has been relatively little information on the harmonization negotiations that is public. This Subcommittee may wish to request a Section 332 investigation at the U.S. International Trade Commission or a special report from USTR and Customs on how the draft provisions agreed to until now compare with existing U.S. provisions. The Subcommittee may also wish to urge USTR to obtain a derestriction of the interim report of the harmonization exercise so the public can follow and provide input into the process.

* the time frames established in the Agreements will be respected in each case;

* the work undertaken shall not prejudge the scope of future negotiations where such negotiations are called for; and

* the work undertaken shall not prejudice the nature of the activity agreed upon (i.e. negotiation or review).

It is critical that the Administration and Congress carefully review the built-in agenda timetable and provide public access to as much information from the WTO Committees as possible so that industry, workers and other groups can provide meaningful input into the U.S. process of preparation for reviews or negotiations.

Similarly, it is important that Congress consider the implications of domestic legislation on our negotiating objectives going forward. For example, where Congress drastically reduces funding levels permitted by our international agricultural agreements, the Administration should be attempting to secure multilateral or bilateral commitments for deep reductions by our trading partners to prevent our farmers from being seriously prejudiced in agricultural trade.

On the subject of trade and the environment, the Committee on Trade and Environment explored during the first two years of the WTO all of the issues identified in the Marrakesh April 1994 Ministerial Decision on Trade and Environment. Because of the strong public interest in the Committee's work, the WTO made much more of the documentation on T&E available to the public immediately. The Report of the Committee details the issues raised and positions taken to date. WT/CTE/1 (11 November 1996). The work of the Committee has been largely information gathering and issue debating. The Committee has been cautious in its approach -- balancing the desire for sustainable development, rights of countries to maintain their own standards of environmental protection and the concerns of environmental issues being used as disguised means of limiting trade -- pleasing some interest groups and displeasing others. One of its conclusions has been "the importance of policy coordination at the national level in the area of trade and environment" to reduce unnecessary problems in either field. The Singapore Ministerial Declaration maintains the Committee without changing its terms of reference.

E. New issues

There were a host of issues raised during the Marrakesh meeting in April 1994 that should be on the WTO's future work program. A number of these issues continued to be pressed as Singapore approached. Four issues were addressed in one manner or another in the Singapore Declaration: (1) labor rights; (2) investment; (3) competition policy (antitrust issues); (4) bribery and corruption. Let me briefly address each of these issues in turn.

(1) Labor rights

An issue much feared by most if not all developing countries was the question of whether the interrelationship between trade and labor rights would be made part of the WTO work program. The U.S., EU and other countries who pursued inclusion of the issue on the WTO agenda claimed that the interest lay in respect for core labor rights and not on the level of compensation workers received. Developing countries perceived any such exercise might eventually permit wage differentials to be addressed under a trade remedy.

Adding to the controversy was the institutional turf concerns, with the ILO staff expressing concerns as early as 1994 about the

possibility of experiencing the same "loss" of jurisdiction that WIPO experienced as a result of the Uruguay Round TRIPs agreement.

The Singapore Ministerial Declaration provides very modest movement for those concerned with respect for core labor rights. The Declaration (paragraph 4) "renew(s) our commitment to the observance of internationally recognized core labour standards" but recognizes the ILO as the competent body for establishing the standards and states that "We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put in question." No mention is made in the Declaration on the right to use trade actions to deal with countries that do not respect core labor standards. The Chairman of the Ministerial Conference (H.E. Mr. Yeo Cheow Tong of Singapore) in his closing remarks indicated that the Declaration would prevent the WTO from acquiring "a competence to undertake further work in the relationship between trade and core labour standards". Mr. Yeo's position was rejected by Ambassador Barshefsky in her press conference at the conclusion of the Ministerial. Time will tell whether there has been any movement in fact on the labor issue.

(2) Investment liberalization

The United States had made improved disciplines on restrictions to foreign investment an important issue during the Uruguay Round. The resulting TRIMs agreement was a minimal package, largely face saving for the U.S. and other countries wanting greater liberalization in investment. The U.S. has successfully been pursuing an investment agreement through the OECD with a target date for completion of April of this year. The EU, while supporting the OECD exercise, has sought ways of having the WTO adopt the exercise earlier, possibly as an outgrowth of the Singapore Ministerial meetings. Many developing countries remained vehemently opposed to liberalization of investment regimes, although the rate of economic expansion in certain developing countries with more open investment policies and the work programs pursued by the U.S. as part of the NAFTA and other regional initiatives has reduced the opposition of some.

The Singapore Ministerial Declaration does not commit the WTO to negotiations on investment. However, the Declaration (para. 20) does call for the establishment of "a working group to examine the relationship between trade and investment" but calls for cooperation with UNCTAD "and other appropriate intergovernmental fora". The WTO will review the work of the working group at the end of two years (i.e. by the end of 1998) and determine how to proceed. Future negotiations are premised upon "an explicit consensus decision" by WTO members.

Movement in the investment area by developing countries will likely depend on: (1) progress in expanding NAFTA to the hemisphere; (2) other regional initiatives by the U.S. or other major trading nations that include investment components; (3) bilateral investment initiatives by the U.S.; (4) growth experience of developing countries with more liberalized investment policies; and (4) whether the U.S. uses unilateral remedies where investment restrictions exist.

(3) Competition policy

There have been concerns within many industries that market access abroad is often limited by anticompetitive practices of foreign competitors that are not addressed under the GATT's and now the WTO's rules. While this has often been a concern in situations involving access to the Japanese market or markets of certain other countries in Asia, the problem is by no means limited to any particular country or region. While U.S. antitrust laws do permit reaching international conduct that adversely affects U.S. exporters, such laws have proven to be of marginal benefit in fact to U.S. industry for a number of reasons. The Justice Department has in recent years worked on improving

cooperation with competition officials in other countries in exchanging information and other means. While encouraging, this program is still at an early stage of development and involves only a handful of countries.

The EU was particularly interested over the last two years in having anticompetitive practices added to the WTO's work program. Some countries who have been hostile to the existing WTO rules, particularly antidumping, have wanted to use an examination of competition policy as a vehicle for reopening the antidumping agreement or the continued need for Article VI of GATT 1994. Both the U.S. and the EU have strongly objected to the efforts to use a working group on competition policy to go beyond antitrust concerns.

The WTO Ministerial Declaration (para. 20) established "a working group 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." The working group will work under the same time line and consensus requirements before negotiations would be approved, as was reviewed for investment. USTR Ambassador Barshefsky and Sir Leon Brittan of the EU released a joint statement at the end of the Singapore Ministerial on the working group on competition policy stating in part: "As this is a new area of work for the WTO, complementing the Organization's existing activities, the group's work should not be extended into matters already dealt with by the WTO and its various committees. We expect the group to focus on the international dimension of competition (antitrust) rules." USTR Press Release 96-95 (December 13, 1996).

There are obviously some significant "holes" in WTO rule coverage. I strongly support the position of the U.S. and the EU that the working group deal with one of the major holes, the lack of multilateral rules to deal with anticompetitive practices.

(4) Bribery/corruption

U.S. industry is disadvantaged every day in many parts of the world because of the prevalence of corrupt procurement practices. Under the Foreign Corrupt Practices Act, U.S. companies are restricted from conforming to requirements in foreign countries that amount to bribery. This does not mean that the objectives of the FCPA are not worth pursuing. Rather it places a premium on getting our trading partners to honor a similar system of standards of conduct. While there has been considerable interest within this and prior Administrations to "level the playing field" for foreign procurement, the Singapore Ministerial Declaration takes a potentially significant step in the right direction.

Specifically, paragraph 21 of the Declaration requires the establishment of a working group to study "transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement". Transparency in procurement should be an important first step in reducing the problems of bribery in procurement around the world.

F. Textiles and Apparel

During the first two years of the WTO, U.S. call practices under the Agreement on Textiles and Clothing have been under attack by developing countries. Several WTO panel challenges and an appellate body decision adverse to particular decisions may or may not be significant to the administration of U.S. law. At least some of the issues would appear addressable by changes in information collected or used by CITA. However, the position taken by many developing countries that the standard to be applied approximates a section 201 investigation should be a matter of concern for Congress as, if followed by a WTO panel, would constitute a fundamental change in the terms of the agreement. Similarly, Congress should be concerned if there is a self-imposed

reluctance to pursue bona fide matters under the transitional safeguard provisions.

At the same time, U.S. producers have been concerned about limited market access abroad, continued serious problems of circumvention of quotas and other problems. It is critical that as the U.S. reintegrates textiles and apparel in the WTO that our trading partners open their markets in these products as well and minimize the circumvention problems currently being experienced.

The Singapore Ministerial Declaration (para. 15) has a lengthy recitation of objectives and clarifies that the Textiles Monitoring Body "should achieve transparency in providing rationale for its findings and recommendations. We expect that the TMB shall make findings and recommendations whenever called upon to do so under the Agreement." There is nothing objectionable to the concept of increased transparency as such, a requirement found throughout the WTO. However, the mandate that there be findings and recommendations in all cases is inconsistent with the structure of the TMB and the requirement of consensus (excluding countries particularly involved in the dispute). The Subcommittee may wish to obtain clarification of what is meant by "findings and recommendations" where there is no consensus.

G. Dispute Settlement

Dispute settlement procedures within the WTO provide an important means of countries, including the U.S., in enforcing rights and obligations. Properly handled, dispute settlement is an integral part in the implementation process all countries face. The U.S. has been an aggressive user of the dispute settlement system and has been subject to a large number of challenges as well. Through the first two years of the WTO, the system has worked reasonably well.* The Singapore Ministerial Declaration to that effect (para. 9) is correct. However, the current EU challenge to the U.S. Cuba policy is obviously placing great pressure on the system.

All countries may have issues on which special circumstances suggest that whatever the "right" to seek a WTO panel, the members would be advised to leave the issue unchallenged. For example, the European Union has established various arrangements with countries of Central and Eastern Europe providing for tariff-free or preferential rates of tariff access where these arrangements may not meet the requirements of Art. XXIV of GATT 1994 for a regional agreement because of a lack of product coverage or other reasons. Countries could pursue WTO challenges of such arrangements, but to date none has.

In recent U.S. legislation on Cuba, the United States has reacted to military force used by Cuba. The history of U.S. actions against Cuba date back to the period when Cuba was working to deploy missiles aimed at the U.S. The WTO is a poor forum to take up any dispute the EU or others may have with the Cuba policy of the United States. If the U.S. elects not to participate in the process as it has recently indicated it wouldn't, the EU will have created a crisis in the trading system over a matter viewed for three decades by the U.S. as critical to its national security.

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* Separately submitted to the Subcommittee staff is a paper I co-authored last November on the WTO's dispute settlement system. See T. Stewart & M. Burr, "The WTO's first twenty-two months of dispute resolution" (presented at Georgetown Institute for Legal Studies' Eleventh Annual International Trade Update (November 22, 1996).

III. Conclusion

While the Singapore Ministerial meeting was the setting for some important announced agreements, the underlying papers indicate that the system is far from fully implemented by our trading partners. Moreover, both the built-in agenda and the proposed new topics require substantial work by the U.S. to protect the interests of U.S. business, workers, communities and other groups. The Congress can provide assistance by both assuring adequacy of funding for the agencies charged with these difficult tasks, by pushing for early public dissemination of information from the WTO, and by other actions outlined above. There is the risk that without attention to the details of implementation, the promise of equitable trade development will be only partially realized. Such an outcome is unnecessary.

Mr. HOUGHTON. Thanks very much.
Mr. Sandstrom.

STATEMENT OF MARK R. SANDSTROM, PARTNER, THOMPSON HINE & FLORY LLP, WASHINGTON, DC

Mr. SANDSTROM. Thank you, Mr. Chairman.

My name is Mark Sandstrom. I am a partner in the law firm of Thompson Hine & Flory. I should point out that one of the reasons I was invited here today also relates to my involvement in various ABA initiatives and recommendations that are relevant to the focus of these hearings.

At the initiation of the international section of the ABA and, in particular, its trade committee, the ABA has adopted a number of recommendations on issues that are before the committee and I think that both those recommendations and the reports will be of use to the committee in its deliberations on these issues.

Beyond those recommendations, I should also point out that the views expressed are primarily my own personal views and not those of the ABA.

I think, given the testimony we have heard today, most people would agree that the WTO, and its agreements have been successful, that the Ministerial was successful and that the main problems probably are that we have not done enough yet both in terms of other agreements to be negotiated and implementation of those that are already in place.

That leads me to an issue that Mr. Stewart has already raised in his testimony. I believe this Subcommittee and the Appropriations Committee in the Congress have got to give very careful consideration to the funding of USTR and the related agencies. We are not talking about thousands or millions of dollars, we are talking about billions of dollars of potential benefits to the United States, assuming that these agencies can ensure enforcement of agreements or implementation of obligations by member parties to the WTO. I think that it would be penny-wise and pound-foolish not to give them the support that they need to perform that task.

The other issue which is obviously relevant is the adoption of fast track negotiating authority. I realize that right now the ball is in the administrations court. Hopefully within the month that Mr. Lang mentioned this morning they will have a proposal to you. I

would point out that the ABA has just adopted a recommendation at its midterm meeting last month in support of the extension of the fast track authority. I think that is also very important. I think it should be broad and long enough in its effective term so that effective agreements can be negotiated.

I would like to address the rest of my time on one substantive issue that has come up briefly but I think it will become of greater importance to this committee and trade policy in general. That is the issue of competition laws of antitrust laws and trade laws.

It has been pointed out in the WTO Ministerial Declaration, that the Ministers have agreed to the establishment of a working group on competition laws. I think a couple of comments would be useful.

First of all, it is very clear that in terms of market access, where I think most of the U.S. potential growth and economic benefit from these trade agreements lies, is something that can be adversely affected by anticompetitive practices in foreign countries. Those that are promoted or implemented by governments are reasonably dealt with under our section 301, but they are not, I believe, adequately dealt with in the WTO or probably any other international agreement.

Beyond that, private restraints are even more problematic. To the extent that they affect imports into this country, we have some sanctions, some ways to enforce U.S. antitrust laws and a way to protect producers and consumers from the private restraints.

But on the export side, there really is nothing in existence either under U.S. law or under any international agreement that provides practical relief. The other problem here is that many of the private restraints that we would view as restricting access to foreign markets, such as nonmonopolistic refusals to deal which was the subject of some earlier testimony in the last panel—basically companies will not buy our products—or nonprice vertical restraints may well not be covered by antitrust laws, at least antitrust laws similar to those in the United States. However, these restraints do exist, they do have a negative impact on access to foreign markets on U.S. exports to those markets.

I think frankly it may well be a subject of proper analysis by the WTO at some point in time because they certainly have negative trade impacts. The ABA adopted last year a recommendation in a report dealing with the relationship of competition laws and market access which deals with this in more detail.

My final two comments, very briefly. There is right now an ongoing International Antitrust International Section Task Force that is trying to look at this issue head-on, that is the relationship between antidumping laws and the competition laws. Mr. Stewart is also a member of the task force, as am I.

One of the things that has struck me is the almost unanimous feeling among antitrust practitioners in this country and I think that view is shared by the U.S. agencies, the FTC and Justice, as well, that these issues ought not to be dealt with in the WTO, but that the OECD is a more proper forum, for that. My own view is that I think the WTO has demonstrated a real ability to deal with nontraditional trade matters in an effective way and in a way which involves and requires commitments from a broad range of

countries—not just the industrialized, but also the BEMs, the less developed, a whole gamut of countries.

So, I think the WTO would not be a bad place to talk about, at least, internationally, certain antitrust issues, core practices that ought to be prohibited, such as monopolization, price-fixing, things like that.

And, finally, I would conclude with an issue which has been argued over for a number of years, and that is the attacks against the antidumping laws from the antitrust practitioners. The idea that the antitrust laws and competition laws should replace the antidumping laws. I am a trade lawyer, so, obviously, I have my bias on this issue, but it seems to me that replacing the antidumping laws with competition laws is a little bit like replacing a baseball team with a shortstop.

The reason the antidumping laws exist and are necessary is because they deal with cross-border, injurious, unfair pricing practices. There is absolutely no other remedy to protect industries in our country against these practices. Within geographic areas where antidumping laws have been eliminated or not required, you can look at the European Union or the United States, which I think is probably the most successful common market in history, you see that there is free movement of goods, free movement of capital, labor, the right of establishment—a number of conditions, including enforceable antitrust laws against parties within the jurisdiction. These conditions do not exist with respect to trade between the United States and other countries. To talk about eliminating the antidumping laws without establishing those other conditions to me is basically, essentially absurd.

The final point I would make is that whereas the antidumping laws in this country are administered under a law that parallels almost identically an international agreement which has been signed by over 100 other countries, if you look at competition laws, internationally, there is essentially zip. So, before we talk about that replacement of or influence on the dumping laws by the antitrust laws, I think we ought to get some idea, at least internationally, about what we're talking about when we refer to the antidumping "laws."

Thank you, Mr. Chairman.

[The prepared statement and attachments follow:]

TESTIMONY

Before The
Subcommittee on Trade
Committee on Ways & Means
House of Representatives

Hearings on the WTO Singapore Ministerial Meeting

February 26, 1997

Presented by

Mark Sandstrom
Thompson Hine & Flory LLP

On December 9-13 , 1996, the first Annual Ministerial Meeting of the World Trade Organization ("WTO") was held in Singapore. The agenda for the meeting included an assessment of the implementation of the commitments undertaken by member countries under the WTO agreements adopted in the Uruguay Round, a review of the ongoing negotiations in such areas as telecommunications, financial and maritime services, and other mandated work programs on rules issues such as subsidies, safeguards, procurement, professional services, rules of origin, and U.S. promoted sectoral duty reductions and harmonization in chemicals, oilseeds, white distilled spirits, and paper.

The first Annual Ministerial meeting can be viewed as very successful, particularly in light of the completion of agreements on telecommunications and information technology. Beyond that, in my view, the first two years of the WTO can also be viewed as successful from the viewpoint of U.S. interests. Others, including Ambassador Barshefsky, have already testified as to the market opening initiatives and economic growth which can already be attributed to the agreements concluded and decisions rendered under the WTO.

There has been, and remains today, expressed concern about the "loss of sovereignty" alleged to have resulted in the U.S. adherence to the WTO Dispute Settlement mechanism. However, based upon the stricter rules on dispute settlement proceedings under the DSU as compared with the GATT procedures, the U.S. ha won - either through final panel decisions or the settlement of cases - far more than it has lost in the large number of cases in which it has been involved.

Much testimony has been submitted to the Trade Subcommittee in connection with its review of the Singapore Ministerial and the WTO since the conclusion of the Uruguay Round. It is my intention to focus on a few issues which I believe are important both in terms of the assessment of the WTO to date, as well as the negotiations and decisions to be conducted or handed down by that organization in the future.

First, the United States is much more integrated in and dependant upon the world economy for its economic health and growth today than it was ten or even five years ago. Secondly, the greatest opportunity for U.S. economic growth, with the concomitant increase in employment and standard of living, is in expanded exports of agricultural products, capital goods, high-technology goods and services to industrial countries, as well as to the Big Emerging Markets ("BEMS") and less developed countries around the world. Finally, I believe that it is generally true that the U.S. economy remains one of the most, if not the most, open economy in the world. On the basis of these assumptions, a strong WTO which develops and enforces agreements aimed at providing access to foreign markets for goods, services and investments is clearly in the best interests of this country. While the general perception in the United States of the benefits of growing international trade including, in particular, exports seems to lag the reality, the U.S. has already become deeply integrated in the world economy to its great economic advantage. Although much more remains to be done, and implementation of existing WTO agreements has not been complete or satisfactory, I believe that the disciplines which have been imposed upon trading nations under the WTO, the opening of markets in many areas of trade in goods and services, the net results of the disputes which have been determined or settled to date, and the corresponding growth in U.S. exports, manifest clear benefits of the WTO for the United States.

Various interest groups and commentators continue to rue the loss of sovereignty inherent in the U.S. accession to the Dispute Settlement mechanism of the WTO. I believe that their arguments are misleading and without merit. As anyone who reads the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") knows, while individual countries no longer have the ability to unilaterally veto or reject adverse decisions, they are also not bound to comply with such decisions if they determine it is not in their interests. The real issues is the net gain or loss which the U.S. will incur by having signed the DSU. Since the U.S. has an open market and is in greater compliance with the WTO agreements than most other countries, and since the U.S. stands to achieve economic benefits from greater access to foreign markets, the WTO DSU would appear to be clearly advantageous to this country. Saying that the U.S. should not agree to the alleged limitation of sovereignty represented by the DSU is a little like saying that property-holding, private citizens should resist laws against burglary and theft because such laws limit their ability to steal from other people.

As a former Co-Chair of the Committee on Trade of the Section of International Law and Practice of the American Bar Association, I believe it is appropriate to bring to the Subcommittee's attention certain Recommendations which the ABA has adopted on issues relevant to the subject of these hearings. In 1994, as the Congress was considering the Uruguay Round Trade Agreements Acts implementing the WTO Agreements negotiated in Geneva, the American Bar Association approved a Recommendation which supported the approval and implementation of the WTO Agreements and, in particular, specifically endorsed the DSU. A copy of the ABA Recommendation and the transmittal letter to the Congress written by R. William Ide III, the President of the ABA at that time, is enclosed as an attachment to this testimony.

Another trade-related topic which has gotten much attention in recent years is the relationship between the trade laws and competition (antitrust) laws. Although the U.S. Government representatives were less than enthusiastic, at the prompting primarily of the European Union, the WTO Ministers in their Singapore Ministerial Declaration agreed to "establish a working group 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." The statement made it clear that the working group was to be established only to study the issue, and that no subsequent negotiations on the issue, if any, would be held without the explicit consensus decision of the WTO members. A further Statement issued by Ambassador Barshefsky, Acting USTR, and Sir Leon Brittan, Vice-President of of the European Commission Responsible for Trade Policy, clarified that the working group was not to deal with matters already dealt with by the WTO (e.g., Antidumping Laws), and that only the "international dimension of competition (antitrust) rules" would be considered.

In the context of the WTO and the Ministerial Meeting, I believe several comments on the relationship between trade law and competition laws are appropriate. In recent years, the impact of effective competition laws on market access has become a growing subject of interest. To the extent that governments impose or foster anti-competitive conditions and practices, such policies can have a negative impact on the ability of producers in foreign countries to export to the affected market. While remedies against government competition policies which restrict U.S. exports are provided under Section 301, the WTO Agreements do not adequately treat anti-competitive government practices. The United States should undertake an effort to develop a international consensus on an agreement within the WTO which would limit or prohibit such governmental practices.

Private anti-competitive conditions and behavior can also serve to limit exports to the affected markets. However, the U.S. antitrust laws, for a number of reasons, are often of little help in combating offshore anti-competitive behavior, particularly when U.S. exports are affected. Furthermore, there are no international competition rules or agreements which would provide assistance in such cases.

When considering private, trade impeding, anti-competitive behavior, it should also be recognized that many such practices, such as unilateral refusals to deal by non-monopolists or vertical non-price restraints accompanied by vertical cross-share holding may not be amenable to U.S.-style antitrust laws. Based upon the work of a task force of the International Section of the American Bar Association, the ABA adopted a Recommendation regarding the relationship of Competition Laws to Market Access. A copy of the Recommendation is included as an attachment to this testimony. One of the suggestions made in the ABA Recommendations was that the U.S. Government determine whether there is a category of private restraints that do not violate the antitrust laws of the United States or foreign countries, but that significantly restrict access to foreign markets.

Currently, a Joint Task Force on Trade and Antitrust Laws made up of trade lawyers from the International Section and antitrust lawyers from the Antitrust Section of the ABA, is attempting to deal head on with the relationship between these laws and policies. If the Task Force is able to complete its work soon enough, it hopes to prepare a Recommendation and Report for consideration by the ABA as its Annual Meeting to be held in San Francisco in August. The work of the Task Force should be relevant to the consideration of the competition policy within the WTO.

In my participation on this Task Force, it has been interesting to note the resistance on the part of many of the Task Force members, particularly among the antitrust attorneys, to the consideration of competition laws and policies within the WTO. The preference of these attorneys is to continue discussions on transnational or international competition policies currently being conducted by the industrialized member countries of the OECD. The U.S. Department of Justice and the Federal Trade Commission appear to share this reluctance to deal with competition policy issues in the WTO.

Since the WTO has demonstrated a capacity to deal effectively in subject areas which do not fall within traditional trade subject areas, e.g. intellectual property, services, or investment matters, it would seem that the WTO may well be an appropriate forum in which to deal with the international dimension of antitrust rules. Unlike the OECD, the WTO involves most countries in the world, at all levels of economic development. The majority of countries which have no antitrust laws, or which do not enforce such laws, are not OECD members. It may well be feasible to achieve an international consensus on the prohibition of a core group of anti-competitive practices, such as monopolization and price-fixing, within the WTO. Such an agreement might well have a much broader, trade liberalizing effect, than any agreement reached among the more limited member countries of the OECD.

As a final comment, I believe it is important to note that, notwithstanding the progress made to date in the WTO, much more remains to be done, not only in the mandated subject areas, but also with regard to other tariff and non-tariff areas where trade in goods, services and investment can be further liberalized. To this end, it is important that the President be given effective negotiating authority integrated with the Congressional trade agreement ratification and implementation prerogative mandated by the United States Constitution - in other words an extension of the Fast Track authority. It is in the best economic interests of the United States that the administration and the Congress achieve agreement on an extension of the fast track authority as soon as possible. To this end, the American Bar Association at its recent Mid-Year Meeting, adopted a Recommendation in support of the Fast Track Negotiation Authority. A copy of the Recommendation is included as an attachment to this Testimony.

Attachments

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May 5, 1994

The Honorable Daniel P. Moynihan
Chairman, Senate Finance Committee
SR-464 Russell Senate Office Building
Washington, D.C. 20510-3201

The Honorable Dan Rostenkowski
Chairman, House Ways and Means
2111 Rayburn House Office Building
Washington, D.C. 20515-1305

Dear Chairman Moynihan and Chairman Rostenkowski:

As President of the American Bar Association ("ABA"), I would like to call to your attention the ABA's view that U.S. sovereignty is unharmed by certain Uruguay Round agreements.

Specifically, the ABA strongly supports two particular legal reforms to the GATT trading system that are embodied in the so-called "Uruguay Round" agreements. These are (1) the changes to GATT dispute settlement procedures, and (2) the development of a World Trade Organization ("WTO"). Having studied these matters as lawyers familiar with both U.S. and international law, the ABA firmly believes that the United States will benefit significantly from these reforms, with no adverse impact on U.S. legal powers or sovereignty.

In particular, the Uruguay Round dispute settlement provisions leave U.S. domestic legal powers totally intact, just as they were under the old GATT rules. Likewise, the WTO simply provides an updated procedural framework for dealing with GATT trade issues. It gives the U.S. <u>more</u>, not <u>less</u> procedural protections than the old GATT. Finally, none of these changes permits GATT rules to override U.S. domestic law, so U.S. sovereignty remains intact.

The ABA's resolution in support of these aspects of the Uruguay Round agreements and the supporting report that analyzes them are attached for your

reference. The key points related to these two reforms are summarized below.

1. Uruguay Round Dispute Settlement Reforms Are Positive For the United States.

The Uruguay Round changes to existing GATT dispute settlement procedures improve the status quo to the benefit of the United States. Key accomplishments include:

- Streamlining dispute settlement by eliminating the confusing and sometimes ineffective array of different dispute settlement proceedings that existed under the old GATT codes;

- Beginning the process of opening dispute settlement proceedings by amending certain of the old GATT rules that permitted all of the proceedings to go on in secret;

- Permitting an appeal from a dispute settlement panel ruling, a step not available under the current GATT rules; and

- Meeting one of the United States' main concerns about the current GATT dispute settlement rules by ensuring that other countries enter dispute settlement promptly and in good faith, and by ending the old practice of blocking the results of these proceedings.

It bears emphasis that the Uruguay Round changes to GATT dispute settlement do not change the United States' domestic legal authority to decide independently of any other nation or body how to implement a GATT panel ruling. Indeed, although such a circumstance hopefully will not arise, Uruguay Round

reforms also do not affect U.S. domestic powers to decide not to implement a particular GATT ruling. Accordingly, Congress' powers over international trade matters affecting U.S. interests are not diminished in any respect by the Uruguay Round changes.

2. Development of the WTO Is Likewise Extremely Helpful to U.S. Interests

The WTO is a positive procedural development for both the United States and the rest of the current GATT system. For the first time, the WTO achieves the following U.S. aims:

- Ensures that all member countries (not just the U.S. and a few others) will be adhering to all of the agreed GATT rules in areas ranging from intellectual property to subsidies; and

- Sets up a single, coherent procedural framework for dealing with a trade issue, whether related to goods or services.

The WTO charter does not create any new substantive rules that countries must follow. (The substantive rules are all contained in independently negotiated agreements on various subjects that are annexed to the WTO charter.) The WTO also does not diminish the U.S. procedural powers and rights enjoyed under the ad hoc procedural framework that has developed over time with the current GATT. In fact, the WTO offers the United States more procedural protections than the current GATT does. For example, the WTO incorporates larger majority voting rules and the requirement of unanimous votes on more critical issues. These changes ensure that important U.S. interests cannot be overridden through procedural ploys within the WTO.

In short, the WTO and the new Uruguay Round rules on dispute settlement will permit the U.S. to work more effectively and efficiently within the international trading system without creating any threat to U.S. domestic legal prerogatives. These changes undoubtedly will help the U.S. to achieve its goals of truly open international markets by encouraging the fair application of agreed legal rules around the globe.

Please do not hesitate to call Claire Reade (202-872-3719) or Mark Sandstrom (202-331-8800), Co-chairs of the ABA International Law Section's Committee on International Trade, if you have any questions.

Sincerely,

R. William Ide III

cc: Ambassador Mickey Kantor
Members of the Senate
Members of the House of Representatives

AMERICAN BAR ASSOCIATION

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association urges the Congress and the United States to approve and implement the agreements resulting from the **Uruguay Round of multilateral trade negotiations**, which will improve the world trading system and promote global economic prosperity.

BE IT FURTHER RESOLVED, That the American Bar Association endorses the Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes, which strengthens existing **GATT multilateral dispute resolution procedures** by developing a unitary dispute resolution procedure, reforming the procedure for approval of dispute panel reports, increasing transparency, providing improved access to scientific expertise, and creating a procedure for appeal of GATT panel reports.

BE IT FURTHER RESOLVED, That the American Bar Association supports the Agreement Establishing the **World Trade Organization**, which provides an institutional framework for better implementation of the substantive rules resulting from the Uruguay Round.

AMERICAN BAR ASSOCIATION

RECOMMENDATION

RESOLVED, That the American Bar Association urges the Government of the United States, its representatives and designees ("Government of the United States"), in the application of competition law principles and policies in the international trade area, as follows:

I. Recognizing that competition laws have an important but non-exclusive role to play, the Government of the United States should continue to seek to eliminate private restraints that have the effect of excluding United States exports from access to foreign markets through the application of United States or foreign antitrust laws, as appropriate. In this connection, the Government of the United States should:

A. Seek adoption and effective enforcement by foreign trading partners of competition laws that prohibit cartel behavior and anticompetitive monopolistic practices by enterprises with market power, particularly where such conduct excludes non-host country goods or services from entering or being effectively distributed in such countries' markets.

B. Encourage and support the efforts of United States firms to obtain relief under foreign antitrust laws, including bringing matters to the attention of foreign enforcement authorities as well as bringing private actions where available, and urge foreign antitrust authorities to welcome and facilitate such complaints.

C. Use the authority provided under the International Antitrust Enforcement Assistance Act of 1994 (the "IAEAA") to enter into reciprocal investigation arrangements with foreign competition law enforcement agencies to improve the ability of the United States authorities to obtain evidence of foreign anticompetitive practices and to utilize such evidence to encourage appropriate foreign governmental action or to bring their own action where appropriate under United States law.

D. Supplement the IAEAA by seeking to negotiate bilateral and multilateral arrangements to facilitate antitrust discovery rights for non-host country plaintiffs (governmental and private) and for the enforcement of non-host country antitrust judgments.

II. Recognizing the limitations of the role antitrust enforcement can play to address market access barriers, the Government of the United States should:

A. Continue to focus attention on market entry barriers that involve governmental action and that are frequently not reachable by application of competition law, including local restrictions on foreign investment, inadequate protection of intellectual property rights, the grant of domestic subsidies that distort the market, and requirements or practices in government procurement that discriminate against foreign suppliers. Also seek to address discriminatory product standards, certification procedures and lack of regulatory transparency, which prevent access to local markets by providers of goods, services or investment capital. Where such government-imposed restraints are already addressed in existing multilateral agreements, continue to assert rights under such agreements in order to eliminate such restraints. Where they are not, seek to address them at the WTO and other multilateral fora.

B. Identify whether there is a category of private restraints that do not violate the antitrust laws of the United States or the host country but that significantly restrict access to foreign markets even assuming successful implementation of recommendations I A-D and II A, and if so, study whether it is desirable as a policy matter that such barriers be addressed through multilateral agreements.

AMERICAN BAR ASSOCIATION

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association supports the renewal of legislation providing for the President's fast track negotiating authority, as introduced in the Trade Act of 1974 and later extended.

Mr. HOUGHTON. OK. Thank you.

Now, I want you all to think of yourselves as being in my position and having heard what you have said and how to cull this out to make sense, not so that it just goes into the *Congressional Record* and the reports of this Committee, but something specifically which is important right now. I mean we have intellectual arguments, we have structural arguments, we have certain things that affect the marketplace right at the moment. And I hear what you say about the competition and the antidumping laws. I think we all probably agree that fast track is something we ought to enact, get at it. If I am wrong, say that, tell me.

Mr. Vastine talked a little bit about foreign control. And we may want to explore that but I want to put it all in perspective and

then some of the structural things that we ought to do, such as having enough money the USTR and for the negotiating process and the cooperation between the administration and Congress, all those things that are important.

But maybe if each one of you and if anybody has an idea in the process, cut in here, what is the single most important thing that I or anybody on this Committee—and, again, I'm sorry for this thing, because it has been a crazy week. I mean we did not have any votes on Monday, did not have any votes on Tuesday, we have a half hour of votes and now everybody is off the rest of the week, and, so, the people that should be here are not here, but we want to be able to give them a consensus of what are the most important things, prioritized, that we should be thinking about right now.

So, why do we not start with Mr. Sandstrom. What do you think? What are those things out of all the talk, whether it is in antidumping laws or competition laws, antitrust, what are those things that this Committee should home in on right now?

Mr. SANDSTROM. Two quick responses. First of all, I have an awful lot of faith in this, and in previous administrations, in terms of their ability to accomplish economic benefits through the negotiation of international trade agreements. So, I think what we need to do is to give them the authority to go out and negotiate further agreements and I think we need to have a process, obviously, as required under the Constitution, which brings in the Congress as I think the old fast track procedure has done. So, that the Congress can review and ratify those agreements.

The other thing that I think is important is that the reality of the international integration of our economy in the world economy is way ahead of the perception. One of the problems that we have, that you, Congressmen have when you go back to your constituents, is trying to explain to them why this is important to the United States. Why it is good thing to continue in this direction. I do not know where those educational efforts could be better undertaken but——

Mr. HOUGHTON. Slow down just a little bit.

You are speaking in a muffled tone.

Mr. SANDSTROM. Yes, I am sorry. I think that if one leaves Washington and travels around the rest of the country, the message has not been clearly communicated to people why international trade is good, both for jobs and standard of living. We must find ways to communicate that message. I think this last round of agreements—telecom, ITA—will be helpful in doing that. That is something about which the administration could do a better job, the Congress could certainly use that help. Maybe bar associations and companies could help as well.

Because one of the problems you have——

Mr. HOUGHTON. Why do you not take it upon yourself to be the czar or the emperor in this area. Because so many people come to this Committee and say, we should do this, we ought to do that, the country deserves such and such a thing and I could not agree with you more. If we are going to accept the fruits of more jobs because of international export opportunities then we have got to explain to people our position in the world.

But, you know, this is not just the job of an individual Congressman who goes back to his district and goes to the various town meetings, it is everybody's job.

I mean what is your firm and what is your industry doing to help us in this thing?

Mr. SANDSTROM. By the way, I want to make it very clear, I did not say that you should do this.

Mr. HOUGHTON. No. I understand that. But I mean it is a job for everyone.

Mr. SANDSTROM. I think we need to make it easier for Congressmen, I think we need to be the ones carrying that burden. We, being private industry and——

Mr. HOUGHTON. Why do you not tell me sometime within the next month what you specifically have done in this area and what more I can do to help you?

Mr. SANDSTROM. I will do that.

Mr. HOUGHTON. You probably have never had a request like that from this Chair, have you?

Mr. SANDSTROM. Not in a public hearing.

Mr. HOUGHTON. But it involves not only trade, but it involves our foreign aid program, the United Nations and whatever have you.

Mr. KEELING. I accept that challenge. The president of our organization, the American Farm Bureau, has probably been the most vocal advocate of freer trade. And freer trade has not always been a pleasant banner to wear in agriculture. We have some sectors who feel they will be strongly disadvantaged by that. So, there are winners and losers. But we have advocated very, very strongly for free trade.

I think what we would want and solicit your help in getting us to make sure that USTR has, one, the resources as other people have mentioned. And, then also the fire in their belly to go out there and be tough.

I mean we have got to get reductions in export barriers, internal subsidies.

Mr. HOUGHTON. Can I interrupt you a minute? My impression is that the present Ambassador, Charlene Barshefsky, is doing a first-rate job.

Mr. KEELING. I think we would agree with that. We have supported her.

Mr. HOUGHTON. I think it behooves us not only to back her up with words but also with money, too. And I think Mr. Stewart indicated that. Forgive me.

Mr. KEELING. And that is why we ask for a Deputy Trade Ambassador specifically for agriculture. We think it is an important enough sector in the economy that it ought to get that kind of attention.

The message that sends to our trading partners, the European Union and the Japanese, for instance, who essentially refused to let our products in. We will find it does not matter what you do to the Europeans in terms of trade negotiations they will always find a way to say, we are not going to take your agricultural products.

Do you believe for an instant that our meat packing plants in this country are not up to the standards of those in Europe? I do not believe that, and neither does anybody else. And, yet, they use

that as a way to keep our products out. So, having somebody at USTR who gets up every morning and thinks about what can I do for agriculture to expand trade would be a good step.

Mr. HOUGHTON. Yes. I think that as long as the most precious asset we have is our market and people want to sell to us rather than have us sell to them, that is the preference, that it is going to be an unending job.

We are never going to finish this thing. And, so, what you are really talking about not only free, but also making sure that it is level, that it is fair. And that requires just man-hours.

But it also requires a bit of spine, too.

Thank you very much.

Mr. KEELING. We think WTO is the mechanism to get that done in the long run, but we have got to be tough.

Mr. HOUGHTON. Good.

Mr. Vastine.

Mr. VASTINE. Thank you, Mr. Chairman.

I think that the comment about negotiating authority is key. Congress has to provide the authority and the mandates, the direction, the policy direction, the impetus for the negotiations.

Second, I think we need congressional understanding of the importance of the sectoral service negotiations and forbearance, patience, as WTO attempts these extremely difficult negotiations. I recall last year when I testified here, you asked me a question about telecommunications. I made the blanket statement that well, we had to open up foreign telecommunications markets so our firms could go in there and invest. You said, look, it has taken 25 years or something like that in this country to get our market more competitive. How can we possibly do it in foreign countries?

No one dreamed that the result in telecommunications would be as extraordinary. I think it is possible to do the same in financial services, professional services, maritime, but it is going to take a series of years and congressional support.

The third thing is accession. At Singapore, where I had the privilege of being, one Trade Minister after the other stood up and said, we have got to globalize immediately the WTO, we have got to accept 29 I think it is or 27 new members, including China, Russia, a few small guys like that.

That is a strong impetus, that is a very powerful impetus on the part of other countries, they want to secure, they want to globalize this organization. We have to be very cautious there. I would ask this Committee to look at this carefully because in this is something, WTO accession is something the Chinese and the others really want. This is a point of key leverage. We have got to maximize this opportunity; we, the United States.

Other countries are going to say and they do say, the EU particularly, do not worry about the terms of accession, just get them into the fold. When they are there we can take care of it. They will liberalize. Those are the same arguments made about Japan early in the fifties when Japan became but had exceptions from GATT rules for a long time.

So, my point is that the Committee should join others of us in holding a strong line on the accession issues.

I have a comment finally about my friend who called for a special USTR Trade Ambassador for Agricultural. If he gets one, we want one.

This is a dangerous game, Mr. Chairman, it is like we ought to have a department of education, we ought to have a department of, you know, X, Y, Z. There is in the services, I will be positive, in the services area, there is a U.S. Trade Representative for services negotiations. She does a very good job for us. I am sure that the agriculture people try to do a good job for you all but if you want your own cabinet secretary, I want mine, too.

Mr. HOUGHTON. Well, I appreciate that. We will take both of those recommendations under advisement.

Mr. VASTINE. OK. Everybody wins.

Mr. HOUGHTON. Mr. Patterson.

Mr. PATTERSON. Thank you, Mr. Chairman.

I would certainly agree in terms of what the Committee can do that the proper funding of the trade organizations is critical and aggressive oversight by the Committee of the exercise of their functions is critical. I should say, continued aggressive oversight. The Committees have never been shy in that respect.

Third, the role of the Committee in ensuring that we continue to have strong and effective unfair trade remedies. This is critical for American industry, American jobs. As hard as we are trying to break down foreign trade barriers, they still exist. Conditions permitting dumping continue to exist. And it is vital to certainly the LICIT membership that strong and effective trade remedies continue to be available.

I certainly agree with Mr. Vastine that accession to WTO by current nonmembers be on commercially reasonable and sound terms. That is critical. We should not be dealing with the problem after it is already in the WTO.

And, finally, there is just a point of information not on behalf of LICIT, but Mr. Sandstrom noted the importance of trade education and I would point out that the Business Roundtable under the instigation and leadership of the late Jerry Junkins has initiated a very active trade education program with companies using their internal communications to teach their own people the importance of international trade to their jobs, and so forth.

And that effort is now being expanded to other business organizations around town and will continue. But I think we are working aggressively to educate our public on the importance of trade.

Thank you.

Mr. HOUGHTON. Thank you, Mr. Patterson.

Mr. Stewart, the last words of wisdom.

Mr. STEWART. Always a dangerous thing.

I would split my comments into five quick points.

First, I believe that the trading system at the moment has a number of holes in it that should be filled and the Subcommittee and the Committee's task is to fill those through the negotiating mandate through fast track or otherwise.

Let me just go through a couple quickly. Competition policy has been mentioned but there are a whole host of issues that Congress identified in the 1988 act that were not fulfilled as part of the Uru-

guay round. One was exchange rate policy in terms of greater stabilization.

As you know the Yen has depreciated roughly 50 percent in the last 3 or 4 months. That creates tremendous havoc in terms of trade for companies whether here or abroad.

Third, the longstanding issue on the difference between direct and indirect tax rebates, in terms of their permissibility under the WTO which puts U.S. commerce at a substantial disadvantage. I think those are all negotiating mandates and followthrough.

Second, there is a tendency on the part of any administration and there is a tendency on the part of this or any other Committee with jurisdiction, to try to paint a very rosy picture of whatever has been accomplished in the past. I believe that you do the public a disservice if you do not obtain realistic appraisal of the cost/benefits of agreements that are made.

The stories before NAFTA suggested great benefits or great losses. I would say that history has suggested that both are overstated but there are substantial benefits and there are occasional significant losses. The appraisal that gets done this year should be a factual owe.

Mr. HOUGHTON. You do not expect me to disagree with that statement, do you? [Laughter.]

Mr. STEWART. My hope would be that the evaluation of this and other agreements would be factually based and not done in a way to, if you will, beat the band.

I think that is a question of oversight by this Committee or this Subcommittee.

Third, we have to implement what we have. And that goes to the funding and oversight issues.

Fourth, you need to get transparency in fact. Transparency in fact, means getting it out to the public and you have a huge opportunity that has yet to be fulfilled.

And, fifth, at the end of the day you need a system that works, that gets balance in fact. I was a mathematician in college and higher math is a form of philosophy where you have a minimum number of assumptions, a minimum number of rules and try to explain the most data points that you come up with.

It is only in international trade that we have created a system that is an absolute. Regardless of how well or how poorly the system we have devised explains the data points we get, we insist that the system is inviolate. At some point in time, Mr. Chairman, I would suggest that it may be appropriate to treat international trade as any other study, namely that if the rules do not explain the phenomenon that exists, you may wish to change the rules.

Mr. HOUGHTON. All right.

Well, I really appreciate your patience and your contribution. I think this last bit has been very, very helpful.

Thank you very much for being here today,

Mr. STEWART. Thank you.

Mr. VASTINE. Thank you.

Mr. HOUGHTON. Now, Dr. Donna Christian-Green. Dr. Green is the Member of Congress from the Virgin Islands; I really appreciate your coming here. Again, I apologize for being so late here, but as you know the series of mechanical votes that we have gotten

involved in has put this thing off to a really very late hour. Thank you very much.

You may proceed with your testimony.

STATEMENT OF HON. DONNA M. CHRISTIAN-GREEN, A DELEGATE IN CONGRESS FROM THE U.S. VIRGIN ISLANDS

Ms. CHRISTIAN-GREEN. Good afternoon, Mr. Chairman.

Thank you, Mr. Chairman, for giving me this opportunity to come here this afternoon and to discuss an issue that is of paramount importance to the people of the Virgin Islands, whom I am very privileged to represent in this body.

The purpose of the hearing today as I understand it, is for the administration to update the Subcommittee and Congress on the outcome of the recent Ministerial Meeting of the WTO held in Singapore in December 1996.

While the people of the Virgin Islands generally support free trade and would support the agreements reached, as a result of the Singapore meeting, one aspect of the Singapore agreements, that being the unexpected agreement between the United States and the European Union to phase out their tariffs on white spirits, particularly rum, by no later than the year 2000, would deal a very severe blow to our already fragile economy if it is not changed.

As you know, Mr. Chairman, rum is a unique product of the Caribbean. It is central to the region's history, culture and economy. The viability of our rum industry in the Virgin Islands is of critical importance to the stability of our economy.

It is the second most important industry in our islands, next to tourism. It is for this reason, when we first learned that the United States was considering making such an agreement, that former Virgin Islands Governor Alexander A. Farrelly wrote to President Clinton in 1994 to express our strong opposition to having white spirits included in any duty-free agreements.

Through a special tax provision governing the relationship between the U.S. territories and the Federal Government our rum industry generates 10 percent of the total revenues of our government.

Today's Virgin Islands economy, Mr. Chairman, is fragile at best. We have been battered by four hurricanes since September 1989 and we are still struggling to reach full recovery. Against this backdrop, opening the U.S. markets to duty-free shipments from all countries would mean a severe loss of jobs in the territory and further undermine our already unstable economy.

Mr. Chairman, the Virgin Islands Governor Roy Schneider and I have been working with the Trade Representative's Office in an attempt to address this problem. In particular, I have discussed the issue several times with today's hearing's lead witness Ambassador Jeffrey Lang, who has been very understanding of our concerns.

It is my understanding that the USTR is in the process of working out a solution that would address our concerns. And I do want to take this opportunity to commend Ambassador Lang and the USTR for their efforts on our behalf and I look forward to working with the Ambassador in finalizing an acceptable resolution to this problem.

In conclusion, Mr. Chairman, the people of the Virgin Islands realize that free trade agreements are, for the most part, the engine that is driving world affairs today. But we also understand that these agreements do not take place in isolation. We would ask that as we move toward the opening up of markets consideration be given to the impact that free trade will have on the fragile economies of these smallest members of the American family and that our interests, which are U.S. interests and U.S. jobs will also be protected.

I thank you for allowing me to make these brief comments and I would be happy to answer any questions.

Mr. HOUGHTON. I thank you very much.

I wish everybody's testimony was as short and succinct to the point as yours.

That was very well done.

Ms. CHRISTIAN-GREEN. Thank you.

Mr. HOUGHTON. I guess the only basic question I have is this, we are moving in a direction of lowering tariffs. That is the whole concept of GATT and the WTO and NAFTA and the regional agreements, things like that. And the point being that in opening up your borders a little bit you increase your opportunity to export a great deal. Now, what is the answer to this thing as far as the Virgin Islands are concerned?

Ms. CHRISTIAN-GREEN. Well, Ambassador Lang is working toward an agreement that involves a price limit and while it is true that reducing tariffs could open up markets, for us it is a much bigger issue in that the Virgin Islands does receive over $50 million each year from duty placed on rum that is produced in our territory. And it does provide a significant portion of our government funding annually. And this is where the losses would be realized and this is why we are asking for, if not rum being taken out of the agreement, that some reasonable agreement be reached to protect our particular industry.

Negotiations are still in progress. I think Ambassador Lang said this morning he is working on it as late as today and would involve a price limit on gallons, as I understand it.

Mr. HOUGHTON. You may not know these figures and they absolutely are not essential but if you do have them at the tip of your tongue, I would appreciate them. What percentage of the white spirits, of the rum, in this world or hemisphere are produced out of the Virgin Islands?

Ms. CHRISTIAN-GREEN. I do not really have that answer. I would imagine that it is a very small portion. Even compared to Bacardi, we are maybe a third.

Mr. HOUGHTON. And Puerto Rico——

Ms. CHRISTIAN-GREEN. Yes.

Mr. HOUGHTON [continuing]. And places like that, right.

Ms. CHRISTIAN-GREEN. They are three or four times as big producers as we are.

Mr. HOUGHTON. OK. But it is not over 50 percent.

Ms. CHRISTIAN-GREEN. Oh, no. It is quite small.

Mr. HOUGHTON. But although it is more than 10 percent of the basic economy of the Virgin Islands?

Ms. CHRISTIAN-GREEN. It is small on a world scale in terms of the entire market but it is very big for the Virgin Islands.

Mr. HOUGHTON. Now, one other specific question. In terms of rum production and the exporting of it, are there any major markets that you find difficult to get into that want to export their product? In other words, can you, for example, can you export your product to Puerto Rico?

Or even within our own kin, are there nontariff barriers there? Or can you export it to Chile or to Brazil?

Ms. CHRISTIAN-GREEN. What I am being told by my legislative director is that under this agreement we would not be able to export to Chile or the South American countries. I know that we do not export to other Caribbean countries.

Mr. HOUGHTON. Let me just hold on here. Let me just give you an example. So, you might be willing to import Chilean Risling white wine into the Virgin Islands yet, they would not permit Virgin Islands rum to come into their country?

Ms. CHRISTIAN-GREEN. Well, I can speak to some of the other Caribbean countries where we are not allowed to export our rum there, but their rum comes in freely to the Virgin Islands, although there is a duty placed on it.

Mr. HOUGHTON. Well, one final question. If you were Ambassador Barshefsky, and obviously, your allegiance is to the American sphere, the protectorates, the States, the whole business. But, at the same time, you wanted to have the United States in the forefront, what would you say about the ultimate trade position in white spirits with the Virgin Islands? Would you say that this would be something which would have a zero tariff in 20 years or never or there will be other stipulations? What would the trade policy be?

Ms. CHRISTIAN-GREEN. Well, we realize that we would not have a zero tariff for a long period of time, but we certainly anticipate that we would have it past the year 2000, so, that we could further develop our markets. But we do need a bit more time, even the year 2000 would be a bit too short for us but we do not expect it to continue in perpetuity.

Mr. HOUGHTON. So, the objective is a good one but the timing is poor?

Ms. CHRISTIAN-GREEN. For us it is. For us the timing is poor. We would prefer to have it go on in perpetuity, but we realize that that is not realistic and so we would accept some limitation but not the year 2000 because we are still developing the market for our rum.

Mr. HOUGHTON. All right.

Well, listen, I thank you very much for your testimony and you are very articulate and it was very helpful.

Thank you.

Ms. CHRISTIAN-GREEN. Thank you, Mr. Chairman.

[The prepared statement follows:]

Good morning Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss an issue of paramount concern to the people of the Virgin Islands, whom I am privileged to represent.

The purpose of today's hearing, as I understand it, is for the Administration to update the Subcommittee and the Congress on the outcome of the recent ministerial meeting of the World Trade Organization, held in Singapore in December 1996.

While the people of the Virgin Islands generally support Free Trade and would support the agreements reached as a result of the Singapore meeting, one aspect of the Singapore agreements -- that being the unexpected agreement between the United States and EU to phase out their tariffs on "White Spirits, particularly rum, by no later than 2000 would deal a severe blow to our already fragile economy if it is not changed.

As you know Mr. Chairman, rum is a unique product of the Caribbean. It is central to the region's history, culture and economy.

The viability of our rum industry in the Virgin Islands is of critical importance to the stability of our economy. It is the second most important industry in the islands next to tourism. It is for this reason, when he first learned that the U.S was considering making such an agreement, that former Virgin Islands Governor, Alexander A. Farrelly, wrote to President Clinton in 1994, to express our strong opposition to having "white spirits" included in any duty free agreements.

Through a special tax provision governing the relationship between the U.S. territories and the Federal Government, our rum industry generates nearly 10 percent of the total revenues of our government.

Today's Virgin Islands economy, Mr. Chairman, is fragile at best. We have been battered by four hurricanes since September, 1989 and are still struggling with recovery. Against this backdrop, opening the U.S. markets to duty-free shipments from all countries would mean a severe loss of jobs in the territory and further undermine our already unstable economy.

Mr. Chairman, the Governor of the Virgin Islands and I have been working with the Trade Representative's Office in an attempt to address this problem. In particular I have discussed the issue several times with today's hearings lead-witness, Ambassador Jeffery Lang, who has been very understanding of our concerns. It is my understanding that USTR is in the process of working out a solution that would address our concerns. I want to commend Ambassador Lang and USTR for their efforts on our behalf, and I look forward to continue working with the Ambassador in finalizing an acceptable resolution to this problem.

In conclusion Mr. Chairman, the people of the Virgin Islands support free trade. We realize that "free trade agreements" are, for the most part, the engine that is driving world affairs today. We also understand, however, that these agreements do not take place in isolation. We would hope, however, that as we move towards the opening-up of markets, consideration can be given to the impact that "free trade" will have on the fragile economies of the smallest members of the American family.

Thank you for allowing me to make these few brief comments. I will be happy to answer any questions that you may have.

Mr. HOUGHTON. Thanks again for your patience.

Well, since there are no other witnesses, anybody want to testify?

Ooops, we have got it on the other side. I am sorry, I did not turn the page.

So, we have Maureen Smith and Dr. Kochenderfer, and Fred Meister, sorry about that.

Will you please come to the table.

Now, Ms. Smith, would you like to testify?

STATEMENT OF MAUREEN R. SMITH, INTERNATIONAL VICE PRESIDENT, INTERNATIONAL AFFAIRS, AMERICAN FOREST & PAPER ASSOCIATION

Ms. SMITH. Thank you very much, Mr. Chairman.

My name is Maureen Smith and I am the international vice president for the American Forest & Paper Association.

The U.S. forest products industry had a lot riding on the outcome of the Singapore Ministerial. We were hopeful we could convince our trading partners to build on the results of the Uruguay round and support a proposal by the government of Canada to eliminate tariffs on paper products as of January 1, 1998 and agree to zero-for-zero treatment of wood products as well.

We had a lot at stake. First, an estimated $15 billion in additional export sales between now and the year 2004; second, some 28,000 direct U.S. jobs; and finally, our future ability to compete for the fastest growing export markets and our own domestic market, as well.

When we testified before the Subcommittee last April in the company of the United Paperworkers International Union, we explained that the tariff agreement reached in the Uruguay round allowed our European competitors to maintain tariffs on paper products for an unreasonable 10-year period at levels which even today in some cases exceed 7 percent. In addition, the Council allowed Japan to keep its tariffs on wood products at levels which top 14 percent, while U.S. tariffs in these two sectors were already at zero or nominal levels.

We viewed the December Singapore meeting as our last chance to reverse this inequity. At that time, we were encouraged by the statement of Ambassador Barshefsky that both wood and paper tariffs would be priority U.S. objectives in Singapore. Regrettably, and notwithstanding the efforts of our tireless, and for many nights, sleepless negotiators, and strong support from the congressional delegation in Singapore, we failed to get our trading partners to level the playingfield with us.

In sum, neither Europe nor Japan appears ready to give the U.S. forest products industry the same level of access to their market that their suppliers have here in the United States. In Europe, although several individual member States and customer industries had weighed in with Brussels in support of a Singapore tariff package including wood and paper products, the EU appears to have paid more attention to the protectionist interests of some paper producers including, we understand, Finland, and blocked any progress on this point.

Earlier this month, Deputy U.S. Trade Representative Jeff Lang met with Finnish trade officials to try to make some progress in this area. And we are deeply grateful for his personal involvement.

Also, in Singapore, as in the Uruguay round, Japan once again blocked any progress on wood products tariffs. Japan's continuing refusal to even consider further wood tariff cuts is inconsistent with its stated desire to reduce housing costs in Japan. This also raises legitimate questions about how genuine reform of the Japanese housing industry can be accomplished without opening the wood products market.

Ambassador Barshefsky has made it clear that the elimination of tariffs on wood products is the priority U.S. objective in APEC. And Japanese intransigence in Singapore makes the achievement of this objective both more difficult and more urgent.

In conclusion, Mr. Chairman, our industry is forced to look beyond Singapore in our search for relief from a crippling tariff disadvantage. In doing so, we make the following recommendations for U.S. policy.

First, market access must be the first priority of the United States in the WTO and the first job of the WTO. We urge the administration to take the lead in developing initiatives which will accelerate post-Uruguay round tariff liberalization and offer opportunities for expedited WTO action on proposed tariff measures.

Second, the administration's existing tariff cutting authority which is bound by the zero-for-zero sectors is inadequate. USTR must have the ability to put together broader tariff cutting initiatives which will include items of sufficient interest to our trading partners and which could accommodate changing interests of U.S. companies and industries.

And, finally, U.S. participation in the work of the WTO committee on trade and environment must focus on ways to asset trade disciplines in areas such as ecolabeling.

Thank you, Mr. Chairman. That concludes my statement and I would be pleased to expand on any of these points during the question period.

[The prepared statement follows:]

Thank you, Mr. Chairman.

My name is Maureen Smith. I am International Vice President for the American Forest & Paper Association. I also chair the Industry Sector Advisory Committee on Paper and Paper Products (ISAC #12) and serve as the sherpa for the TransAtlantic Business Dialogue Working Group on Tariffs and Trade Liberalization.

I am here today on behalf of the more than 200 member companies of the American Forest & Paper Association (AF&PA), the national trade association of the forest, pulp, paper, paperboard, and wood products industry. The vital national industry which AF&PA represents accounts for 8% of total U.S. manufacturing output. Employing approximately 1.4 million people, the forest and paper industry ranks among the top 10 manufacturing employers in 46 states.

This industry had a lot riding on the outcome of the Singapore Ministerial. We were hopeful we could convince our trading partners to build on the results of the Uruguay Round and support a proposal by the Government of Canada to eliminate tariffs on paper products as of January 1, 1998, and agree to zero for zero treatment of wood products. At stake for us were:

- an estimated $15 billion in export sales between now and the year 2004;
- some 28,000 direct U.S. jobs, and many more related positions; and,
- our future ability to compete for the fastest growing export markets, and our own domestic market as well.

When we testified before this subcommittee last September -- in the company of the United Paperworkers International Union -- we explained that the tariff agreement reached in the Uruguay Round allowed our European competitors to maintain tariffs on paper products for an unreasonable ten year period at levels which even today in some cases exceed 7% -- and Japan to keep its tariffs on wood products at levels which top 14% -- while U.S. tariffs in these two sectors were already at zero or nominal levels .

We viewed the upcoming Singapore meetings as our last chance to reverse this harmful inequity. At that time, we were encouraged by the statement of Ambassador Barshefsky that the elimination of this disparity -- through the acceleration of paper tariff reductions and the achievement of zero tariffs on wood products -- would be a priority U.S. objective in Singapore.

Regrettably, notwithstanding the efforts of our tireless -- and sleepless -- negotiators, and strong support from the Congressional delegation in Singapore, we failed to get our trading partners to level the playing field with us.

Neither Europe nor Japan appears ready to give the U.S. forest products industry the same level of access to their market that their suppliers have here in the U.S.

EUROPE

Although several individual member states -- and European industries -- had weighed in with Brussels in support of a Singapore tariff package which would go beyond the ITA and include wood and paper products, the EU appears to have paid more attention to the protectionist interests of some paper producers, including, we understand, Finnish, and blocked any progress on this point. Even where there was clear support from downstream users of paper products for tariff elimination and evidence that continued high tariff rates are inhibiting investment, product diversity, and competitiveness, the EU continued to give greater weight to objections from producers who wish to maintain protection as long as possible.

Finland and Sweden are both significant beneficiaries of the ITA and we would like to think that there could be some positive linkage there which would lead to agreement on forest product tariffs. Earlier this month, Deputy U.S. Trade Representative Jeff Lang met with Finnish trade officials to address the continuing trade conflicts in this sector, stemming from the fundamental market distorting effects of these tariffs. We appreciate his personal involvement in seeking to resolve this issue.

JAPAN

Also in Singapore, as in the Uruguay Round, Japan once again blocked any progress on wood products tariffs. Japan's continuing refusal to even consider further wood tariff cuts is inconsistent with its stated desire to reduce housing costs in Japan. It also raises legitimate questions of how genuine "reform" of the Japanese housing industry can be accomplished without meaningful market opening.

During her confirmation hearings and elsewhere, Ambassador Barshefsky has made it clear that the elimination of tariffs on wood products is a priority U.S. objective in the Asia Pacific Economic Cooperation Forum (APEC) negotiations. Japanese intransigence on this point, most recently demonstrated at Singapore, makes the achievement of this objective both more difficult and more urgent.

CONSEQUENCES

The failure to make any progress on forest products industry market access in Singapore has real consequences for our industry -- and for the American economy as well:

- **It ensures the long term success of a sanctuary home market strategy for European paper producers.** Banking on the inability of North American paper

mills to surmount the tariff wall, Finnish producers have built coated paper capacity sufficient to supply both European domestic demand and export markets as well. More recently, Sweden--another beneficiary of EU tariff protection -- has added over 350,000 tons of paperboard capacity, also targeted at export markets.

Although tariffs are ultimately scheduled to be removed, every year that equity is delayed increases the European capacity advantage, ensuring European market dominance in the years ahead.

- **It postpones the day when U.S. forest products producers can get access to the fastest growing markets** -- in East Asia, Latin America and other developing countries. Tariffs in these countries are still unreasonably high but, agreement on zero for zero treatment among developed countries is a necessary first step toward achieving global free trade in this sector.

- **Finally, it undermines the ability of the U.S. forest products industry to continue to generate jobs and income.** Capital markets will be increasingly reluctant to give U.S. companies the funding support needed to build capacity in the U.S. because while the tariff barriers remain, the markets simply are not there for our companies. In contrast, our competitors in Europe can build on the protected European market, plus the virtually tariff free U.S. market. Developing country producers can count on their highly protected domestic market, as well as their preferential duty free access to most developed country markets under various national GSP programs.

For the U.S. forest products industry, the combination of an unequal Uruguay Round result, and the failure to obtain any relief in Singapore means that an industry which was identified by Fortune Magazine in 1993 as second in the country in terms of global competitiveness, will be asked to compete for increasingly contested global markets with one arm tied behind its back.

If we are to continue to grow good manufacturing jobs, the U.S. can no longer afford to burden even its most competitive industries with unequal tariff treatment.

ENVIRONMENTAL TRADE RESTRICTIONS

Also on the agenda at Singapore was a report from the WTO Committee on Trade and Environment (CTE) regarding the compatibility of various environmental trade measures with the international trade regime. Over the past three years, our industry has been the target of an EU ecolabeling effort which has been deficient in transparency and discriminatory in effect. Although we have had the support of the U.S. Government -- including USTR, Commerce, State, and EPA -- bilateral discussions failed to produce any change in the EU program, forcing us to look to multilateral negotiations to bring the necessary disciplines to the use of environmental

measures to limit market access.

On this score, too, we were disappointed in the Singapore results. Due in part to the efforts of the EU and also to reservations by developing countries, the CTE report failed to come to grips with the trade restrictive effects of ecolabels which enshrine local production processes and methods, and exclude foreign competitors.

LESSONS FROM SINGAPORE

In conclusion, Mr. Chairman our industry is forced to look beyond Singapore to obtain relief from a crippling tariff disadvantage. In doing so, we make the following recommendations for U.S. policy:

- **Market Access must be the first priority of the U.S. in the WTO -- and the first job of the WTO.** We urge the Administration to take the lead in developing initiatives which will accelerate post-Uruguay Round tariff liberalization and offer opportunities for expedited WTO action on proposed tariff measures.

- **The Administration's existing tariff cutting authority -- which is bounded by zero for zero sectors -- is inadequate.** USTR must have the ability to put together broader tariff cutting initiatives which will include items of sufficient interest to our trading partners, and which could accommodate changing interests of U.S. companies and industries. We would urge the Congress to accord appropriate priority to fast track legislation which would enable and encourage the Administration in its market-opening efforts.

- **U.S. participation in the work of the Committee on Trade and Environment must focus on ways to assert trade disciplines in areas such as ecolabeling.**

Mr. Chairman, that concludes my statement. I would be pleased to expand on any of these issues during the question period. Thank you.

Attachment

Pursuant to clause 2(g)(4)of the Rule XI of the Rules of the House of Representatives, the American Forest & Paper Association submits the following:

The American Forest & Paper Association currently administers contracts with USDA's Foreign Agricultural Service under the Foreign Market Development Program, and the Market Access Program, in the amount of $10,483,489.00 for FY97. These contracts are administered on behalf of the U.S. wood products industry. Individual companies are not contractually a part of either of these programs. Rather, five U.S. trade associations use these funds in generic programs designed to increase the export of U.S. wood products, and to enhance the export opportunities for small U.S. businesses. Seventeen U.S. trade associations participate in the programs; private sector contributions for both programs total $4,257,929.00.

Mr. HOUGHTON. Thank you very much, Ms. Smith.
Dr. Kochenderfer.

STATEMENT OF KARIL L. KOCHENDERFER, DIRECTOR, ENVIRONMENTAL AFFAIRS, GROCERY MANUFACTURERS OF AMERICA, INC.

Mr. KOCHENDERFER. Thank you, Mr. Chairman.

My name is Karil Kochenderfer, and I direct environmental affairs for the Grocery Manufacturers of America. GMA is a member of the Coalition on Truth in Environmental Marketing Information. The Coalition's members are trade associations representing America's interests in the chemical, forest and paper, electronics, food and consumer product industries among numerous other industries.

Together we represent over 1,200 companies in the United States doing over $1.2 trillion of business internationally. And with me today is Bruce Hirsch of O'Melveny and Myers to help me answer any questions.

GMA's members support the sharing of environmental information with consumers through ecolabeling. But we are very concerned that ecolabels, particularly those being developed in Europe, provide misleading and incomplete information and can serve as a barrier to trade.

The Singapore Ministerial addressed ecolabeling and achieved limited progress toward greater transparency and participation in ecolabeling programs. However, further steps are needed to protect U.S. exporters from those who may abuse ecolabeling schemes and to prevent misleading claims that undermine the legitimate objectives of ecolabeling.

What are these objectives? They are to inform consumers and to encourage the development of use of products with reduced environmental impact. We agree with these objectives and they are broadly shared by government, industry and environmental groups alike.

A system modeled on the FTC guides for the use of environmental marketing claims is an excellent means of achieving these objectives, while at the same time preventing misleading claims that can lead to trade disputes. They are based on truthfulness, science, verifiability, and nondeceptiveness. These guides have been praised by environmental groups and business alike and have led to an increasingly meaningful environmental labeling practices in the United States.

We urge the U.S. Government to build on these results and to advocate an FTC approach to environmental labeling internationally. While the Coalition strongly supports ecolabeling based on the approach embodied in the FTC guides, we are deeply concerned over ecolabeling programs that are being called ecoseals.

Namely, an ecoseal is a type of ecolabel that is awarded by a central certification panel that purports to judge the environmental effects of products and packaging, and to tell consumers with a single seal which products and packages are best for the environment.

An example can be seen on the last page of my testimony. Our 20 years of experience with ecoseals in Europe and elsewhere have shown that these programs are inherently flawed and create unresolvable problems. Specifically, one, the selection of the criteria upon which ecoseals are awarded is subjective. It is not scientifically sound.

Two, they are inherent barriers to trade and innovation. Three, they fail to educate consumers. The ultimate goal of these seals is to educate and bring a greater awareness about the environment but they fail to achieve even this.

And four, fundamentally, they are barriers to trade because the criteria frequently discriminate and are protectionist in nature.

I would like to go a little further, if I may, into the issue of science because it is integral to the criteria for any credible ecoseal program.

At this time there is just no objective way to scientifically determine which products or packaging are best. Products have different strengths and weakness from environmental standpoint, even within the same category. For example, one product may have low energy consumption but generate high solid waste, and in another case one may have low solid waste but cause greater water pollution.

And even within a single environmental parameter there are tradeoffs and even within geographic areas. The relative priority of environmental issues varies. For example, detergents that use less water are inherently more valuable in countries that are dry.

The process of granting an ecoseal inherently is based on value judgments by the issuing organization and these ecoseal panels typically consist of government officials, companies and experts from the country establishing the program.

Faced with no objective means for trading off environmental attributes of products, they are inherently sensitized to local concerns. We suspect that discrimination favoring these products to the local manufacturers is often intentional.

Therefore, ecoseals have become sources of increasingly contentious trade disputes as Ms. Smith alluded to. Last year, the EU issued an ecoseal criteria for paper and pulp that threatened to shut the U.S. producers out of the European markets. We can expect trade disputes such as these to occur with increasing frequency as ecoseal programs proliferate in the coming months and years.

And we are here to say that we cannot let U.S. products to continue to be discriminated against by protectionist measures disguised as environmental good deeds. We hope we have your support and thank you.

[The prepared statement and attachment follow:]

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today. I'm Karil Kochenderfer, Director of Environmental Affairs for the Grocery Manufacturers of America. GMA is affiliated with the Coalition for Truth in Environmental Marketing Information. The Coalition's members are American trade associations representing the aluminum, forest and paper, chemical, plastic, electronic and food and consumer product industries. The Coalition's 1,200 U.S.-based companies do over $900 billion dollars of business globally. With me is Bruce Hirsh of O'Melveny & Myers, co-counsel to the Coalition along with Don Elliott of Paul, Hastings, Janofsky & Walker.

GMA's members support eco-labeling to provide consumers with accurate, non-misleading environmental information, but are concerned that certain eco-labels, which provide misleading and incomplete information, could serve as a barrier to U.S. trade. I am here today because the Singapore Ministerial addressed the issue of eco-labeling and the topic is on the post-Singapore work agenda of the Committee on Trade and the Environment, the CTE. While the Singapore Ministerial achieved limited progress on eco-labeling, further steps are needed to protect U.S. exporters from those who may abuse eco-labeling schemes.

The objectives of eco-labeling programs are to provide information to consumers and to encourage the development and use of products with reduced environmental burdens. We agree with these objectives, and they are broadly shared by government, industry, and the environmental community.

Providing scientifically sound, useful, environmental information is an important and constructive way to help consumers make informed choices about the products and packaging they purchase. A system modeled on the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims (the "Guides") is an excellent means of accomplishing this. The Guides are based on the principles of truthfulness, scientific basis, verifiability and non-deceptiveness. A market-oriented environmental information sharing system, such as the Guides, encourages competition and innovation, and empowers consumers to make informed choices based on objective, scientific information about the environmental effects of products and packaging. The Guides reflect the new generation of government environmental policy-making which encourages innovation and flexible decision-making by manufacturers and consumers. The Guides have been praised by environmental groups and businesses, and have led to an increase in meaningful environmental labeling in the United States.

While the Coalition strongly supports eco-labeling based on the approach embodied in the FTC Guides, it is deeply concerned over one form of eco-labeling, known as eco-seals, which have become more common overseas, in particular in Europe. As you know, an eco-seal is a type of eco-label that is a symbol awarded by a centralized certification panel that purports to judge the environmental effects of products and packaging and to tell consumers, with a single seal, which products and packaging are "best" for the environment. In other words, eco-seals connote environmental preferability. However, our member companies' twenty years of experience with eco-seals in Europe and elsewhere have shown that eco-seal programs have severe problems in both theory and practice. They neither encourage environmental progress in consumer markets, nor provide consumers with useful information that empowers them to make informed purchasing decisions. Specific problems with eco-seals include:

- The selection of criteria upon which an eco-seal is awarded is subjective rather than scientifically sound.
- They act as barriers to innovation -- both for environmental progress and product performance.
- They do not educate consumers about the environmental attributes or tradeoffs associated with the products they purchase.
- They are barriers to trade, because their criteria are frequently discriminatory and protectionist in nature, whether by design or not.

I would like to go a little further into the issue of science because it is upon this issue that criteria for any credible eco-seal must rest.

At this time, there is no objective way to scientifically determine which products and packaging are "best" for the environment. Eco-seal authorities cannot objectively reconcile environmental tradeoffs between different products, social infrastructures, or regional/national priorities.

Products have different strengths and weaknesses from an environmental standpoint, even within the same category. For example, one product may have low energy consumption, but relatively high solid waste emissions. Another may have low solid waste, but cause greater water pollution. Even within a single environmental parameter there are tradeoffs. For example, products manufactured in most of Europe and the U.S. will use energy from natural gas or coal fired power plants, while those made in France use mostly nuclear power. Each of these power sources has different environmental characteristics that cannot be scientifically ranked by any "expert" panel. Finally, among different geographic areas, the relative priority of environmental issues varies. For example, in Spain, water is relatively scarce, and the laundry process in many areas is typically performed in normal temperature water. Thus, from a local standpoint, a detergent which reduces water use would be more environmentally meaningful than one that conserves energy. In Germany, where heated water is normally used, and water is more plentiful, the reverse is the case. The history of eco-seals is replete with failed efforts to paper over these unresolvable conflicts.

As a result, the process of granting an eco-seal inherently is based on value judgments by the issuing organization. In practice, eco-seal systems often favor local manufacturers over foreign competitors by virtue of the way criteria are determined. Eco-seal panels typically consist of government officials, companies and experts from the country establishing the program. Faced with no objective, scientific means for trading off environmental attributes of products and sensitized to local environmental concerns, the panels inevitably favor local products. Although harder to prove, we suspect that discrimination in favor of local products is often intentional.

Based on the efforts of the Administration, the CTE's report to the Ministers in Singapore emphasized the importance of transparency in preventing eco-seal programs from becoming trade barriers. Naturally, GMA supports the notion of transparency, but while commendable, this emphasis on transparency falls short of addressing the fundamental methodological and systemic problems with eco-seals that have in the past and will continue in the future to allow these schemes to be easily abused as trade barriers and to become the focus of disputes.

Such disputes have become increasingly contentious. For example, last year the European Union issued eco-seal criteria for paper and pulp that threaten to shut U.S. producers out of European markets. Working with one of the Coalition's members, the U.S. Government had tried heroically, for over a year, to try to moderate the most discriminatory aspects of the EU program -- without success. The EU disregarded the valid concerns raised both by the U.S. Government and U.S. industry (and by its own European paper industry).

We can expect trade disputes such as that brewing over paper to occur with increasing frequency as eco-seal programs expand. These disputes and the way eco-seal programs operate and are administered could undermine the legitimacy of, and public confidence in, all eco-labeling programs, a result nobody wants. At the same time, we cannot permit U.S. products to be discriminated against in violation of WTO rules by protectionist measures disguised as environmental measures.

It is therefore all the more imperative that the United States continue its efforts to rein in eco-seal abuses and shine the light on programs that serve no purpose but to favor local products. GMA remains committed to its belief that such abuses can most effectively be avoided by advocating and applying labeling schemes based on the

FTC's Guides for the Use of Environmental Marketing Claims. In this way, eco-labeling can continue to develop without becoming the source of trade disputes. We hope that the Committee will join GMA and the Coalition in urging the Administration to work towards the development of international programs more closely patterned on the U.S. approach.

Mr. Chairman, I have explained what we support and oppose in regard to eco-labeling. I also want to clarify what we do not oppose. We have taken no position on labor labeling, which we believe is completely unrelated to the issues we raise. We do not perceive any conflict between our goals and means and those of proponents of labor labeling. Moreover, we are not opposed to the use of symbols which clearly convey to consumers specific, verifiable information about the environmental attributes of products. Likewise, our positions are not in conflict with the "dolphin-safe" label, which, again, conveys specific, objective information to consumers.

Mr. Chairman, we look forward to working with your Committee and other interested Committees in Congress to develop a strategy that will protect U.S. exporters while promoting the laudable goals of eco-labeling. Thank you again for providing us with the opportunity to come before you today to discuss our concerns.

ECO-LABELS

ECO-SEAL
(TYPE I)

ENVIRONMENTAL INFORMATION LABELS
(TYPE II)
(e.g. FTC Guidelines)

TIDE
PACKAGE AND PRODUCT INFORMATION

- The Solid Waste Association of North America supports product and packaging innovations that reduce solid waste.

- Refill designed to help reduce solid waste in the environment.
- Refill made from at least 25% post-consumer recycled plastic.
- Refill made from 80% less packaging than Tide cartons because it has no scoop, no handle and no cardboard.
- Use your Tide carton and scoop again and again.
- Cleaning agents are biodegradable.
- Safe for septic tanks.
- CONTAINS NO PHOSPHORUS.

Questions? 1-800-879-8433.

Mr. HOUGHTON. Thank you, Ms. Kochenderfer.

I appreciate that and I have a question or two.

Mr. Meister.

STATEMENT OF FRED A. MEISTER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

Mr. MEISTER. Thank you, Mr. Chairman.

I am Fred Meister, president and chief executive officer of the Distilled Spirits Council of the United States. We are the trade organization which represents U.S. producers and exporters of distilled spirits.

I appreciate this opportunity to express our strong support for the tariff elimination agreement for distilled spirits, which was concluded at the WTO Ministerial conference held in Singapore.

This agreement provides for the elimination of tariffs on so-called white spirits, including vodka, rum and gin, and liqueurs by no later than January 1, 2000. In addition, the agreement brings forward the schedule for eliminating tariffs on whiskey and brandy that was agreed to in the Uruguay round by 4 years, also to January 1, 2000.

The agreement on spirit tariffs is an important step toward global free trade in the distilled spirits sector. The European Union is our leading export market totalling nearly 35 percent of our exports to the world. It is the largest market in which we still face tariffs and those tariffs are measurably higher than ours.

As a result of the duty-free treatment secured by the Singapore agreement, we expect to substantially increase our sales to the European market to more than $200 million per year. Expanding exports holds the key to our industry's future. The Singapore agreement also provides an excellent basis for pressing other WTO members to eliminate their tariffs as well. For these reasons we urge the Congress to endorse the distilled spirits tariff agreement reached at Singapore and to continue to support the administration's efforts to secure tariff elimination commitments from additional countries.

I also appreciate this opportunity to express our strong position that all distilled spirits should be included for tariff elimination. All of our products compete directly with one another for consumer preference, market share, and brand loyalty.

The agreement reached at Singapore ensures for the first time that U.S. exporters of white spirits, such as vodka, rum and gin, and liqueurs will benefit from tariff elimination—just like U.S. producers of whiskey and brandy—in the largest foreign market for us.

Caribbean suppliers of rum have called for the removal of rum from the tariff elimination agreement. These suppliers already enjoy duty-free access for their rum both to the U.S. market and to the European market, while U.S. producers of rum, located almost entirely in Puerto Rico, face significant tariffs on their shipments to Europe. DISCUS, therefore, strongly opposes this attempt to remove rum from the tariff elimination agreement in order to maintain the Caribbean suppliers advantage over Puerto Rico in the European market.

The European Union is a large and growing export market for Puerto Rican rum. With the removal of EU tariffs, U.S. producers in Puerto Rico will be able to expand their sales greatly to the EU. This will generate increased production and create new jobs in the rum industry in Puerto Rico, which currently accounts for more than 2,600 jobs and at least 5 percent of the island's economy—an estimated $1.4 billion per annum.

In addition to denying U.S. rum producers duty-free access to their largest export market, removing rum from the agreement would place them at a competitive disadvantage vis-a-vis all other distilled spirits which will receive duty-free treatment. Excluding rum from this agreement also would make it extremely difficult to secure duty-free commitments in other trade agreements in the future.

Mr. Chairman, we have been working with the administration and members of the Congress to address the issues raised by the Caribbean rum producers and by the Virgin Islands rum producers and we will continue to do so. However, we cannot agree with their request that rum be removed.

We urge the Congress to endorse this agreement and to work with the administration to ensure its full implementation.

Thank you very much.

[The prepared statement follows:]

I am Fred A. Meister, President/CEO, of the Distilled Spirits Council of the United States, Inc. (DISCUS). DISCUS is the national trade association which represents U.S. producers, marketers, exporters and importers of distilled spirits. Our members export to more than ninety countries worldwide, including all of the countries of the European Union. DISCUS is pleased to have this opportunity to submit the following statement with regard to the outcome of the ministerial conference of the World Trade Organization (WTO), held in Singapore in December 1996.

I. DISCUS POSITION

A key achievement of the WTO Ministerial Conference was the conclusion of tariff elimination agreements in the information technology and distilled spirits sectors. DISCUS strongly supports the agreement on distilled spirits, reached between the United States and the European Union, which provides for the elimination of tariffs on so-called "white spirits," including vodka, rum and gin, and liqueurs by no later than January 1, 2000. In addition, the agreement brings forward the schedule for eliminating tariffs on whisky and brandy agreed to in the Uruguay Round by four years, also to January 1, 2000.

The U.S.-EU accord on tariff elimination is an important step toward global free trade in the distilled spirits sector, and one which will substantially benefit the U.S. distilled spirits industry. Faced with declining sales of distilled spirits in the United States, expanding exports holds the key to the future well-being of U.S. distilled spirits companies. This newly gained duty-free access to the European Union -- the leading export market for U.S. distilled spirits, including Bourbon, Tennessee Whiskey and Puerto Rican Rum -- will generate increased U.S. export sales and additional production and jobs within the U.S. distilled spirits industry.

The U.S.-EU agreement also establishes an important precedent for gaining duty free access to additional foreign markets. With the principle of tariff elimination for all distilled spirits established, the United States is in a stronger position to pursue similar commitments from other countries in the context of WTO negotiations, in regional initiatives such as the Free Trade Agreement for the Americas (FTAA) and the Asia-Pacific Economic Cooperation dialogue, and with countries seeking to accede to the WTO, such as Russia, China, and Taiwan.

II. DISCUS OBJECTIVES

Over the past decade, DISCUS has supported the efforts of the United States to lower global trade barriers. In no area has this been more important for the U.S. distilled spirits industry than in the case of tariff concessions. DISCUS actively worked with the U.S. government during the GATT Uruguay Round negotiations to eliminate tariffs in the distilled spirits sector. This "zero for zero" initiative produced an agreement among the "Quad" countries to eliminate tariffs on whisky and brandy over a period of ten years and to substantially reduce tariffs on all other distilled spirits. Unfortunately, the agreement failed to provide for the elimination of tariffs on "white spirits" and liqueurs, due to the strong opposition of Japan at that time.

In order to complete the process of tariff elimination, the Congress provided authority and a direct mandate for further negotiations covering the distilled spirits sector in the 1994 Uruguay Round Agreements Act and the accompanying Statement of Administrative Action. Since then, we have worked closely with U.S. negotiators and the Congress to advance the objective of tariff elimination for all distilled spirits in key U.S. export markets. The U.S.-EU agreement reached at Singapore is a significant step in that direction and it is imperative that we build upon this success. Accordingly, we urge the Congress to endorse the U.S.-EU agreement and support its full implementation.

III. OBJECTIVES OF THE U.S.-EU ACCORD ON SPIRITS TARIFFS

The elimination of European tariffs on distilled spirits will substantially benefit U.S. producers and exporters of distilled spirits. The European Union is the largest export market for U.S. distilled spirits. In 1995, U.S. sales totaled nearly $160 million -- approximately 35 percent of total U.S. exports to the world. Exports of Bourbon and Tennessee Whiskey account for the largest amount, with vodka, rum and liqueurs accounting for an important and growing share of the total. In 1995, sales of these products alone were valued at $12 million.

In addition to being the leading U.S. export market for distilled spirits, the European Union also is the largest export market in which most U.S. distilled spirits still face tariffs. Moreover, in all categories of distilled spirits, EU tariffs are measurably higher than those of the United States. Thus, the agreement will allow U.S. distilled spirits companies to gain duty-free access to their largest export market and to secure a proportionally larger reduction in tariff barriers than that offered by the United States on European products.

The U.S.-EU agreement also will benefit U.S. importers and marketers of distilled spirits. In addition to exporting, a number of U.S. distilled spirits producers also import and market European distilled spirits on the U.S. market. The elimination of U.S. tariffs on these products will enable our members to strengthen their competitive position in the U.S. market, while providing U.S. consumers with access to the widest variety of distilled spirits produced in the world. This in turn will enable them to compete more effectively on world markets.

IV. PRODUCT COVERAGE OF THE U.S.-EU ACCORD ON SPIRITS TARIFFS

In the global marketplace, all distilled spirits compete directly with one another for consumer preference, market share, and brand loyalty. U.S. distilled spirits companies produce and market all types of distilled spirits -- ranging from Kentucky Bourbon to Puerto Rican rum. Accordingly, DISCUS has pressed since early in the Uruguay Round negotiations for the inclusion of all distilled spirits in any tariff elimination agreement. The agreement reached at Singapore ensures, for the first time, that U.S. producers of vodka, rum, gin and liqueurs also will benefit from tariff elimination -- like U.S. producers of whisky and brandy -- in competing for a larger share of the European distilled spirits market.

Since the agreement was announced, we understand that Caribbean suppliers of rum have called for the removal of rum from the U.S.-EU agreement. These suppliers -- principally Jamaica, Barbados and Trinidad -- have enjoyed duty free access for their rum to the U.S. market since 1983 under the Caribbean Basin Initiative (CBI). They also have enjoyed duty free access to the European Union for a number of years under the so-called Lomé Agreement, while maintaining substantial tariff barriers on imports of all spirits into their own markets. In sharp contrast, U.S. producers of rum -- located almost entirely in Puerto Rico -- face significant tariffs on their shipments to the European Union.

The EU represents a large and growing export market for Puerto Rican Rum, with export sales valued at $3.7 million in 1996. Expanding exports from Puerto Rico to the EU will have a beneficial effect on the island's economy through expansion of production and the creation of additional jobs. The rum industry in Puerto Rico currently generates over 2,600 jobs and comprises over 5% of the island's economy. (Most of these totals are accounted for by Bacardi, Ltd., the leading rum producer in Puerto Rico, which fully supports the U.S.-EU agreement.) The elimination of EU tariffs will allow Puerto Rican rum producers to compete for a much larger share of the EU market on an equal footing with their competitors in the Caribbean.

Removing rum from the U.S.-EU agreement would severely harm U.S. rum producers by denying them duty-free access to the European market. They would continue to face a competitive disadvantage *vis-a-vis* Caribbean suppliers of rum in their largest export market. Moreover, they would be placed at a competitive disadvantage in relation to all other distilled spirits, such whisky, vodka, and gin, since these products would have duty-free access to U.S. and EU markets. In addition, excluding rum from this agreement also would establish an

extremely undesirable precedent for future bilateral and multilateral negotiations intended to secure duty free access for U.S. distilled spirits in other markets.

DISCUS is willing to work with the Congress, the Administration and the Caribbean suppliers to address their concerns. However, for the reasons outlined above, we are strongly opposed to any effort to remove rum entirely from the agreement.

V. CONCLUSION

Over the past decade, DISCUS has strongly supported the efforts of the United States to lower global trade and tariff barriers. The Uruguay Round negotiations produced significant benefits for the U.S. distilled spirits industry, including substantial reductions in foreign tariff barriers. Similarly, the agreement announced at the WTO Ministerial Conference in Singapore, which provides for the elimination of U.S. and EU tariffs on all spirits by January 1, 2000 is a further important step in that direction. DISCUS urges the Administration and the Congress to resist any attempt to go back on these commitments to eliminate tariffs in the distilled spirits sector. We strongly support the U.S.-EU agreement on tariff elimination and urge the Congress to endorse it as well.

Thank you very much.

Mr. HOUGHTON. Thank you, Mr. Meister.

Let me ask you a question in response to Donna Christian-Green's comment about rum. Would you say that her industry would be better off if it agreed to the tariff dropping the restrictions that we have now in the Singapore agreement? Or would you say it would be better for her, personally, to have more time in order to stretch the adjustment period out?

Mr. MEISTER. We would make a distinction, Mr. Chairman, between the Virgin Islands and the Caribbean Islands. In the case of the Virgin Islands we would not oppose some reasonable solution to their problem, which we recognize. But, at the same time, we would not support their contention that rum should be removed from the agreements. Nor, would we support the idea that it should be stretched out beyond the year 2000. But as Ambassador Lang said this morning, they are working on some agreements. We can be cooperative in that effort if it is, in fact, reasonable.

In the case of the Caribbean Islands, however, it is an entirely different set of circumstances. In the case of Trinidad, and Jamaica, and Barbados, they have been exporting their rum to the United States duty-free and to the European Union duty-free. What this agreement does is to permit the Puerto Rican rum industry to have a level playingfield with the Caribbean producers. All of them should be able to compete in the European Union without tariffs on any of their products. We very strongly would oppose anything that would give them or permit them to have their continued preferential treatment to the disadvantage of the Puerto Rican rum industry.

Mr. HOUGHTON. Now, that makes broad sense.

I do not disagree with that, but what does it say to the person who is producing rum in the Virgin Islands?

Mr. MEISTER. Well, the Virgin Island producers to our knowledge have been interested only in shipping to the United States where

they already have the advantage of duty-free access. We do not know of plans by the Virgin Islands rum industry to try to export their product to Europe and, so, the agreement would not have an impact on them on that basis.

Mr. HOUGHTON. Well, that probably is true but that is not what Ms. Christian-Green said.

Mr. MEISTER. Well, I think we have some disagreement over the intentions of the Virgin Islands rum industry.

Mr. HOUGHTON. OK.

Let us talk about the Uruguay round, Ms. Smith.

Given the Uruguay round history on tariffs for paper and wood products, what is the incentive for the European Union and also for Japan to agree to liberalize tariff in your industry and, so, really, in effect, do you believe there is a forum for further tariff reduction in the near term?

Ms. SMITH. I am sorry, Mr. Chairman, the question is what incentives might be offered?

Mr. HOUGHTON. Yes.

What is the incentive, why should the European Union and Japan agree to liberalize tariffs in your industry, I mean what is the incentive for them?

Ms. SMITH. I agree that on the face of it, the argument that has been offered by Finland is persuasive. Finland says they sell 75 percent of their paper exports to the European market and only 5 percent to the United States. So, on the face of it, they say they have no interest in pursuing tariff liberalization.

However, if we look at the experience of the paper industry in the NAFTA when tariffs were eliminated between the United States and Canada as an example, the historical experience there is that shipments in both directions increased.

If you look at European experience when the tariffs were eliminated between the original European Common Market countries and EFTA, and when the Scandinavians then gained duty-free access to the rest of the European market, in that instance the production on both sides in the paper industry increased remarkably.

I would be very happy to submit for the record charts that we have which show that the time coincidence of these two economic developments precludes any other explanation other than the classic explanation that free trade does, indeed, benefit both partners.

Mr. HOUGHTON. Yes. But if I could just interrupt for a minute. The Uruguay round took place in what was it, it was 1986, something like that.

Ms. SMITH. Yes.

Mr. HOUGHTON. And I think you indicated there has been some real problems as far as paper and wood products.

Ms. SMITH. Yes.

Mr. HOUGHTON. So, my question again is and maybe you have said it and I did not pick it up, is what turns that, what is the incentive? We can sit here and discuss these issues and maybe we can translate it into laws but what is the incentive for those people do to something they have been unwilling to do before?

Ms. SMITH. Well, I am sorry, my answer was that in the first instance we believe free trade is to their advantage and that would be an incentive. But, second, you are exactly right. If we approach

it in terms of a traditional trade negotiation USTR needs authority to go beyond their existing zero-for-zero authority so they can put together a package of issues that might be of interest to our trading partners.

Europe has answered that their existing authority which goes to industries where the United States is very competitive is not of interest to them in putting together a package.

Mr. HOUGHTON. Sure.

Well, I would like to thank you very much for that.

I would like to ask a question of Ms. Kochenderfer.

What about the ecolabeling issue? Is there consensus among our nonEuropean Union trading partners that the ecolabeling scheme is discriminatory?

Ms. KOCHENDERFER. There is a developing consensus. We are talking to our other Ministers at WTO and in other forums. Basically sharing with them our experiences trying to get into the EU market and are finding that their stories are very similar.

And, so, I think there is a developing consensus that, in fact, these seals have become barriers to trade and there needs to be more openness, more honesty, more sharing of information and we are finding agreement with them.

Mr. HOUGHTON. OK.

There needs to be, there should be. How does that happen?

Ms. KOCHENDERFER. Well, what we see with the FTC guides is basically truth in advertising, be open, be honest. The market will determine whether a claim is false or not. Companies will bring claims against one another before the FTC and ultimately in the world, if you will, an international FTC.

With true competition, two competitors will definitely say whether one is being truthful in advertising by saying something is nonbiodegradable or recyclable or whatever. And if the other is not being truthful, they will bring it to the FTC or an FTC-like forum in an international arena. And we think that competition, that market orientation brings about greater information sharing rather than just a kind of a seal which really does not convey anything.

Mr. HOUGHTON. OK.

Well, that is all the questions I have. I want to thank you very much for your patience and for your testimony and this concludes our hearing.

The record, as you may know, will be open until March 12.

So, thank you very much, this hearing is concluded.

[Whereupon, at 3:39 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

Statement of the American Iron and Steel Institute to the Subcommittee on Trade of the House Committee on Ways and Means on the WTO Singapore Ministerial and Related Issues February 26, 1997

The American Iron and Steel Institute (AISI), on behalf of its U.S. member companies, is pleased to present the following statement on the recently concluded World Trade Organization (WTO) Singapore Ministerial, prospects for the future of the WTO and potential new issues for further negotiation.

The Singapore Ministerial, Trade Laws and Competition Policy

At the Singapore Ministerial, one issue stood out above all others for AISI's U.S. member companies: the serious threat to U.S. trade laws posed by foreign governments' efforts to allow a study of trade and competition policy to include a review of current antidumping (AD) and countervailing duty (CVD) rules. AISI's U.S. members strongly opposed this attempt by several other governments to weaken U.S. laws against unfair trade by reopening the WTO Antidumping Agreement to a new assault -- through the linkage of AD law with competition policy.

Thanks to the steadfast opposition of many U.S. industries, Congressional allies and top Administration negotiators from USTR and Commerce, the final Singapore declaration made no mention of AD law in the context of the new WTO working group formed to study trade and competition policy. Nevertheless, the threat to reopen and renegotiate the AD/CVD results of the GATT Uruguay Round (UR) has not disappeared. With respect to the WTO's new AD rules in particular, foreign governments' purpose in seeking to reopen the WTO's Antidumping Agreement remains the same -- to undermine support for AD rules and force additional weakening changes on U.S. AD law.

AISI supported the overall GATT UR results, even though the net effect -- contrary to the Congress' original negotiating goal for the Round -- was to weaken U.S. remedies against dumping and trade-distorting subsidies. In the future, U.S. AD/CVD cases will (1) be harder to bring, (2) be harder to win, (3) provide less relief, (4) provide it for a shorter period of time and (5) cost more.

At a time when the WTO's new AD, CVD and subsidy rules have yet to be given a chance to work -- and this country's UR's AD/CVD regulations have not even been promulgated -- AISI remains greatly concerned by the possibility that future WTO discussions on trade law rules could produce still more erosion of current remedies to unfair trade. If that were to occur, the support of steel and many other key U.S. industries for the WTO could turn to opposition. Instead of WTO antidumping discussions, what are required at this time are:

- effective Department of Commerce (DOC) AD/CVD regulations for the UR;
- a continued commitment by DOC that it will strictly and vigorously enforce U.S. AD/CVD laws;
- a continued commitment by the Administration that it will vigorously enforce U.S. trade law rights when they are challenged by foreign governments in the WTO;
- continued, close Congressional oversight of the Singapore Ministerial results to ensure that the WTO's Antidumping Agreement does not get reopened;
- enactment of WTO-consistent provisions to improve the effectiveness of existing U.S. AD/CVD laws; and
- continued, firm rejection of "short supply," "temporary duty suspension" and any other trade law weakening proposals that may be introduced in the 105th Congress.

With respect to the new WTO working group on trade and competition policy, AISI believes that -- as long as it steers absolutely clear of any discussion of antidumping law -- it can make a significant contribution to educating policy makers and the general public about the damaging effects of closed markets and private anticompetitive practices abroad and foreign governments' support for, and toleration of such practices.

U.S. steel companies, steelworkers and steel communities continue to be damaged by restrictive national and international steel cartel arrangements and practices that include agreements among foreign competitors to allocate customers or markets, restrain production or supply, fix prices, conduct group boycotts, restrict distribution and otherwise engage in predatory, anticompetitive conduct. AISI's U.S. members therefore hope that the new WTO working group will focus its attention on the serious market access issues related to such practices. The working group's first goal should be to educate and gather facts about barriers to market access not adequately covered under current WTO rules and dispute settlement. Over time, such a seemingly modest achievement could enhance the ability of the U.S. government to develop a consensus among nations that collusive, restrictive private practices are contrary to the long term interests of consumers, producers and the world trading system itself.

Prospects for the Future of the WTO

Trade law-related concerns also assume a prominent place in how AISI's U.S. members think about the future prospects of the WTO. Among the most important issues for the steel industry are these:

Subsidies Agreement. As part of the WTO's "built-in" agenda for future work, the United States and other parties are to consider, after five years, whether the new "green light" categories of permissible, non-countervailable subsidies in the UR's Subsidies, Countervailing Measures (SCM) Agreement should be extended or allowed to expire. During the UR negotiations, steel and other U.S. industries vigorously opposed the SCM concept of "greenlighting" trade-distorting subsidies as an unacceptable weakening of U.S. trade laws and trade law rights. AISI's U.S. members remain strongly convinced that, when the initial five-year trial period for green light subsidies comes to an end in the year 2000, the U.S. position should be not to permit an extension in order to end green light categories in the WTO and national trade laws.

Dispute Settlement. Also as part of the WTO's built-in agenda, the parties are to review after four years the new, binding international Dispute Settlement Understanding (DSU). Clearly, support among U.S. industries for extending the new DSU rules will depend in large part on whether the new system is seen as credible and working in the year 1999.

In the UR, the U.S. did not achieve all it wanted in terms of progress toward improved transparency in the international dispute settlement mechanism. AISI's U.S. members applaud USTR's commitment to ongoing efforts to increase transparency in the DSU, and support the specific improvements called for in the "Statement of U.S. Integrated Carbon Steel Producers on the Singapore WTO Ministerial," submitted on September 24, 1996 to the Subcommittee on Trade. In addition to improving transparency, AISI's U.S. members support continued efforts to:

- *defend sovereignty* -- the WTO must continue to provide flexibility to allow a country to maintain practices that violate the WTO as long as that country is willing to compensate injured trading partners or accept retaliation;

- *maintain Section 301*-- the U.S. should keep stressing that, in areas where there are currently no WTO disciplines, Section 301 will continue to be available and will continue to be used to reduce and eliminate foreign market barriers; and

- *establish WTO oversight commission* -- one way to enhance the credibility of the WTO and its new DSU rules would be to enact the WTO judicial oversight bill sponsored in the last Congress by Representatives Benjamin Cardin (D-MD), Ralph

Regula (R-OH) and others in the House and Senate. This WTO-consistent proposal would help ensure that, in future AD/CVD appeals, WTO panels do not exceed or abuse their authority.

WTO Accession. One of the most important issues that will determine future prospects for the WTO will be the terms upon which the People's Republic of China (PRC) is allowed to accede to the WTO. While AISI supports accession of the PRC to the WTO, the Institute's entire North American membership is united that China should only be admitted on commercially viable terms and should not be permitted to enter on special terms that derogate from WTO rules and requirements. To be allowed to accede to the WTO, the PRC must end its restrictive "trading rights" and other discriminatory regulations, eliminate its import licensing programs, protect intellectual property rights, phase down its high tariffs and improve the transparency of Chinese laws and rules.

Even then, elements of China's state-controlled economic system -- including large government subsidies -- are likely to remain in place for many years. U.S. AD/CVD and safeguard laws must therefore remain strong and strictly enforced with respect to trade with China. The PRC today is the world's largest steel producer and is capable of causing massive disruption to world markets -- and injury to U.S. producers -- through dumping and other unfair trade practices. Taking steel as an example, AISI believes that that the nonmarket economy (NME) provision of U.S. AD law should continue to be applied to dumped imports from the PRC as long as ownership of the steel sector remains under government control and the PRC's prices on steel and related goods remain subject to government regulation or control. At a minimum, the NME provision in U.S. law should be retained for the longest period of any transition measure involved in China's accession to the WTO.

The terms of PRC accession are critical for another reason -- they could set a precedent for the terms granted Russia, the Ukraine and other "economies in transition." This is an issue of major importance to AISI, because unfair and disruptive steel imports from the Ukraine and Russia -- the world's number one steel-exporting nation -- have been flooding into North American markets and causing serious injury in recent months.

Potential New Issues for Further Negotiation

One "new" issue is trade and the environment, and AISI has concerns on this front. Unlike some other segments of U.S. industry, however, our main concern is not that NAFTA-type environmental provisions might find their way into additional trade agreements. Rather, the key concern of AISI's U.S. members is that unilateral U.S. efforts to implement certain international environmental accords could end up causing substantial harm to the trade and competitiveness position of U.S. manufacturers -- without in any way solving the global environmental problems at hand.

The steel industry's most immediate concern in this regard is global climate change policy. Simply put, the goal of reducing the world's "greenhouse" gasses and global warming will not be achieved if the U.S. and other developed countries are forced to live under strict new environmental standards, while other major steel industries in the world are exempted as "developing" countries.

*

AISI, on behalf of its U.S. members, appreciates this opportunity to provide written comments to the Trade Subcommittee on the WTO and its future.

AMERICAN TEXTILE
MANUFACTURERS INSTITUTE

March 10, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Re: Hearing on WTO Singapore Ministerial Meeting, 2/26/97

Dear Mr. Singleton:

Thank you for the opportunity to comment on the outcome of the Singapore Ministerial meeting and the implementation of the Uruguay Round, including market access commitments. The American Textile Manufacturers Institute (ATMI) is the national trade association of the textile mill products industry.

The purpose of the Singapore Ministerial was to review the progress made by the member states in implementing the Uruguay Round agreement. In the area of textiles and apparel, the United States can be proud of its record. It has fulfilled all of its obligations under the Agreement on Textiles and Apparel (ATC) to increase access to its market. As directed by the ATC, the United States has lowered tariffs, increased quotas and integrated textile and apparel products. As a result, imports of textile and apparel products into the United States have increased by $6 billion or 1.8 billion square meters during the two years since the World Trade Organization (WTO) came into being.

U.S. action leading to increased imports have not been met with corresponding actions by other WTO members. Some, such as India and Pakistan, have made commitments to market access and then broken them. Others, such as Brazil and Argentina, initially lowered tariffs only to erect new tariff and non-tariff barriers once imports began to enter their markets. Many other countries have simply refused to make meaningful market access offers in the first place. Unfortunately, at this point in time, there appears to be little impetus among some countries to fulfill their obligations. Over two years into the Round, the United States textile manufacturers are still blocked from exporting their products to many nations around the world.

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1. Increased Access to the U.S. Market

Since the implementation of the Round, the United States has fulfilled all of its obligations to improve market access to countries around the world. It has progressively lowered its tariffs on textile and apparel products, accelerated growth rates on existing quotas and has implemented a product integration schedule which gives both importers and exporters the certainty of knowing when their products will be removed from quotas during the ten year phaseout. During the last two years, imports have continued to increase and in 1996 imports of textile and apparel products reached a record 19.1 billion square meters or $52 billion. At the same time, the U.S. has used the WTO transition safeguard mechanism sparingly to apply restraints against these increased imports.

2. Reduced Access for U.S. Products in Foreign Markets

The ATC requires that countries provide "improved" market access for textile and apparel products and stipulates tariff reductions and the removal of non-tariff barriers as the means to accomplishing this. However, the U.S. textile industry, which exported over $12 billion worth of product last year, continues to be shut out of many of the world's largest and fastest growing economies, even as these countries get better and better access to the U.S. market. Three countries which are emblematic of the problem are detailed below.

A. India*	Increased Access To U.S. Market	
	Current exports of textiles and apparel to U.S. (1996):	$1.4 billion
	Increase in textile and apparel exports to U.S. since WTO began:	$217 ml/14%
	Still No Access For U.S. Products	
	Current U.S. textile and apparel exports (1996):	$13 million
	Current tariffs on U.S. exports of textiles and apparel:	30-300%
	Non-tariff barriers on U.S. exports still in existence:	import licensing, special taxes banned lists export subsidies
B. Thailand	Increased Access To U.S. Market	
	Current exports of textiles and apparel to U.S. (1996):	$1.4 billion
	Increase in textile and apparel exports to U.S. since WTO began:	$179 ml/13%
	Still No Access For U.S. Products	
	Current U.S. textile and apparel exports (1996):	$13 million
	Current tariffs on U.S. exports of textiles and apparel:	30-300%
	Non-tariff barriers on U.S. exports still in existence:	import licensing, reference prices

C. Pakistan* Increased Access to U.S. Market

Current exports of textiles and apparel to U.S. (1996):	$1.0 billion
Increase in textile and apparel exports since WTO began:	$348 ml/31%
Still No Access For U.S. Products	
Current U.S. textile and apparel exports (1996):	$48 million
Current tariffs on U.S. exports of textiles and apparel:	62.5%-102.5%
Non-tariff barriers on U.S. exports still in existence:	restricted lists banned lists pre-shipment inspections special import taxes export subsidies

The countries listed above unfortunately represent only the tip of the iceberg. Since the WTO began, Argentina has instituted specific duties which have raised tariffs on textile products to levels far in excess of their legal bound rate of 35%. Brazil has imposed financing regulations on imported textile and apparel products which effectively prohibit the use of letters of credit. And many other countries have simply refused to reduce their tariffs to levels where real market access can occur.

If the Uruguay Round Agreement is not to become an empty document, it is imperative that United States take the strongest measures possible to ensure that the signatories live up to their commitments. Simply put, it is wrong for United States to increase access to its market while other countries are ignoring their commitments and refusing access to their markets. The U.S. industry and its workers should not be made to pay for the failure of other countries to keep their word. We recommend that the United States Congress make market access a top trade priority in the coming years and take strong action against those countries that keep their markets closed.

Sincerely,

Carlos Moore

Carlos Moore
Executive Vice President

*India and Pakistan each agreed to provide market openings for US products as part of separate bilateral textile negotiations in 1993. In return, the U.S. awarded each country substantial quota concessions. To date, neither India nor Pakistan has ever implemented these agreements despite receiving large increases in their access to the U.S. market.

Position of the Bacardi Companies as to the Continued Inclusion of Rum in the Zero for Zero Tariff Agreement Between the United States and the European Union

My name is Steven Naclerio and I currently serve as Director of Governmental and External Affairs for the Bacardi companies. We support the Singapore agreement, as negotiated, which will eliminate duties and tariffs on gin, vodka, rum and liqueurs in increments by the year 2000 and will put them in parity with brown spirits, such as whiskey and brandy.

The Bacardi companies produce and market Bacardi rum, Castillo rum, Martini & Rossi wines and many other beverage alcohol products around the world. One group company, Bacardi Corporation, is incorporated in Delaware, has operated in Puerto Rico since 1936 and produces all Bacardi rum for the United States market.

The agreement, as it now stands, will enable us to utilize to its fullest capacity the distillery of Bacardi Corporation in Puerto Rico to supply European markets in addition to the U.S. market. This is our most efficient production facility and it is within the customs territory of the United States. We have had to employ non-U.S. plants to service European Bacardi rum business because other Caribbean countries and territories have had special duty and tariffs arrangements with European countries.

Enabling the use of our U.S. production facilities in Puerto Rico for European business to supplement our U.S. business will have a positive effect on the island's economy and tax base. Bacardi Corporation employs approximately 550 people in Puerto Rico and represents 5% of the island's economy. Bacardi rum is the largest international spirit brand in the world with sizable consumer franchises in EU countries such as the United Kingdom, Germany and Spain as well as many others. Once the Singapore agreement is fully implemented, we, as well as our competitors, will have the option of using our most efficient facilities for trade between the United States and Europe.

After the negotiated agreement was announced, a low cost bulk rum producer in the U.S. Virgin Islands asked that rum be excluded from the agreement on the grounds that rum producers in countries in Latin America may attempt to take advantage of their MFN status to increase shipments of their low cost bulk rum into the United States. Among other considerations, these foreign producers do not have to comply with many of our regulatory requirements. In an effort to seek compromise, we have agreed to the retention of tariffs for rum valued under $.53 per proof liter. It is our understanding that the U.S. Virgin Island's producer and the U.S. Virgin Island's Government have agreed that this limited exemption is sufficient to address their concerns.

We note that all distilled spirits excise taxes for rum wherever the rum is produced are covered over to the treasuries of Puerto Rico and the U.S. Virgin islands.

Recently, representatives of Caribbean rum suppliers have asked that rum be excluded entirely from the Singapore agreement because the elimination of tariffs on rum would erode the preferential treatment they currently receive in the U.S. and EU markets. Under CBI, rum from these foreign suppliers enter the United States duty free while rum produced elsewhere is subject to most favored nation treatment. The agreement reached with respect to rum in Singapore does not alter in any way the duty free access enjoyed by Caribbean suppliers. They ensure, however, that rum producers in the United States, including Puerto Rico, will also receive duty free access to the European market.

For branded products with established consumer value, it is our judgment that the elimination of U.S. tariffs would have minuscule, if any, competitive effect on suppliers already established in the U.S. market. This is because millions of dollars are required to create consumer awareness and loyalty for rum brands. The U.S. market for distilled spirits has been declining and the rum market has been flat, at best, during the past decade. The market has seen no successful new entrants from rum producing countries such as Brazil and the elimination of tariffs would be an insufficient impetus to enter. The commercial trade comprising great Caribbean rum brands such as Meyer's, Barbancourt or Mt. Gay should continue as is or even improve after the year 2000 when duties are fully eliminated for rum.

While there <u>may</u> be price competition for low cost bulk rum for private label businesses from areas outside the Caribbean, this will exactly mirror the competition which will exist for <u>all</u> distilled spirits after the year 2000. The Bacardi companies will be at a disadvantage in this latter competition if they cannot use their most efficient and productive plants to compete with other producers of internationally recognized spirits in the EU and other global markets. They will not be able to employ additional U.S. citizens or pay additional income tax to the Government of Puerto Rico if they must continue to utilize non-U.S. facilities exclusively for this purpose. We will, of course, honor our existing commercial agreements with our own trading partners.

After the year 2000 when tariffs are fully eliminated in the United States and Europe, we suggest that the economies of the CBI beneficiaries be studied and appropriate foreign aid be made available if <u>in fact</u> there are economic dislocations by virtue of the Singapore agreements.

Thank you very much.

PHILIPS

Philips Electronics

Patricia A. Franco
Legislative and Regulatory Counsel

March 12, 1997

A.L. Singleton
Chief of Staff
Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

RE: Follow-up written statement by Philips Components to the Trade Subcommittee of the House Ways and Means Committee Hearing (February 26, 1997).

Dear Mr. Singleton:

I am writing to submit a follow-up written rebuttal statement for Philips Components to testimony presented by other panel members at the House Ways and Means Trade Subcommittee hearing on February 26, 1997, on the results of the Singapore Ministerial meeting, in particular the Information Technology Agreement (ITA). This Philips rebuttal statement supplements the testimony presented by Kevin Rafferty of Philips Components at the hearing, where Philips stated its support for the ITA as an agreement that will profoundly benefit high technology suppliers and the American economy generally.

A product that is included in the ITA that Philips highlighted in our testimony is capacitors, which Philips manufactures in the United States and for which Philips will lose tariff protection of approximately 9% if the ITA is ratified. Despite the loss of this tariff protection, Philips determined that the inclusion of capacitors in the ITA would both allow the agreement to achieve its goal of providing access worldwide to information technology and force the competition that is so necessary to the development of a healthy domestic and global economy. Another panel member, the Passive Electronics Coalition, did not agree with Philips. In disagreeing with Philips, the Coalition made several statements that Philips believes may have left misconceptions with the Subcommittee and which we below clarify for the record.

1. The Coalition lists approximately 19 companies as its members to demonstrate the number of corporations that produce capacitors and resistors in the United States and that presumably oppose the ITA. Of these 19 companies listed, 6 are actually owned by Vishay Intertechnology, Inc. (Vishay Intertechnology, Inc., Dale Electronics, Sprague Companies, Vitramon, Inc., Vishay Measurements Group, Inc., and Roederstein Electronics), a company with significant and growing Israeli capacitor

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manufacturing operations. Thus, this list of Passive Electronics Coalition members misrepresents the number of separate companies opposing capacitor inclusion in the ITA.

2. The Coalition states that Philips capacitor manufacturing in the United States has been on the market for several years and that our strategy is to become an importer instead of a manufacturer. For the record, Philips capacitor facilities are not "on the market", nor is our strategy to become an importer instead of a producer in the United States. As we stated in our testimony, we have invested substantially in all our United States locations in the past two years, upgrading our facilities so as to better serve our customers. We respectfully request that the record be corrected to delete these inaccurate statements about Philips' operations and strategy.

3. Finally, the Passive Electronics Coalition testified that the elimination of capacitor tariffs under the ITA would turn over the last surviving United States electronics industry to Japan. The Coalition then cites United States television manufacturing as an example, stating that there are no longer any United States made televisions. As a company that employs approximately 20,000 people in the United States manufacturing many diverse electronics products, including approximately 1.25 million televisions per year in Tennessee under the Magnavox brand name, Philips respectfully takes issue with the Coalition's statement regarding United States television manufacturing.

I hope that this written submission clarifies some of the issues raised in the Passive Electronics Coalition's testimony. Please contact me at 202-962-8550 with any questions.

Sincerely,

Government of Puerto Rico
Economic Development Administration

March, 1997

This statement expresses the views of the Government of Puerto Rico on the possible impact that the agreement on "white spirits" reached between the United States and the European Union may have on one of Puerto Rico's most important export industries: the rum sector.

In general, Puerto Rico supports the concept of trade liberalization and welcomes the opportunity to compete with others, particularly when the playing field is level and when clear rules are applicable fairly and uniformly to all players. Governor Rosselló actively supported the approval of NAFTA and the expansion of GATT, even though those agreements may have short-term negative impacts on certain Puerto Rican industries. In the long run, these agreements will benefit the entire United States, including Puerto Rico.

Unlike previous discussions over rum, which primarily centered on access to the U.S. market, the US-EU agreement provides for reciprocal benefits for US rum producers and exporters. All tariffs on rum would be eliminated between the US and EU by January 1, 2000. However, if we eliminate tariffs on rum, we should get reciprocal access to all of the countries that benefit from our action. One serious limitation of this agreement is that while it provides access to EU markets, it does not open up markets in the Caribbean and South America, which have long maintained prohibitive tariffs against imports of U.S. (Puerto Rican) rum.

Puerto Rico, a US territory for the past 99 years, is one of the largest rum producers in the world. Puerto Rican rum accounts for approximately 85% of the total US market. The leading brands, Bacardi, Capt. Morgan and Don Q and related lines, account for over 75% of the rum sold in the US. Similar numbers are applicable to the Canadian market.

The Puerto Rican Rum industry directly employs over 1,100 workers, accounts for about 1,750 indirect jobs, and is responsible for several hundred mainland jobs through raw materials suppliers, distributors, marketing representatives and others.

We will focus on two issues that may enhance our competitive capacity and positively impact the local United States rum industry and consequently, the nation's economy. First, with regard to the US-European Union agreement, we welcome the opportunity and the challenge to expand without barriers into European markets under a more level playing field. This agreement will permit this for the first time.

However, we are concerned with granting free access to third countries that do not provide the reciprocity, good will and fairness to United States products that was the primary motivation for the US-EU negotiations.

We have been informed that under World Trade Organization rules, the "white spirits" agreement would have the effect of providing preferential access to all countries that fall under the "Most Favored Nation" category. The US should not grant free access to countries that have closed or restrictive markets for our exports. Free trade must be reciprocal and a quid-pro-quo element should be required before the United States unilaterally eliminates its tariffs.

If, because of this agreement, robust economies with high tariff barriers will be able to export "white spirits" freely into the United States, we should gain some ground in this sector or perhaps in other market sectors, which are protected through high tariffs and/or other non-tariff barriers that effectively preclude Puerto Rican rum or other products from entry.

Second, Puerto Rico is concerned for the well being of our low cost bulk rum and small producers, including our fellow US citizens in the Virgin Islands. It is our understanding that a rum production modification to the Singapore side agreement is being considered, which would limit the free access of low quality/low cost bulk produced rums, and limit the elimination of tariffs to rums with costs above a certain level. This "price-break" approach seems to be a sensible one, as it avoids the prospect of flooding the US and European markets with low cost and/or lesser quality rums from third countries which have provided no reciprocal benefits to the United States or the US. The agreement should not be approved without this modification.

I thank the Subcommittee for the opportunity to provide Puerto Rico's input for your consideration of these important matters and I look forward to continue working with this Subcommittee. Please contact me if any questions should arise regarding the rum industry in Puerto Rico.

Jaime F. Morgan-Stubbe
Administrator
Economic Development Administration
San Juan, Puerto Rico

Statement of the
SOFTWARE PUBLISHERS ASSOCIATION
In Support of the Information Technology Agreement

Before the Trade Subcommittee of House Ways and Means Committee

February 26, 1997

The Software Publishers Association (SPA) would like to express our strong support for an important initiative -- eliminating all tariffs on software and other information technology products through the Information Technology Agreement, recently approved at the World Trade Organization ministerial meeting held in December 1996 in Singapore. SPA commends the efforts of the Office of the U.S. Trade Representative to obtain approval of the ITA, and urges Congress to support implementation of the agreement.

Software Publishers Association

SPA is the largest trade association of the computer software industry and represents over 1,200 companies that develop and market computer software for business, education, entertainment, and the Internet. Our members range from market leaders to hundreds of small and medium companies who obtain as much as 40 to 50 percent of their revenues from licensing outside of the United States.

Eliminating tariffs on software will benefit the software industry by removing the potential to use them as discriminatory trade barriers to exporting software to foreign markets. In general, tariffs are an inconvenience to software companies exporting to foreign markets, but their potential to become significant trade barriers remains. They are already at a "nuisance level" in many countries: small enough to be ineffective as a trade barrier, but large enough to deter many smaller software developers from selling there. In other countries, tariffs remain high. For example, tariffs assessed in Asia on software carrier media range from nine percent in China, 20 percent in Thailand, and 10 to 30 percent in Indonesia. Implementation of the ITA will reduce the ability of governments to manipulate valuation and product classification in order to use tariffs to raise revenue and to protect their domestic industries.

SPA worked closely with industry groups and USTR negotiators in the Information Technology Agreement Coalition (ITAC) to ensure that the agreement would eliminate tariffs for all types of software, including business, education and entertainment programs. The ITA broadly defines software, and calls for tariffs to be eliminated on all types of computer software, including business applications and multimedia titles for education, reference and entertainment.

The ITA is intended to eliminate tariffs on a broad range of information technology products, including computers, computer parts, semiconductors, telecommunications equipment, computer software, computer-based analytical instruments and semiconductor manufacturing equipment. By January 1, 2000 the ITA will eliminate tariffs on software and other information technology products with worldwide revenues estimated at more than $500 billion in 1995.

Implementation of the ITA is essential to keep US information technology products and services competitive in a global market. Eliminating tariffs on software under the ITA will ensure that tariffs cannot be used to close foreign markets to U.S. software, and help promote the growth of one of America's leading industries in the 21st century.

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