

# **FUTURE OF THE WORLD TRADE ORGANIZATION**

---

---

## **HEARING** BEFORE THE **COMMITTEE ON WAYS AND MEANS** **HOUSE OF REPRESENTATIVES**

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

—————  
MARCH 30, 2000  
—————

**Serial 106-88**

Printed for the use of the Committee on Ways and Means



U.S. GOVERNMENT PRINTING OFFICE

67-261 CC

WASHINGTON : 2001

---

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

COMMITTEE ON WAYS AND MEANS

BILL ARCHER, Texas, *Chairman*

PHILIP M. CRANE, Illinois	CHARLES B. RANGEL, New York
BILL THOMAS, California	FORTNEY PETE STARK, California
E. CLAY SHAW, Jr., Florida	ROBERT T. MATSUI, California
NANCY L. JOHNSON, Connecticut	WILLIAM J. COYNE, Pennsylvania
AMO HOUGHTON, New York	SANDER M. LEVIN, Michigan
WALLY HERGER, California	BENJAMIN L. CARDIN, Maryland
JIM McCRERY, Louisiana	JIM McDERMOTT, Washington
DAVE CAMP, Michigan	GERALD D. KLECZKA, Wisconsin
JIM RAMSTAD, Minnesota	JOHN LEWIS, Georgia
JIM NUSSLE, Iowa	RICHARD E. NEAL, Massachusetts
SAM JOHNSON, Texas	MICHAEL R. McNULTY, New York
JENNIFER DUNN, Washington	WILLIAM J. JEFFERSON, Louisiana
MAC COLLINS, Georgia	JOHN S. TANNER, Tennessee
ROB PORTMAN, Ohio	XAVIER BECERRA, California
PHILIP S. ENGLISH, Pennsylvania	KAREN L. THURMAN, Florida
WES WATKINS, Oklahoma	LLOYD DOGGETT, Texas
J.D. HAYWORTH, Arizona	
JERRY WELLER, Illinois	
KENNY HULSHOF, Missouri	
SCOTT McINNIS, Colorado	
RON LEWIS, Kentucky	
MARK FOLEY, Florida	

A.L. SINGLETON, *Chief of Staff*

JANICE MAYS, *Minority Chief Counsel*

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

# CONTENTS

---

	Page
Advisory of March 20, 2000, announcing the hearing .....	2
WITNESSES	
American Bar Association, Section of International Law and Practice, Peter Lichtenbaum, Liaison to the WTO Secretariat, and Partner, Steptoe and Johnson, LLP .....	57
Minnesota, State of Hon. Jesse Ventura, Governor .....	7
National Cattlemen's Beef Association, Charles P. Schroeder .....	45
U.S. Alliance for Trade Expansion, National Association of Manufacturers, and Purafil, Inc., William Weiller .....	39
U.S. Chamber of Commerce, and Leapfrog Smart Products, Inc., Dale Grogan .....	52
Yeutter, Hon. Clayton, Mogan & Hartson, LLP .....	18
SUBMISSIONS FOR THE RECORD	
American Forest & Paper Association, statement .....	68
American Iron and Steel Institute, Barry D. Solarz, letter and attachment .....	69
American Textile Manufacturers Institute, statement and attachment .....	75
Griswold, Daniel T., CATO Institute, statement and attachments .....	79
Luggage and Leather Goods Manufacturers of America, Inc., New York, NY, statement .....	90
Panda Energy International, Inc., Dallas, TX, Darol Lindloff, statement .....	91
Pharmaceutical Research and Manufacturers of America, statement .....	94
Semiconductor Industry Association, George Scalise, statement .....	99
U.S. Integrated Carbon Steel Producers, statement .....	104
U.S. Wheat Associates, Wheat Export Trade Education Committee, Christopher Shaffer, and National Association of Wheat Growers, Terry Detrick, joint letter .....	108



## **FUTURE OF THE WORLD TRADE ORGANIZATION**

---

**THURSDAY, MARCH 30, 2000**

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

The Committee met, pursuant to call, at 11:28 a.m., in room 1100, Longworth House Office Building, Honorable Bill Archer (Chairman of the Committee) presiding.

[The advisory announcing the hearing follows:]

# *ADVISORY*

## FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE  
March 20, 2000  
FC-19

CONTACT: (202) 225-1721

### **Archer Announces Hearing on the Future of the World Trade Organization**

Congressman Bill Archer (R-TX), Chairman of the Committee on Ways and Means, today announced that the Committee will hold a hearing to review future prospects for U.S. participation in the World Trade Organization (WTO), particularly in light of the expected accession of China and Taiwan to the WTO later this year. The hearing will take place on Thursday, March 30, 2000, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 11:00 a.m.

Oral testimony at this hearing will be from both invited and public witnesses. Invited witnesses will include Minnesota Governor Jesse Ventura. Also, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee or for inclusion in the printed record of the hearing.

#### **BACKGROUND:**

The Uruguay Round was the eighth round or series of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT). These negotiations to expand trade, which date back to the establishment of the GATT in 1948, were a response to the Great Depression and the political upheaval and conflicts of the 1930s, which deepened as a result of protectionist policies such as the Smoot-Hawley Tariff. Work under the GATT system aimed at raising living standards and promoting international economic growth through the opening of world markets has spanned six decades.

The trade agreements reached at the end of 1994 during the Uruguay Round were noteworthy in that they greatly expanded coverage of GATT rules beyond manufactured goods trade to include agricultural trade, services trade, trade-related investment measures, intellectual property rights, and textiles. The most visible accomplishment of this multilateral trade round was to establish the WTO to administer the GATT agreements and to settle disputes among WTO members.

Sections 124-125 of the Uruguay Round Agreements Act (URAA) (P.L. 103-465) require the President to submit a special report on U.S. participation in the WTO every five years from the date the United States first joined the WTO. Congress received the first of these five-year reports on March 2, 2000. Included in the "2000 Trade Policy Agenda and 1999 Annual Report of the President's Trade Agreements Program" is the President's review of the WTO, including highlights and accomplishments that took place during the last five years such as: (1) expanded market access, (2) intellectual property rights protection, (3) a sound and effective system to settle disputes, (4) expansion of the rule of law, (5) historic agreements governing financial services, basic telecommunications services, and information technology, (6) progress on the so-called "built-in" agenda to continue to liberalize agriculture and services, (7) progress on negotiations on electronic commerce, (8) growing membership from 119 nations in 1995 to 135 in 1999, and (9) the anticipated accession of China and Taiwan, two countries comprising over 21 percent of the world's population.

Issues related to the future operation of the WTO include: moving forward with the built-in agenda on agriculture and services, and addressing new issues such as

biotechnology, electronic commerce, trade and labor, and trade and environmental protection.

H. J. Res. 90, a joint resolution which would withdraw approval of the United States from the Agreement establishing the WTO, was introduced March 6, 2000, by Rep. Ron Paul (R-TX) and others and will be considered by the Committee on Ways and Means within 45 session days pursuant to the requirements of sections 124-125. On March 8, 2000, the President submitted legislation to amend the so-called "Jackson-Vanik" amendment to the Trade Act of 1974 to grant China Permanent Normal Trade Relations treatment, so that U.S. firms, workers, and farmers can take advantage of the trade concessions associated with China's agreement to join the WTO.

In announcing the hearing, Chairman Archer stated: "Although the recent breakdown at the WTO meeting in Seattle was a missed opportunity to kick-off a new round of trade talks to further reduce barriers to U.S. exports, there have never been more compelling reasons for the United States to continue to have a seat at the table of international trade. For decades, the WTO, and the GATT system before it, have stood guard over the integrity of trade rules, allowing American-made goods and services to compete in virtually every corner of the world and leading to the prosperity we enjoy today. As China prepares to enter the WTO, American farmers, workers and businesses are once again prepared to compete and win in the international marketplace. We must not miss this historic opportunity."

#### **FOCUS OF THE HEARING:**

The focus of the hearing will be to examine: (1) overall results of U.S. membership in the WTO and the GATT, (2) whether future participation of the United States in the WTO and the multilateral trading system can be expected to benefit Americans, and (3) prospects for increased economic opportunities for U.S. farmers and workers associated with Chinese membership in the WTO and the normalization of trade relations between the United States and China.

#### **DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:**

Requests to be heard at the hearing must be made by telephone to Traci Altman or Pete Davila at (202) 225-1721 no later than the close of business, Thursday, March 23, 2000. 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 Committee 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 Committee staff at (202) 225-1721.

In view of the limited time available to hear witnesses, the Committee 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, along with an *IBM compatible 3.5-inch diskette in WordPerfect or MS Word format*, of their prepared statement for review by Members prior to the hearing. **Testimony should arrive at the Committee office, room 1102 Longworth House Office Building, no later than Tuesday, March 28, 2000.** 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 six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label, by the close of business, Thursday, April 13, 2000, 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 Committee office, room 1102 Longworth House Office Building, by close of business the day before the hearing.

**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 submitted on an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

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, company, address, telephone and fax numbers where the witness or the designated representative may be reached. 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/](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 202-226-3411 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 ARCHER. Good morning. Today the Committee continues its review of what international trade means in the everyday lives of farmers, workers, and businesses of this country. The WTO manages a system of world trade rules.

Established in 1994, but built on 50 years of experience under the GATT agreements, the WTO structure of fair trade rules was shaped by ten American presidents working in bipartisan agreement with Congress. Put simply, these are our rules and our trading partners must follow them.

But let us pause for a moment and try to imagine what it would be like if the U.S. was no longer a member of the World Trade Organization. A U.S. without trade would be a nation with 12 million less jobs and millions more displaced or laid off. Small- and medium-sized business, the engines of our economy that generate 97 percent of all U.S.-based exports would be crippled if America did not compete in the global marketplace. One out of every 3 acres farmed would be lost. Families would be hit with even higher taxes, already a post-war high, and lose as much as \$3,000 each year in purchasing power.

As I said 2 weeks ago, the President should schedule very soon a national television address about this issue. He did so on Haiti, Bosnia, Iraq, and Kosovo. Clearly, our relationship with China is equally valuable to America. We have checked with the national networks and they tell us they have never turned down a request by the President to speak to the American people. So I hope the President will reconsider this. He can do this because, without his active leadership, our historic opportunity may be lost and the American people will suffer.

But today, we are going to do our bit and we have a national spokesman who is with us who will speak on this issue. And for his introduction, I yield to my colleague and friend from Minnesota, Congressman Ramstad.

Mr. RAMSTAD. Thank you, Mr. Chairman. And thank your for your strong and important leadership on these trade issues. Mr. Chairman, and Members of the Committee, it is a real privilege to introduce my good friend of 22 years, the Governor of the great State of Minnesota, to the Committee today.

I used to say in my younger years that Hubert Humphrey was the greatest salesman Minnesota has ever had. Well, at the time, that was right. But our current Governor has replaced the late Vice President Humphrey as Minnesota's top salesman. There is no better person to give the Minnesota perspective on international trade than our top salesman, Governor Ventura. And I am very pleased to have Governor Ventura as a partner in this tripartisan effort to shape our Nation's trade policies.

Mr. Chairman, in Minnesota, bipartisan is no longer part of the vocabulary. It is tripartisan. Governor Ventura tells our story so well because he brings common sense for middle America to this highly charged and polarized issue. As the Governor will explain today, Minnesota has everything to gain from China's accession into the WTO. Minnesota also has a lot to lose if Congress does not capitalize on this historic opportunity before us.

Thank you, again, Mr. Chairman, for holding this hearing. Thank you, Governor Ventura, for coming here to tell us the simple truth about the importance of free and open trade to Minnesota and to our Nation. And I also want to welcome our Commissioner of Agriculture, Commissioner Hugoson, another strong supporter of free trade; Mr. Tom Foley, who is director of our Washington office; and John Woodley, the Governor's Director of Communications. Thank you also for being here today.

Chairman ARCHER. Governor, I apologize for keeping you waiting, but we had unexpected votes on the floor of the House. And it is the tradition of this Committee, I must keep you waiting for

at least 1 or 2 more minutes, because I am going to recognize the minority and Mr. Levin for any opening statement that he would like to make.

Mr. LEVIN. Thank you, Mr. Chairman. I would like to welcome all of our witnesses and thank you all for testifying today. And I am particularly pleased to welcome you, Governor—

Governor VENTURA. Thank you.

Mr. LEVIN [continuing.]—To this Committee. On many issues, you have demonstrated both candor and activism. We need both straight talk and activism in our relationship with China. Straight talk tells us that China will join the WTO with or without our consent. Straight talk tells us that if we do not grant China permanent NTR, we will not gain many of the economic benefits negotiated in the agreement, while our competitors will get all of them.

Straight talk also tells us that China is an enormous country where its markets are still largely under state control and the rule of law is in the earliest stages of development. Straight talk also tells us that we must find concrete ways to press China on human rights, labor rights, and the environment; that the annual NTR vote has not been effective in such efforts and that we need instrumentalities to do better.

If we are activists, I believe that we can find a way to accomplish both. Gain the benefits of the agreement and keep the heat on China on key issues. If we are activists, we, on the one hand, will reject the notion that this is a simple win/win proposition. That all of the benefits flow one way and that there will be no downside to an intensified economic relationship with China. And on the other, we will reject the notion that we should simply turn down PNTR and rely on existing bilateral agreements.

An activist approach means finding multiple new points of pressure. As President Clinton said in the State of the Union—and I quote, “We need to know that we did everything possible to maximize the chance that China will choose the right future.”

To do so, we need a plan of action, and I have suggested some specific parts of that. To enact into United States law the vital China-specific antisurge provision negotiated last November. To set up mechanisms to constantly monitor and enforce China’s commitments. To press China on human rights and labor rights through a permanent, fully staffed congressional executive commission. And to intensify efforts to establish a working group on labor and press for internal reforms within the WTO.

My visits to China, including this past January, have convinced me that change there is irreversible, but its direction is not inevitable. No single factor will determine that direction. Increased international trade and communication can be positive, as you indicate in your testimony, Governor, but they need to be buttressed by other internal and external forces.

Our actions concerning trade with China will have major significance for America, for the world, into the future. A recent World Bank study projects that China could be the second largest national economy in the world in just 20 years. If we are activists, we will shape our relationship with China to maximize the economic benefits and to continue pressure on China to implement its

agreements and to improve dramatically in the areas of human rights, labor standards, and the environment.

We should attempt to do nothing less and I am encouraged there now appears to be movement in that direction. Again, Governor, welcome, on behalf of all of us.

Governor VENTURA. Thank you.

Chairman ARCHER. Governor, we are delighted to have you with us today. I watched you on Sunday morning and that enhanced my expectations for your presentation today. So welcome and you may proceed.

**STATEMENT OF HON. JESSE VENTURA, GOVERNOR OF  
MINNESOTA**

Governor VENTURA. Thank you, Mr. Chairman. Congressman Ramstad, thank you, and Members of the Committee, thank you for the opportunity to be here today to testify in favor of China's participation in the WTO and normal trading relations with China. It is a sincere honor to represent the State of Minnesota before the Ways and Means Committee.

That said, let me start by declaring what I am not. I am no trade expert. I don't speak Chinese. I have never negotiated an international trade deal. They didn't offer international trade relations at Roosevelt High School in Minneapolis when I graduated in 1969. What I do bring to you today is a dose of common sense.

China's participation in the WTO and a permanent normal trade relations between China and the United States is the number one marketing opportunity of the 21st century, and it is being handed to us on a silver platter.

To join the WTO, China has made one-way concessions across-the-board in agriculture, manufactured goods, services, technology, and telecommunications. I like the idea of all countries playing by the same rules, and I like the idea of 134 countries joining us to shake one worldwide finger at China if they break international trade deals. That is essentially what the WTO will allow.

There is a Chinese saying that says one hand can't block the sun. Not my hand. Not the hand of Congress. Not the President's hand. China is going to trade in the international marketplace with or without our stamp of approval. We alone cannot prevent China from entering the WTO and trading with everybody else.

Closed doors don't work. We have tried that. For 45 years we have had an embargo to prove that we don't like how Cuba does business. Well, the joke is on us. Castro has outlasted nine, going on ten, of our Presidents. While embroiling ourselves in controversies over little children, communism remains. Markets are shut to our agriculture products, and we haven't impacted improvements in their human rights. Let's not let that happen here.

I am here to tell you who cares about this China issue in Minnesota. Farmers care. Business, both big and small, cares. And, finally, a lot of ordinary people with common sense care.

Farmers care because, as Minnesota's agriculture leaders recently told me, this agreement is the single most important step we can take to improve market opportunities for agriculture. And the farm economy could use a boost right now.

Farmers want to be self-sufficient. They don't want to rely on government subsidies. They want the right to market their products and get a fair price and profit. Free trade, more than anything else, can do that. It gives them that chance. Being handcuffed to government subsidies is prison, not freedom.

Second, business cares. I talked to the CEO of a Minnesota company called Pemstar. I know full well that this town is full of people who are glued to these. Well, Pemstar makes these panels. Now, every time you make a call, you can think of Minnesota.

Pemstar recently hired 15 to 20 new workers in Minnesota just to support their growing operation in China. This deal is about forging a relationship that spans the Pacific for the good of our economy. It is about individual companies in Minnesota and around the Nation who want to export because experience tells us that exports make for healthier companies.

Exporting companies—they grow jobs 20 percent faster than those that don't export. They pay higher wages and provide more benefits than those that don't export. And they tend to be more productive because they are leaner, more innovative, and are more technologically advanced. Two hundred and twenty-eight Minnesota companies exported to China in 1997. Over half of these firms have fewer than 500 employees.

Finally, why do everyday Americans care about this bold move? Because, simply, it makes common sense. Don't sell our citizens short. They know that the world is a small place in this high-tech world. And they basically want a better life for their children. They want their kids to have access to better jobs than they have, and they want to see our economy continue to grow.

Improvements in China's economy also makes them a more stable part of the international community and opens their minds to our free market ideals and democratic values. We don't have to approve of their human rights to help improve them. Opening their doors to our business practices, our culture, and our democratic ideas, will open their process. And when China's egg industry can't feed its people, isn't simple food on the table human rights?

Finally, why should I, as Governor of Minnesota, care about this trade agreement? Because Minnesota, ladies and gentlemen, is going global. And I don't want protectionist feelings in Congress to stand in the way of progress for Minnesota.

I can't speak for the other States, but I can tell you that Minnesota is already a world competitor. Among nations, we would rank 28th in economic output if we seceded from the Union. We have the guts to compete on the world stage.

If you don't forge ahead to open China's markets, rest assured the window of opportunity will be lost. The Europeans would like nothing better than for the U.S. Congress to continue fussing over this agreement and I urge you not to let that happen. We don't have time to sit here and watch the world's partners go on trading without us. I have traveled the world in my prior careers, and my trip to Japan, since the election, will be followed by a trip to China.

I have watched the world become smaller over the years and I came to this job as Governor of Minnesota determined to leave my State positioned to seize the day. Please help me by saying yes to

China. This is the biggest economic decision of the 21st century. Please don't blow it. Thank you.

[The prepared statement follows:]

**Statement of the Hon. Jesse Ventura, Governor of Minnesota**

Congressman Ramstad, Mr. Chairman and Members of the Committee, thank you for the opportunity to be here today to testify in favor of China's participation in the WTO and permanent normal trading relations with China. It is a sincere honor to represent the state of Minnesota before the Ways and Means Committee.

That said, let me start by declaring what I am not.

I'm no trade expert, I don't speak Chinese and I've never negotiated an international trade deal. They didn't offer international trade relations at Roosevelt High School in Minneapolis.

What I do bring to you today is a dose of common sense.

China's participation in the WTO and permanent normal trade relations between China and the United States is the number one marketing opportunity of the 21st Century, and it's being handed to us on a silver platter.

To join the WTO, China has made **one-way** concessions across the board in agriculture, manufactured goods, services, technology and telecommunications. I like the idea of all countries playing by the same rules, and I like the idea of 134 countries joining us to shake one world-wide finger at China if they break international trade deals. That's essentially what the WTO will allow.

There is a Chinese saying that says "**One hand can't block the sun.**" Not my hand. Not the hand of Congress. Not the President's hand. China is going to trade in the international marketplace with or without our stamp of approval. We alone cannot prevent China from entering the WTO and trading with everybody else.

If Congress votes down this agreement, China will still enter the WTO, but won't have to live by the rules we've negotiated. Obviously, this would put us at a disadvantage and would cause our U.S. companies to be treated as second class citizens.

Closed doors don't work. We've tried that. For 45 years we've had an embargo to prove that we don't like how Cuba does business. Well the joke's on us. Castro has outlasted nine going on 10 presidents. While embroiling ourselves in controversies over little children, communism remains.

Markets are shut to our agriculture products, and we haven't impacted improvements in human rights.

Let's not let that happen here. Enough about Cuba—that's for another day.

I'm here to tell you who cares about this China issue in Minnesota.

*Farmers care. Business—both big and small—care. And, finally, a lot of ordinary people with common sense care.*

Farmers care, because as Minnesota's agriculture leaders told me, this agreement is the single most important step we can take to improve market opportunities for agriculture. And the farm economy could use a boost right now.

Farmers want to be self-sufficient. They don't want to rely on government subsidies. They want the right to market their products and get a fair price and profit. Free trade, more than anything else we can do, gives them that chance.

Producers are also interested in PNTR for China and China's participation in the WTO because they are tired of being the pawn in the game of international relations. Time after time, U.S. foreign policy negotiates trade deals that are often on the backs of America's farmers. Such and such a country does something wrong, so our wheat or soybean or corn or livestock producers can't export there. This gets old. Here's an opportunity to right those wrongs of the past and do something positive for American agriculture trade.

Let me tell you more about Minnesota farmers and their common sense thinking on this issue:

The U.S. Department of Agriculture (USDA) projects that in the next century, Asia will account for 75% of the growth in U.S. farm exports, 50% of this growth will be to China. China has 7 percent of the world's arable land to support 20% of the world's population. They need our food.

Nathan from the Corn Growers—sitting right here in the front row—told me that USDA projects China to be a net exporter of corn this year. Their high export subsidies allow them to offer cheap corn on the international market. This agreement will change that. It will allow the U.S. to export 177 million bushels of corn in the first year and China will have to drop export subsidies. Not only will our corn exports to China increase, but U.S. corn will be very competitive in markets that have

been buying subsidized Chinese corn. This means about \$3 billion to our corn producers. That's not pocket change.

Our pork producers think this is a pretty good deal, too. Chinese people consume far more pork than any other country, but right now its markets are practically closed. Minnesota pork is a highly competitive product, coveted around the world. When China joins the WTO, it will lower its tariffs on pork from 20 to 12%, with no quantity limits.

Minnesota is the nation's 3rd largest producer of soybeans, and China is the world's largest growth market for soybeans. According to the Minnesota Soybean Growers Association, China's 1.3 billion people have a per capita consumption of only 4.75 lbs. of soybean oil annually. In Taiwan, the average per capita consumption is 47 lbs. If China's consumption were to grow to Taiwan's level, it would need almost 6.8 million metric tons more. That's equivalent to the oil in almost 105 million metric tons (3.86 billion bushels) of soybeans. That's 46% greater than the *entire U.S. soybean crop* in 1999.

And, the Chinese like to drink beer, and that's a good thing for our barley growers. Under this agreement the 30% tariff on barley will decrease to 10%. The U.S. Grains Council forecasts Chinese imports of malting barley will *double* to more than 91 million bushels in this decade. As the nation's 5th largest producer of barley, this market is critical to Minnesota.

And have you ever heard of the Chicken Council? Minnesota is the number one turkey producing state in the country and China is the United States' largest export market for poultry. The Chicken Council and the Turkey Growers think that China could easily become a \$1 billion market in a few years, if this agreement comes to fruition. Right now, poultry must go through Hong Kong. After PNTR, direct exports to China will be allowed. We grow 180,000 birds per day. Well, Minnesota's producers see the benefits of opening a market to one point two billion people who eat their product.

There have also been recent negotiations to open the market for fertilizer and I urge the negotiators to resolve this fertilizer issue now, so that Minnesota fertilizer companies can compete on an open, level playing field in the Chinese market.

There is a multiplier effect for agriculture. Supply and demand drives the market. China wants our poultry. We increase production of poultry, that in turn increases the demand for corn and soybeans to feed those birds. It also increases the processing needs here on American soil.

In summary, agriculture tariffs will be cut in half.

#### *Second—business cares.*

I talked to the CEO of a Minnesota company called Pemstar. I know full well that this town is full of people who are glued to these phones. Well, Pemstar makes these. Now every time you make a call, you can think of Minnesota.

Pemstar recently hired 15 to 20 new workers in Minnesota just to support their growing operation in China.

They want to see this agreement happen because under WTO, China will totally get rid of its tariffs on many computer-related products.

This deal is about forging a relationship that spans the Pacific for the good of our economy.

It's about individual companies in Minnesota and around the nation who want to export because experience tells us that exports make for healthier companies.

Firms that export experience 20% faster employment growth than those that don't. They pay 13–18% higher wages and salaries and they provide 11% higher benefits than companies that don't export. These firms are 30–50% more productive because they are leaner and more competitive, more innovative, and more technologically advanced.

Two hundred twenty-eight (228) Minnesota companies exported to China in 1997. Over half of these firms have less than 500 employees. We're talking about small and medium-sized companies here, not just big business.

Finally, why do everyday Americans care about this bold move?

Because, simply, it makes common sense.

Don't sell our citizens short. They know that the world is a small place in this high tech world.

Ordinary Americans probably don't pay a lot of attention to what happens in this Committee, or to what happens at the State Capitol in St. Paul.

Most normal people are too busy working, paying their bills, checking up on who their kids are talking to over the Internet and watching the NCAA basketball tournament to care about PNTR with China. But when they stop to think about it, and I challenge the American people to stop and think about it, I believe that they'd say "vote yes."

*Why?* Because people want a better life for their children. They want their kids to have access to better jobs than they have, and they want to see our economy continue to grow.

Improvements in China's economy also makes China a more stable part of the international community and opens their minds to our free market ideals and democratic values.

And to those who say this agreement is a problem for human rights, I ask you, whose human rights are you talking about? I met with a group of Chinese students who are studying at the University of Minnesota. Currently, our very own University of Minnesota has the largest population of Chinese students and scholars in the United States, numbering 1200. These students estimate that ninety-five percent of Chinese people back home want to see this happen.

*Why?* Because they want the ability to have access to our food, our technology, and our culture. China experienced one of the biggest famines in this century. More than 20 million people died in three years of famine. They remember what it was like to have their market closed to outside sources of food.

We don't have to APPROVE of their human rights to help IMPROVE them. Opening their doors to our business practices, our culture, our democratic ideas will open their process.

The old way of dealing with China hasn't worked. Despite your yearly review, there are still human rights abuses in China. I think we can all agree that structural changes within China will be necessary to change China for the better in the long term. Year-to-year debates on how they're doing won't give us the structural changes that are needed inside China. If we slap their hand by putting restrictions on this agreement, we'll hurt China but we won't injure them. We might embarrass them, but we won't empower them to change.

The Chinese students at the University of Minnesota also told me their concerns. They know that this change to a free-market economy will not be easy. Reforms will be painful. But the Chinese people are willing to hurt in the short term because they know that this will benefit them greatly in the long term. The true judgement of this agreement will come in 10 or 20 years.

Finally, why should I, as Governor of Minnesota, care about this trade agreement? 'Cause Minnesota is going global. And I don't want protectionist feelings in Congress to stand in the way of progress for Minnesota.

I can't speak for other states, but I can tell you that Minnesota is already a world competitor. Among nations, we would rank 28th in economic output in the world if we seceded from the Union. We have the guts and the confidence to compete on the world stage.

I urge you, Mr. Chairman and Members of the Committee, to take into consideration the opinions of the vast majority of middle Americans on this topic. The far right of the right and the far left of the left aren't going to be convinced. Don't waste your time.

If you don't forge ahead to open China's markets, rest assured the window of opportunity will be lost. The Europeans would like nothing better than for the U.S. Congress to continue fussing over this agreement. I urge you not to let that happen. Let America be the first in line to reap the benefits of this trade agreement. It's the most important step you can take to boost our economy in the new millennium.

We don't have time to sit here and watch the world's partners go on trading without us. I've traveled the world in my prior life, and my trip to Japan since the election will be followed by a trip to China.

I've watched the world become smaller over the years, and I came to this job as Governor of Minnesota determined to leave my state positioned to seize the day.

Please help me by saying yes to China.

Thank you.

---

Chairman ARCHER. Governor, thank you. You said on television Sunday that you would be at your best. You have done better than your best. You just hit a home run. Thank you so very much for giving us that common sense presentation. Over the years, we, on the Ways and Means Committee have believed that trade policy is a bipartisan activity and you have, today, made a tripartisan activity.

Governor VENTURA. Thank you.

Chairman ARCHER. And I thank you for that. I may keep my questioning as short as possible because I know you have to leave at 12:15 in order to catch a plane and we delayed—we didn't delay, but the votes on the floor of the House delayed this hearing.

From your testimony, I know you agree that erecting protectionist walls around the United States will not keep our firms, workers, and agriculture lean and tough enough to compete for the 96 percent of the world's market that is outside of the United States of America. And you have even given us examples in Minnesota, and I am not going to ask you to give us more, and if I had more time, I would. But I do want to ask you—you said on television that you are a member of two unions or you were a member of two unions, I believe.

Governor VENTURA. Still am.

Chairman ARCHER. And labor unions are a key part of your constituency in Minnesota. And, yet, we find some of the greatest opposition to the presentation that you have made today coming from the labor unions. Is it possible that we might see some shift, in your opinion, of the position of unions on trade issues?

Governor VENTURA. In my opinion, I certainly would hope they would shift their position. I think this is something that, Mr. Chairman, that exporting creates jobs. I think if you will think back a couple of years ago, when I belonged to a different party that I recently am no longer a member of, I remember the leader of the party saying that we would hear a giant sucking sound of jobs leaving the United States of America.

Well, I can tell you right now that Minnesota has the lowest unemployment in the history of the State and the lowest unemployment in the history of America, really, right now. We are in a situation in Minnesota where we have 44,000 jobs currently and don't have the people available to fill them. So we are in a unique situation and I don't see one bit how jobs are going to leave—union jobs are going to leave America based on a trade relationship with China. It is simply not going to happen and the statistics bear it out.

Chairman ARCHER. Thank you, Governor.

Mr. Rangel.

Mr. RANGEL. Let me join the Chairman, Governor, in welcoming you here, and especially for your straightforward, candid testimony. In the House and Senate, we have the most fierce anticommunist fighters that the world has ever seen. And, yet, in recent months and years, we have found that these fighters have now come to believe that the best thing that you can do to bring down the—break down the walls of communism is to expand trade and to have cultural and economic exchange. And, yet, while they feel very comfortable in doing this with a billion Red Chinese Communists, they find it very awkward to do business with President Castro in Cuba. What are your thoughts on that?

Governor VENTURA. Congressman Rangel, I agree with you. I think that—in fact, I—at the National Governors' Association meetings that we had with President Clinton, when it was my turn on the floor, I presented the same argument. I said, Mr. President, you know I support world trade. You know I support WTO. You know I support including China. But I said, I sense a bit of hypoc-

risiness here that I need cleared up. I don't understand how China is different than Cuba. And I, in my usual manner of speaking, I also made it clear that I am very tired of feeling like a criminal every time I want a Cuban cigar. And I do like one on occasion.

I—to me, it is a failed policy, Congressman. It is—as I said in my statement, Castro is now moving up to our tenth president. We thought that by doing this we would somehow drive him out of office in Cuba. I think it has had the opposite effect. I think it has solidified his position in Cuba. I think it has made the Cuban people more solidly behind him because of the fact that we take this posture.

And I would, likewise, agree that both in opening up trade with China, as well as Cuba, it would certainly help human rights on both sides because you can't—ultimately I believe Chinese human rights must be solved by the Chinese people, not by the United States of America's people. And I feel the same way with Cuba. Cuban human rights will likewise be solved by the Cuban people, not the United States of America. We can show them by example. We can have our businesses there conducting our business at the high level that our industry does it, and it will ring to them. It will—when they go home from work at the end of the day, they will talk. And ultimately, I think—I believe sincerely this trade agreement with China is so powerful that we will—we could well see to a great extent, the fall of communism in China, not quickly, but over 15, 20, 25 years from now.

Mr. RANGEL. Thank you very much. I would like to publicly thank the Chairman. As you know, the House and Senate has passed the African Growth and Opportunity Trade Bill and it seemed as though it was in limbo and conference. And I just would like to report that Chairman Archer has been very instrumental in trying to break down the log jam and we hope that Africa will join the family of continents and nations for really free trade. Thank you, and thank you, Mr. Chairman.

Chairman ARCHER. And that—

Governor VENTURA. Mr. Chair, could I make another statement.

Chairman ARCHER. Certainly.

Governor VENTURA. Thank you. I would also like to acknowledge to my right, the Hmong soldiers that we have here today that I had a small part in being able to stand up on their behalf. And, as I understand it, there—the bill passed and that they will be getting American citizenship and I would personally like to welcome them as citizens to the United States of America.

Chairman ARCHER. Thank you, Governor.

Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman. Also, I would like to compliment you on your speech, Governor. I would compliment you by saying I thought it was a body slam.

Governor VENTURA. We all have our sordid past.

Mr. THOMAS. I also compliment you on the pride that you take in the position that Minnesota has. And I am also pleased to say, as a Californian, that the State of California is coming around economically as well. If California were to secede from the Union, when the world had a big seven conference, California would be one of them. And so, in that sense, all of us are somewhat bewil-

dered by those individuals who still strongly believe that the solution for America's wealth is to build a wall around America.

You indicated that you were not, one of those people. There is something that you are that many of us have not been, and you alluded to your former party membership. You had an opportunity to interact with a number of these people who seem to be the focal point for opposition to America's continued involvement in world trade.

Could you just give us a little bit of a feel for what you believe to be their rationale? Because some of these folks, so emotionally, almost viscerally, oppose our involvement with peoples of other countries, you would tend to think it might be xenophobia. But when I have talked to them, they really do believe they have an economic model that would benefit America if we cut off world trade. Could you give us an idea of what you believe their motives are and the relative value of their motive?

Governor VENTURA. Well, Mr. Thomas, I will say this, their motives have puzzled me also. And that was probably one of the major reasons I chose to leave that particular party. Because I don't get it why they would, at all, think that isolationism and cutting us off from trading partners throughout the world is beneficial for our country. It is not. It, plain and simple, is not. And I think it has been proven already that it is not.

I think what you have here is, it is a group of strange bedfellows in a way. You have the ultra-left left now uniting with the ultra-right right and becoming bedfellows over a trade and economic issue. I think that what I represent and what my beliefs and—of my former alliance with the Reform Party is a very much centrist common sense movement of people in the middle, people who are not far left; they are not far right, but they take the best ideas from the right and the left and combine them into common sense. And I think and hope that is what I represent.

And I certainly would think and hope that would be what a third-party movement would want to represent. But they don't seem to want to do that. I think they have become a playground for very extreme positions now and a way to foster those positions and get them into the mainstream limelight, which I don't believe is what the third-party movement is about. Thank you.

Chairman ARCHER. Mr. Shaw.

Mr. SHAW. Thank you, Mr. Chairman. And, Governor, it is, indeed, a pleasure. I have heard you refer to yourself as Jesse the Mind. And I think that you have certainly exhibited that. They may not have taught you international relations in high school, but somewhere along the line you picked up a lot of common sense. I am not going to belabor your—the hearing by questions, because I think you have—your statement was so concise and so complete and I was in such total agreement with what you said, I will leave it right there and just congratulate you on a very fine statement before this Committee.

The strongest antidote for Communism is free trade. And—

Governor VENTURA. Yes.

Mr. SHAW [continuing]. It is the only way that these people are going to be—China has made great strides because people now can move from one part of the country to another and find a job. They

are not totally dependent upon the government. They still have horrible problems. And I think Sandy, or someone, mentioned in their opening statement that they are really at a embryo stage, really, in developing business law. In some cases, they really have done some bad things with regard to trade and with regard to protecting their government-owned businesses and lawsuits after judgments. And they have got a long ways to go. But to shut them off is certainly not the answer and you certainly picked up on that very well. And a pleasure to have you before this Committee. I yield back.

Governor VENTURA. Thank you, Mr. Shaw. I would like to respond, if I may, to something. The University of Minnesota has more Chinese students than any university in the United States. And I met with 40 to 50 Chinese students before I came out here. And they told me very clearly that this is very scary to China also and that China initially is going to suffer. They are going to feel some pain from opening their markets to the world. But they have an insight and a belief that in the long run, it will be good not only for the world, but good for their own country of China.

And these students were very sincere. I enjoyed very much meeting with them. And, to be honest, I had never been in a room with as many Ph.D.s in my life as what was sitting at the table around me that day. But they made it very clear that—and as—and I want to repeat, too, they told me that Chinese farmers today cannot feed their country. There simply is not enough land to do it. And they were the ones that looked at me and said, isn't it human rights to simply have food on the table for every human being? So they need us. This is a good situation that I think, as I stated, this will be the biggest economic decision that we make in this century and I am humbled to be a part of it in any way, shape, or form.

Chairman ARCHER. Thank you.

Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman. Governor, welcome and thank you for your testimony.

Governor VENTURA. Thank you.

Mr. COYNE. I was just wondering, does it concern you at all the wage disparity that exists between unionized workers in the United States and what the average laborer in China makes?

Governor VENTURA. Certainly it bothers me somewhat. But, again, as I talked about job situation in Minnesota right now, we have jobs we can't fill, 44,000 of them in the Twin City Metro area right now. We have people that will not do those labor-type work at those type of wages and, yet, they are important jobs that need to be done. I think, if I could—my friend from California will tell you that California, above all, has labor jobs that, if there wasn't this available work force, California would grind to a halt because many Californians won't do that particular job.

And my view is, in today, in light of statistics, that we don't have the people to fill the jobs, I don't have a worry about that—

Mr. COYNE. Yes.

Governor VENTURA [continuing.] At this point in time.

Mr. COYNE. You alluded, in your testimony, to the fact that there would be American corporations going to China and you felt that that was a positive thing. Does it concern you at all that some of

those corporations may be doing that to take advantage of the low-wage workers that are in China?

Governor VENTURA. Well, if it's an American corporation, then it is our job to look after these workers. Isn't it?

Mr. COYNE. By putting them into a country that pays low wage, subsistence wages?

Governor VENTURA. Well, is it tapping a work force that can reap the benefits of our presence there.

Mr. COYNE. You mean the Chinese workers.

Governor VENTURA. Sure.

Mr. COYNE. Oh. Thank you.

Governor VENTURA. Thank you.

Chairman ARCHER. Mrs. Johnson.

Mrs. JOHNSON of Connecticut. Thank you for your testimony, Governor. You do represent a state in which there are very large unionized work forces. They are generally associated with the products that are going abroad, that are exported. I know you meet with them. When you talk with them, I want to know what your conversation has been. Have you been able to get any understanding among people on the ground running of not just the degree to which new jobs depend on exports, but also how their jobs can be eliminated if your companies can't compete?

Because if our big companies that are now at the top of the competitor list don't get into the Chinese market and their European counterparts do, it won't be many years before the greater profitability of the European countries will give them more R&D money to create the next revolution in product. And, finally, we will be the second-rate producers, not the top-rate producers, and that will eliminate the very jobs they are trying to protect.

You know, and I just wonder, when you sit and talk with the—because I know you talk to everybody—when you sit and talk with the AFL-CIO leadership and with the workers—do you ever get down with the work force? You know, and you give them some of the common sense reality stuff, what—do they hear it? The line guys hear it, not the top leadership.

Governor VENTURA. Let me just say that by opening up China to our businesses, we are opening them also up to our business practices, our democratic ideas, and our values toward workers. And that is a win for the world. And I agree wholeheartedly with you that this is a dangerous situation that we are going to lead ourself into, and it is almost they are cutting off their nose to spite their face with the way they think.

As far as my dealings with unions, maybe I will give you a little history that myself and the Lieutenant Governor, we are the only two vested union members to run for Governor and Lieutenant Governor in Minnesota and, yet, we couldn't get one union endorsement. And let me just say though, that is not a slight upon union workers because we won the rank and file.

Mrs. JOHNSON of Connecticut. Right.

Governor VENTURA. The problem was with leadership who wouldn't endorse us. Even though their rank and file voted, we won rank and file votes. So my view is, I take my message—I bypass the union leadership usually and take my message directly to the people and to the workers.

Mrs. JOHNSON of Connecticut. Yes. Well, I have found the same thing. When you talk to people one-on-one, they understand perfectly. And I just hope that you would try to get in as many work places as you can in the next month or two to get those people to really write letters and understand that this is America's future—economic strength we are talking about here. Thanks so much for your testimony.

Governor VENTURA. Thank you very much.

Chairman ARCHER. Mr. Ramstad.

Mr. RAMSTAD. Thank you, Governor, for telling it like it is on trade. Your testimony was almost as good as watching KG get a triple double. We Minnesota Timberwolves' fans understand what that means. Let me just ask you a question, Governor. You are an athlete and a coach and, to carry this metaphor one step further, you know how important it is in sports to ensure that everyone plays by the rules. And today you said you like the idea of all countries playing by the same rules.

Just, if you would, please, expand on this analogy—why you believe it is essential for countries and companies to compete under this same set of rules, under an internationally recognized, mutually agreed-to framework.

Governor VENTURA. Well, Congressman, thank you. I think it is as simple as—simplified into a sports game. If one team has a different set of rules than another, there is an unfair advantage. It is that clear and simple. And by us not trading with China, they certainly are going to trade with every other country throughout the world and we will be left out of the process on it. And I think that it—with a united front of all the countries of the world working with China, it will be a much more positive impact on the country of China to play within those rules.

As I said in my statement, with just our country shaking a finger at them, they may not pay much mind of that. But if there are 134 countries, along with us, shaking a finger at them, they will pay attention to that, I believe. Because then it is their economics and their country that is on the line at that point, rather than ours. And so my answer would quite simply be, it is—you can't play sports with two sets of rules and I don't believe you can do business with two sets of rules. And you don't have two separate leagues and expect them to play equal. You—they have to be under one set of rules in one league for it to be fair competition.

Mr. RAMSTAD. Well, thank you again, Governor.

Governor VENTURA. Thank you.

Mr. RAMSTAD. I certainly agree with you. And I just wish every Member of Congress could be in this room today. I don't have any questions that we would pass a permanent NTR with China. You are an effective spokesperson on this and many other issues. And thank you for bringing your pragmatic, common sense, tripartisan approach to public policy.

Governor VENTURA. Thank you, Mr. Ramstad. And I will finish, because I do have to leave. And, again, encourage you all, this is, to me, I will repeat myself, the greatest economic issue of this century and we dare not lose it. We dare not allow this to happen. Because, always remember, we won't be judged by the decision that we necessarily make immediately today. We will be judged on the

decisions made today around 20 years from now, I believe. And if we miss the boat on this one, there is going to be a very harsh judgment, I believe, 20 years from now. Thank you very, very much. I appreciated my time here. It is always a joy to come here to Washington, and good luck.

Chairman ARCHER. Governor, thank you very much. We appreciate your time and, again, my apologies—

Governor VENTURA. Oh.

Chairman ARCHER [continuing.] For starting a little bit late.

Governor VENTURA. No apologies necessary, Mr. Chair. You have busy jobs to do and I am flexible.

Chairman ARCHER. Thank you very much.

Governor VENTURA. Thank you.

Chairman ARCHER. My next witness is Ambassador Clayton Yeutter, no stranger to the Chairman, having been my next-door neighbor for a number of years. We are delighted to welcome you to the Committee and we will be happy to receive your testimony.

**STATEMENT OF HON. CLAYTON YEUTTER, OF COUNSEL,  
HOGAN & HARTSON, L.L.P., (FORMER UNITED STATES TRADE  
REPRESENTATIVE, AND FORMER SECRETARY, U.S. DEPART-  
MENT OF AGRICULTURE)**

Ambassador YEUTTER. Thank you very much, Mr. Chairman. And the first thing I would do would be to say amen to what Governor Ventura had to say with respect to the China issue. Second, let me say it is great to be back, Mr. Chairman, and to have an opportunity to appear before this Committee. It has been 25 years since I first started testifying before the Ways and Means Committee when I was Deputy STR all the way back in the Ford Administration.

These are important topics before you, Mr. Chairman. You have my prepared testimony which I will summarize here in brief fashion.

The two basic questions before you today are, one, whether or not the United State ought to continue to be an active member of the World Trade Organization, and, second, whether or not we ought to welcome China into the WTO and grant permanent normal trade relations in the process.

To me, the obvious answer to both of those questions is yes, and, to me, both are no-brainers. It is clearly in the best interest of the United States to be involved with the GATT, now the WTO, and also to have China in the WTO—which implies fulfillment of the permanent normal trade relations requirement.

Let me start first with a big picture look at the WTO issue. What we say about the WTO is also very relevant to the China issue that is before you today. As you know, the GATT—the WTO predecessor—launched in 1948, so it has a track record of about 50 years. It was one of the most innovative institutional developments, of the 20th century.

As you will recall, the GATT, the IMF, and the World Bank were all created at the same time in the aftermath of World War II. In retrospect, if one looks back over the last 50 years, the most important of those three institutions has probably been the GATT. Those of us in this room are clearly beneficiaries of the work that has

been done in the GATT over the last half century. There are an awful lot of people in this country and in the world who are living a whole lot better lives today than they would have been had the GATT not been created. And, of course, the WTO continues that.

The expansion of world trade over the last half century has benefitted billions of people in this world. We should never underestimate the importance of that achievement. Not only has this been important in economic terms, but in terms of contributing to peace in the world as well.

Who has been the major beneficiary of all this? The United States, without question. We are the largest exporter in the world, the largest nation involved in world trade. We are the largest importer too, and American consumers benefit enormously from that. So we have all gained much from the GATT/WTO over the last half century.

We have also gotten a lot of bang for our buck. The GATT, and now the WTO, are not what many of us would deem to be "typical" United Nations organizations—bureaucratic, bloated and cumbersome in their operations. This is a lean, mean group with a very austere budget, de minimus budget from the standpoint of the United States. The WTO is not bureaucratic at all. It is controlled and run by the member nations, and with a very strong U.S. influence. We, the U.S. really have the best of all worlds in terms of our relationship with the World Trade Organization.

But let me go into a few specifics on why we need this entity; many of these points are relevant to your discussion of China as well. The first one is some entity must open up markets around the world. We can do a lot of negotiating on a bilateral or multilateral basis (I did a whole lot of that, as you well remember, during my tenure in the government.) But that is an inefficient way to do it. It is just a whole lot more efficient to get the benefits of an agreement with 150 nations, which is what the WTO will soon have, than to do it one-by-one or five or six at a time. The only practical way to do that is through the WTO. So we need to take advantage of the economies of scale in working with 150 nations.

And we need badly to get additional market-opening measures, as you well know, because most of our market opportunities in the future will be outside the United States. I believe you made the point, Mr. Chairman, that only four percent of the world lives within the borders of the United States. It is the other 96 percent where we are going to have our growth in customers in the coming years. And if we are going to reach out to that 96 percent, we have to have a mechanism like the WTO to do it.

Nor can we afford to operate under the law of the jungle. If we were to abandon the World Trade Organization, that is what we would have. And as the largest participant in world trade, clearly we would have to reconsider the way we do business throughout the world. It would be most regrettable, and enormously costly, to have the United States operating in a situation where the law of the jungle applies. The biggest loser—the United States.

We also got an awful lot of work to do multilaterally. The internet poses numerous new challenges. We have ongoing negotiations in services and agriculture. And we are embryonic in the WTO with intellectual property protection. Investment is going to be a

huge issue in the future, maybe an even bigger issue than trade over the next 20 or 30 years. Again, the WTO has just began to work in that area. There are a lot of other new issues coming along that likewise deserve attention. There just has to be an international mechanism to focus on all those issues and as a practical matter that must be the WTO.

As this hearing indicates, we also need to bring other nations into the WTO which are not now there, and that includes, particularly, China and Taiwan—and perhaps, ultimately, Russia. There must be a mechanism to bring that about.

So there are a lot of reasons, Mr. Chairman, why the WTO if we did not now have it, we would have to go back and recreate that would take several years to do, after loads of effort, and it would be just utter foolishness to go down that path.

Let me quickly say a few words about China. First of all, we need to understand that if we are to have an impact on human rights, worker rights and all the other issues that are of concern to the critics of permanent normal trade relations, our track record of going so outside the WTO is really pretty bad.

We've tried economic sanctions in similar situations and as Governor Ventura indicated, fundamentally they have been one big bust. So it seems incongruous to suggest the way we are going to change things in China is by trying to keep it out of the WTO or by denying permanent normal trade relations. Do we really think that by going through a vote on normal trade relations every year we are going to affect policies within China in a positive way? We haven't yet and, in my judgment, we are not likely to do so in the future. In my view this is a foolish endeavor which occupies a lot of time in the Congress and among the American public, time which could be used much more productively elsewhere.

Now, looking at the specifics of this situation, we have an excellent negotiating outcome in the United States-China agreement, preparatory to China entering the WTO. My successor at USTR, Ambassador Barshefsky, did an outstanding job in that negotiation. Fundamentally we, the U.S., got nearly everything we wanted out of it.

Unfortunately, the White House initially rejected that agreement when they concluded it might not fly politically here in the Congress and with the general public. But that was a mistake. When lots of people around the U.S. responded and said, Mr. President, you are off on the wrong direction on this, USTR went back on bended knee and fortunately was able to put the agreement back together again. We now need to embrace it because it is an excellent agreement from the standpoint of the United States.

Now, the question is can we use the WTO entry process as leverage on these other matters that are occurring in China of which we don't approve? The fact is that leverage is going to disappear, if it exists at all, very, very quickly.

China is going to enter the WTO whether we like it or not. Negotiations with the European Union are still to be completed. There are some additional negotiations pending with Japan, and then a WTO working party report will have to be presented to the WTO Council and adopted. It is very likely that all of that will occur this

year. If it does occur, China will then become a member of the World Trade Organization.

So do we grant permanent normal trade relations to China or do we go a different route and persist with our present policy? To do the latter, in my judgment, would be a huge mistake for the United States.

With China in the World Trade Organization, its economic activity will expand rapidly with the rest of the world. And, as Governor Ventura indicated, as did Congresswoman Johnson, we will be left behind. That is significant indeed when we are talking about economic involvement with a fourth of the world's population. There will be no motivation at that point in time for the Chinese to do anything that we would wish them to do. Our influence on human rights, worker rights, or environmental protection, other similar issues, will diminish very, very rapidly. We will accomplish nothing in that regard by delaying approval of permanent normal trade relations with China.

The other factor involved here is that if we isolate ourselves with such a vote, we are going to be the villains of the piece in all of China. Do we really want to convert China into an enemy of the United States, comparable to the relationship we had with the Soviet Union not many years back? I mean, do we really want an adversarial relationship with China? Is there some benefit to the United States in doing that? Will we improve human rights or worker rights in China if this bilateral relationship becomes far more adverse? To me, none of that makes any sense whatsoever.

The proper course of action then is to bring China into the WTO, on the conditions that have already been negotiated by Ambassador Barshefsky, provide for permanent normal trade relations, and then do an effective job of making sure that Chinese commitments are followed in the future. The latter, of course, is a question of implementation and a very important one.

The benefits of that scenario are that not only do we have a chance to focus in on the implementation of whatever China agrees to in this process, but we have the leverage of another 150 nations to help us once China becomes a member of the WTO. This becomes a win-win proposition if we have a viable WTO and if we bring China in on the terms that I have outlined.

Mr. Chairman, I'll be pleased to answer any questions the Committee may have.

[The prepared statement follows:]

**Statement of the Hon. Clayton Yeutter, Of Counsel, Hogan & Hartson L.L.P. (former United States Trade Representative, and former Secretary, U.S. Department of Agriculture)**

Mr. Chairman and Members of the Committee, it is a special pleasure for me to testify before you today. The topic at hand—the role and merits of what is now the World Trade Organization (WTO)—is one that has garnered my personal attention for much of the past quarter century. A few of you will recall that my first appearances before this Committee took place when I was Deputy Special Trade Representative (1975–1977) during the Tokyo Round and continued when I served as U.S. Trade Representative (1985–1989)<sup>1</sup> during the Uruguay Round. This Commit-

<sup>1</sup>Mr. Yeutter also served as U.S. Secretary of Agriculture from 1989–1991. He is currently Of Counsel to Hogan & Hartson, L.L.P., a Washington, D.C. law firm.

tee gave me splendid bipartisan support during all those years, and for that I will be eternally grateful.

*The Big Picture*

To me it is astonishing that anyone in America would seriously advocate U.S. withdrawal from the WTO. We've now had five years of experience with this organization in its present form, preceded by nearly 50 years of experience with its predecessor, the General Agreement on Tariffs & Trade (the GATT). By any standard, the track record of this international organization has been outstanding. It fostered an unprecedented expansion of trade in the aftermath of World War II and, in my judgment, may have done more to contribute to world peace than any international institution in the economic arena. Without question a vast majority of the world's population has a higher level of living today than would have been the case had the GATT not been created, and had its impact not been extended via the WTO.

This may not be a utopian organization. Show me one that is—in governments anywhere or even in the private sector! But some entities are far more admirable than others, and this is one of those. Because of its name<sup>2</sup> some believe this to be either (1) a new "one world" organization, or (2) another bureaucratic United Nations entity. In either case the assumption is that the WTO is accountable to no one, and is a costly burden to everyone.

Those interpretations are totally off base. Member nations, big and small, have been actively involved with the GATT from the very beginning. The reason: because it has never made a major decision except by consensus, and such a *modus operandi* demands active participation. Would U.S. involvement be so categorized? Absolutely. In fact, most member nations would suggest that we've thrown our weight around a bit too much, but I would answer them by saying "That's the price we pay for world leadership, and we do not apologize for it."

The WTO is also one of the leanest of all international bodies. If anything, its staffing is inadequate and its budget too small. For what the GATT/WTO has meant to the world since 1947, the cost has been de minimus for every member nation. It has certainly been the bargain of the 20th century for the United States, the biggest beneficiary (by far) of an improved global trading environment.

*The Specific Case for the WTO*

But let's look more specifically at some of the reasons why it would be utterly foolish for the U.S. to withdraw from the WTO.<sup>3</sup>

First, *it is still the most efficient, effective mechanism for opening up market opportunities throughout the world.* With only 4 percent of the world's population within our borders, it is patently obvious that much of our economic growth long term must come through international commerce. We're not paying much attention to that challenge today because of the phenomenal performance of our domestic economy over most of the past 20 years. But let's not be complacent; nothing lasts forever. Over the long pull we must be internationally competitive, and we must compete. Therefore, our omnipresent need is the chance to compete, in what I would define as a free and open marketplace.

We'll reach that objective only by negotiations, and we'll get there more quickly by multilateral negotiations (in the WTO) than in any other way. We can open up foreign markets bilaterally (country by country) or plurilaterally (through regional free trade agreements) but that's a much slower process. The pace of change is crucial these days, and if we can simultaneously bind 150 nations to market opening measures that's a huge advancement over binding only one, or a half dozen. Some will suggest that the GATT/WTO model has not been known for speed in the past, since recent rounds of negotiations have had multi-year timetables. But that's a question of leadership, of commitment on the part of the participating nations, and of where those nations use their most experienced, talented negotiators.

Second, *the world cannot afford to conduct international commerce through "the Law of the Jungle."* We in the U.S. take for granted our excellent legal infrastructure, but many trading nations barely comprehend what this is all about. Examples of the latter abound in Russia today, and universal acceptance of the "rule of law" is far from assured in a good many other countries. Hence, it is imperative that we have an oversight mechanism somewhere, and the WTO is the logical place for this. That is why we, the U.S., worked hard in the Uruguay Round to secure approval

<sup>2</sup>Were it still the GATT, I wonder if we would even be having this hearing today.

<sup>3</sup>A far more comprehensive summary of what the WTO has meant to the U.S. may be found in Section II of the President's 1999 Annual Report of the Trade Agreements Program. It is a superb reference piece.

of a vastly improved dispute settlement format. And it is vastly improved, even though we're not winning all of our cases.

Rarely, in the entire history of the GATT and the WTO, has the U.S. lost a case that it did not deserve to lose. What is more important is that in the past we would win a case, but then nothing would happen. Under the WTO we're now getting a more definitive resolution of the cases that we're winning, though not in all instances. We need to further tweak the WTO's dispute settlement mechanism, but it is performing much better than most people realize. In the absence of this mechanism we'd have infinitely more difficulty fighting "rule of law" battles throughout the world.

Third, *we need the WTO for surveillance purposes*. International commerce has grown so much in recent decades, and has become so complex, that a vast increase in the number of contentious disputes is almost inevitable. But governments cannot take every disagreement through a formal dispute settlement process. Were they to do so, the entire process would bog down fatally. The WTO couldn't handle it, and neither could traditional diplomacy. There has to be another way. Alternative dispute resolution methods—at the WTO and elsewhere—may help, but they are a partial answer at best. The better way is for member nations to follow the basic precepts of the GATT and WTO in their trade policies (and for their participating business firms to do likewise).

In that regard a little surveillance, i.e., moral suasion, can go a long way. The WTO should periodically comment formally on how well a given member nation is living up to its obligations as a signatory. That may sometimes be embarrassing—even for the U.S.—but so be it. If such surveillance deters a WTO member from taking actions contrary to its obligations, it most likely will also preclude the need for a costly, time consuming dispute settlement proceeding.

Without the WTO it would be far more difficult to apply multilateral moral suasion to the conduct of international commerce. All WTO member nations should be held accountable for their policies. It is not unreasonable to expect them to honor the spirit, as well as the letter, of their obligations.

Fourth, *we need the WTO for the evaluation, oversight and, if necessary, discipline of regional free trade agreements*. We've had a veritable explosion of free trade agreements in the world over the past dozen years or so. As you know, I led the negotiation of the U.S.-Canada FTA, which later became NAFTA, and lots of others have followed since. They are now too numerous to list.

Without doubt these agreements foster and facilitate trade. For the U.S., Canada, and Mexico, NAFTA has been a huge success—far greater than most Americans realize. Nations which are not represented in NAFTA recognize that, for they are excluded from many of those benefits. Hence, they feel compelled to counter the regional FTA trend in some manner. One way is to "join the club," by creating another FTA, as did several South American nations through the creation of Mercosur. A second way is to "hook on" to an existing FTA. The European Union did that recently, at least to a degree, through its FTA with Mexico, one of the NAFTA partners.

We'll undoubtedly see many other iterations of the FTA model as the future unfolds. Hopefully regional FTAs will always advance the cause of free and open trade, but that is not necessarily a given. Some of the recent agreements are far less comprehensive than they should be. They've simply neglected some of the tough issues, and those are the areas where progress is most needed. Furthermore, no one is evaluating the level of discrimination against non-participating nations that is inherent in such agreements. Someone needs to do so, to make sure that the overall advantages of each regional FTA outweigh the disadvantages. Otherwise such an agreement should be declared as violative of those nations' WTO obligations. Aside from the WTO, there is no international institution which can provide sorely needed discipline over these FTAs.

Fifth, *there's a lot of multilateral trade work to do, and that task must be assigned to some institution*. The logical place is the WTO.

For years, the GATT focused almost exclusively on tariff reductions. It was not until the Tokyo Round in the mid-70s that it began to focus on non-tariff barriers as well. And it was not until the Uruguay Round, a decade later, that it began to broaden its negotiating agenda (at the behest of the United States) to encompass new areas such as services, intellectual property, and investment. (Agriculture might well be added to that list, for earlier attempts to confront the severe trade distortions in that area of commerce had been futile.) The WTO has more recently produced specific agreements in financial services, basic telecommunications services, and information technology.

But there is lots more to do in each of these new areas. The U.S. has a huge interest in preserving the global scope of the Internet, unhampered by barriers of any

kind. WTO rules in services are embryonic at best, and we're still 30 years behind the curve in agriculture.<sup>4</sup> The OECD developed a proposed set of investment rules, but that effort then aborted. Barriers to investment can be just as damaging and distortive as can barriers to trade, so the WTO needs to take on that challenge and put a sound set of rules in place.

In addition, the WTO needs to determine whether to add competition policy to its agenda and, if so, in what manner. Concomitantly it needs to determine how to deal with antidumping issues in the complex, interrelated world in which business must operate today. At the Seattle ministerial the U.S. sought to take antidumping rules off the table, which was a mistake. We should be prepared to negotiate all legitimate trade policy issues of consequence, and antidumping assuredly fits that definition.

Much of the controversy in Seattle—at least on the streets!—centered around environmental and worker rights issues. Such issues are indeed important, but it was not evident that the demonstrators (or their supportive organizations) knew how the WTO was dealing with them today, let alone how it might deal with them in the future. Criticizing the WTO for its alleged failure to take environmental and worker rights issues into consideration in the development of trade rules is nonsensical when one realizes that the WTO still operates on a basis of consensus. That is equivalent to “shooting the messenger” when one dislikes the message. Labor and environmental groups need to determine how best to work within the system of international organizations in confronting such questions, rather than trying to torpedo the organizations themselves.

Sixth, *the rules of international commerce need to be applicable to all major trading nations*, and that can happen in the immediate future only if the WTO remains in existence. In particular this applies to China and Taiwan, which should be granted WTO membership almost simultaneously, and soon. That alone will subject the trading patterns of almost a fourth of the world's people to international rules, scrutiny and discipline for the first time ever—with the United States being the principal beneficiary. In time, Russia and other nations of the former Soviet Union might well join this list.

The WTO has a long tradition of negotiating conditions of entry for new member nations. When the Uruguay Round began, fewer than 100 nations participated. Now, 14 years later, we can expect the involvement of more than 150 nations in the next negotiating round. There is just no practical way for any other international organization to handle in a timely, orderly fashion the entry and “rules of the road” indoctrination of so many new member nations. If those nations are to play a meaningful role in the world economy, and reap the benefits thereof, the WTO has to be there for them.

Seventh, *nations (and particularly the U.S.) need a trustworthy international forum where critical trade issues can be massaged, nurtured, abandoned, embellished, etc.* Few such institutions exist, for any purpose. Most international organizations are either too politicized, too bureaucratic, too lacking in economic understanding, or too narrowly focused to handle the complex issues of international commerce. The GATT was specifically designed for that function and it (and its successor, the WTO) has filled such a need in exceptional fashion. For more than half a century this organization has been a role model of practical, pragmatic decision-making. Whereas many international organizations might be described as “lots of talk, little action,” the GATT and WTO have been just the opposite. They've provided a superb forum for talking through the tough issues of the day, but they've also provided solutions. The WTO is an active, vigorous problem solver, and that's one of the main reasons international trade has grown so much during the last half of the 20th century.

#### *The Case for Walking Away*

There are many other persuasive reasons for continued U.S. involvement with the World Trade Organization, but let's now examine the other side of this question: “What would we gain by walking away from the WTO?”

The big gain, some would contend, is that we'd get our sovereignty back. This Committee had considerable discussion of the sovereignty question when the Uruguay Round agreement was submitted for Congressional approval. The alleged loss of national sovereignty is a bizarre argument, with respect to this or any other international agreement. We do give up a corner of our sovereignty each time we sign such agreements. Why then do we do it? Because we ask other nations (in this

<sup>4</sup> Negotiations in both those areas are already underway at the WTO, by virtue of commitments made at the conclusion of the Uruguay Round.

case, about 150 other nations) to give up a corner of their sovereignty in return. Why do they do it? Because of the mutual benefits offered by a particular agreement.

I have already delineated many of the benefits of the GATT/WTO to the U.S. Obviously the other WTO member nations concluded there were benefits to be had by them as well—or they wouldn't have signed up. We willingly gave up a bit of our sovereignty, and so did all the other signatory nations. None of this is unique to the WTO; similar tradeoffs have been involved with every international agreement this country has ever signed during its 200+ year history. So “getting our sovereignty back” is a baseless argument.

A second argument for abandoning the WTO is that we'd be able then to “leverage” the rest of the world at will. In other words, we'd be able to set the rules of trade, unobstructed by past precedents or GATT/WTO agreements. By threatening economic sanctions against nations with which we disagree, and by denying access to the American market, presumably we'd get our way in international commerce. If all went well, we could “have our cake and eat it too.” We could be protectionist if we wished, and we could discriminate among trading partners whenever we saw it in our interest to do so. We could hold down imports, expand exports, and get rid of our troublesome trade deficit. American hegemony at its best!

If only economic life were that simple, and that accommodating. But it isn't. What I've outlined is a U.S. dream world. If such a world ever existed, it was only for a few years in the immediate aftermath of World War II. Today it is just a dream, and one that would turn into a nightmare if we ever sought to make it come to pass!

In economic terms our planet is shrinking every year. Consequently, policies such as those just described, with an inherently selfish dimension, are doomed to fail. As Americans, we cannot lift ourselves up by pushing others down. We are now far too dependent on the global economy for that. The correct prescription is to pull others up, enriching them and us in the process. We've done that with considerable success over most of the past 50 years, and we ought to think long and hard before abandoning that model.

A third argument is more subtle. The contention would be that we should not abandon the concept of global trade rules, but what we need is an improved institution for developing and implementing such rules. In other words, let's get rid of the WTO and replace it with a new organization that would be more acceptable to the United States.

Can that be done? Of course (at least on paper). No organization is sacrosanct, in this country or in the world. The WTO can be replaced. The relevant question is: “At what cost?” In my view that price tag—in economic, diplomatic, national security, and foreign policy terms—would be unacceptably high!

Were the U.S. to walk away from the WTO, the other member nations would then have to decide whether to (1) proceed without us, or (2) negotiate provisions applicable to a successor organization. If the rest of the world chose to proceed without the U.S., we'd have a situation of the kind described in the second argument above, and one that would severely disadvantage the U.S. in the short run. If, as is more likely, the WTO would soon collapse and a successor entity would have to be put in place, the question becomes: “Is it realistic to expect that a 'new WTO' would be more favorably disposed toward the U.S. than is the present organization?”

Having worked with the GATT/WTO for much of the past 25 years I would respectfully suggest that the odds of creating a more favorable environment<sup>5</sup> from our standpoint are between slim and none! The U.S. has had enormous influence in the evolution of these organizations over the past half century. During that time other nations have grown in stature, economic strength, and sophistication. Not surprisingly, they are now less inclined to defer to the U.S. on major policy questions. They want to do their own thinking, evaluate their own self-interest. And they do it very well. I am confident that we could negotiate parameters for a new multilateral trade organization that would be satisfactory to the U.S., but I'd be willing to wager they'll be no more satisfactory than those applicable to us today. So why go through at least two or three years of negotiating turmoil, coupled with equivalent turmoil in the international marketplace, to accomplish little or nothing?

A fourth argument might be: “But aren't there some political benefits to walking away? We'd be sending a strong message to the rest of the world about American toughness, and our willingness to go it alone if we don't like what others are doing.” Yes, trade policy is ready-made for demagoguery, in any country. We can stir people up with “America first” statements, which will then stimulate an equivalent response by political figures in other nations. When the dust settles, what will we have accomplished? Essentially nothing where substance is concerned. We will have created unrealistic expectations within the U.S. as to what kind of institution will

<sup>5</sup> Particularly in light of the enmity that would be generated by our withdrawal.

replace the WTO, and we will have generated lots of animosity throughout the world. That's not a great way to make friends, and we still do need friends in the world.

All the arguments for walking away from the WTO have a ring of plausibility—but nothing more. When one examines the tradeoffs, the arguments all fail. In each case, the cost to the U.S. in the image we present to the world, and the cost to America's citizens emanating from the trade turmoil that would be created, is just too great for this to be seriously considered. Proponents of walking away choose not to recognize the costs, but that is naive. These decisions are made in the real world, and American families would quickly suffer those costs—and hold their political representatives accountable for them. That is, of course, one of the great advantages of a democratic society.

#### *China*

Finally, since this hearing also encompasses the issue of Chinese membership in the WTO, along with permanent normal trade relations for China here in the U.S., I would like to offer a few comments on that subject.

First, Chinese behavior—on trade, human rights, and a host of other issues—has not yet reached the norms that we in the U.S. consider acceptable. That is changing for the better, but not at a pace that we would prefer. Some Americans are even concerned that China may become a global adversary, perhaps even comparable to the Soviet Union of this past century. Let us hope and pray that such will not be the case.

All of the above merits intense contemplation on our part, and careful, skillful creation of a strategy for nurturing the U.S.-China relationship. In my judgment, we've not done that well in recent years. Our China policy has often been passive, inconsistent and, at times, even incoherent. We must do better in the future.

But none of that has much relevance to the issues now before this Committee and the Congress. From a U.S. standpoint the simple question is: "Will we be better off with China inside (the WTO) or outside?" They are outside today, and we've discovered that we have limited influence on Chinese policy. We want them in only under acceptable terms, of course. But Ambassador Barshefsky has done a fine job of negotiating those terms, so that issue is fundamentally behind us. Since our marketplace is relatively open, we've not had to offer much to the Chinese. Most of the economic benefits of the agreement flow to the U.S.

Therefore, we should now ask ourselves whether we're likely to have more influence within China after they become WTO members, and my response would be in the affirmative. Why? Because we can then bring to bear not only whatever leverage we as a nation have, but also the leverage of about 150 other nations, the full membership of the WTO. With China seeking to expand its position in world trade, it cannot afford to ignore the views of its customers, particularly when those customers are bound together by common rules, as occurs in the WTO. That joint leverage does not exist today, with China being outside the WTO and thereby able to play off one customer nation against another.

China today has some semblance of rules of law, at least on paper. But so long as it is outside the WTO, Chinese officials can follow or ignore those rules solely on the basis of their own self-interest. As a sovereign nation they can still do that once they are in the WTO, but then there is a price to be paid. That is quite a difference, and a vast improvement over the present situation.

Some people will, however, suggest that we should continue to deny permanent normal trade relations to China even if that nation is accepted as a WTO member. That would simply not be rational. Our objective should be to cultivate and nurture the U.S.-China relationship in the coming years. If we do this well, not only should China become a fine export market for American business, but hopefully we'll also persuade the Chinese to alter their conduct in human rights and others areas of concern to us. That is the potential win/win element of this debate, but it will never materialize if we have a contentious, divisive normal trade relations debate every year. It is time to move beyond that, to a more confident, mature relationship based on earned respect.

#### *Conclusion*

In summary, we should now do what we can to facilitate China's entry in the World Trade Organization, followed immediately by the entry of Taiwan, accompanied by the grant of permanent normal trade relations to China. The rationale for this is compelling, and nothing is to be gained by delay.

Then we should exercise American leadership to make the WTO a more effective, functional institution than it is today. Expanded trade offers a better way of life to billions of people in our world. For some of them it is the only way. To cast aside

that potential in a moment of American pique would border on the criminal. And it would clearly not be in our own self-interest, for we're the biggest winner of all when trade expands.

Walking away is not an option. Slugging it out in Geneva is hard work, but nothing good comes easy! If we stay and slug it out, rather than cut and run, later generations of Americans will thank us—and so will lots of other folks elsewhere in the world.

Mr. Chairman, I'll be pleased to respond to any questions you may have.

Chairman ARCHER. Ambassador Yeutter, thank you for coming and giving us the benefit of your extended experience and knowledge in this field. And you do have that historic experience and knowledge that none of us here on the roster has as your—as having been STR and also having been Secretary of Agriculture.

Ambassador YEUTTER. Thank you.

Chairman ARCHER. I couldn't help but think, as you began to go over a little bit of the history, that trade has not been a controversial issue for the most part for many, many, many years. I remember the Kennedy round and there was great bipartisanship. There were no allegations that we can't open up trade because we don't like what some government is doing in other social areas. We don't like what their pay scales are. We don't like any of these things. That never entered into the picture until just recently at a time, interestingly enough, when we are at a peak of prosperity in the United States of America.

It seems very ironic to me, and yet it is clear that—I think it is clear, in any event—and I think any objective reading of history is that gap, as you say, was extremely important to creating better standards of living all over the world that would not otherwise have existed without it.

And I, frankly, am at a loss to understand how all of this controversy is being inserted today. And I just wondered if you have got any sort of analysis of that that might be helpful.

Ambassador YEUTTER. It is perplexing to me, too. It is amazing, Mr. Chairman, that we seem to be tempted to shoot ourselves in the foot just when things are going well. I don't know what explains that phenomenon, but it does seem to be the case.

As you know, I sit on a whole host of major corporate boards, many of them doing business all over the world. And I can guarantee you that the United States has never been so competitive internationally. We are in a wonderful position to expand American influence—economic, political, and all other elements of influence—internationally. Our lead in much of the high-technology area, Mr. Chairman, is so great today, it is almost embarrassing. But that is the future and we need to be nurturing that future.

On the China situation, Mr. Chairman, my experience from traveling the world is that we influence other nations by osmosis. We don't do it by pounding the table and sermonizing to the Chinese, the Cubans or anybody else. We do it by involvement with them, by the international exchange of people, goods, services and everything. It is the osmosis process that brings American values into their systems.

We will deny all of that to China if we say no to permanent normal trade relations and if China enters the World Trade Organiza-

tion notwithstanding our objections. This is, by far, our best opportunity of influencing Chinese conduct. Holding a vote every year on normal trade relations is not the preferred course of action!

Chairman ARCHER. Well, at the risk of being redundant, but in the arena in which we operate, I find that redundancy has a great deal of value. If you don't keep repeating things, people don't seem to pay much attention to them. Number one, you have said it, Governor Ventura said it, and it is so important—China will enter the WTO with or without our approval. Congress will have no vote on whether China enters the WTO. This has even been misreported in some of our better print media, which has implied that the Congress will be taking a vote on entry of China into the WTO.

Ambassador YEUTTER. Yes.

Chairman ARCHER. And it should be said over and over and over again, Congress will not vote on this. So that is number one. Number two, what you have said and Governor Ventura said, I think, even more specifically—

Ambassador YEUTTER. And the other element to add to that, Mr. Chairman, and excuse the interruption, is that when it occurs (probably later this year) we will forego most, if not all, the benefits of Ambassador Barshefsky's negotiation.

Chairman ARCHER. That was going to be my second point. My second point, which should be said over and over again, is that the United States has given up nothing in the bilateral negotiations with the Chinese. Our market will still stay as open or as closed, depending on how you want to look at it, irrespective of what happens with China entering the WTO. But the unilateral reductions and barriers that China has given up and, as Governor Ventura said, that some of the Chinese that he has talked to, said it is going to be tough on us for a while. We are going to be the one that are going to see the dislocations. That, as they open their market, we will not be able to take advantage of that.

Ambassador YEUTTER. Yes.

Chairman ARCHER. But all of the other countries in the world will.

Ambassador YEUTTER. Exactly.

Chairman ARCHER. Now, those are the powerful arguments that I think are involved in this issue.

Ambassador YEUTTER. They are. And just to add to your final point, Mr. Chairman, this is a big deal. As I read the newspapers in Arizona and here, and see some of the commentary emanating from opponents, the opposing view seems to be this is no big deal if we turn the Chinese away now. We can reconsider later. But it is a very, very big deal. As Governor Ventura indicated, this is one of the major decisions this Congress make in this century. It is astonishing to me that many Members of Congress have not yet recognized the importance of this decision at this point in time.

Chairman ARCHER. Thank you, Mr. Ambassador.

Mr. Thomas.

Mr. THOMAS. Thank you very much, Mr. Chairman. Hi, Clayton. It is good to see you again.

Ambassador YEUTTER. Thank you.

Mr. THOMAS. It is ironic that you follow Governor Ventura because he was very direct in denying any expertise in the area, and

now we have somebody who probably claims as much expertise as anyone in the area.

When you look at the history, a portion of which I have shared with you, it is just ironic to me when I think back in those days in the seventies and in the eighties, when, one, we had to try to get you on a plane and that as you got on the plane, I would urge you, for example, if you were going to China, to be sure and push the red wine and beef issue because we were always on the fringe. We were never formally and structurally at the table. And with the GATT, although our agricultural exports were always a significant factor in the balance of trade, we were outside the real structure.

Through your work, hard work, and others, with the WTO, perhaps misnamed, we actually are at the table. If anybody looks at progress, in terms of taking what are some of our most important exports and placing them at the center of the trade question and providing a structure for the resolution of problems, we have made enormous advances. So, again, it is ironic to me that people would say you can't measure the progress. Hogwash. They haven't looked at the history.

But here is the concern that I have. You mentioned the President cutting Ambassador Barshefsky off at the knees. If anybody knows anything about Chinese culture, they know how important face is. And given what happened to them for their willingness to come back at the table, they really must want this deal. That is a measurement that I think people don't appreciate. And the point is made, and I don't need to belabor it, since we are one of the most open and the largest open trading regimes in the world, any deal we strike with anyone else is bringing their barriers down, not ours.

I, frankly, lay a lot of the current problems at the President's feet. The President must lead. He has been in and out on his focus. He was pushing NAFTA; he wasn't pushing NAFTA.

Ambassador YEUTTER. Yes.

Mr. THOMAS. He let fast track lapse and then acts as though, well, it is not that important. Well, now, it is important. And we are beginning to see this same kind of flow of Presidential leadership on not only the question of normal trade relations with China, but even our vote, which we will take about staying in WTO. So to a certain extent, the American people needed to have someone steadfastly in front of the push on all aspects for world trade. That, I think, is something that we will hopefully have him engaged fully and completely so we can solve it.

Here is my dilemma. At the very time we are on the verge of creating a much better system, while we have been engaged with the Europeans over time on beef hormones, on citrus, on bananas, on canned peaches, minor, minor issues, the Europeans seemed willing to almost go nuclear on the foreign sales corporation question. Never has anyone dealt with a \$4½ billion hammer.

At the very time, we have got to show as much harmony as we possibly can. From your perspective on history, can you just give me some indication of European motivation? Now, just let me say, if someone wants to fundamentally change our tax code, I think going through the alphabet to DSC to FSC and onto other letters, we have to face the fact that our system is not compatible with the

current world trading system and this helps us, cold water in our face, change our tax system. But, boy, the timing could not have been worse in my opinion. And, in your opinion, what is it that the Europeans hope to gain by this, what I consider to be a fairly reckless and dangerous move?

Ambassador YEUTTER. I am not sure that I can answer that very satisfactorily, Mr. Thomas. But what I do know is that trade relations between the United States and the European Union are by no means the best. This is another example of the administration not exercising the kind of leadership that is called for in this area.

You are absolutely correct, Mr. Thomas, in that the United States must lead on trade. If we don't lead, nothing much happens. We haven't been doing a very good job of that in recent years, and now some of that is coming back to haunt us. One of the areas in which that is occurring is FSC. The FSC case has gone before the WTO and we have lost. I might say, by the way, that this loss should not generate any criticism of the WTO dispute mechanism for it is working very well, far better than in the past.

Fundamentally, when we lose in the WTO, we deserve to lose. The fact is, we deserved to lose on FSC. It is just unfortunate that the administration wasn't able to work out an arrangement to put that issue to rest before it ever went through the full WTO process. In my judgment, what this Committee ought to do at the moment is throw that ball back in the administration's court and say, do something with it. That is a responsibility of the executive branch, initially at least.

Maybe the administration will have to come back and ask you for legislation to fix this problem, but all executive branch options ought to be exhausted first.

Mr. THOMAS [presiding.] Thank you very much. Gentleman from Pennsylvania wish to inquire?

Mr. COYNE. Thank you, Mr. Chairman. Welcome, Ambassador Yeutter.

Ambassador YEUTTER. Thank you.

Mr. COYNE. I don't know if you were here with the testimony of Governor Ventura, but—

Ambassador YEUTTER. I was.

Mr. COYNE [continuing.] He indicated that he thought it would be a good idea to have our American corporations in China and they would better serve us in being able to have an equitable trade atmosphere between the two nations and other nations as well. And he didn't have any problem with American corporations going there and taking advantage of the very low wages that are paid in China to their workers. Do you have any trouble with that?

Ambassador YEUTTER. Not really. Because international competitiveness is determined by a lot of factors of which wage rates are only one. There is no question that wage rates are far lower in China than here and probably always will be. But as the Governor was indicating, we ought to be able to turn that to our advantage and, in fact, create additional jobs here in the United States, rather than lose them.

Right now, as the Governor indicated, we need more labor in the United States rather than less. I live in Arizona and, if you walk down the streets in Phoenix, about every third door has a "help

wanted” sign on it. So we may well have some labor shortages for a long period of time here in the United States And we want the high-income jobs rather than the low-wage jobs. So to the degree that American companies can get inputs in their manufacturing process from China or somewhere else in the world, benefit from the low wages in doing so, bring those inputs into the United States and finish a product off here using our high-wage employees, it seems to me that is truly advantageous.

Mr. COYNE. So you wouldn't have any problem with corporations that you represent, or sit on the board of, going to China and paying wages that are significantly lower than what we pay union wages here or, worse than that, substandard safety conditions that exist in China.

Ambassador YEUTTER. Well, substandard safety conditions are another matter. There are legitimate worker rights issues in the world as a whole—not just in China, but in a good number of countries. We ought to see if we can't have an influence on that. I don't happen to believe that WTO entry is the right issue on which to make that stand. It seems to me we have other form in which to deal with worker rights abuses around the world. We need to crank up the International Labor Organization and find ways of being more persuasive and creating in dealing with worker rights issues throughout the world.

But in terms of wage rates, that is another kettle of fish entirely. As I said earlier, low wage rates elsewhere can be worked to our advantage if we approach this issue intelligently and seek to complement American workers, rather than substitute for them.

Mr. COYNE. Well, do you see companies and corporations in this country actually moving there to move away from the high wages of the United States to the lower wages?

Ambassador YEUTTER. No. I don't see that as a major problem at all. The companies with which I am associated, are really looking at how they can put together a package of factors of production that will make whatever it is they are producing internationally competitive in the world. To the degree they can do that here in the United States, they do it in the United States. They don't reach outside unless there is a particular need. In many cases, they are able to preserve jobs here and, in fact, pay higher wages here by being able to do some of their labor intensive jobs outside of the United States at lower wages.

They make that combination of factors work out so that they have a product or service at the end of the day which can compete with anyone. It seems to me that in a global economy, that is an inevitable objective. We stop that trend with protectionism or anything else here in the United States. It is in exorable. What we need to do is make sure that it works out to be in the self-interest of the United States. And I believe, in most cases, it does.

I don't see China, Mexico or other countries with lower wage rates taking many jobs away from the United States, the sucking sound that we talked about earlier, other than those we rather not do. Those countries don't have the other factors of production to fit with low wage rates; hence their “total package” is uncompetitive with us. Putting it into a basketball model they have to be role players. The principal, and most rewarding, factors of production

are here in the United States. That is true, Mr. Coyne, with every major company on whose board I sit.

Mr. COYNE. Thank you.

Mr. THOMAS. The gentlewoman from Connecticut wish to inquire?

Mrs. JOHNSON of Connecticut. First of all, the Honorable Mr. Yeutter, it is a pleasure to have you here—

Ambassador YEUTTER. Thank you.

Mrs. JOHNSON of Connecticut. [continuing.] And with your long experience, both in trade and in manufacturing. And I would like to return to the—to pursue the line of questioning of my colleague from Pennsylvania. What percent of low-wage, U.S. manufacturing jobs have already gone to a low-wage country, whether it is Puerto Rico, under our special tax provisions, whether it is Mexico, whether it is Brazil, whether it is China, whether it is Thailand, Cambodia, wherever. What percentage of those low-wage jobs are still in American manufacturing?

Ambassador YEUTTER. Not very many of them are here any longer, Congresswoman Johnson, because Americans don't have to work for those wages anymore.

Mrs. JOHNSON of Connecticut. Yeah.

Ambassador YEUTTER. They have better jobs available here they don't want to carry out most of those tasks. It is hard to fill them.

Mrs. JOHNSON of Connecticut. Now, let me ask you a second question. I am beginning to see as—and I spend a lot of time on factory floors. I am beginning to see jobs come back from China.

Ambassador YEUTTER. Yes.

Mrs. JOHNSON of Connecticut. Why? Because one little company, who was up against China's ability to package because they pay such low wages, had figured out a little machine that as the stuff came off the—these were screws, very little things. They are hard to make in America because of the cost. And they could—they had figured out a new machine that just put these into packages, did the whole thing, so they could keep this job in America. They added value to their product. Now is this just my creative little plan or are we actually learning to do some of the things that were low wage in China? Because, after all, there is transportation costs associated with this in America.

Ambassador YEUTTER. Well, as I indicated earlier, companies really look at the total package of costs. They do add in transportation costs, packaging, and everything else that is associated with the product or service they sell. Nowadays, with information technology that is available, we can do this a lot better than in the past. Companies have access to information that they didn't have previously years. All this has happened in just the last few years. Firms now know the cost of their manufacturing operations with much more precision than before.

As a consequence, they are making these very rational decisions on a global basis. A lot of people in America, of course, fear that outcome because they think somehow this is going to shift lots of jobs elsewhere. I don't fear it at all. I think a better knowledge base clearly works to the advantage of the United States.

Mrs. JOHNSON of Connecticut. If you could get us any information on the number of jobs that are beginning to move back as we

learn to do the technology—one of the problems with the minimum wage issue is that when you push it up, restaurants are figuring out how to serve food without people.

Ambassador YEUTTER. Sure.

Mrs. JOHNSON of Connecticut. So price and technology are intimately related. And what I see happening is the creativity in our technology capability is now beginning to address itself to keep production here more holistically. Then the last question I wanted to ask you was, what percentage of the jobs that have moved abroad, whether to China—and, of course, it would be very useful to know, you know, country by country—are coproduction jobs that have to go? Because we did not like the Chinese—the Japanese automakers building cars in our country and importing all the parts and we did something about it.

Ambassador YEUTTER. Right.

Mrs. JOHNSON of Connecticut. So we need to sort out this old issue of cheap labor and whether or not it actually is taking jobs abroad anymore and where we are with the jobs that have to go abroad in order—and then last, because my time has run out now, I would like to get some—if you can help me with figures that talk about manufacturing productivity increases. We are producing so much more stuff. And we have, what, four—we are 4 percent—you had it here—4 percent of the world's population within our borders and it is slow growing. So when we produce three or four times as much product, we can't sell it to ourselves. And if we can't—

Ambassador YEUTTER. That is so true.

Mrs. JOHNSON of Connecticut [continuing.] Sell it abroad, we can't sell it. Then we don't have jobs. So if you can help me with any of the data that lie behind that. I do think Members are rational, although it is hard to stand up to union leaders. You don't have to stand up to union membership because when you give them the information, they, too, have common sense. Thank you.

Mr. THOMAS. Would the colleague yield briefly?

Mrs. JOHNSON of Connecticut. Yeah. I would be happy to.

Mr. THOMAS. What I find ironic is that in this discussion, this is the kind of discussion that we have in terms of where the jobs go, labor and the rest. We have just been handed a catastrophe. The Foreign Sales Corporation decision goes right to the corporation's bottom line and that there are people looking to move tomorrow by the virtue of that tax decision that never would have moved—

Ambassador YEUTTER. Yes.

Mr. THOMAS [continuing.] Playing the labor structure game. And so here we try to divine the understanding of automatic packaging and not let the labor market deal with itself. Yet, somehow, we aren't directly already in a panic creating a resolution to a problem which will produce corporations leaving, simply because the bottom line won't let them stay.

Ambassador YEUTTER. Right.

Mr. THOMAS. And I find that very ironic.

Ambassador YEUTTER. Going back to some of your points, Congresswoman Johnson, very quickly. One is, data are really very inadequate in the whole trade arena—very distorted. Because so many products are now combinations of work accomplished in maybe as many as 20 countries before they become a final product.

Is that an American product? Is it somebody else's product? Is it an import or is it an American, domestically produced product? It is often impossible to tell. So the data are very inadequate, and I think this is one of the reasons that we have become misled by the trade deficit.

I don't happen to believe the trade deficit is anywhere near the problem that is indicated by the numbers we see. I don't believe those numbers accurately reflect what is really happening in international commerce. I also think that is one of the reasons our economy continues to perk along in such great fashion, even though we supposedly have this gigantic trade deficit.

And the other factor is information technology. We have to emphasize over and over again, that this technology has made thousands of U.S. companies far more sophisticated than in the past. They now know how to do things in the most cost-effective way, and there by enhance their international competitiveness.

Mr. THOMAS. Thank you, Ambassador.

Ambassador YEUTTER. But let's give Congressman Levin a chance.

Mr. THOMAS. The gentleman from Michigan wishes to inquire.

Mr. LEVIN. Thank you. Well, we have had a far-ranging discussion, so let me just comment briefly. Mr. Yeutter and I are old friends. I just urge that we try to find some balance here. I think what the Chairman said, Mr. Archer, that China is going into the WTO with or without the United States. That is true. In terms of the benefits, I think it is an overstatement to say that if we don't grant permanent NTR, we will get none of the benefits. That isn't true. But it is also not true that we will get all of them.

Mr. Archer asked why these last years has trade policy broken down? And I think realistically, in part, the answer is because conditions have changed and more and more of our trade is with countries that have very different economic and related conditions to the United States.

More and more of our trade is with evolving economies that have very different labor market standards, very different environmental standards, and also, and China is the supreme example, very different structures or lack of them, regarding human rights. That wasn't true basically of Europe and Japan and our trade relationships were primarily in the '70s and '80s with them. And our disputes were with Japan, which had these basically similar labor and other structures. So it isn't so unusual or, I should say, unexpected that we would run into these difficulties. And I am hopeful that we can resurrect a bipartisan policy.

In that respect, let me urge we resist being too partisan. And, Mr. Yeutter, Clayton, I just urge on FSC, let's avoid casting stones too readily. I do not think it is fair to say that that problem is basically because of the lack of administrative—administration leadership. I just don't think that is really what happened. We had an agreement with the European community. Maybe you negotiated it. I forget who did. And they essentially reneged. They have reneged on an agreement that we had with them, an agreement that they essentially were not going to challenge and they decided to do that. And they have used a structure that we helped to create and we better be careful about haranguing the administration or WTO be-

cause some of the opponents who want to have us withdraw from the WTO talk about this structure and that it has binding effect on the United States. And those who believe there should be such a structure had better be careful in how we handle the cases we don't like as well as the multiple of decisions that we do like.

So, and by the way, in terms of the competition with low-wage economies, I think it is foolish to deny there is competition. Look, I voted against the steel quota bill because it violated our WTO obligations, but we were competing with Chinese steel, which flooded in here, as well as steel from other countries. And the labor market factor was one of them. That is why we have 201. That is why after April—it wasn't there then—Ambassador Barshefsky and others negotiated a strong antisurge provision in the Chinese agreement, which is an important tool for us, which I think we should embed in legislation. It is an important tool. It is there because we are competing with these countries, potentially and we need some kind of a defense.

So I mean, there is something between a sucking sound and nothing. So I just urge that we have a sense of perspective and a sense of balance and work together to try to make, as the Governor said, some sense out of all this. And I would just urge on the Foreign Sales Corporation, look, we need to work together to see if we can find an answer to this. And I don't think it is helpful to cast stones where I don't think they belong.

My guess is, Mr. Yeutter, if you had been running our policy these last years, because the Europeans reneged, in simple terms, we likely would be where we are today facing the issue of how we respond to their, I think—I won't use the word betrayal—their backing down on a commitment they made to us.

Ambassador YEUTTER. You may be right in that respect, Mr. Levin; there is no way to know that. And I agree with you that we should try to keep international trade policy on a bipartisan basis. But I get frustrated by the fact that we are just not getting some things done that ought to be accomplished in the trade policy field. The United States just has to take responsibility for that. A lot of this what kind of relationships we have with our counterparts in other countries, a lot of it is a question of preparation, and a lot of it is a question of how well we design and carry out our strategies.

We could get into the Seattle situation, but I don't want to belabor that issue. The fact is, we just didn't perform very well, and we have to accept the consequences of unsatisfactory performance.

Mr. LEVIN. But I don't think whatever were the problems that Seattle had, a darn thing to do with the Foreign Sales Corporation.

Ambassador YEUTTER. Oh, no. But they had—

Mr. LEVIN [continuing.] And—

Ambassador YEUTTER [continuing.] But they had to do a lot with short comings in American leadership.

Mr. LEVIN. Well, OK. I—my guess is it had more to do with European decisions looking after other issues, whether it is bananas or the air bus. And I think it is a mistake for us to oversimplify these issues and rather easily throw stones when what we need to do is less of that and more rebuilding a bipartisan consensus.

Ambassador YEUTTER. Yes, but let's have some accountability too.

Mr. LEVIN. And I hope we can do that on the China issue, Mr. Thomas, as we have discussed.

Ambassador YEUTTER. I hope so, too. The only final comment I would have Mr. Levin, is that we have a lot of trade problems on your front burner in the Congress and on the front burners of the American public as a whole. Many of those are going to have to be solved in the next administration, whether it be Democratic or Republican. Too many of these have festered for too long and they need attention.

Mr. LEVIN. I agree. We also had problems in the seventies and eighties.

Ambassador YEUTTER. Well, sure.

Mr. LEVIN. A lot of them.

Ambassador YEUTTER. Sure. But I am a little more worried now than I was back in those years.

Mr. THOMAS. Does gentleman from Georgia wish to inquire?

Mr. COLLINS. Thank you, Mr. Chairman. Mr. Yeutter, speaking of Seattle, I think the most fruitful statement that I saw was on a marquee. As I came out of the Western hotel, the morning I was leaving, and that used to be a little theater, but now it is a little restaurant. And it says, thanks, WTO. It has been a riot. That was an interesting experience out there.

I recall, too, that in 1995 in a trip with the Trade Subcommittee to China, we were meeting with the senior minister of trade. And the question was asked about what will it take? What does the United States have to do in order for China to enter the WTO?

We need specifics. Those were the—that was the statement and the question that Ms. Barshefsky asked us to ask when we left Singapore.

Ambassador YEUTTER. Yes.

Mr. COLLINS. And to the surprise of all who were there, including the Deputy Ambassador to China, because, at that time, the Ambassador was here in the States traveling with the defense minister, Mr. Ju stated that China would enter the WTO before the end of this century, which is this year. So this is—we have been knowing that this was coming.

Many have said that this is an opportunity. You know, sometimes we get opportunity mixed up with temptation. And when you look at the concessions that China has made, it does look like a great opportunity—

Ambassador YEUTTER. Yes.

Mr. COLLINS [continuing.] Because they have made a lot of concessions in a lot of areas that will be better beneficially, especially to the industries in this country that have moved into high tech. But the reason, I think, that it maybe getting a little bit confused with temptation is because when you look at the area of textiles, you won't find them in the negotiations.

Now, I am not talking about the cut-and-sew—the apparel. It is hard to high tech a sewing part of the cut-and-sew business. But the textile industry, otherwise, has moved into high tech. They have moved into higher paying jobs. And they are not asking for

total protection. They are asking for transition. And I don't see those in the negotiations that we have made with China.

I have long said that it would be better for this nation, for China, to be in the WTO because there will be concessions made for our market access in their country. And we discussed that too in 1995 with Mr. Ju and he also informed us in that same meeting that they were going to reduce the tariff on textiles into their country and also increase the quota that we would ship in. So they have—there are areas that can be negotiated with them in the area of textile. I do notice that in the area of agriculture, that one of the commodities that is greatly increased is cotton. Now, you don't eat cotton. At least, I don't think you do, not much of it anyway. But you do make cloth from it, yarn, cloth. You are using textiles. So I am very concerned that we have moved away from one industry that has moved into the high tech area, moved into higher job pay, but we are moving off and leaving them in these negotiations. It looks as though they are the sacrificial lamb. That is my concern.

Ambassador YEUTTER. Well, obviously I can't speak for Ambassador Barshefsky as to how she handled that issue in the negotiations. My understanding, though, is that textiles are handled in accordance with the Uruguay Round agreement on that subject which called for a phaseout of the old MFA program over a period of 15 years, if I remember correctly and that—

Mr. COLLINS. With 5 years left to go.

Ambassador YEUTTER. Yes. And if new countries enter the WTO during that period, quota programs will be appropriately adjusted. So my understanding is that China, upon entry to the WTO, will have to be considered in that process. But this would not increase the amount of Textile imports flowing into the United States. China's entry into the WTO would not alter that number, to the best of my knowledge.

Mr. COLLINS. Well, yes. And I understand that. But in all of the negotiations to increase the export from here and import into China of other products and other industries, we left them out. And that is my concern, because it is a large industry still in parts of the country.

Ambassador YEUTTER. Sure.

Mr. COLLINS. And, you know, a job loss to anyone is a loss. And many people can't transcend from one job to another job very easy.

Ambassador YEUTTER. Yes. That is true. But you also got some winners for Georgia agriculture in that process, too.

Mr. COLLINS. Well, I—not too long ago, I met with several industries within one county that I served. And I had some there who would be winners and some who would be losers. It was interesting to have the dialogue at a luncheon.

Ambassador YEUTTER. Yes.

Mr. COLLINS. But I thought it was needed because I think both needs to understand the difference between opportunity and temptation. Thank you for being here.

Chairman ARCHER. [presiding.] And, Mrs. Thurman.

Mrs. THURMAN. Just a comment, Ambassador. I want to be associated with Mr. Levin's remarks somewhat because we all really are struggling very hard on this issue for lots of reasons. And, quite frankly, as you talk about areas festering in some of the

trade issues, some of it is because of exactly the problems what we are having in this country and that is, who are the winners and losers.

No person or people in any other country is not having the same hesitations and the same arguments—the European Union, with their farmers. So to try to just kind of broad brush any of this, I think, is—each area is very different. Each has their own isolationist point and struggling through this change in the economy across this world is very difficult for everybody. So I don't think we can just broad brush that one administration or another has not been strong. I certainly can tell you on this issue, this President has sent everybody and anybody that they can to come talk to me about it. So—I can tell you his strength is—

Ambassador YEUTTER. I am glad to hear that.

Mrs. THURMAN [continuing.] Being shown in this Congress. So—I just—I need to make that point with you—because I have sat at some of those negotiation tables. I have a very strong agricultural background from the State of Florida. And I have worked on many of these agreements. I have looked at what has—happened in—under the NAFTA agreements. And all of these related to what brings us to the tables today. But the fact of the matter is, there are—they may be festering, but it is not always because we haven't developed the right action.

Ambassador YEUTTER. Well, as Congressman Levin indicated, there have been trade problems around for a long time and I have personally had 30 years of struggles with them. Congressman Levin has had almost that many. So we have gone through a lot of these battles. But when you look at the big picture, which is what one ultimately must do on a national basis, it is hard to conclude that this would not be a really good thing for the United States as a whole.

There are going to be some winners and losers. There are with every trade agreement, every entry of a nation into the WTO. There is always some trauma involved in this, and it is greater in some congressional districts than others. So I know what you folks go through with your own constituencies. But finally, when the chips are down, you have what is best for the United States is a whole? And it seems to me the answer in this case is quite obvious.

Mr. HOUGHTON. [presiding.] Well, Mr. Ambassador, I agree with everything you have said. You and I have never had an argument, have we?

Ambassador YEUTTER. I don't believe so, Mr. Houghton.

Mr. HOUGHTON. And so it is wonderful to have you here. Thanks so much for your presentation.

Ambassador YEUTTER. Thank you.

Mr. HOUGHTON. I would like to ask the next panel to come on, Mr. William Weiller, as Chairman of the Board of Purafil and representing the U.S. Alliance for Trade Expansion and National Association of Manufacturers; Mr. Schroeder, Chief Executive Officer of National Cattlemen's Beef Association; Dale Grogan, President of Leapfrog Smart from Orlando, Florida, a member of the U.S. Chamber; and Peter Lichtenbaum, Partner, Steptoe and Johnson on behalf of the Section of International Law and Practice, American Bar Association. All right. Mr. Weiller, would you like to—

Mr. WEILLER. Thank you.

Mr. HOUGHTON [continuing.] Give your testimony?

**STATEMENT OF WILLIAM WEILLER, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, PURAFIL, INC., ATLANTA, GEORGIA, ON BEHALF OF U.S. ALLIANCE FOR TRADE EXPANSION, AND NATIONAL ASSOCIATION OF MANUFACTURERS**

Mr. WEILLER. Thank you. And good afternoon, Mr. Chairman. My name is Bill Weiller. I am the Chairman of the Board and CEO of Purafil, a leading manufacturer of air purification systems based in Atlanta, Georgia. I would like to thank you for the opportunity to testify before the House Ways and Means Committee on U.S. participation in the World Trade Organization. And I am here on behalf of the U.S. Alliance for Trade Expansion, and obviously also for Purafil. I have a prepared statement for the record and some remarks.

The U.S. Alliance for Trade Expansion, commonly referred to as U.S. Trade, encompasses an impressive, broad-based group of agriculture, consumer, manufacturing, retailing, and services organizations representing \$2 trillion in annual trade and over 150 million Americans. The coalition seeks to promote the benefits of economic growth, job expansion and higher living standards in the United States as a result of free trade and specifically U.S. participation in the WTO.

Many might be surprised that Purafil, a small American business with about 70 employees, is even remotely interested in the WTO and its objectives. In fact, we often encounter the notion that global free trade is good for big companies and bad for the little guy. Small and medium-sized businesses do not attract the headlines the multinationals do, and often our successes in the global marketplace go without notice. But I am here to let you know that open trade is not only good for Purafil, it is the backbone of our business and our strategy.

In fact, Purafil is representative of many small businesses. I have attached a chart to my testimony, which you may find interesting. In '89, nearly half of the National Association of Manufacturers' small- and medium-sized member companies said they did not export. Today, 80 percent of all those manufacturers export. This important sea change has taken place over the past decade. It would not have been possible were it not for the trade liberalization brought about by the WTO and, of course, more credit is given for the GATT preceding it.

No matter how good our products, we would not be able to export overseas if foreign country barriers were too high or if world trade were not based on rules. This is where the WTO has come in. Over the years the WTO and its predecessor, GATT, have cut tariffs and trade barriers, have developed more fair trading rules, and have done an enormous job in leveling the playing field. Tariffs on U.S. manufactured goods exports to most developed countries, for example, are about 3 percent or less today; but not too many years ago, they were high enough to limit our sales prospects severely. Similarly, rules affecting standards, custom valuation, intellectual prop-

erty rights, and other essentials of trade have all improved dramatically as the WTO has worked to liberalize trade.

A letter signed by over 300 companies and associations was sent to each Member of the House today. The message is very simple. No more Smoot-Hawleys. We urge you to oppose House Joint Resolution 90, introduced by Representative Ron Paul, which calls on the United States to withdraw from the WTO. Trade—exports and imports—now represent about 30 percent of the U.S. economy. And no rules of the road governing 30 percent of the U.S. economy, is unthinkable.

Removing ourselves from the rules-based trading system would have disastrous consequences for the American economy, jeopardizing both the longest economic expansion in U.S. history and continued U.S. global economic leadership. The consequences would impact agriculture, and my colleague on this panel will address those issues in greater detail.

Intellectual property rights: TRIPs, Trade Related Aspects of Intellectual Property Rights, are critical to American holders of patents, trademarks and copyrights. Total foreign sales of the core copyright industries amounted to an estimated \$45 billion in 1993. TRIPs implementation has produced the most significant progress to date for protecting pharmaceutical patents in developing countries. We should not make the world safe for pirated American software, pharmaceuticals, and other high-value products.

Manufacturing: The story of my company's rapid export growth is repeated thousands of times by other U.S. exporters. In the mid-eighties, manufactured goods exports were 3.5 percent of the U.S. Gross Domestic Product. Today, they are 7 percent of America's GDP, double what they were 15 years ago. That means U.S. manufactured goods exports have been growing twice as fast as U.S. domestic production. That is quite an achievement, and it would not have been possible without the WTO's trade liberalizing actions. Thus it should be no surprise that the WTO trade-related system, one that opens markets and helps protect us against abusive trading practice, is more important than ever to American manufacturers.

Retailing: In that area, tariffs are essentially import taxes that, if re-introduced as a result of a U.S. pullout, could add 30 percent or more to the price of consumer products. As Federal Reserve Chairman Alan Greenspan has noted on several occasions, imports have also served as a great inflation-tamer in a period of rapid economic growth.

Services: The WTO rules safeguard American service exports—

Mr. HOUGHTON. Go right ahead. Or you are at the end of your time, but—

Mr. WEILLER. Yes, sir. I will be—

Mr. HOUGHTON [continuing.] We will go right ahead here.

Mr. WEILLER [continuing.] Well, basically, what I also wanted to say that we support not only staying in the WTO, but also the—China's accession to the WTO and the looming vote to a PNTR. And my company and our association strongly urge to you to vote for it. Thank you.

[The prepared statement follows:]

**Statement of William Weiller, Chairman of the Board and Chief Executive Officer, Purafil, Inc., Atlanta, Georgia, on behalf of U.S. Alliance for Trade Expansion, and National Association & Manufacturers**

Good morning, Mr. Chairman. My name is Bill Weiller, I am the Chairman of the Board and CEO of Purafil, a leading manufacturer of air purification systems based in Atlanta, Georgia. I would like to thank you for the opportunity to testify before the House Ways and Means Committee on U.S. participation in the World Trade Organization (WTO). I am here on behalf of The U.S. Alliance for Trade Expansion, and obviously also for Purafil.

The U.S. Alliance for Trade Expansion, commonly referred to as "US Trade," encompasses an impressive broad-based group of agriculture, consumer, manufacturing, retailing and services organizations representing \$2 trillion in annual trade and over 150 million Americans. The coalition seeks to promote the benefits of economic growth, job expansion and higher living standards in the United States as a result of free trade and specifically U.S. participation in the WTO.

Many might be surprised that Purafil, a small American business with about 70 employees, is even remotely interested in the WTO and its objectives. In fact, we often encounter the notion that global free trade is good for big companies and bad for "the little guy." Small and medium-sized businesses do not attract the headlines the multinationals do, and often our successes in the global economy go without notice. I am here to let you know that open trade is not only good for Purafil, it is the backbone of our business.

In fact, Purafil is representative of many small businesses. I have attached a chart to my testimony, which you may find interesting. In 1989, nearly half of the National Association of Manufacturers' small and medium-sized member companies said they did not export. Today, only one in five fall into that category. In 1989, only 4 percent of those members earned more than 25 percent of their revenue from exporting and another 4 percent earned between 11 percent and 25 percent. Today, those percentages have more than doubled to 9 percent and 11 percent respectively. Let me just hammer that point home. Today, in NAM's surveys we're finding that exporting generates over 11 percent of the earnings for 1 out of every 5 exporters and over 25 percent for 1 out of every 10 of these smaller manufacturers. This important sea-change that has taken place over the past decade would not have been possible were it not for the trade liberalization brought about by the WTO.

I'd like to tell you a little bit about my company and how the WTO has allowed us to expand our exports. Purafil manufactures air quality systems that remove odorous, corrosive and toxic gases. In short, we sell clean air. Our customers include paper mills in Argentina, Oklahoma and North Carolina. We protect valuable artifacts in the Netherlands, the Sistine Chapel, and in Washington, DC. We service petrochemical refineries in Texas, Brazil, and Saudi Arabia. Despite our small size, Purafil is an industry leader in this niche market.

Sixty percent of our sales are made outside of the United States. Exporting is vitally important to Purafil: it is the cornerstone of our corporate strategy. We are not a company that got into international sales by accident or solely as a reaction to market demand. We have recognized that in order to survive, to continue to provide jobs to our employees, and to continue to fund the R & D efforts necessary to our success, we have to export and become experts in doing international business.

The problems that Purafil can solve are the same worldwide. A refinery in Baton Rouge experiences the same hazardous emissions from manufacturing processes as does a refinery in Saudi Arabia. The Sistine Chapel protects its artwork from environmental degradation, as does the U.S. National Archives in Washington. Our intellectual property, considering our size, is significant. We have worked hard to take a technology that was developed in the U.S. about 30 years ago and have constantly refined and improved it.

If Purafil were not present to solve these problems, the increased demand for a solution would result in foreign competitors gaining the business. Right now, Purafil is the best in the world at solving air purification problems. We have a technology that cannot be matched. Purafil has worked hard to stay on top of our industry, and I fear that without exporting, someone else will take the lead. We have few viable U.S. competitors that serve all the applications and markets that we do. That "someone else" could likely be a company from outside the U.S.

But no matter how good our products, we would not be able to export overseas if foreign country barriers were too high, or if world trade were not based on rules. That is where the WTO has come in. Over the years the WTO and its predecessor, the GATT, have cut tariffs and trade barriers, have developed more fair trading rules, and have done an enormous job in leveling the playing field. Tariffs on U.S.

manufactured goods exports to most developed countries, for example, are about three percent or less today; but not too many years ago they were high enough to limit our sales prospects severely. Similarly, rules affecting standards, customs valuation, intellectual property rights, and other essentials of trade have all improved dramatically as the WTO has worked to liberalize trade.

As much as the WTO has done, there is still more to do. For example, Mr. Chairman, the tariff for our equipment in South Africa is 19%. In response to this, we signed a licensing agreement with our local representative so they could build portions of our equipment in country and remain competitive. That representative utilized the Purafil name and proceeded to dissolve the relationship and become a low cost, Purafil-educated competitor, leaving us with little recourse. We are facing similar high tariff situations in India, Brazil, China and others. One solution is to form licensing agreements in these countries, but in doing so, we dilute our profit margins and make it easy for partners to eventually become competitors. The real solution is for the WTO to move forward in continuing to reduce tariffs and other barriers, particularly in the developing countries, where the barriers are still high.

Purafil will continue to do everything in its power to remain competitive. I am here today to ask you to do your part -level the playing field so our people, our technology and our products can compete in the global market. Don't force us to compete with the trade barriers and tariffs currently in place.

I don't need statistics, studies or business experts to tell me that exporting creates jobs and is good for the economy. As a small business owner, I see it every day I go to the plant. I'm constantly reminded when I look at the shipments on our dock and see their final destinations.

That is why we support continued U.S. membership in the WTO. For Purafil and other small-business exporters, we will continue to be successful only if we maintain our international customer base. In order to do that, we will depend on the reduction of tariffs and other trade barriers. A multilateral, rules-based approach to trade, negotiated through the WTO, is strongly supported by Purafil.

I want to submit for the record a letter signed by over 130 XXX companies and associations. The message is very simple: No more Smoot-Hawleys. We urge you to oppose H.J. Res. 90, introduced by Congressman Ron Paul (R-TX), which calls on the U.S. to withdraw from the WTO.

Removing ourselves from the rules-based trading system would have disastrous consequences for the American economy, jeopardizing both the longest economic expansion in U.S. history and continued U.S. global economic leadership. The consequences include:

#### *Agriculture*

The WTO Agreement on Agriculture required countries, for the first time, to reduce or cap tariffs, export subsidies and internal support mechanisms, and established new science-based rules for measures restricting imports on the basis of human, animal or plant health and safety. If the U.S. withdrew, American farmers could be excluded from these benefits. Moreover, American farmers would not benefit from further negotiations already launched at the WTO to reduce trade-distorting export subsidies overseas. One-third of American farm production is sold overseas. These exports support approximately 750,000 American jobs.

#### *Intellectual Property Rights (IPR)*

The enforcement mechanisms now available to the U.S. under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) are critical to American holders of patents, trademarks and copyrights. Total foreign sales of the core copyright industries amounted to an estimated \$45.8 billion in 1993. TRIPs implementation has produced the most significant progress to date for protecting pharmaceutical patents in developing countries. We should not make the world safe for pirated American software, pharmaceuticals, and other high value-added products.

#### *Manufacturing*

The story of my company's rapid export growth is repeated thousands of times by other U.S. exporters. In the mid-1980's manufactured goods exports were 3.5 percent of U.S. GDP. Today, they are nearly seven percent of America's GDP -double what they were only 15 years ago. That means U.S. manufactured goods exports have been growing twice as fast as U.S. domestic production. That's quite an achievement, and it wouldn't have been possible without the WTO's trade liberalizing actions -including the "zero-for-zero" initiatives in the Uruguay Round and the Information Technology Agreement that eliminated duties on many high technology products -just to name a couple. With \$527 billion in exports in 1998, the United

States is by far the world's largest exporter of manufactured goods -almost 20 percent more than our nearest competitor. Manufactured products now account for 62 percent of all U.S. exports. Thus it should be no surprise that the WTO's rules-based international trading system -one that opens markets and helps protect us against abusive trading practices -is more important than ever to American manufacturers.

#### *Retailing*

The U.S. retailing sector employs nearly one-fifth of the American workforce, and contributes greatly to the high U.S. standard of living by providing consumers with the wide variety of products they demand at affordable prices. Tariffs are essentially import taxes that, if re-introduced as a result of a U.S. pullout, could add 30 percent or more to the price of consumer products. As Federal Reserve Chairman Alan Greenspan has noted on several occasions, imports have also served as a great inflation-tamer in a period of rapid economic growth.

#### *Services*

The WTO General Agreement on Trade in Services (GATS) establishes a rules-based trading system for services. The WTO rules safeguard American service exports, which were \$260 billion in 1998 and resulted in a surplus of \$79.4 billion. The Basic Telecommunications Agreement represents 91 percent of the total domestic and international revenue of \$600 billion generated in this sector annually. The Financial Services Agreement represents 95 percent of the international trade in banking, insurance, securities and financial information. Negotiations to further liberalize world-wide trade in services—including the delivery of services via electronic commerce—began in January 2000.

It's not just the economy that is at stake, but our national security as well. The rules-based trading system that has developed since the end of World War II stands in sharp contrast to the mushrooming trade barriers that the world saw in the 1930s. These policies sent trade flows into a long downward spiral that culminated in the virtual collapse of international commerce, depression and, finally, war. The bitter lessons of the first half of the 20th century provide a map of what roads not to go down in dealing with an integrated world economy—economic nationalism, isolationism and protectionism.

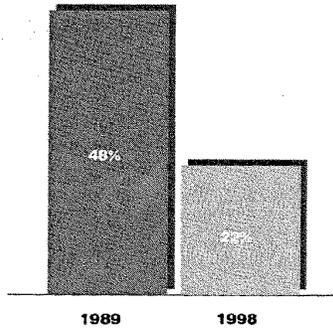
The WTO is by no means perfect. We, along with other groups, have advocated a range of measures to improve the functioning of the system. At the same time, it is indisputable that the rules-based trading system has been a positive force shaping the world since the end of World War II. It has played an essential role in the transformation of the American economy since the mid-1980s, driven in no small measure by the competition faced both here and abroad. Concerning the alleviation of poverty, trade is a key element in any economic growth strategy worth mentioning in the developing world.

U.S. membership in the World Trade Organization deserves the support of all Americans. We urge you to oppose H.J. Res. 90 which calls on the United States to withdraw from the World Trade Organization.

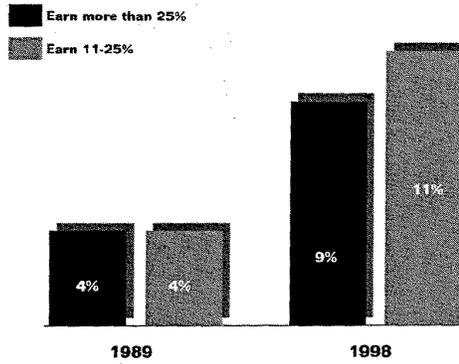
Thank you.

## Survey of NAM Small/Medium Members

Companies That Do Not Export (Small & Medium NAM Member Companies)



Revenues Earned From Exporting (Small & Medium NAM Member Companies)



\*Source: NAM Small Manufacturers Operating Survey, 1989 and 1998

Mr. HOUGHTON. Thank you very much.

Now, Mr. Schroeder.

**STATEMENT OF CHARLES P. SCHROEDER, CHIEF EXECUTIVE OFFICER, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, DENVER, COLORADO**

Mr. SCHROEDER. Yes, sir. Thank you, Mr. Houghton, and to Members of your Committee. I am Chuck Schroeder, CEO of the National Cattlemen's Beef Association and we very much appreciate the opportunity to participate in your consideration of an extremely important issue for the beef industry, for American agriculture, and for the country.

During 1999, we had some very encouraging news in the beef industry as we saw an expansion in beef demand domestically for the first time in 20 years. That was good news. However, as Chairman Archer acknowledged earlier, we have only got 4 percent of the world's consumers here within our borders. And, as we look down the road, we recognize that our only opportunity to expand our markets and create economic growth in our industry is to look at those markets beyond our borders.

We have worked very hard to promote beef exports. They, last year, represented 12 percent of the value of all wholesale beef sales in this country. We have worked hard over a number of years. If you look at the last 20 years of international marketing for the beef industry, we have gone from \$500 million in sales about 20 years ago to almost \$3.2 billion last year, about a 6-fold increase.

Now, while that is encouraging, really what it does is highlight the growing importance for us of taking advantage of every opportunity that we might have to move beef into international markets.

My comments today, and as are reflected in my expanded remarks that are submitted for the Committee, are based on the beef industry's experience in winning a WTO case against the EU, yet still not achieving access to their market. And, as you know, the EU has essentially banned imports of U.S. beef since 1989. After we jumped every hurdle in the process with the WTO, the EU was still unable to modify its regulations. And on July 29 of last year, the U.S. began implementing retaliatory measures against exports in the EU valued at about \$116.8 million.

While despite our disappointment at not achieving access, I do want to say to you today that the National Cattlemen's Beef Association does support continued United States participation in the WTO. In fact, we believe it is essential. And I enjoyed being on the program today with my friend and mentor and fellow cornhusker, Clayton Yeutter, who makes that point with significant articulation.

But based upon our experience, and this was mentioned in Ambassador's Yeutter's remarks, among the strengths of the current WTO system, is the very well-defined process for initiating a case where there is a dispute and for determining the final ruling or settlement.

The current system is certainly much improved over its GATT predecessor in that respect. And we would highlight that the strict science-based rules that are established for resolving these issues are another major strength for the current dispute-settlement process.

On the other hand, however, we would say that the existing system can be further improved. The primary weakness of the current system, in our view, is the absence of an enforcement mechanism to assure that there is compliance once a ruling is handed down. And that is what we are suffering under today as a part of American agriculture.

The WTO case attempting to resolve the EU beef ban, took nearly a third of a decade, as you know, as you watched that process, from when the case was initiated until retaliation began. That process included an initial ruling, an appeals process, and then the arbitrator's 15-month reasonable period, as he called it, for the EU to change its regulations.

Now, while that is a lengthy process, the total time expended is probably pretty consistent with the duration of most U.S. court cases and perhaps that would be acceptable if the EU would have complied at the end of that reasonable period.

I think we would all recognize, and Ambassador Yeutter pointed it out, that the EU commitment to the WTO is questionable based on their reaction and their responses to WTO rulings that have gone against the EU's position. The failure of the EU to comply with this particular ruling on beef in a timely fashion, we believe, threatens—yes, sir.

Mr. HOUGHTON. We have go to a vote. And I wonder if you could summarize pretty quickly what you have to say so that we could give, in the next 5 minutes, the two other gentleman an opportunity to testify. And I am sorry we have to do this. The problem is we have got three votes up now and we are going to hold you for a long time. And maybe we could do that. Submit your testimony and then we will be able to get back to you. Could you do that?

Mr. SCHROEDER. Certainly.

Mr. HOUGHTON. All right.

Mr. SCHROEDER. Mr. Houghton, I would offer three quick points. Number one, indeed, we encourage continued participation in the WTO. We think there are improvements that can be made in the process and those are part of my testimony. Second, relative to China, the point has been made today how important China trade would be to the United States. It would be particularly so for us in the beef industry and other elements of agriculture. We encourage members to push for a date certain on the vote and to try to rally support for providing PNTR to China.

Finally, I would just say that we encourage members to press the administration for implementation of rulings by the WTO process. I think many people in agriculture feel that we still play on a very uneven playing field in world trade and we would like to see as aggressive action as we can to have this important part of the American economy functioning effectively.

[The prepared statement follows:]

**Statement of Charles P. Schroeder, Chief Executive Officer, National Cattlemen's Beef Association, Denver, Colorado**

Thank you Chairman Archer and Members of the Committee for holding this hearing to discuss Future Prospects for U.S. Participation in the WTO. NCBA commends your leadership and continuing efforts to examine the ongoing changes and the resulting issues and concerns of cattlemen and women as we work to find ways to improve our ability to more effectively market U.S. beef in international trade.

I am Chuck Schroeder, CEO of the National Cattlemen's Beef Association, headquartered in Denver, Colorado.

NCBA encourages open and honest discussion of all issues facing the cattle industry, such as is being provided by today's hearing. Such debate is vital to the democratic policy development process—both within NCBA and to the nation at large. NCBA has long supported a “free but equitable” trade philosophy and the opening of two-way international beef markets. We thank you for the opportunity to submit our views.

*Importance of Trade:*

During 1999 there were encouraging signs that for the first time in 20 years domestic U.S. beef demand has increased. However, our “home” market contains only about 4 percent of the world's population. Our greatest potential for expanding markets is in international trade. As the beef industry continues to improve its efficiency and productivity, as well as the quality of its commodity, we are becoming increasingly dependent on the rest of the world to buy our products to provide economic growth. The U.S. beef industry has worked hard to promote beef exports, which now account for more than 12 percent of the value of wholesale beef sales.

The industry's hard work has resulted in an expansion of beef and beef variety meats exports from approximately \$500 million dollars twenty years ago to approximately \$3.2 billion in 1999, and represents a more than a six-fold increase. In simpler terms, 1999's 2.45 billion pounds of U.S. beef and beef variety meats export sales represents 10 percent of the 33 million head of cattle processed into beef. While encouraging, these numbers highlight the growing importance of taking advantage of every opportunity to move U.S. beef into international trade, such as would be afforded by implementation of the agreement negotiated with China.

As this reliance on international markets has grown, so have the effects of political and economic strife in our key export markets, which in turn have contributed to the volatility of U.S. cattle prices. The 1998 calendar year—a year of recession in most Asian markets—was the first time that more than one million metric tons of U.S. beef and beef variety meats were exported. This record volume was exceeded in 1999. Compared to 1998, exports of beef and beef variety meats during 1999 increased of 8.9 percent on a volume basis and increased nearly 14.3 percent on a value basis.

Recovery in Asian economies, especially Korea, continued economic prosperity in Mexico and increasing global consumer confidence that U.S. beef is the safest and most wholesome in the world has contributed to improved international demand for American beef. Beef imports also increased 8.2 percent in volume and nearly 16.5 percent in value during 1999, the result of increasing U.S. beef prices and improving U.S. beef demand. Devaluation of currencies in Australia, Brazil and other Latin American countries and increased beef production in beef exporting countries also contributed to increased U.S. beef imports during 1999 versus 1998.

The U.S. must enter all beef trade negotiations with market access being a top priority. NCBA realizes that for international trade to expand and work to the advantage of U.S. beef producers any agreements must also be equitable. NCBA is sensitive to the fact that past agreements have not always worked to the competitive advantage of America's beef cattle producers. Past agreements could have been more favorable for U.S. cattlemen, but it is easy to second-guess our predecessors with the benefit of hindsight. While this is the hand that we have been dealt under current agreements, NCBA will continue to work to assure producers' interests are protected as we seek improvements in existing agreements, as well as in any new agreements.

The United States is currently the least restricted and largest beef import market in the world purchasing 15 percent more beef than the second largest importer, Japan. The United States is also the second largest beef exporter. Beef markets in other developed countries remain virtually closed to U.S. beef, such as in the European Union (EU), or protected by relatively high tariffs as is the case in Japan and Korea. A strong, clear and irrevocable message must be sent by U.S. negotiators to Cairns Group and Mercosur countries—major exporters of beef to the United States—that *no* increased access to the U.S. beef market will be forthcoming until meaningful access and tariff reduction is achieved in other major beef importing countries.

*The EU Beef Case:*

My comments today are based on the beef industry experience of having taken a case through the entire WTO dispute settlement process and won, but first, a bit of background on the case. The EU has essentially banned imports of U.S. beef since 1989. This thinly disguised trade barrier was implemented in the name of consumer

protection in spite of ample scientific evidence that production technologies approved by FDA and widely used in the U.S., but prohibited in the EU were safe. The U.S. government complained in the GATT, but the EU, as was permitted at that time blocked dispute resolution.

After the WTO replaced the GATT the U.S. filed its formal complaint in January 1996, claiming the EU beef ban was a non-tariff trade barrier. Australia, and New Zealand joined the United States in the action. Canada filed a separate case, and the final report addressed issues raised in both (U.S. and Canadian) cases. These were, in effect, test cases for the application of the Uruguay Round Agreement on the Application of Sanitary/Phytosanitary Measures.

Following a series of legal actions and appeals a WTO arbitrator upheld all previous rulings and gave the EU until May 13, 1999 to bring regulations into compliance with WTO guidelines. Under WTO procedures the EU was then obligated to modify its regulations by May 13, 1999 to comply with the ruling or the United States could retaliate. Unfortunately the EU was unable to modify its regulations and on July 29, 1999 the U.S. began implementing retaliatory measures against exports from the EU valued at \$116.8 million.

The objective of the U.S. beef industry has always been to re-gain access to the European beef market, not retaliation. Retaliation or compensation will not benefit the beef industry and these alternatives are viewed only as a means to an end—access to the EU market—not the primary objective. Based on the criteria of market access as the primary objective, one could say that the WTO dispute settlement process has not worked—we still do not have access to the EU beef market. However, compensation and retaliation are also possible outcomes for any WTO case and the U.S. has implemented tariffs of 100 percent on \$116.8 million of EU goods consistent with alternatives provided in the WTO dispute settlement process. They provide a “burr under the saddle” to push the EU to compliance. From that perspective the WTO dispute settlement process has worked, though the industry has not yet achieved its objective.

*Maintain Participation and Integrity of the WTO Dispute Settlement Mechanism:*

NCBA strongly supports continued United States participation in the WTO. Based on our experience, among the strengths of the current WTO system is the well-defined process for initiating a dispute case and for determining the final ruling/settlement. The current system is much improved over its GATT predecessor in this respect. The strict science-based rules established for resolving these issues is another major strength of the current dispute settlement process.

On the other hand, the existing system can be further improved. The primary weakness of the current system is the absence of an enforcement mechanism to assure compliance once a ruling is handed down. The WTO case attempting to resolve the EU beef ban took nearly a third of a decade from when the case was initiated until retaliation began. The process included an initial ruling in the case, an appeals process and the arbitrator’s 15-month reasonable period for the EU to change its regulations.

Although lengthy, the total time expended is probably consistent with the duration of most U.S. court cases and perhaps acceptable *IF* the EU would have complied at the end of the “reasonable period.” The frustration is that the EU waited until the reasonable period was nearly expired before beginning to discuss possible resolutions, knowing full well that any resolutions under consideration likely would take another two or three years to implement. Compared to the old GATT system, the problem now is much more one of compliance with a ruling once a final ruling is issued.

The EU commitment to the WTO is questionable based on reactions and responses to WTO rulings that have gone against the EU position. In the beef case, the EU response was to announce intentions to initiate yet additional risk assessments, despite the fact that multiple risk assessments have been conducted over two decades without showing credible evidence of risk. This blatant stonewalling is unacceptable and requires aggressive and decisive action to address cavalier disregard of the WTO trade rulings and policy. Failure of the EU to comply with this ruling in a timely fashion threatens the integrity and credibility of the SPS Agreement and the WTO dispute settlement mechanism.

*Suggested Changes to the WTO Dispute Settlement Process:*

To encourage early settlement and/or compliance, possible improvements to the dispute settlement process would include:

*Reimbursement for Prior Injury:* An escrow account or bonding requirement could be established where the defending party would begin paying at the time of the initial ruling. Under the current system, compensation or retaliation only starts once

the entire process is completed. The injured party is not reimbursed for losses incurred during or prior to the case. The bottom line: There is no incentive for early settlement or compliance by the losing party because the current system effectively rewards stall and delay tactics.

This problem is accentuated under the current dispute settlement process because the losing party only has to pay for future losses, which do not begin as long as the process has not reached settlement. Another alternative would be to allow the winning party to collect monetary reimbursement for injury incurred during and prior to the case.

*Streamline the Process:* This issue has already has a solution—a package of reforms that would tighten and shorten the WTO dispute settlement resolution schedule has been negotiated by WTO members, including the United States. NCBA supports quick approval and rapid implementation of this reform.

*“Carousel” Retaliation:* Another enforcement tool supported by the U.S. beef industry and others is for the retaliation list to be revised periodically—often referred to as “carousel” retaliation. Under the current system, the countries and the commodities that are not targeted for retaliation breathe a sigh of relief once the list is published. Without periodic changes to the list, there is little, if any, internal political pressure from these entities to settle. If the list of affected commodities were subject to change on a random basis, countries and/or commodities could never be certain they had escaped targeting. This uncertainty would help generate constant pressure on all offending parties to come into compliance with the WTO ruling.

The U.S. beef industry can again speak from experience on this issue. The 1989 retaliation against the EU in this case was suspended when the WTO case was initiated in January 1996. The 1989 retaliation was static and the burden fell mostly on Italy. Although it imposed some economic and political pain on Italy, it hardly affected the other 11 member states. Italy’s interests were quickly written-off by the other member states, and there was no significant pressure to change the policy. For that reason, the U.S. remains shut out of the market.

All EU member states carry responsibility for maintaining this illegal policy—none should be immune from the effects of retaliation. Since each EU member believes other member states will bear the brunt of the U.S. retaliation, there is minimal pressure within the EU to change or withdraw its ban on U.S. beef. With the retaliation in the EU beef case set at only \$116.8 million, a static retaliation list has significant impact on the exports of only two or three member states out of the 14 (UK has been exempted from retaliation by the Administration).

Once retaliation is taken, carousel retaliation seeks to ensure that it is applied in a way to best ensure compliance. With this tool, USTR could use its existing authority to periodically re-shuffle the list of targeted products to impact, over time, the interests of each member state. This approach is uniquely applicable to—and was conceived primarily for use against—the European Union because of the EU’s one-of-a-kind policy-making apparatus.

USTR could voluntarily rotate among products included on the list published March 25, 1999, or involve additional products, as appropriate. However, the Administration has been unwilling to exercise this authority. NCBA and a broad coalition of agricultural organizations strongly support the “Carousel Retaliation Act,” H.R. 2991 co-sponsored by Congressman Combust, Chairman of the House Agriculture Committee, Congressman Stenholm, Ranking Member of the House Agriculture Committee and over 80 other co-sponsors. In the Senate, S.1619 is sponsored by Senator DeWine, with a bipartisan group of over 30 co-sponsors. Provisions of S. 1619 passed the Senate as part of the Africa Free Trade bill and is now in conference.

In order to enhance the credibility of the WTO and to increase U.S. leverage to deliver relief in cases, U.S. agricultural interests are urging that the carousel language that passed the Senate remain in the Africa bill and be quickly enacted into law. Europe’s outspoken opposition to the notion of carousel rotations is promising evidence that this approach may finally get Europe’s attention and exert the pressure needed to induce EU compliance with WTO rulings. NCBA urges members of this Committee to strongly support including carousel language in the final Africa Free Trade conference report.

*Target Larger Member States First:* Although all 15 member states are responsible for maintaining the illegal EU hormone ban, some are more influential over EU policy than others. Each of the five larger member states—France, Germany, Italy, Spain, and the United Kingdom—has more votes and appoints more Commissioners than the 10 smaller countries. NCBA recommended that the initial product list be developed to affect the interests of a subset of these five countries. If the initial retaliation does not precipitate an appropriate change in the EU beef import policy over a reasonable period of time, the list should be adjusted and reissued to affect

the products of the remaining large countries. Subsequent adjustments in the list should be targeted toward subsets of the smaller countries.

*Tariff Levels Should Be Flexible:* All but a handful of the products identified in the March 25, 1999 Federal Register notice as candidates for the retaliatory 100-percent tariffs are agricultural products. This is significant because the EU Common Agricultural Policy represents a vast network of direct and indirect subsidies—including export subsidies—designed to artificially enhance the competitiveness of EU agricultural exports in international markets. Unless tariffs are established at truly trade-prohibiting levels, they are not retaliation in the true sense of the word. If the objective in assessing retaliatory duties is to eliminate trade i.e., retaliation, it should be recognized that EU subsidies are variable and can be increased to offset the amount of the tariff. This suggests that initial tariffs at levels higher than 100 percent should be considered and/or that USTR should reserve the right to increase the tariff if the EU increases subsidies in an attempt to neutralize the effects of the retaliatory tariff.

*Other WTO Issues:*

*Do Not Open the SPS Agreement:* NCBA supports strict enforcement of the science-based trading rules established in the Uruguay Round Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). The red meat industry is generally satisfied with the SPS Agreement and opposes its opening for further negotiation.

*Definition of Dumping:* The beef industry is driven by supply and demand and these forces determine the market price for beef. Market-driven industries traditionally run in cycles, and most beef producers periodically sell below the cost of production (at a loss) during the high production/low price periods of the cattle cycle. Indeed, it is these low prices and industry losses that result in herd reduction and declining supplies. These periods of cyclical low prices and producer losses in the beef industry meet the definition of dumping under current WTO rules—even in the absence of evidence of predatory behavior, intention to monopolize, or other intentional efforts to drive competitors out of business.

Following expenditure of scarce industry resources to defend against dumping cases filed by Mexican producers against U.S. cattle, beef and beef variety meats, NCBA appointed a working group to draft new language defining “dumping” that would better protect U.S. producers in future cases. The objective is to make the definition of dumping more consistent with the cyclical realities of producing agricultural commodities.

The current definition of dumping under WTO rules does not make sense for cyclical commodity markets like beef because one of the key criteria defining “dumping” is that the commodity must be sold below the cost of production in the importing country. During future negotiations, NCBA supports changing WTO rules so that our exporters are not found to be dumping because they are selling below cost because of market prices they cannot control.

*Political Climate and Industry Concerns:*

There is a perception among many in agriculture that past GATT and WTO rounds often traded away U.S. agricultural priorities. U.S. crop and livestock producers were left facing high tariffs and a host of non-tariff trade barriers in foreign markets while domestic agricultural markets were liberally opened to imports. Continued failure of the EU to live up to its obligations as a full WTO member and lift the ban on U.S. beef is a constant irritant and often cited as an example of how the WTO process fails to work.

One of the underlying premises of the 1996 “Freedom to Farm Bill” was that aggressive pursuit of growing export markets would be a critical strategy to replace the safety net of traditional farm programs. NCBA firmly believes this to be true. Eliminating trade barriers is essential to the success of any international trade negotiations.

Despite the overwhelming evidence that the international market must be the focal point for market growth and economic vitality, there is a growing protectionist sentiment at the grassroots level. This sentiment is the result of increased questioning at state and local levels about the impacts of trade on individual agricultural producers and increased skepticism about the willingness of federal officials to aggressively negotiate agreements favoring U.S. interests.

In addition, there is a growing lack of confidence even among “free” traders that our trading partners will live up to their obligations under negotiated agreements. Simply put, U.S. producers are tired of facing their international competition on a persistently tilted playing field. There also is a perception that U.S. negotiators and regulatory agencies are more focused on developing protocols and modifying regula-

tions to address concerns of countries seeking access to U.S. markets rather than on identifying and addressing regulations/barriers in importing countries that limit access of U.S. products.

It is clear that Congress and the Administration have not had a unified strategy to systematically attack the trade problems of U.S. agriculture. The inability to secure approval of "fast track" negotiating authority prior to the Seattle Ministerial meeting is testimony to this void. Congressional leaders and the Administration have often seemed more interested in forcing the opposition into a difficult vote and then playing the "blame game" for political gain than in working together to pass meaningful trade legislation that will benefit agriculture.

There is plenty of fault to go around. The breakdown of the Seattle talks and attempts to patronize varied non-trade related special interests has further contributed to concerns about whether agriculture's interests will once again be traded away for political expediency. And finally, reluctance of the Administration to utilize the most hard-hitting retaliation strategies, including the carousel approach, against the EU in the beef and banana cases just compounds the concerns that U.S. negotiators are more concerned about political and diplomatic pressures than the interests of domestic pro-trade injured parties.

Agricultural producers are justifiably concerned about sending a team to the negotiating table that has a more consistent track record of in-fighting among Congressional and Administrative ranks than in engaging the opposition for meaningful trade liberalization. Failure of the Seattle Round means that the United States must achieve a meaningful "win" on the trade front soon or the anti-trade activists will take us down the road to protectionism—if not isolationism—resulting in trade wars and a return to costly government supply management/price support farm programs.

*The China Agreement:* With a population of 1.2 billion and nearly 200 million consumers with middle-class incomes, China is a consumer market with enormous potential. Any market potential and any trade agreement that involves one out of every five inhabitants on planet Earth is impossible to ignore just because of the sheer magnitude of the numbers. For example, NAFTA impacted the total population of Canada, Mexico and the United States—a combined population of approximately 400 million. China has three times the population of the combined NAFTA countries.

The U.S. beef industry (and the rest of agriculture) has the potential for huge gains in the broader trade package that was finalized with China prior to the WTO meetings in Seattle. The agricultural community is anxiously waiting to see if Congress is going to fulfill its promises of trade expansion embodied in the 1996 Farm Bill or if election year partisan politics will rule the day over agricultural interests.

A condition for any trade agreement with China to be finalized is that the U.S. government must approve Permanent Normal Trading Relations (PNTR, formerly MFN) for China. For the agreement to be completed, Congress must separate the importance of trade and access to emerging markets for U.S. agricultural products from other political concerns and approve PNTR for China. If China joins the WTO and PNTR is not approved, the rest of the world will gain access to the Chinese market under the same conditions that are available to U.S. producers in this agreement—BUT U.S. producers will not be able to participate. In effect sanctions will be placed on U.S. agricultural products that could be sold into the Chinese market while the rest of global agriculture once again gains access at our expense.

Congress has approved annual renewal of NTR every year in recent years with increasingly wider margins. Annual renewal of NTR granted China continued access to the U.S. market and resulted in record trade deficits. The recent agreement levels the playing field. It gains access to the Chinese market for U.S. goods, including agricultural products and is good for the beef industry, for American agriculture and for business. A vote against PNTR for China is a vote against U.S. agriculture.

It is critical for Congress to now do the right thing for agriculture and the country and cast a favorable vote for PNTR. A date for the vote must be set so that NCBA and other agricultural interests can generate grassroots support. Given protectionist sentiments in some quarters, both in here and abroad, failure to cast a favorable vote for trade expansion with China now could have implications comparable to the protectionist provisions of Smoot-Hawley.

The U.S. must re-establish its commitment to opening international markets soon or risk giving the agenda to more protectionist elements by default. NCBA supports continued membership in the WTO. We appreciate the initiatives that have been undertaken to gain access to "level playing field" international markets and to resolve lingering issues that restrict the ability of the U.S. beef industry to offer its products to international consumers.

Mr. Chairman, NCBA thanks you and the committee for this opportunity to participate in the process of resolving critical trade issues within the beef industry. We look forward to continuing U.S. membership in the WTO, a successful vote granting PNTR for China and accession of China to the WTO. We stand ready to provide additional input on this and other trade issues, such as those involving the EU and approving legislation to provide trade-negotiating authority. Thank you for the opportunity to present this information.

Mr. HOUGHTON. OK. Good. Well, thank you very much.

Mrs. THURMAN. Mr. Chairman——

Mr. HOUGHTON. And, again, I am sorry we had to——

Mrs. THURMAN [continuing.] Mr. Chairman——

Mr. HOUGHTON [continuing.] Truncate this thing. Mr. Grogan, could you summarize in a couple of minutes what you had——

Mrs. THURMAN. Mr. Chairman——

Mr. HOUGHTON [continuing.] And, Mr. Lichtenbaum, maybe you could do the same thing.

Mrs. THURMAN. I just wanted to introduce Mr. Grogan because he actually——

Mr. HOUGHTON. Oh. I am sorry. Absolutely. I am sorry.

Mrs. THURMAN [continuing.] Is a Florida company. More importantly, when I was in the State Senate, he actually was in my district. He now is in—or would have been in Cliff Stearns, but we are just glad you are here. Thanks.

Mr. HOUGHTON. Oh, thanks, Karen, very much. All right. Mr. Grogan, go ahead.

**STATEMENT OF DALE GROGAN, PRESIDENT, LEAPFROG SMART PRODUCTS, INC., ORLANDO, FLORIDA, AND MEMBER, U.S. CHAMBER OF COMMERCE**

Mr. GROGAN. Thank you, Ms. Thurman. I sure appreciate that. Mr. Houghton, I will truncate my comments. I am here as President of Leapfrog Smart Products. We are a software development firm based in Orlando now. And we are a member of the U.S. Chamber of Commerce. And my comments are specifically directed to how WTO affects our business as a small business. Leapfrog is a four-year old company and what we do is write software for smart cards. And smart cards are those little credit card-sized pieces of plastic that have computer chips in them and the computer chips do a whole host of different things.

What we have seen is that the United States has lagged in the world market as it relates to employing and deploying this technology. The technology first came over from Europe about 25 years ago, but the hotbed of activity right now is Asia and, in particular, China.

China is so important to our company that we have established a number of joint ventures there in China with partners. The difference in doing business in China versus, perhaps, a decade ago, is absolutely startling. We have a joint venture with a couple of different companies over there. And historically, a joint venture in China was, the Chinese would contribute land or land-use rights and 1,000 workers. No more.

Our joint venture partners have capital at risk. They have profit motives and we have Chinese investment into the corporation. In

fact, we have specifically Chinese national citizens as investors as in-ground, in-country partners. So the way of doing business is dramatically different.

Furthermore, the size of the market in China, just in the smart card industry, absolutely dwarfs what we are doing here in the United States. There is one project, Mr. Houghton, right now that is being bid at the U.S. level, which is \$1½ billion coming through our Federal Government through the GSA. It is called the common access project. One-and-a-half billion dollars, two-and-a-half million smart card holders. In China, there is a project sponsored by the government that represents 980 million smart cards.

For Leapfrog, a small company, and we have 50 employees, we would be foolish to turn our backs on that. We simply could not survive if we ignored the rest of the world, China, in particular, because the market is so, so large.

So, for us, in a quick summation, WTO is very important for us for three important reasons. One, the protection of our intellectual property. We are a software company. That is our asset. So having the WTO adds another layer of protection. The Chinese recognize it. They want WTO inclusion obviously, and it levels the playing field.

Mr. HOUGHTON. Need to hurry up.

Mr. GROGAN. I am finishing.

Mr. HOUGHTON. OK.

Mr. GROGAN. So I guess, in closing, the two other points are, access to the markets for a small company is important. And keeping the negotiated advantages that Ambassador Barshefsky had is critically important. The punch line of all this is that right now, I am responsible for 50 people's lives. We have 50 employees. By having our trade in China and WTO, we can protect those lives. I appreciate your time.

[The prepared statement follows:]

**Statement of Dale Grogan President, Leapfrog Smart Products, Inc.,  
Orlando, Florida, and Member, U.S. Chamber of Commerce**

I am Dale Grogan, President of Leapfrog Smart Products, from Orlando, Florida and a new member of the US Chamber of Commerce. Thank you for the opportunity to express the viewpoint of small business as it relates to U.S. membership in the WTO and the implications of U.S. membership on trade with China, particularly in light of the expected accession of China and Taiwan into the WTO this year.

Leapfrog Smart Products is a software application development firm that creates solutions for Smart cards. Smart cards are mini-computers embedded in plastic the size and shape of a credit card. Just like Microsoft creates software for personal computers, Leapfrog creates software for computers called Smart cards.

We are proud to testify on behalf of the U.S. Chamber of Commerce and likewise believe the Chamber speaks on our behalf on this and other issues. The U.S. Chamber is the world's largest business federation, representing more than three million businesses and professional organizations of every size, sector and region in the country.

In keeping with the Committee's March 20 hearing advisory, my comments today will focus on four topics: (1) the importance of PNTR status and WTO membership for China as it benefits our technology-based business, (2) the overall results of U.S. membership in the WTO and the General Agreement on Tariffs and Trade (GATT), (3) whether future participation of the United States in the WTO and the multilateral trading system can be expected to benefit Americans, and (4) prospects for increased economic opportunities for U.S. businesses and workers associated with Chinese membership in the WTO and the normalization of trade relations between the United States and China.

*Point 1: "PNTR status and WTO membership for China as it benefits our business:"*

From a technology perspective, China is no longer the sleeping giant—she is awake. The time gap between the Industrial Revolution and the Technology Revolution in the U.S. was about 80 years; in China, it is about 8 years. Infrastructure is being built faster than you can possibly imagine and the marketplace is ready for Western goods and services, in particular, technology—any kind of consumer-based technology. Whatever the “western consumer” has, the Chinese want and need

China's greatest resource today is its collective buying power. China recognizes this and rightfully protects that resource. To effectively do business in China, having a strong in-country partner is absolutely elemental. Without a partner who is motivated by profits, you're dead. Fortunately the business climate in China has changed over the past decade. It used to be that a Chinese joint venture meant that the Chinese would “contribute” land (or a factory) and labor. That was easy to do for the Chinese, because both were, and are, abundant. The joint venture that Leapfrog just completed with our Chinese partners is the new model (we think) for Sino-American business. The objective of the joint venture is to manufacture a Smart card reader for worldwide distribution, including China. Also, we expect to sell our software solutions into China—soon to be the world's largest purchaser of Smart card technology.

Under the parameters of our joint venture, our Chinese partners not only contribute the factory and skilled labor force required to manufacture our new fingerprint reader, they also are bona fide investors into the deal with capital of their own at risk. Not only that, our partners will be responsible for business development within China. An American company without a Chinese partner is a rudderless boat. The third leg of the stool is that we have a local Chinese businessman as an investor. Because our joint venture is privately owned, we all share the same capitalistic goal of profits.

The key to making deals like we have with our Chinese partners is having PNTR and WTO membership for China. The Chinese business people want this. Normalization and WTO status only re-affirms the rules of the game. For us, WTO status in effect forces Chinese businesses to “play by the rules.” The WTO protections, specifically of intellectual property, give hi-tech companies such as Leapfrog the comfort and ability to extend our business reach into the global market, a necessary ingredient in the Internet-driven information age.

For a small company like Leapfrog (we have about 50 employees now), having the ability to sell our software into China is critical to our success. The fact of the matter is that the U.S. market lags Asia dramatically. For example, over the next five years, U.S. market for Smart card software will be about \$200 million. China alone will be over \$2.0 billion. Companies in our industry simply cannot ignore the Chinese market. The harsh reality of business is that isolationism would simply kill our company.

*Point 2: "Overall Results of U.S. Membership in the WTO and the GATT"*

During the pre-World War II period, the United States and other nations learned the hard way that protectionism and other forms of isolationism were self-defeating. The collective destinies of all of the countries are inseparable and interlocked. As the notorious Smoot-Hawley tariffs in the U.S. and other mirror measures around the world aggravated an already severe depression, many nations eventually realized that protectionism could not be the answer. Thus a global trading system was conceived and eventually embodied in the GATT. Founded in 1947, the GATT system, had as its underlying premise that protectionist policies were inimical to nations' economic well-being. GATT established international ground rules for a process of economic integration that continues to this day. In sharp contrast to earlier practices, nations agreed to treat any one nation's commerce the same as that of (almost) all other nations (“most-favored-nation” treatment or, in U.S. law more recently, “normal trade relations”), as well as how they would treat their own commerce (national treatment).

Since that time, the world economy has evolved into a very different and much more complex state. As nations struggle to cope with these new realities, official efforts at economic integration are continuing around the world. The Uruguay Round Agreements represent by far the most ambitious of these efforts. Those agreements committed over 135 nations to adherence to the following principles:

- *Trade without discrimination.* This means WTO members agree to give equal treatment to commerce from other member countries (“most-favored-nation”) as to domestic commerce (“national treatment”).

- *Predictable and growing access to markets.* This is of particular importance to our company and includes a continuing commitment by WTO members to reduction of tariff and nontariff barriers to trade, as well as transparency in domestic laws, regulations, and practices.

- *Fair competition.* Where conditions and restrictions on free trade remain, applicable rules and procedures enforced by WTO members must be fair and, again, non-discriminatory.

- *Economic development and reform.* Over three quarters of the 135-plus members of the WTO are developing countries, in the process of reform from non-market systems. Accelerated trade concessions and extra flexibility in required adherence to WTO rules are provided in a number of areas.

While the GATT Uruguay Round Agreements are historic for the ground and the number of signatory nations they cover, they also represent—through the WTO's dispute-settlement processes—an unprecedented application of a rule-enforcement mechanism to the conduct of trading nations. While the WTO is not in a position to directly force individual nations to change their trade laws, it can provide an international "stamp of approval" for other nations' responses to trade barriers and distortions that they and the WTO have deemed improper. As a result, under the WTO we have better enforcement of U.S. rights and greater assurances that our trading partners will abide by the rules and open their markets to American exports.

More broadly, participating in the WTO also permits us to advance our democratic values. Countries that subscribe to WTO rules—rules we had a disproportionate role in shaping—are obliged to adhere to these rules in commercial transactions. In short, the WTO reinforces the rule of law. As I mentioned earlier, this is critical for a software company where our intellectual property can be reverse engineered or pirated. WTO rules creates new barriers against piracy that benefit both small and large businesses.

*Point 3: "Whether Future Participation of the US in The WTO and the Multilateral Trading System can benefit Americans"*

Trade's importance to the U.S. economy has grown enormously over the past forty years. The share of U.S. exports purchased by foreigners has grown almost three-fold since then—as has the share of U.S. income used to purchase foreign goods and services. Over 95% of the world's population lives outside of the United States. It should make common sense not only to trade with them, but also to lead and work with other nations to solve international crises and promote expanding trade and sustained economic growth.

As the world changes, continuing U.S. engagement is becoming more important to the national interest, not less. The world is becoming more multipolar in political and economic terms. New players are emerging on economic and political fronts. Economic and trade "blocs" such as the North American Free Trade Agreement (NAFTA), the European Union, the Asia-Pacific Economic Cooperation area (APEC), and others continue to gain prominence.

There is no question that, if the U.S. is to successfully reassert its leadership in world economic affairs, it must not only resume its place at the head of the trade negotiating table, but also demonstrate its willingness to lead at that table. Historically, such U.S. leadership has led to strengthened trade rules that have allowed American businesses, farmers and workers to find new opportunities, create new jobs, and raise living standards. In other words, to enjoy the benefits that increased trade has on our lives.

Notwithstanding the debacle of the WTO ministerial conference in Seattle, global trade continues to expand with attendant benefits for consumers, workers and business. Continued progress toward trade liberalization requires that we recognize the WTO's continuing value to U.S. interests. We must therefore continue efforts to build upon and improve upon the system as it now stands.

The structure of rules governing trade in goods and services remains in place within the WTO. We should work vigorously in the coming year to insure rapid and full implementation of all existing commitments by WTO members.

The WTO's less advanced members, especially the lesser developed countries, must obtain a deeper stake in the WTO system through additional trade liberalization initiatives and through understanding the benefits of global trade for their economies.

The rapid pace of global economic integration will insure that continuing delays in further trade liberalization pose serious risks and burdens for global trade. Every attempt should be made to move forward as much as feasible in the already mandated negotiations on agriculture and services. Opportunities for limited progress, such as sectoral initiatives, should be pursued wherever feasible.

There are those who, during the struggle to implement the North American Free Trade Agreement (NAFTA), argued that NAFTA's implementation would be followed by the "giant sucking sound" of U.S. jobs heading south to Mexico. But what has really happened? Since NAFTA's implementation—and also since the subsequent implementation of the Uruguay Round Agreements—the U.S. economy has enjoyed record employment. It is clearly in our national interest to replicate this success wherever and whenever possible.

*Point 4: "Prospects for increased opportunities for the U.S. associated with Chinese membership in the WTO and the PNTR between the United States and China"*

In its single most important vote this session, Congress will soon decide whether to extend permanent normal trade relations (PNTR) status to China as part of the recently-negotiated China-U.S. agreement on China's pending WTO accession. Once China concludes the requisite additional agreements with the European Union and others, it will enter the WTO—whether or not Congress grants PNTR. If Congress votes not to grant PNTR, we will forfeit to our competitors in Asia, Europe and elsewhere the benefits of improved access to China's market that we negotiated for ourselves last year—with the big losers being American farmers, American manufacturers, American technology firms like Leapfrog, American service providers, and American workers.

China has some of the most restrictive trade barriers in the world. But in stark contrast to the Chinese market, the U.S. market is wide open to imports. U.S. families already benefit from increased choices and price competition brought about by Chinese imports. By tearing down thousands of Chinese trade barriers, the US-China WTO agreement will help level the playing field between our two countries and give U.S. companies an opportunity to increase their share of the Chinese market.

U.S. exporters will not be the sole beneficiaries of the U.S.-China WTO agreement. More business for U.S. exporters means more business for their vendors and suppliers. Thus, even companies with no international sales will be able to attribute some increase in business to the agreement by virtue of their supplier relationship with companies that sell to China.

In short, the agreement is one-sided in our favor. In exchange for Chinese concessions, the United States is not required to open its markets wider to Chinese imports. These concessions are the price of admission China must pay to become a WTO member. With the exception of the annual "normal trade relations" (NTR) renewal process, the United States in effect already treats China as if it was a WTO member. We must end the annual NTR renewal process and grant China permanent status in order to insure that we receive the benefits of this landmark agreement.

The U.S. has an historic opportunity to secure broader and more consistent access to China's markets. While China must still complete its WTO negotiations with other nations, the U.S. should not delay its final approval. The US-China WTO agreement contains most of the major components that will be in China's final access protocol. Any additional market-opening measures negotiated by these other countries must be extended to the United States as well. Thus, the final terms of China's accession to the WTO can only be improved over the already impressive US-China agreement.

In conclusion:

The China WTO Agreement will:

- Eliminate import duties on high-technology goods by 2005.
- Permit foreign investment in the Chinese Internet, and liberalize Internet services.
- Permit provision of telecommunications services via satellite.
- Allow foreign investment in all types of telecom services and phase out most geographic restrictions.
- Protect intellectual property rights through adherence to the WTO TRIPS Agreement.

We have just become a public company, and so we are scrutinized by Wall Street every day. I can tell you that when we announced our Chinese joint venture, our stock jumped 28%. The market recognizes business opportunities and responds accordingly. We believe that what we are doing is right and benefits our shareholders, our employees, and their families. The positive fall-out from doing business with China is simple: jobs. High-tech engineering jobs, service jobs, support jobs, production jobs, the list goes on. In the hi-tech business we provide full solutions. This means that we buy component goods, such as Smart cards, computers, and readers. Additionally, there is a host of support services that are provided from back-office processing to infrastructure support to telecommunications efforts. The point is for

every solution sold in China, bunches of jobs are created here in the US. The jobs fuel the economy.

On a personal level, in my many trips to China, I have found the people interesting, humble, honest, and hard working. The business issues they face on a daily basis are the same as we have here in the U.S.: soaring costs, shrinking margins and global competition. Like it or not, China is on the way to becoming a capitalist juggernaut. We have a simple choice to make in business. We can either embrace and profit from China as a trading partner or stick our heads in the sand and hope they go away. I am responsible for the livelihood of fifty families now; the choice is simple for me. We need PNTR and WTO for China. On behalf of the U.S. Chamber of Commerce and its members, I urge you to follow our lead.

This concludes my testimony. I will be glad to answer any questions.

Mr. HOUGHTON. I thank you. Well, I appreciate your understanding. Yes.

Mr. Lichtenbaum.

**STATEMENT OF PETER LICHTENBAUM, PARTNER, STEPTOE AND JOHNSON, LLP, & LIAISON TO THE WTO SECRETARIAT, ON BEHALF OF SECTION OF INTERNATIONAL LAW AND PRACTICE, AMERICAN BAR ASSOCIATION**

Mr. LICHTENBAUM. Thank you, Mr. Houghton. My name is Peter Lichtenbaum. I am a partner with Steptoe and Johnson, appearing here on behalf of the American Bar Association's Section of International Law and Practice. I very much appreciate the opportunity to be here and have a longer statement for the record.

To be, hopefully, as brief as possible, we support U.S. membership in the WTO. We recommend that the Congress not approve the legislation that has been introduced. The WTO is very important with respect to two aspects on which we have expertise, dispute settlement and institutional issues.

On the dispute settlement issues, a number of the reasons why this is in the U.S. interest have been talked about today. We have a guaranteed day in court. We have high-quality panel decisions. We have strict time limits at each stage. In general, notwithstanding the experience of the cattlemen, the compliance has been very good and the system has yielded commercial results for U.S. exporters.

Still, the ABA Section recognizes that changes may be warranted. One of those areas, obviously, is the area of compliance or implementation or enforcement.

Mr. HOUGHTON. OK.

Mr. LICHTENBAUM. It is worth thinking about what changes are warranted given the beef hormones decision and the bananas decision which the EU has not complied with. At the same time, as Mr. Levin pointed out, the United States is not only a plaintiff, but also a defendant in cases like the FSC. And so we have to be wary about proposals that might put us in a position that we don't want to be in when it is our turn. So we need to strike a balance.

Second, greater transparency is obviously critical from a political standpoint. In particular, all written submissions by governments should be available on the Internet when they are filed and there should be clear rules for submitting amicus briefs to panels.

And, third, the budget and staffing for the system should be increased. It is penny-wise and pound-foolish to stint on the funding

for dispute resolution. Right now, the system is stretched to its capacity. The United States should take a leadership role in providing the resources that are needed.

On my second topic, the WTO, as an institution, we all know the WTO is—

Mr. HOUGHTON. We have literally got to go here.

Mr. LICHTENBAUM. I will finish. Thank you very much.

Mr. HOUGHTON [continuing.] And could you wrap up? I am terribly sorry here. But I mean, I think it is for our convenience. We have got 2 minutes to go over and vote. And—

Mr. LICHTENBAUM. I understand.

[The prepared statement follows:]

**Statement of Peter Lichtenbaum, Partner, Steptoe & Johnson LLP, and Liaison to the WTO Secretariat, on behalf of the Section of International Law and Practice, American Bar Association**

The views expressed herein are presented on behalf of the Section of International Law and Practice (SILP) of the American Bar Association (ABA). They have not been approved by the House of Delegates of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

*Summary*

The ABA/SILP urges the Congress to reject a Resolution rescinding Congressional approval of the Uruguay Round agreements, for the following reasons:

- The application of the rule of law to international economic relations strongly serves the U.S. national interest. As an embodiment of the rule of law approach, the WTO helps establish and oversee the implementation and operation of rules that promote an open trading regime for goods and services. The vigorous enforcement of these rules under the Dispute Settlement Understanding ensures that they bind states to commitments made during the Uruguay Round. This development of the rule of law in international trade provides the security and predictability in commercial relations needed for U.S. consumers, producers, and exporters to flourish.

- The WTO provides the institutional forum for the greater liberalization of rules restricting commerce among nations. Many of those restrictions now cover areas (such as services and other intangibles) in which the United States has a comparative advantage and which form the foundation for the modern U.S. economy. The United States has far fewer trade barriers than many, if not all, of its trading partners. The future economic growth and development of the U.S. economy depends greatly on the access to foreign markets by U.S. producers not only of goods, but also of services and intellectual property. As the institution that already exists to address such issues, the WTO promotes U.S. national interests.

- Despite some high profile disputes where the U.S. position did not prevail, overall the WTO dispute settlement system has served and can reasonably be expected to serve U.S. interests. The WTO dispute settlement system has enabled the United States to obtain significant market access for U.S. exporters in a timely manner.

- The general success of the WTO in serving U.S. interests does not blind the ABA/SILP to the institution's imperfections. The ABA/SILP urges the United States to lead reform in the following principal areas: (1) strengthening the implementation provisions of the Dispute Settlement Understanding to promote greater compliance with WTO obligations; (2) enhancing transparency in dispute settlement and decision-making processes; and (3) ensuring that the entire WTO membership is adequately reflected in WTO decision-making processes.

- On balance, despite the institution's imperfections, U.S. membership in the WTO has advanced and continues to advance U.S. interests far more than would withdrawal from the organization. The reforms identified by the ABA/SILP would strengthen the WTO and thereby serve to promote U.S. interests more effectively.

I. INTERNATIONAL TRADE AND THE RULE OF LAW

The establishment of the World Trade Organization at the end of the Uruguay Round and the incorporation into the multilateral trading regime of several new agreements and areas of liberalization has highlighted the importance of a properly-functioning international trading order. The liberal trading system begun by GATT

and then strengthened by the WTO has contributed to the current economic growth experienced in the United States and to the growth and development of nations around the world. Recently, a dialogue has ensued on how we can seek to promote our trading interests while recalling that the U.S. national interest includes far more than simply trade policy. The following testimony discusses the role of the WTO's dispute settlement mechanism and institutional machinery in promoting U.S. national interests. It is the view of the ABA/SILP that Congress should maintain its support for U.S. participation in the WTO.

Any assessment of the costs and benefits of WTO membership for the national interest is, by its nature, complex and multi-faceted, requiring an analysis not only of the economic issues involved, but also those of the environment, labor, consumer, and other aspects of civil society. In this testimony, the ABA/SILP does not address the full range of factors that will necessarily be part of the final evaluation of the U.S. interest in WTO participation. Rather, the ABA/SILP today offers its views on areas where it has particular expertise, continuing the work undertaken by the ABA and the ABA/SILP in recent years regarding the promotion of the rule of law in international commercial relations. Specifically, the ABA/SILP offers its views on dispute settlement and institutional issues in the WTO.

A fundamental goal of the ABA is to promote the rule of law in international affairs. The ABA has undertaken a wide range of activities to support the rule of law, including through technical legal assistance such as the Central and Eastern European Law Initiative (CEELI), programs on topics such as anti-corruption efforts, and public advocacy. In the international trade context, such work includes a 1994 ABA resolution endorsing the WTO Dispute Settlement Understanding and the Agreement Establishing the World Trade Organization; a 1998 ABA resolution encouraging the right to counsel of all WTO Members in dispute resolution proceedings; and the representation of the ABA/SILP as a non-governmental organization at the WTO's Seattle Ministerial meeting. The application of the rule of law to international trade, first embodied multilaterally in the GATT and now in the WTO, has been and continues to be highly successful in promoting security and predictability in commerce between nations. Such commercial security and predictability, benefiting U.S. producers and consumers, clearly promotes U.S. national interests.

Dispute settlement is the cornerstone for an effective multilateral trading regime; it is essential to promoting the rule of law in our commercial relations. The dispute settlement mechanism in the WTO has been proven effective in its first five years, resolving many trade conflicts while establishing a solid foundation of jurisprudence that promotes stability in our trading relations. The system has been generally supportive of U.S. trading interests, as witnessed by extensive U.S. participation in and reliance on the system for upholding the legal commitments made by Member states in the Uruguay Round. In our analysis of the WTO dispute settlement system, however, we note that despite its successes, there remain, in particular, four areas that warrant consideration of reform: (1) Adequate implementation of panel decisions; (2) Access to the dispute settlement machinery for developing countries; (3) Greater transparency in the dispute resolution process; and (4) Procedural changes in the Panel system and Appellate Body.

The WTO has provided the basic institutional structure to facilitate the maintenance and the further development of an open trading system. As a new institution, however, the WTO faces the challenge in the future of continuing its success in liberalizing global trade while moving toward greater inclusion and transparency. To truly take root and have credibility, the WTO must ensure that its operations are open to examination and understanding by the general public. In addition, the entire WTO membership, in particular developing countries, must be adequately reflected in the institution's decision-making processes. These reforms will strengthen the WTO's legitimacy and enable it to more effectively promote open trade. This is very much in the U.S. national interest.

## II. WTO DISPUTE SETTLEMENT

In establishing a multilateral trading order based on clearly-identified rules agreed to beforehand by participating states, the mechanism to resolve differences regarding those rules is as crucial to the success of the trading system as the substantive rules themselves. A strong dispute settlement system enhances the legitimacy of the trading regime by reaffirming the application of the rule of law to all member states without requiring that each state rely solely on bilateral diplomacy to seek withdrawal of noncompliant measures. WTO dispute decisions not only address the measures in question in the specific dispute, but also fill gaps and thereby provide greater clarity for stable trading relations among all WTO members. Thus, the WTO's Dispute Settlement Understanding (DSU) system enhances the predict-

ability of access to other markets, access for which members negotiated through a careful balancing of national interests. By preserving this balance of interests, the DSU complements the WTO's substantive provisions. Strong dispute settlement procedures in the WTO are important in order to maintain open markets for exporters as the U.S. economy becomes more highly oriented toward exports as a contributor to economic growth. Furthermore, as more substantive disciplines have been negotiated under the auspices of the WTO, in areas such as services and intellectual property, the WTO dispute settlement system serves the broadening base of the U.S. economy.

#### *A. The DSU: A Continuing Success*

Prior to the Uruguay Round negotiations, the GATT and its companion Codes provided a relatively narrow range of trade disciplines, and many countries were not subject to these disciplines. In addition, GATT's dispute settlement system was sometimes ineffective. A single country, including the losing party in a dispute, could block adoption of an adverse panel decision, thereby preventing an effective resolution of a GATT violation. Moreover, even where a report was adopted, there was no effective process to achieve compliance.

Recognizing that the WTO would remain credible only if it was supported by a strong, rule-based dispute settlement system, the Uruguay Round negotiators established a prompt, effective mechanism for resolving international trade disputes. Although not perfect, the new system is widely and justly considered as successful. The reverse-consensus procedure established in response to previous GATT practice of losing states' blocking adverse panel findings has resulted in definitive pronouncements on the validity of challenged measures under states' WTO obligations. Losing parties can no longer frustrate the process at that stage.

The process proceeds with defined time limits at each stage, a characteristic strongly promoted by the United States during the Uruguay Round negotiations. Although many cases have extended beyond the nine-month time limit provided in the DSU, over two-thirds were completed within one year. The average time of eleven months for the resolution of each WTO case compares favorably to the previous GATT average of fourteen months.

This improvement is particularly impressive when one considers the dramatic increase in the number of disputes brought to the WTO when compared with states' reliance on GATT dispute settlement: since the entry into force of the WTO Agreements, the WTO has successfully resolved thirty-seven cases through its arbitral panels, and forty-one cases have been successfully settled under the auspices of WTO consultations. Therefore, the first five years of WTO practice have witnessed the successful resolution of more disputes than under the entire 47-year GATT regime.

Given the virtually-automatic adoption of panel reports, because of the reverse-consensus rule, the Appellate Body has proven particularly critical to the success of WTO dispute settlement as the higher judicial body to which decisions of WTO panels are appealed. In the twenty-six cases decided by the Appellate Body since 1995, it has shown ample willingness to correct the legal interpretations of panels.

Both WTO panels and the Appellate Body have faced a larger caseload than expected. States have increasingly invoked the WTO dispute settlement system since the institution's establishment. Whereas there were only five active disputes in 1995, there are now 26 active disputes. As noted earlier, the number of cases decided in the WTO already exceeds the number of GATT cases decided from 1947 to 1994. Twenty-six of thirty-two panel decisions have been appealed. In addition, pre-Uruguay Round GATT disputes involved issues under only one trade agreement. Today, in contrast, two-thirds of the disputes involve more than one WTO agreement. Moreover, because of the DSU's time limits, the increased number of more complex disputes must be processed more quickly.

Despite the heavy, and increasing, number of disputes, their increasing complexity and the shortened time limits, WTO budget and personnel allocations relating to dispute settlement have not increased commensurately. Notwithstanding the five-fold increase in the number of active disputes since 1995, the WTO's dispute settlement budget has increased only incrementally and there is only one additional attorney (a total of six) in the Legal Division.<sup>1</sup> The WTO Secretariat, USTR, other governments' trade officials, and neutral observers are convinced that the system is stretched to capacity.<sup>2</sup> For the system to remain credible and effective, budget and

<sup>1</sup>At present, in disputes involving anti-dumping, safeguards and subsidies lawyers from the WTO's Rules Division also participate, thus mitigating slightly the resource burden.

<sup>2</sup>See e.g., 1999 Trade Policy Agenda and 1988 Annual Report of the President of the United States on the Trade Agreements Program, at 33-34.

staffing allocated to it need to be increased. As the world's largest commercial power (and the traditional leader of worldwide support for improved and enforceable trade disciplines), the United States should take a leadership role in efforts to ensure that WTO Members agree to provide sufficient budgetary and staffing allocations for all activities related to the WTO dispute settlement process *and* that all Members pay their assigned annual contributions fully and promptly.

Even given this strain on the system's resources, both the lower panels and the Appellate Body have received widespread support from government officials and neutral commentators for the high quality of WTO decisions. The broad recognition of the quality of WTO decisions provides the organization with added legitimacy, as even parties that do not succeed in their cases can generally accept the reasoning of panels as fair and unbiased.

Furthermore, this enhanced legitimacy, supported by the high quality of WTO decisions, encourages compliance by the losing party in a WTO dispute. When a dispute settlement panel (or the Appellate Body in the case of an appeal) rules that a Member's law, regulation or practice violates one or more of the WTO's substantive provisions, the decision automatically is adopted (absent a consensus to the contrary). If the losing party does not alter its law, regulation or practice to conform to the ruling within a designated period, retaliation in the form of trade countermeasures will be authorized (unless the parties agree upon appropriate compensation). If a panel's decision is unbiased and well-reasoned, a losing party may be more likely to bring its measures into conformity with its WTO obligations. This willingness to comply with a panel's findings is revealed in the record of compliance under the WTO thus far, which shows that in only two cases—the *Bananas* and *Hormones* disputes—has the losing party remained non-compliant and failed to remedy its illegal measures.

Given the generally successful performance of the Dispute Settlement Understanding so far, it is not surprising that the United States has made effective use of WTO dispute settlement to advance its national interests. Assessing the achievements of the DSU specifically in terms of cases involving the United States, however, requires an examination of two further questions. First, have the cases successfully brought by the United States under the DSU generated meaningful commercial results? Second, in the cases brought against the United States, have WTO panels, in their interpretation of WTO commitments, expanded U.S. obligations beyond those accepted during the Uruguay Round negotiations?<sup>3</sup>

With regard to the twenty-two complaints brought by the United States and acted upon at the WTO, twenty were resolved favorably for the United States, either through a mutually acceptable settlement or a decision by a Panel or the Appellate Body. Many of these cases are reported to have resulted in significant commercial gains. As a recent example, the U.S. obtained a commitment from India to remove a wide range of import bans and licensing requirements on a large number of agricultural, textile and consumer products, following a WTO ruling that India's balance of payments restrictions were inconsistent with its obligations. In another recent case, the U.S. obtained a ruling that an Australian automotive leather exporter was required to repay an illegal export subsidy.<sup>4</sup> At the same time, commercial results have not been satisfactory in certain cases, due to insufficient implementation of WTO panels' findings in these cases. Specifically, this remains a concern in the *Bananas* and *Hormones cases against the EU*, discussed further below.

For cases decided against the United States, there is a very important concern that in construing the WTO obligations, panels should not impose upon the United States international commitments to which the U.S. Government never acceded during the Uruguay Round. Some believe that certain of the cases successfully brought against the United States indicate that panels may define U.S. commitments more broadly than the U.S. Government expected at the time of the Uruguay Round agreements. The jury is still out on the extent to which this concern will be a recurrent problem. On balance, the overall dispute settlement results for the United States reveal a dispute resolution system based on fair and generally well-reasoned judicial opinions, performing at least as well as was expected five years ago, if not better.

Finally, the interests of the United States and indeed the entire trading system are served by the confidence of the Members in the WTO dispute settlement system,

<sup>3</sup>The ABA/SILP notes that the WTO also permits a state's interests to be represented even when the state itself is not a party to the specific dispute. The United States has made particular use of this third-party mechanism to ensure that legal interpretations important to the United States are adequately briefed.

<sup>4</sup>Examples of other cases in which the U.S. has obtained significant commercial results are available on the U.S. Trade Representative's website, <http://www.ustr.gov>.

reflected in the volume of cases brought before WTO panels. As trade disputes are increasingly aired and resolved in a manner not before possible under the old GATT system, the rule of law becomes more firmly entrenched in the liberal trading order, thereby securing the open markets necessary for sustained U.S. and world economic growth.

*B. The DSU: Prospects for Improvement*

The success of the Dispute Settlement Understanding does not and should not belie the significant areas for reform that warrant further consideration based on the first five years of experience. Areas in which the ABA/SILP urges consideration of reform fall into the following four categories: (1) Securing adequate implementation of panel decisions; (2) Promoting greater transparency in dispute resolution procedures; (3) Altering the *ad hoc* system of Panels and the lack of remand authority for the Appellate Body; and (4) Ensuring developing countries effective access to the WTO dispute settlement mechanism.

*1. Implementation*

As previously noted, states found to have measures in violation of their WTO obligations have generally complied with panel and Appellate Body decisions and brought their laws and practices into conformity with their international legal obligations. The two stark exceptions to this practice remain the European Union's intransigence in the *Bananas* and *Hormones* cases. Although these cases are only two of the thirty so far decided under the WTO, they represent significant challenges to the rule of law established under the DSU. The European Union, a leading trading power, has not implemented the findings issued by WTO panels and the Appellate Body. Rather than negotiating a WTO-consistent resolution with the United States, the European Union has opted, instead, to accept U.S. suspension of concessions.<sup>5</sup> Because the amount of compensation or suspension of concessions is equivalent to the level of harm suffered by the challenging party, the DSU establishes no particular incentive to comply. In the absence of any tangible incentives, a violating state may be ambivalent among the options of compliance, providing compensation, and accepting a suspension of concessions.

However, consideration also must be given to the consequences to the United States of adverse decisions. The adverse ruling on the WTO-compatibility of the US tax law allowing the creation and use of Foreign Sales Corporations (FSCs) is an example. U.S. national interests may mean that the United States needs to retain the sovereign right to decide that it cannot or will not comply with a WTO panel decision.

One suggestion for addressing these incentive difficulties, at least in the short-run, involves the adoption of an interpretation or an amendment that would clarify and strengthen the preference for implementation in DSU Article 22. However, such proposals must be carefully assessed to ensure a balance between strengthening compliance and preserving necessary U.S. sovereignty.

---

<sup>5</sup>The *Bananas* case reflects an additional concern regarding the implementation of dispute settlement panels' decisions: What happens when a measure, revised to accommodate a WTO panel decision, is claimed to still be in violation of a state's WTO obligations? Must the successful challenging state recommence dispute settlement proceedings to challenge the modified law, or may the state suspend concessions once the Panel finds the state is caused harm by that law? This query remained at the heart of the controversy between the EU and the United States in the implementation of the *Bananas* decision. The WTO panel finally settled the issue in favor of the United States, finding that another dispute settlement panel would not be required before the United States was permitted to suspend concessions. Nevertheless, further textual clarification on the interrelationship between Articles 21.5 and 22 is crucial to ensure the implementation of panel findings in future controversies.

## 2. Transparency

The United States has long encouraged greater transparency in dispute settlement proceedings, a position the ABA/SILP supports as one promoting higher quality decision-making, increasing support and participation of a larger group of stakeholders, and reflective of a process more consistent with democratic principles. Furthermore, greater transparency, particularly in dispute resolution, strengthens the credibility of the system, thereby enhancing compliance and support for the rule of law. In the context of dispute settlement, proposals for enhanced transparency focus on increased opportunities for NGO involvement, as observers and *amici*, and on greater distribution of relevant dispute resolution materials, including Members' submissions.

The United States has urged, and the ABA/SILP supports, dispute settlement proceedings that are open to observers from non-party Member countries as well as civil society. Opening the doors of these meetings, particularly to representatives outside the trade community, is essential to validate the judicial decision-making process by which many states' laws and practices are held to be consistent or inconsistent with the WTO Agreements. Denying access to civil society only fosters continued mistrust and skepticism among groups whose support is essential to regain a trade consensus at the international level. Furthermore, input from these groups may be important to the dispute settlement process as the WTO inevitably addresses conflicts arising from domestic regulation, such as areas of environmental protection and health and safety. It is precisely at these edges of its competence that the WTO, understandably, is subject to most criticism. Therefore, by opening itself to a broader spectrum of views, decisions in these cases would be legitimated by larger segments of society. In this regard the ABA/SILP encourages the U.S. invitation for panels and the Appellate Body to actively seek and accept *amicus* submissions from NGOs.

Developing countries have articulated concern regarding the involvement of NGOs in the WTO dispute resolution process. Based on a perception that NGOs in developed countries are far more organized and active than those in developing countries, concerns have been raised that developed-country NGOs will have a disproportionate influence on Panels. This bias in favor of developed-country NGOs, it is believed, would favor the interests of the developed world in dispute settlement, at the expense of decisions favorable to the developing world. This argument presumes, however, that these highly organized NGOs share the beliefs and interests of their home governments, and that therefore, increased NGO involvement would raise the volume of developed-world voices heard by panelists. The United States, in pressing the case for greater NGO access, should address this argument and note that this coinciding of interests between developed-world NGOs and their home governments is not necessarily the case. In fact, many NGOs in the developed world are likely to have shared concerns with NGOs and governments in the developing world.

In addition to pushing for civil society access into the halls of WTO dispute resolution, the United States is also seeking, rightly, to expand the flow of information from inside the WTO to the rest of the world. In particular, there should be immediate public release of all submissions to Panels, with the exception of business confidential information. Nonconfidential versions of business confidential information should be required to be made public at the time the submission is filed. An additional benefit of releasing submissions would be shorter, more accessible Panel reports. Much of the bulk in Panel reports now stems from the need to detail every argument made by every interested party to a dispute. Public release of government submissions mitigates the need for such detailed descriptions of parties' arguments in the Panel decisions themselves. Understandably, this requirement of immediate release of submitted documents may pose administrative difficulties, particularly in document-intensive cases, such as *Japan-Film*. Such logistical difficulties, however, are not insurmountable and are only minor inconveniences when compared to the benefit of information and education provided by public release of documents.

## 3. Panel and Appellate Body

There have been additional suggestions to strengthen the quality of the current dispute resolution system. The ABA/SILP believes they deserve serious consideration in future discussions about the DSU.

For example, many observers have considered whether the Appellate Body should have authority to remand proceedings to the original panel. Currently the Appellate Body has authority only to "uphold, modify or reverse the legal findings and conclusions of the panel." This issue has arisen because in some cases the panel has not made a factual finding on an issue that later, in the opinion of the Appellate Body, is necessary to resolve the dispute. It is arguably improper for the Appellate Body

to make factual findings in such situations, because DSU Article 17 limits appeals to issues of law and legal interpretations developed by the panel. For instance, the lack of necessary panel findings or any remand procedure meant that the United States was unable to obtain a WTO ruling in the case it brought against the EU over classification of certain computer equipment. Remands would allow factual issues to be resolved by the panel, which should have greater expertise in the facts of the dispute. However, remands almost certainly would lengthen disputes beyond the time deadline currently provided for DSU proceedings.

Another proposal for reform, suggested by the EU, would establish a standing body of 15 to 24 professional panelists, with three panelists serving on each case, to replace the case-by-case selection of panelists under the current system. This proposal might address the difficulties in forming high-quality panels and finding panelists to whom the parties do not object, factors which to date have been a significant cause of delay in the establishment of Panels. Further, the proposal might enable panelists to devote greater time to individual cases and increase their familiarity with WTO jurisprudence. A related issue is consideration of the appropriate criteria to be applied in selecting panelists (whether or not the EU proposal is adopted), in particular whether judicial experience should be a significant factor, given the increasing importance of legal reasoning in WTO panel decisions compared to the earlier GATT model of conciliation and mediation.

One concern regarding this proposal is whether establishing a standing body of panelists would inappropriately limit the ability to appoint panelists with particular expertise relevant to a particular dispute. Environmental organizations, for instance, may argue that this proposal could "lock in" what in their view has been a pro-trade orientation of panelists (relative to other values such as protecting the environment) and preclude the WTO from drawing on panelists with different perspectives. Another concern (and a significant one) is that a Standing Body would increase the WTO's budget, and thus Members' contributions, significantly.

The United States traditionally has been the leading voice for a prompt, efficient WTO dispute settlement mechanism. Since the United States is the world's major commercial power, a credible WTO dispute settlement system—one that is rule-based, objective and whose decisions are respected and implemented—is very much in the U.S. national interest. As noted earlier, the U.S. is the principal user of the dispute settlement process, and it has achieved very favorable results through the DSU in most of the cases it has filed. As U.S. businesses (and thus, our economy more generally) continue to look to foreign markets for opportunities to provide goods and services, there will be an increased national benefit in ensuring that all countries are abiding by their WTO commitments. An effectively functioning DSU will be an important tool for the U.S. government in securing economic prosperity for the country. The first years of dispute settlement under the WTO show promise; the United States should now exercise its leadership to pursue those reforms that would strengthen the DSU and thereby promote U.S. interests in a trading order governed by a fair and open set of rules.

#### *4. Access for Developing Countries*

Promoting the effective participation of developing countries in WTO dispute resolution would be consistent with the U.S. government's traditional role in promoting the rule of law in international trade. Furthermore, this issue is relevant to Congress' assessment of the WTO because developing countries' inability to make full use of the DSU undermines the legitimacy of the DSU and the world trading system and may frustrate efforts to amicably settle disputes. Therefore, the ABA/SILP believes that it is important for WTO Members to identify and implement a strategy to enable developing countries to participate fully in the DSU. Effective implementation of successful WTO cases may be meaningless for developing countries if they are deterred from using the dispute resolution system to their advantage. The current statistics suggest, at the very least, a strong possibility of relative underutilization of the WTO dispute settlement mechanism by the developing world: less than one-third of all complaints brought under WTO auspices are raised by developing countries. The limited human and financial resources of developing countries, combined with the limitations inherent in existing WTO technical assistance to these countries, currently prevent these countries from making full use of the DSU.

One proposal that the ABA recommended in 1998 was to assure countries the right to counsel of their choice. The presence of private attorneys in what has been viewed as government-to-government proceedings has raised concerns about the ability of the organization to preserve the confidential and diplomatic nature of dispute resolution meetings. Such concerns, whatever their validity, do not necessarily argue against the ability of states to be represented by attorneys of their own choosing. Rather, the appropriate response to such concerns is to develop guidelines to

address the practice of private lawyers in such traditionally diplomatic settings as international trade dispute resolution, as the ABA has suggested. The WTO, through rulings of the Appellate Body and a dispute resolution panel, has already accepted this right to counsel of one's choosing in *Bananas* and *Indonesia-Autos*, respectively. Nevertheless, the ABA/SILP encourages the clear articulation and development of rules of conduct to govern these legal representatives in their representation of governments in WTO dispute settlement.

While important, the right to private counsel may be beyond the financial resources of some of the least developed Members of the WTO, thereby requiring that alternative avenues be examined to assist developing states in their legal representation before the WTO.<sup>6</sup> One means of guaranteeing access to the dispute settlement system for developing countries is the Advisory Centre on WTO Law, recently established by a group of developed and developing countries. The Centre, created independently from the WTO in order to safeguard the neutrality of the WTO Secretariat, is envisioned as providing legal advice on WTO law and support in legal proceedings to developing country Members.

A proposal has also been made, by the EU and Venezuela, to establish a separate "independent unit" within the WTO Secretariat to assist developing countries in the dispute settlement process. Under the proposal, however, the unit would not represent WTO Members in panel proceedings, but only in the pre-panel stages. This limitation raises serious questions about whether the proposal would adequately address the constraints on developing country participation in the DSU, since panel proceedings are the most resource-intensive phase of the proceeding. Moreover, to the extent that the unit is providing case-specific advice on the strengths and weaknesses of particular arguments, the proposal appears to risk jeopardizing the neutrality of the WTO Secretariat that is guaranteed by DSU Article 27.2.

These initiatives reflect the underlying need for enhancing the ability of developing countries to participate in the dispute settlement mechanism. Because the support of developing countries for WTO dispute settlement is a crucial element in their support for the WTO as an institution, the ABA/SILP believes that it is important for the United States to work with other WTO Members to address seriously and promptly additional ways to enhance the ability of developing countries to participate in WTO dispute settlement.

### III. THE WTO AS AN INSTITUTION: NOT BROKEN, BUT NEEDING REFORM

The WTO is currently confronting problems that result from its own success in attracting members and broadening its scope, problems that are especially difficult to manage for a new institution. The ABA/SILP believes that these problems require the United States to take an active leadership role in working toward a solution acceptable to all parties, as opposed to withdrawing from the WTO.

#### A. Establishment of a Multilateral Trade Institution

At the outset, it is important to appreciate that the WTO is a new institution. The GATT, which was developed as part of the postwar international financial architecture with the World Bank and the IMF, established the first set of multilateral rules governing international trade relations. The GATT was only to form part of the Havana Charter, which created what was to become the International Trade Organization (ITO), which would have addressed, among other topics, tariffs, private restraints on trade, and monetary issues. The International Trade Organization, however, failed to be established.

Over the years, the GATT, which was intended only as a short-term provisional stop-gap until the ITO was implemented, did develop institutional characteristics and became a *de facto* institution, albeit without legal personality and the supporting structures inherent in an international organization. Nevertheless, states came to rely on the quasi-institutional character of GATT despite the fact that it was not a true international institution. The stresses placed upon the system by states' reliance on this quasi-institution were highlighted during the Uruguay Round. If new subject areas were to be handled under the trade regime and if trade disputes were to be resolved in a satisfactory manner, states recognized the need for an institutional umbrella.

With this understanding, the Members established the WTO as the first true institution to oversee the trading relations of its Member states. Thus, although the WTO is often understood as a successor to the GATT regime, it is, in fact, a new

<sup>6</sup>The ABA/SILP recognizes greater attention must also be paid to longer-term strategies, that is, to the development of indigenous capacity in developing states to participate effectively in DSU proceedings.

organization developed for the cooperation of states in reducing trade barriers and managing interstate trading relations.

The success of the multilateral trading system that the WTO now oversees, particularly from the perspective of the rule of law, should not be overlooked. The GATT's original purpose of restraining and eventually eliminating protectionism has been significantly achieved through a consistent reduction in trade barriers in the postwar era. The GATT trading system also revealed a dynamic flexibility in its ability to address the increasingly creative protectionism of states as they responded to the fall in tariff barriers with an increase in non-tariff barriers. This flexibility is a cornerstone of the WTO, as an institution that continues to serve the liberalization of trade in goods while moving to address the numerous trade barriers in other sectors, such as services and intellectual property, that are increasingly crucial to the U.S. economy. The United States retains a significant interest in pursuing in the WTO forum the progressive elimination of present obstacles to trade, whether in goods, services, or intellectual property.

The ability of the WTO to adapt to the changing needs of its Members counsels in favor of addressing the institution's imperfections within the framework already established by the Uruguay Round. As previously noted, the WTO is a nascent institution. It is therefore not surprising that despite its successes in maintaining the benefits of an open trading regime while holding states to their commitments made in the WTO Agreements, the WTO faces growing pains and institutional difficulties.

#### *B. Need for Institutional Reforms*

Although it has only been five years since the inception of the WTO, the institution has been, in effect, a victim of its own success from its birth. Instead of merely assuming the GATT (covering tariffs and non-tariff barriers) under its institutional aegis, the WTO faced at its founding a dramatic increase in the scope of its expected competences: the organization included trade-related areas that had never been subject to multilateral disciplines and whose very relationship to trade had never been tested in an institutional setting.<sup>7</sup> The Uruguay Round also saw a proliferation of new Member states that had not before been members of GATT, such that the WTO was founded with 128 Members, a long way from the founding 22 nations of GATT. The growth of the membership has continued, now totaling 135 states, with 31 more states in line to become Members after accession negotiations. The rapid expansion of subjects within the WTO's purview and the universality of its membership has greatly increased the importance of the organization's work.

With these changes, the WTO will need to create new and refined procedures as the years bring experience to bear upon the institution's organizational dynamics. The ABA/SILP highlights the urgent need for enhanced transparency in WTO operations and greater inclusion of developing countries in WTO decision-making processes.

There is a need for increased transparency both externally (*vis-à-vis* the general public) and internally (*vis-à-vis* the WTO membership). The need for external transparency stems from the obligations of the WTO to remain accountable to citizens. This accountability is particularly necessary as the organization extends beyond the reach of "pure trade" issues to those national measures that, while they affect trade, may fundamentally be non-trade-related in purpose. By addressing such measures, the WTO has become important to many domestic constituencies in the United States and elsewhere. Enabling these groups to access information regarding WTO decision making is necessary to build a consensus regarding the relationship between trade interests and other regulatory goals. Since the success of any multilateral trading regime depends on the continued support of citizens in Member states, the WTO must seek to provide greater information regarding its decision-making processes.

Internal transparency, that is, the adoption of processes that are open to all Members, focuses on the need to ensure that all Member states are able to participate effectively in the organization processes. Specifically, although decisions are formally taken by consensus, many developing countries argue that numerous "back-room" agreements are made in small, informal closed-door meetings. Many developing countries are unsatisfied with the current processes. The perceived exclusion of developing countries and the potential estrangement of these states from the WTO directly threatens U.S. interests in the development of a liberal trading order. If developing countries are isolated from WTO processes, and they continue to view themselves effectively removed from procedures that decide their own rights and obligations, their support for the multilateral trading regime could decline. Similarly,

<sup>7</sup> These comments express no position on the desirability of including within or excluding from the WTO any particular trade discipline or subject matter area.

the established procedures for arriving at decisions also should be reformed to ensure inclusion of all Members.

The dissatisfaction of developing states with the Seattle Ministerial brought to the foreground the importance of the negotiation process. The WTO Agreements do not specify the means by which negotiating rounds are to be conducted, resulting in an *ad hoc* system that creates a tendency for large trading powers to agree on most basic elements of agreement among themselves. The absence of developing countries from initial discussions, however, prevents their participation during much of the crucial agenda-setting stage, at which point fundamental questions are, in effect, resolved without open debate. Understandably, the WTO faces the difficult prospect of attempting to secure universal agreement to a series of highly complicated texts among 135 Members; the demands of efficiency require that negotiations not include the full participation of each Member at every step of the negotiations. Nevertheless, there is a need to strike an appropriate balance between efficiency and the effective participation of countries that will be expected to assume commitments. Any agreement without the full and informed participation of the WTO membership will lack the legitimacy necessary to secure good faith implementation of WTO obligations and will weaken the long-term stability of the WTO as an institution. This is not in the U.S. national interest.

As a new institution, the WTO was created to build on the GATT trading regime and incorporate the new disciplines negotiated during the Uruguay Round. Coinciding with these new substantive disciplines was the dramatic increase in the number of states whose interests would need to be reflected in the organization's institutional structure. These two developments posed particular challenges for a new institution. In the first five years of its experience, the WTO has experienced the consequences of its own success in increasing its scope and thereby raising the importance of its work to segments of society beyond the trade community. The organization is simultaneously accommodating an ever-increasing membership with many states anticipating future participation. Despite the success of the WTO in fulfilling its objective of ensuring that states adhere to their international legal obligations for the benefits of global commercial relations, it faces challenges in the areas of transparency and decision-making processes. The ABA/SILP encourages the United States to take this opportunity to lead the WTO membership to pursue reforms necessary to strengthen the institution.

#### IV. CONCLUSION

The WTO continues after its first five years to serve U.S. interests by promoting the rule of law in international trade relations and providing the forum to facilitate ongoing trade liberalization measures. As a result it continues the GATT tradition of securing a stable, predictable environment for open trade. However, the WTO goes beyond the mere establishment of rules for an open multilateral trading system. In providing for efficient, binding, high-quality dispute resolution, and in functioning as the institutional backdrop for the series of trade-opening measures including and beyond trade in goods, the WTO promotes U.S. interests far more successfully than the previous GATT regime. Unsurprisingly, the WTO is not perfect. There are valid concerns about it as it begins its next five years and attempts to commence the first round to be launched under its auspices. These concerns are best addressed, however, within the framework of the system established five years ago. The United States can best promote its interests by reaffirming its commitment to the WTO while assuming a leadership role in the resolution of those concerns.

---

Mr. HOUGHTON [continuing.] And we just don't want to hold you. So thank you very much for your understanding. I would love to—I have got your testimony. We will read it. We will distribute it. And if there are any other issues that you would like to share with us, please let us know. All right? Thanks again, very much.

Mr. LICHTENBAUM. Thank you.

Mr. HOUGHTON. Meeting adjourned.

[Whereupon, at 1:30 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

### Statement of the American Forest & Paper Association

The U.S. forest products industry strongly supports China's accession to the World Trade Organization (WTO), and urges timely Congressional approval of Permanent Normal Trade Relations (PNTR) for China.

China holds great promise as a major export market for U.S. wood and paper products. However, Chinese tariffs in our sector are among the highest in the world. Those high tariffs—coupled with a broad range of nontariff barriers—currently inhibit our industry's ability to take advantage of the potential that is inherent in China's huge population, relatively low per capita consumption of wood and paper products, shortage of quality housing, economic growth and burgeoning middle class.

Bringing China into the WTO rules-based trading system, under the market access conditions that were agreed bilaterally in November 1999, should significantly enhance export prospects for U.S. producers of wood and paper products. At the same time, China's integration into the global trading system will strengthen the economic and political forces which are changing Chinese society, and thereby advance important American security, social and human rights interests.

#### *U.S.-China Bilateral Market Access Agreement*

- The bilateral WTO accession agreement concluded last November between the U.S. and China will reduce most Chinese paper and wood tariffs to the 5–7.5% level, with some tariffs as low as 1–2%. Most of these rates will be achieved by 2003. This is well below current levels of 12–18% on wood and 15–25% on paper products.

- China agreed that if an Accelerated Tariff Liberalization (ATL) agreement is reached in the WTO, China will join the forest products initiative upon accession. While an ATL agreement was not reached in Seattle, this suggests that China is not opposed to elimination of wood and paper tariffs not later than 2005. It is therefore critical that this opportunity for tariff elimination in a huge market not be lost.

- U.S. companies' ability to do business in China is currently limited by restrictions on trading rights (importing and exporting) and distribution of imported products. Within three years, any entity will be able to import forest products into any part of China and engage in the full range of distribution services.

- The agreement requires that China extend to U.S. forest products suppliers any preferential treatment it provides to other countries.

#### *Permanent Normal Trade Relations for China*

- The U.S. forest products industry has long supported the normalization of U.S. commercial relations with China. As China prepares to join the WTO, it is essential that Congress grant permanent, unconditional trade status to ensure that U.S. exporters and investors get the full benefits of the very favorable bilateral market access agreement and the other commitments China makes as a condition of its accession.

#### *The Importance of China's Paper and Wood Market to U.S. Suppliers*

- China's membership in the WTO, with its system of rules and obligations, will give U.S. exporters a means for addressing inconsistent, discriminatory and trade-distorting practices that have made doing business in China very difficult.

- China already has access to our market, since U.S. tariffs on forest product imports are at zero or very low. WTO accession on the terms of the U.S.-China bilateral market access agreement will ensure a more level playing field on tariffs.

- The removal of tariff and nontariff barriers to China's market is expected to provide significant export opportunities for U.S. producers of paper and wood products. Because China is deficient in forest resources, with limited potential for extending its own fiber supply, its need to import paper and wood products is expected to increase substantially as it pursues economic and industrial expansion.

- *Pulp and Paper Products:* U.S. pulp, paper, paperboard and converted products exported to China totaled more than 800,000 metric tons in 1998, with a value of \$430 million (there is also significant trans-shipment through Hong Kong). In 1998, China was the only Far East market which saw an increase in U.S. exports despite the effects of the Asian financial crisis (U.S. exports to all other markets in the region dropped sharply).

- Over the past decade, China has experienced the world's fastest paper and paperboard consumption growth. However, production capacity has not kept up with this growth. Projections by the Food and Agricultural Organization (FAO) show that China's paper and paperboard consumption will continue to grow strongly over the next decade and that the gap between supply and demand will continue to widen and be filled by imports.

- *Wood Products:* Exports of solid wood to China will approach \$60 million in 1999, up from \$41 million in 1998. Most products are imported in the form of logs or lumber and re-manufactured in China for use in interior applications such as furniture, flooring, doors and windows. These markets should continue to grow as more Chinese can afford to upgrade their current dwellings or purchase new housing.
- Almost no U.S. wood is used in housing construction, but this could change as the Chinese government has launched an ambitious, market-oriented housing reform plan to privatize and increase the quality of Chinese housing. AF&PA is participating in the revision of the Chinese design standard for timber frame construction with the Chinese Ministry of Construction, and using our membership in the U.S.-China Residential Building Council to increase pressure on China to allow greater use and importation of U.S. wood building products.
- In order for U.S. products to compete in both interior and housing construction areas, high Chinese tariffs must be eliminated. U.S. value-added interior products such as flooring, veneer, molding and millwork, windows and doors cannot compete in local markets when facing an 18% tariff on top of the Chinese VAT tax.
- Price competitiveness in building materials is foremost in Chinese purchasing decisions, and U.S. wood products are competing against locally produced materials such as steel and concrete. Without tariff elimination and major building code changes, it will remain difficult for U.S. manufacturers to compete effectively in this growing and increasingly prosperous market.

AMERICAN IRON AND STEEL INSTITUTE  
WASHINGTON, DC 20036  
*April 13, 2000*

A.L. Singleton  
Chief of Staff  
Committee of Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Mr. Singleton:

The American Iron and Steel Institute (AISI), on behalf of its U.S. member companies, is pleased to provide comments to the Committee on Ways and Means on the future of the World Trade Organization (WTO).

On February 22, 2000, AISI provided detailed comments on "The Outcome of the WTO Ministerial in Seattle" to the Trade Subcommittee of the Committee on Ways and Means (attached). We refer the Committee to this statement, because it addresses many of the issues that Congress will now need to consider carefully in its review of the WTO.

With respect to this current Committee inquiry, AISI supports in general the separate written "Statement of U.S. Integrated Carbon Steel Producers on the Future of the World Trade Organization," which has been submitted for the record of this hearing. In addition, we offer the following as a summary of the consensus views of AISI and its U.S. member companies on the issue of congressional review of the WTO:

#### AISI POSITION ON WTO REVIEW

AISI supported the GATT Uruguay (UR) results, including the creation of the WTO. We did so then because the UR implementing bill preserved effective U.S. laws against unfair trade, notwithstanding the fact that the UR itself resulted in a substantial net weakening of U.S. laws against unfair trade. Back in 1994-95, AISI also rejected the argument of WTO opponents that the WTO would harm U.S. sovereignty. After all, so the argument went, the U.S. could always ignore an adverse WTO panel decision, not change its law or policy and just accept foreign retaliation.

Recently, however, AISI has become concerned that the WTO—if certain foreign governments get their way—will impair U.S. sovereignty. This is because a large number of WTO appeal cases are now being filed and threatened by foreign governments in an effort to misuse WTO dispute settlement in order to weaken U.S. trade laws. If these efforts succeed, it would only further undercut public support for the WTO. Congress needs to be aware of this growing abuse and take actions now to ensure that U.S. trade laws are not further undermined, whether through inter-

national negotiations, trade law weakening amendments—or WTO dispute settlement.

This year, Congress will review whether the United States should continue to participate in the WTO. In light of the devastation suffered by the U.S. steel industry in 1998–99 due to record levels of unfair trade—and given the ongoing foreign government attacks against U.S. trade laws and WTO rules—AISI is looking at this issue based upon our key trade objectives and requirements. In any debate over the value of the WTO, Congress should consider the need to ensure that:

1. the global trading system remains rules-based;
2. the WTO is truly effective;
3. the WTO must achieve real structural reform (e.g., dispute settlement reform, more participation by the private sector and greater transparency), which is especially necessary after Seattle;
4. U.S. trade laws are strengthened to the full extent allowed by WTO rules;
5. there is absolutely no weakening of the WTO's existing fair trade rules or of current U.S. trade laws; and
6. there is a review process for WTO panel decisions established under U.S. law, similar to the one sponsored in the last Congress by Representatives Benjamin Cardin (D-MD), Ralph Regula (R-OH) and others in the House and Senate. This will help ensure that, in future WTO appeals, WTO panels do not exceed or abuse their authority.

Whether the issue is trade law enforcement or the Foreign Sales Corporation, the Administration should make it clear to foreign governments that there is a price to be paid for abuse of the WTO process. We suggest that Congress begin by convening a special inquiry into Japan's role in the international trading system—including its continued closure to imports of manufactured products and its continued improper regulation of trade.

AISI appreciates the opportunity to provide written comments on the future of the WTO. This is a critical issue, because the ability—or inability—to maintain an effective, rules-based trading system will affect significantly future U.S. economic performance.

Sincerely,

BARRY SOLARZ  
*Vice President, Tax and Trade*

Attachment

#### **Statement of American Iron and Steel Institute**

The following statement on the outcome of the Seattle World Trade Organization (WTO) Ministerial Conference is submitted on behalf of U.S. member companies of the American Iron and Steel Institute (AISI), who together account for approximately two-thirds of the raw steel produced annually in the United States.

#### **RULES-BASED TRADE:**

##### *AISI and U.S. Government Position in Seattle*

In going to Seattle, AISI representatives stressed that:

- trade liberalization without effective fair trade rules cannot work in the interests of America;
- there can be no further trade liberalization unless trade will be fair; and
- the best way to do this is through strong trade laws, strictly enforced.

The AISI message going to Seattle can be summed up in three words: RULES-BASED TRADE. After Seattle, this message has become even more important.

AISI went to Seattle to support the long-held, bipartisan position of the U.S. government in favor of continued multilateral trade liberalization, based on no further weakening of the WTO's antidumping and anti-subsidy rules. The U.S. government and AISI took this position because, had these agreements been opened up, it would have led to certain weakening of the WTO's fair trade rules.

In the months leading up to the WTO Ministerial, the Administration stated repeatedly that, in the national interest of the United States—and in the ultimate interest of trade liberalization and the global trading system—it would not allow the WTO's antidumping and anti-subsidy rules to be the subject of negotiations. The Administration deserves credit for holding firm in Seattle against strong foreign government pressures to reopen the WTO's dumping and subsidy agreements.

The Congress also deserves credit for making its views known. There is overwhelming bipartisan support for preserving effective international disciplines

against unfair trade. In the months leading up to the Ministerial and then again in Seattle, Steel Caucus Members and other Members of Congress communicated an unswerving message of support on this issue. Last year, more than half of the U.S. House of Representatives called on the President not to enter into any international negotiation that includes U.S. trade laws. In 1997, in its markup of "fast track" legislation, the Ways and Means Committee approved without dissent a provision instructing U.S. negotiators to reject any agreement that would weaken existing disciplines against dumping and subsidies. Today, the bipartisan consensus in Congress on this point is even stronger. It is that fast-track procedures should never again be used to amend U.S. trade laws.

AISI's position is that there is a role in the U.S. market for fairly traded imports, but there is no role for unfair trade. In President Clinton's August 1999 Steel Action Plan, the Administration said it agreed with us. It announced that it is committed to a policy of "zero tolerance of unfair trade."

The devastation suffered by the U.S. steel industry and its workers over the past 18 months due to record levels of unfair trade has served as a warning. It has reinforced the need of competitive U.S. industries for strong, effective, vigorously enforced trade laws. The events in Seattle in the first week of December 1999 have also served as a warning. They have reinforced the point that effective disciplines against unfair trade are critical if we are to maintain an open market policy in the U.S., enable further trade liberalization and promote market opening and much needed adjustment abroad.

#### SEATTLE IN PERSPECTIVE:

##### *Reasons for Outcome*

There are many reasons why the Seattle Ministerial may not have succeeded in launching a new round of international trade negotiations. The simplest explanation is that there were many complex, divisive issues; there was too little time; there were 135 members (60 more than at the time of the Uruguay Round); and there was a lack of consensus and political will among the key players for going forward.

Key points on which there was no consensus included (1) agriculture, (2) the basic relationship of developing countries to the WTO and (3) the new issues, such as the nexus between trade and labor and trade and the environment. Perhaps most important, both the European Union (EU) and Japan, unwilling to take the needed steps on agriculture, pushed a very broad negotiating agenda in large part as a diversionary tactic.

While posing as a friend of the developing world, the EU subordinated everything else to the core goal of defending its closed and heavily subsidized agricultural regime, which is so injurious to developing countries. In the process—and urged on by Japan—the EU indicated an openness to undermining the WTO's antidumping rules. In much the same way, Japan—the number one dumper in the U.S. market—pursued a reopening of the WTO's antidumping rules on behalf of its own manufacturers, all the while claiming it was taking this position on behalf of the developing world.

The antidumping issue was one of several divisive issues, because other countries thought the U.S. would change its position, and we did not. However, the Seattle Ministerial did not fail because of the U.S. position on antidumping. The U.S. position on trade laws was sound and no surprise. It was a long-held bipartisan position, articulated clearly, often and early in the process.

As to where we go from here: AISI remains committed in support of trade liberalization—provided there is no further weakening of existing fair trade rules.

#### ONGOING FOREIGN GOVERNMENT GOAL:

##### *Erode and Weaken U.S. Trade Laws*

What modest decline occurred last year in overall U.S. steel imports took place because of the successful use of trade laws by America's steel companies and unions. As the steel crisis has shown, the antidumping and countervailing duty laws are America's last line of defense against surging unfair trade. Foreign unfair traders view the trade laws as the only remaining major obstacle to their unfettered abuse of the open U.S. market. To attack this obstacle head on, foreign governments and producers are employing three main ways to achieve their goals.

- *International Negotiations.* In Seattle, foreign governments sought to weaken U.S. trade laws through multilateral negotiations. Thanks to the steadfast position maintained by the Administration and the Congress, the forces of trade law weakening did not achieve their goal. However, these forces will not stand still. They will

continue their efforts to try to weaken U.S. trade laws through multilateral negotiations, whether in the WTO, the FTAA negotiations or the APEC process. Therefore, Congress needs to remain vigilant.

- *WTO Dispute Settlement.* Having failed to achieve trade law weakening at Seattle, Japan, Korea and other countries whose producers have engaged in unfair trading are now trying to achieve through the WTO dispute settlement system what they could not achieve through multilateral negotiations. Thus, Japan—the same Japan that still refuses to import steel, and continues to underperform dramatically as an importer of manufactured goods in general—has recently filed a complaint with the WTO regarding U.S. antidumping measures on hot rolled steel, and both Japan and Korea have threatened to file other WTO appeals relating to steel trade cases decided under WTO-consistent U.S. laws. The U.S. government needs to defend aggressively the trade laws enacted by Congress from this effort by unfair traders to use the WTO dispute settlement process to undermine America's fair trade rules.

- *Trade Law Changes.* In addition to using multilateral negotiations and WTO appeals of U.S. trade laws and trade law application, counsel for foreign governments and producers are now drafting trade law weakening legislative proposals. On this, both the Congress and the Administration need to send a very clear signal. Instead of trade law weakening, Congress should ensure that U.S. trade laws are as strong as what the WTO allows. In this regard, AISI urges prompt enactment of the Fair Trade Law Enhancement Act (H.R. 1505/S. 1741), the Continued Dumping and Subsidy Offset Act (H.R. 842/S. 61) and other proposals to strengthen U.S. trade laws consistent with WTO rules. This should include amendments targeting the problem of diversion of steel and other manufactured goods to the U.S. market as a result of foreign anticompetitive practices.

#### STEEL'S EXAMPLE:

##### *Need for Strong Remedies Against Unfair Trade*

Over the past 30 years, the U.S. steel industry has faced a world of pervasive trade and market-distorting practices, including:

- widespread foreign government "targeting" and subsidizing of steel;
  - foreign government barriers to imports of steel and steel-containing products;
- and
- foreign government toleration of private cartels and corruption in the steel sector.

These trade-distorting conditions have enabled less efficient foreign steel companies to produce at levels not supported by market forces, to maintain artificially high steel prices in their home markets and to dump large quantities of steel in the United States.

The revitalized U.S. steel industry is very familiar with the challenge of having to compete against pervasive unfair trade practices. However, what occurred in 1998 was like nothing seen before. With Asia and Latin America in recession and with Russia in collapse, the United States experienced the single largest surge of dumped and subsidized steel imports in its history. This was a transplanted crisis caused by major structural economic failures elsewhere. The result was an unprecedented surge of imports, which turned the U.S. into the World's Steel Dumping Ground.

The past 18 months should have been the best of times for an American steel industry restored to world class status, which in recent years has added over 20 million tons of new, state-of-the-art steelmaking capacity. Instead, the U.S. saw record steel imports in 1998, the second highest import total in history last year and continued unfair trade by less efficient foreign steel producers throughout this period. Against the background of record U.S. steel demand—and due to one reason alone—unfair imports:

- five U.S. steel companies are now in Chapter 11 bankruptcy;
- virtually all U.S. steel companies have seen profits plunge or losses mount; and
- thousands of U.S. steelworkers have experienced layoffs, shorter work weeks or reduced benefits.

This is not the way that market-based trade is supposed to work. Between 1980 and the onset of the steel crisis, the U.S. steel industry succeeded in reinventing itself. By 1998, we had become a new industry producing new steels, using new equipment and employing new processes. Thanks to nearly \$60 billion in modernization investments since 1980 and a costly and painful restructuring of all aspects of steel operations, a new U.S. steel industry had by 1998 emerged as a highly competitive, technologically advanced, low cost, environmentally responsible and customer-focused industry.

In contrast, the steel industries of other countries, including Asia, the former Soviet Union and South America, did not make the adjustments that the U.S. industry made in the 1980s and 1990s. They maintained substantial excess capacity, and this excess found a destination in 1998–99 in the large and open U.S. steel market. As a result, over the past 18 months, the United States has experienced an unprecedented level of unfair steel imports sold at cut-throat prices in violation of U.S. laws and WTO rules.

Internationally competitive U.S. steel companies and their highly productive employees have learned important lessons from the 1998–99 steel crisis. They are that:

- a surge of unfair and disruptive imports causes lasting damage;
  - the damage can extend to all segments of the U.S. steel community, and affects even the most competitive producers;
  - the current trade laws are inadequate and are not designed to address the kind of major shifts in trade flows that result from structural economic failures abroad;
- and
- yet, these laws at the present time are the only effective WTO-consistent defense that exists to counter surging unfair and disruptive imports.

Therefore, steel producers in the United States, now more than ever, support:

- prompt and strict enforcement of U.S. trade laws;
- modernization of these laws in a WTO-consistent manner; and
- preservation of effective international disciplines against unfair trade.

Today, significant unfair trade and serious import injury are continuing in the U.S. steel market. The import injury is confirmed by the International Trade Commission's recent affirmative findings with respect to hot rolled steel, cut-to-length plate, wire rod and welded line pipe. The unfair trade is confirmed by the very high margins of dumping or subsidization found recently by the Commerce Department on hot rolled, cold rolled, plate and other products. An important point, often overlooked, is that this injury is long term damage for which the competitive U.S. steel industry will never be compensated.

The injury caused to U.S. steel companies and employees by unfair trade should also be a cause of long term concern to steel's U.S. customers. It is vital that U.S. steel companies continue to generate internally the capital needed for modernization so that they can continue to reduce costs, improve quality, compete against other materials and serve customers. It is not in the long term interest of customers to see competitive U.S. suppliers undermined by unfair trade from less efficient foreign competitors.

#### GLOBAL TRADING SYSTEM:

##### *Effective Fair Trade Rules are Essential*

In a July 1998 submission to the WTO Working Group on the Interaction between Trade and Competition Policy, the U.S. government said that antidumping law remains:

“necessary to the maintenance of the multilateral trading system. Without this and other remedial safeguards, there could have been no agreement on broader GATT and later WTO packages of market-opening agreements, especially given the imperfections which remain in the multilateral trading system. . . . [T]he antidumping rules represent an effort to maintain a “level playing field” between producers in different countries . . . [and] are a critical factor in obtaining and sustaining necessary public support for the shared multilateral goal of trade liberalization.”

It is no surprise that the countries that repeatedly engage in unfair and disruptive trade are the most vocal critics of U.S. trade laws. Japan and other governments, whose domestic markets remain largely closed, went to Seattle to open up—in order to weaken—the WTO's fair trade rules. Other governments would like to take away the only effective tools the United States has to counter unfair trade. It is no accident that countries with closed markets and cartels want to weaken the WTO's antidumping rules and that countries that subsidize their inefficient industries want to weaken the WTO's anti-subsidy rules.

However, this effort to weaken disciplines against unfair trade is a direct threat not just to steel and other competitive U.S. industries. It is also a direct threat to further progress on global trade liberalization. Effective rules against dumping and trade-distorting subsidies are an essential element of the multilateral trading system. These rules are what enables the public here and elsewhere to support open trade.

It is the failure to counter injurious dumping and other unfair trade practices that undermines public confidence in free trade and public support for further multilateral trade liberalization. For more than 50 years, multilateral trade rules have allowed the U.S. and other countries to counter injurious dumping. The reason: a clear recognition that, over time, there can be no free trade unless it is rule-based and fair.

When the public believes that existing trade rules are ineffective or are not being enforced, support for open trade begins to erode—and support for more restrictive, sometimes less transparent, solutions starts to grow. This is what has occurred in the United States in recent years, and the only way to reverse this trend is to improve and enforce U.S. laws against unfair trade.

Only a few years ago, the Uruguay Round of trade negotiations led to weaker international disciplines—and national laws—against dumped and subsidized imports. The U.S. Administration, to its credit, went to Seattle determined to maintain the effectiveness of current international disciplines against unfair trade. Japan and other governments went to Seattle determined to discipline not the underlying trade-distorting practices, but the WTO-consistent laws used in response to those practices.

America's support for the WTO is not unconditional. It will not withstand another assault on the system's basic fair trade rules. The real problem in international trade is not the antidumping remedy. It is dumping, closed markets and other trade-distorting practices. If the public is again to support further trade liberalization, we need to build a new trade consensus in the United States around effective trade rules, effectively enforced. By contrast, if Japan and other governments get their way and U.S. trade laws are further weakened, public support for open trade will continue to decline.

It took nearly eight years in the Uruguay Round to re-negotiate the current international regime of antidumping and anti-subsidy rules. These rules have yet to be tested and have not proven defective. What the global trading system needs is proper compliance with current rules—not new negotiations, with new and confusing rule changes that could threaten all WTO members' exports.

#### SEATTLE'S MESSAGE:

##### *Importance of U.S. Trade Policy Objectives and Requirements*

This spring, Congress will review whether the United States should continue to participate in the WTO. In light of the devastation suffered by the U.S. steel industry in 1998–99 due to record levels of unfair trade—and given the ongoing foreign government attacks against U.S. trade laws and WTO rules—AISI is looking at this issue through the prism of key trade objectives and requirements. In any debate over the value of the WTO, Congress should consider the need to ensure that:

1. the global trading system remains rules-based;
2. the WTO is truly effective;
3. the WTO achieves real structural reform (e.g., dispute settlement reform, more participation by the private sector and greater transparency), which is especially necessary after Seattle;
4. U.S. trade laws are strengthened to the full extent allowed by WTO rules;
5. there is absolutely no weakening of the WTO's existing fair trade rules or of current U.S. trade laws; and
6. there is a review process for WTO panel decisions established under U.S. law, similar to the one sponsored in the last Congress by Representatives Benjamin Cardin (D-MD), Ralph Regula (R-OH) and others in the House and Senate. This will help ensure that, in future WTO appeals, WTO panels do not exceed or abuse their authority.

In addition, Congress should consider convening a special inquiry into Japan's role in the international trading system—including its continued closure to imports of manufactured products and its continued regulation of trade.

#### CONCLUSIONS

Laws against unfair trade, especially the antidumping and countervailing duty laws, are necessary to offset foreign unfair trade and market-distorting behavior, level the playing field and restore public confidence in free trade. Such laws help ensure that more efficient domestic producers are not weakened or destroyed by less efficient foreign firms. Because these laws serve the interest of customers, consumers and the entire economy, successive U.S. Administrations and Congresses have taken the position that it is essential to preserve effective U.S. laws against unfair

trade and effective international fair trade rules. This was the position that the U.S. government and AISI both took to Seattle.

With respect to the Seattle WTO Ministerial, both the Administration and the Congress deserve significant credit for taking a strong stand against foreign government pressures to reopen the WTO's antidumping and anti-subsidy rules.

The events that occurred in the streets of Seattle indicate what could occur in the global trading system without fair trade rules. Indeed, the global trading system as we now know it would not exist, and could not survive, without such rules. The key message coming out of Seattle is that it is essential to build a new trade consensus in the United States around the concept of RULES-BASED TRADE. The best way to begin doing this is for Congress and the Administration to:

- work together to strengthen U.S. trade laws in a WTO-consistent manner; and
- continue to resist foreign government efforts to weaken further the existing U.S. and WTO fair trade rules—whether through international negotiations, WTO dispute settlement or trade law changes.

---

#### Statement of American Textile Manufacturers Institute

This statement is submitted on behalf of the American Textile Manufacturers Institute (ATMI). ATMI is the national trade association for the domestic textile industry. Our member companies operate in more than 30 states, and our industry employs nearly 600,000 workers in the United States.

Before discussing our specific concerns regarding the World Trade Organization (WTO), we would like to reiterate that the American textile industry believes in and supports the concept of open markets based on fair and equitable conditions of trade. We strongly supported the NAFTA agreement and we are currently supporting versions of the CBI and Sub-Saharan Africa trade legislation that create a fair playing field for both U.S. workers and the people of the Caribbean and Africa.

By way of background, the U.S. textile industry is a major exporting sector, ranking sixth in the world in 1998 according to WTO figures. Last year, we exported almost \$14 billion worth of goods (17 percent of our output), with 24 of our export markets exceeding more than \$100 million in sales. However, in order to grow and prosper, our industry must have access to many of the markets that are closed or highly restricted to imported textile products.

The passage of the Uruguay Round Agreements Act five and one-half years ago held both promise and threat for this industry. In terms of threat, it mandated the removal of all textile and apparel quotas over a ten year time period for WTO members. In terms of promise, it held open the prospect of access to many of the markets that had long been closed to our products. President Clinton spelled out that promise in very clear terms when he said that the WTO would "require all nations to finally do what we've already done—to cut tariffs and other barriers and open up trade to our products and services. It will level the export playing field for American companies and American workers all around the world."<sup>1</sup>

In regard to textiles, the Clinton administration went still further and stated that tariffs on overseas textile products must be reduced to specific levels, and that non-tariff barriers to U.S. textile exports must be removed within three years after the WTO agreements went into effect. The administration explicitly warned that countries that blocked U.S. textile access could see their quota growth cut back and their zero duty status under the GSP program revoked<sup>2</sup>, among other actions.

However, five years into the WTO, the promise of new and open markets remains as distant as ever. As the attached report which ATMI has submitted for the record demonstrates, **the U.S. textile industry has received no significant new market access for its textile and apparel exports since the WTO came into being. None. Every major market that was closed to our exports prior to the WTO being formed remains closed today.**

In contrast, since 1995, textile and apparel imports into the U.S. have grown by 65 percent as our government conforms to its WTO commitments and dismantles the quota system and lowers tariffs. This flood of imports into the U.S. market has occurred with devastating results. By complying with its WTO commitments while other countries were ignoring theirs, the United States saw its textile and apparel trade deficit increase 50 percent in five years, to more than \$50 billion.

Not surprisingly, the job losses in our industry have been heavy. Since the WTO agreements were signed, 121,000 textile workers have lost their jobs—nearly ten

<sup>1</sup> President Clinton, November 19, 1994, Radio address.

<sup>2</sup> Administrative Action Statement, p. 774, Uruguay Round Agreements Act (P.L. 103-465).

times the number of job losses reported by the domestic steel industry that prompted so much reaction by Congress last year.

We draw your attention to the chart attached to this testimony that illustrates in vivid detail the inequitable state of textile market access in this post-GATT era. As you can see, the list of markets that remain closed to our products is a long one. India remains closed, Pakistan remains closed, Thailand remains closed, South Africa remains closed—all in all, two-thirds of the world's consumers, whose markets account for \$8 trillion dollars in GDP, remain essentially off limits today to U.S. textile exports.

A portion of the blame for this must go to the WTO itself. As the attached report demonstrates, the WTO structure is rife with loopholes and exceptions that allow countries with major textile and apparel sectors to keep their markets closed while they pour ever increasing amounts of goods into the United States. In the report, we have documented **36 new trade barriers** that have been imposed against U.S. textile and apparel exports during the last five years.<sup>3</sup> Increased valuations at customs which have raised duties, impossibly costly marking rules, high tariff walls, widespread industry subsidization—all of these are ways in which the WTO itself continues to allow for a mind-boggling array of trade-blocking behaviors, particularly by major textile and apparel producers.

Even when a barrier does fall, we have found that another quickly springs up to take its place. For example, since Brazil lowered its textile tariffs in 1994, it has undertaken eight different trade blocking measures, such as eliminating letters of credit, revaluing imports, and beginning a "zero tolerance" scheme whose purpose is to reject imports for the most minor of administrative errors. The result? By 1999, our textile exports to Brazil, which soared during the brief time that Brazil decided to meet its WTO obligations, had actually dropped by more than 50 percent as Brazil returned to its closed market status.

Just recently, India played the Brazil game—on the same day that the U.S. declared victory in its five-year effort to force India to drop its 50-year old ban on imports of textiles and other consumer products, India announced that it would "compensate" by increasing tariffs on all affected goods.

A portion of the blame must also go to the U.S. government. As part of the Uruguay Round legislation, the administration promised it would take action **within three years** if markets remained closed. It specifically warned that the U.S. could revoke GSP duty-free status and withhold increases in U.S. textile and apparel quotas from countries that failed to provide market access. In India's case, these benefits amount to billions of dollars a year—this would represent strong leverage **if the administration has the will to proceed.**

As the attached report demonstrates, India is but one of many WTO countries that have failed to open their markets. We would like to take this opportunity now to urge that GSP and WTO quota growth benefits be withdrawn from the following countries that have maintained trade barriers to U.S. textile exports in violation of their WTO commitments:

Argentina, Brazil, Bangladesh, Egypt, India, Indonesia, Mauritius, Morocco, Pakistan, Romania, South Africa, South Korea, Thailand.

On the WTO's side, it is clear that this organization's process for implementation and enforcement is in strong need of reform. Member countries ignore commitments and most countries face no disciplinary action even in the face of clear and obvious violations. Absent equitable conditions of market access, fair trade will not occur in five years, or for that matter in fifty years. In fact, if the past five years have taught us anything, it is that trade-blocking behavior will not go away on its own accord and that closed markets will not open until countries are forced to open them. ATMI has reviewed the loopholes and other problems in the WTO and we have included a list of badly needed reforms in the attached report.

In accordance with the final point of this hearing's focus, we would like to comment on the potential impact that China's admission into the WTO would have. As ATMI has already pointed out in our statement submitted to the committee at your hearing last month,<sup>4</sup> the impact of the U.S. government's agreement to phase out China's textile and apparel quotas at a rate twice as fast as that granted to any other WTO country will be severe. A study by the U.S. International Trade Commission predicts that, as a result, Chinese imports will triple their share of the U.S. apparel import market. A similar study by Nathan Associates confirmed this result

<sup>3</sup> Only two of these were violations of WTO rules.

<sup>4</sup> Statement of the American Textile Manufacturers Institute, February 16, 2000

and concluded that 154,000 workers in the U.S. textile and apparel sector would lose their jobs under an accelerated phase-out schedule.

There will be other impacts as well. China is not known for keeping the agreements that it signs—in fact, China has signed one market access, six textile and four intellectual property agreements over the past 15 years, and has broken them all. Given this poor track record, China's accession to the WTO is sure to strain an already controversial and overburdened WTO dispute settlement system.

Even more importantly, the major textile exporting nations have already signaled that they consider even the weak rules of the current WTO structure too difficult to stomach. They now say they want subsidy, customs, intellectual property and dumping rules weakened still further. China is sure to throw its support behind these initiatives. Though not even yet a member, China has already complained that developing nations are getting short shrift in the WTO. All in all, the prospect for creating actual rules of fair trade within the WTO will be considerably dimmed the day that China joins that body.

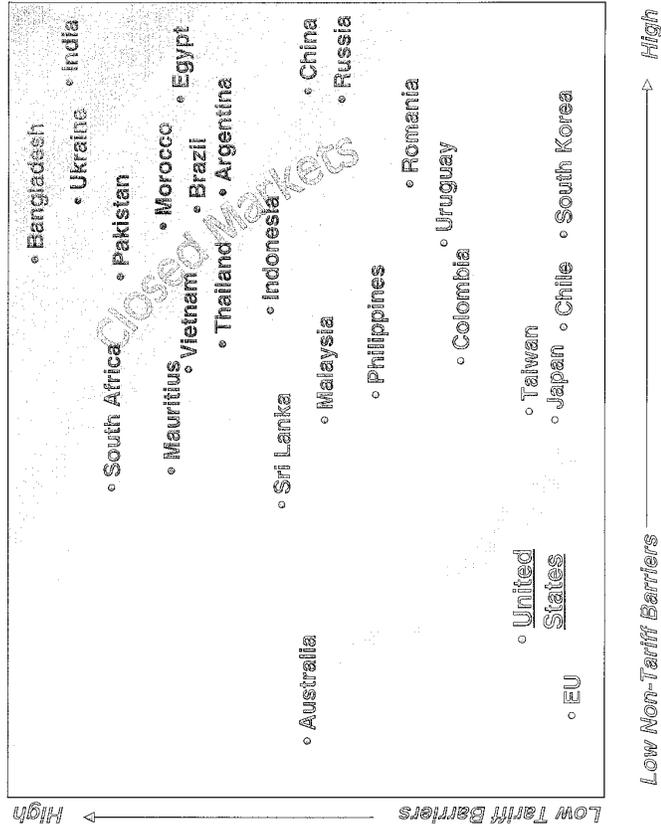
We would also like to make one final point on China now that the U.S./China agreement on accession has been disclosed. The agreement has a major flaw that has gone largely unnoticed. It concerns the absence of any commitment by China to eliminate export subsidies on industrial products. One may ask why is this so important -don't U.S. countervailing duty laws apply to illegal subsidies? The answer is yes, but these laws do not apply to non-market economies. The Department of Commerce made this ruling over ten years ago and, unless it changes its ruling, anyone injured by subsidized industrial exports from China will be unable to petition for relief under U.S. countervailing duty laws.

The reasoning for such a decision by the Commerce Department was hard to fathom then, and remains so today. But it needs to be reversed and we urge this committee to seek such a change now. Many industries, not just textiles, will be at the mercy of China's state-directed economy with all the subsidies that such a system employs unless the Commerce decision is reversed.

In closing, we hope the committee will review the attached report and take into account its findings. The U.S. textile industry and its workers are not afraid to compete on a level playing field with any textile producers. We have one of the highest capital reinvestment rates of any manufacturing sector and are consistently ranked as one of the most productive textile sectors in the world. But we cannot compete against governments that use sky-high tariffs and a whole host of WTO-sanctioned non-tariff barriers to keep their markets closed.

It is time for the U.S. government to stand strong on behalf of its workers and manufacturers to make sure that equitable conditions of market access for U.S. products prevail in the major markets of the world. The WTO should do more to make this happen, but only the United States government CAN do more and make it happen.

## Current Market Access Conditions For Textiles and Apparel: Major Exporting Countries



Market 5  
02/01/2000  
See attachment  
for details.



**Statement of Daniel T. Griswold, Associate Director, Center for Trade Policy Studies, Cato Institute**

Street protestors in Seattle during the World Trade Organization meeting last November delivered a long indictment against the organization and its guiding principle of trade liberalization. Union leaders, environmental activists, and protectionists such as Pat Buchanan charged that international agreements to expand trade have systematically undermined employment, wages, environmental standards, democracy, and national sovereignty. It seemed that whatever discontent anyone may have had with the state of the world today, trade was the culprit.

Meanwhile, defenders of trade liberalization were either silent, on the defensive, or overshadowed by the televised spectacle of chanting crowds, tear gas, and shattered store windows. Lost somewhere in the noise and the fog was the reality of what trade expansion and the WTO have accomplished for the United States and the global economy.

One fact that friends and foes of trade can agree on is that America is becoming more open to the global economy. Since passage of the Reciprocal Trade Agreements Act in 1934 and the founding of the General Agreement on Tariffs and Trade in 1948, American tariff barriers have been on a downward trend, from an average of more than 40 percent in the 1930s to 2.8 percent today.<sup>1</sup> In addition to entering into multilateral trade commitments, the United States joined with Mexico and Canada in 1994 to form a free-trade area through the North American Free Trade Agreement. The result of those policy initiatives has been a steady expansion of America's integration into the global economy. The two-way flow of trade has now reached more than 25 percent of gross domestic product, a record high for this century and up sharply from the 1960s. The United States today is both the world's largest importer and its largest exporter.<sup>2</sup>

The WTO has also played an important role in facilitating trade liberalization in the rest of the world. Since the late 1940s, barriers against the free flow of goods and capital have been falling, with average global tariffs on manufactured goods down among industrialized countries from an average of more than 40 percent to under 4 percent today.<sup>3</sup> Meanwhile, developing countries have been unilaterally lowering their own barriers to trade and investment and now are 80 percent of the WTO's membership of 135. The result of that sea change in policy has been a geometric leap in global trade flows. The volume of world merchandise trade today is 16 times the volume in 1950, a rate of growth three times faster than the growth of global output.<sup>4</sup> The global flow of foreign direct investment (FDI) has more than quadrupled in the past decade, from \$206 billion in 1990 to \$827 billion in 1999.<sup>5</sup>

To the opponents of trade, of course, that is all bad news. They trace the beginning of America's alleged economic decline to the early 1970s, when the pace of our integration into the global economy quickened.<sup>6</sup> From their perspective, the creation of NAFTA and the WTO have only compounded our troubles. Their case against the WTO, free trade, and globalization rests largely on convincing us that we are worse off today than we would be if we had more vigorously resisted closer economic ties with the rest of the world.

THE LINK BETWEEN TRADE AND PROSPERITY

Trade promotes efficiency, the spread of new ideas and technology, the more efficient allocation of capital, and a greater international division of labor. Trade allows Americans to increase their overall productivity by shifting capital and resources to

<sup>1</sup> Council of Economic Advisers, "America's Interest in the World Trade Organization: An Economic Assessment," November 16, 1999, <http://www.whitehouse.gov/WH/EOP/CEA/html/wto/>, p. 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> Organization for Economic Cooperation and Development, *Open Markets Matter: The Benefits of Trade and Investment Liberalization* (Paris: OECD, 1998), p. 31.

<sup>4</sup> *Ibid.*, p. 25.

<sup>5</sup> United Nations Conference on Trade and Development, "World FDI Grows 25 Percent in 1999, Surpassing U.S.\$800 Billion," Press release, February 8, 2000, <http://www.unctad.org/en/press/pr—2837.en.htm>.

<sup>6</sup> Pat Buchanan, in his anti-trade manifesto, *The Great Betrayal* (New York: Little, Brown, 1998), p. 53, marks the beginning of the "free-trade era" as the conclusion of the Kennedy Round of GATT negotiations in 1967. His allies on the left, Lori Wallach and Michelle Sforza, *Whose Trade Organization?* (Washington: Public Citizen, 1999), p. 156, date "the onset of globalization in its current form" to 1973.

sectors of the economy where we are more productive relative to other industries. By specializing in what we do best—for example, growing wheat, designing computer chips, and building aircraft—we can trade our surplus production for the goods and services that people in other nations are best at producing. The result of international specialization is that countries that trade enjoy higher productivity and higher living standards than they would if they did not trade.

Along with specialization, trade brings the dynamic blessing of competition. Competition spurs innovation, controls costs, and keeps downward pressure on prices. For consumers, enhanced competition means lower prices, better quality, and wider variety, raising the real value of their wages. For example, the quotas and tariffs the U.S. government maintains against imported textiles and clothing impose an estimated net cost on the U.S. economy of \$10.4 billion a year.<sup>7</sup> The burden of this protectionism falls disproportionately on lower-income families, who spend a higher proportion of their incomes on essentials such as food and clothing. Fortunately, those quotas are scheduled to be phased out by 2005 under a WTO agreement.

For domestic producers, trade allows access to lower-cost inputs and more sophisticated machinery. For example, the U.S. textile industry—even as it stifles foreign competition for its customers—has raised its productivity by importing state-of-the-art capital equipment from overseas suppliers. One reason U.S. computer makers are so competitive on world markets is that they can import a range of intermediate inputs, such as disk drives, monitors, semiconductors, and motherboards, from suppliers in Asia.

For exporters, trade expands markets abroad, making possible larger production runs and cost savings through economies of scale. Two sectors with the most to gain from liberalization are agriculture and services. In 1998 American farmers exported \$54 billion in products, accounting for about a quarter of their cash receipts, despite relatively high trade barriers against farm imports worldwide. U.S. service providers accounted for 29 percent of total U.S. exports in 1998, up from 17 percent in 1950, again despite relatively high trade barriers.<sup>8</sup> WTO negotiations in agriculture and services set to begin this year are aimed at reducing the persistently high barriers to U.S. exports in those sectors.

The WTO has worked to open markets for U.S. exporters and to keep them open. During the financial turmoil abroad in 1997 and 1998, WTO commitments helped discourage countries in distress from reverting to protectionism under domestic political pressure. This helped to avoid a destructive cycle of trade retaliation such as the one that plagued the global economy in the 1930s. In addition, the United States has been the most frequent user of the WTO's dispute settlement mechanism, prevailing in 23 of 25 cases it has brought against other members. These cases have prompted the removal of discriminatory barriers against U.S. agricultural, services, and manufacturing exports. Also, if China is allowed into the WTO, its potentially huge market will be much more open to U.S. exporters. And since 1997 WTO members have negotiated three sectoral agreements that lower barriers to U.S. exports of information technology, financial services, and basic telecommunications services.

An open economy also provides additional capital from abroad, lowering domestic interest rates, expanding the nation's stock of capital, and raising the productivity of American workers. Japanese investment in U.S. auto plants, for example, has raised the productivity of American autoworkers by providing new plants and equipment and introducing new production techniques. An open economy has allowed American investors, including workers vested in pensions, individual retirement accounts, and 401(k) retirement plans, to earn higher returns abroad and to spread, and thus reduce, the risk in their portfolios.

All these advantages of openness predicted by economic theory have been realized in the countries that practice open trade. The world's most prosperous countries are those that are relatively open to trade with other nations, while the poorest nations are those that remain relatively closed. If the protectionists were right, just the opposite would be true. In fact, according to a study by the Organization for Economic Cooperation and Development, nations relatively open to trade grow about twice as fast as those that are relatively closed—for all the sound economic reasons listed above.<sup>9</sup>

When the WTO agreements from the Uruguay Round of trade talks are fully implemented in 2005, their potential benefit could be an increase to global income of

<sup>7</sup>U.S. International Trade Commission, *The Economic Effects of Significant U.S. Import Restraints: Second Update 1999*, USITC investigation n. 332-325, publication 3201, May 1999.

<sup>8</sup>Council of Economic Advisers, "America's Interest in the World Trade Organization," p. 9. The leading U.S. service exports are travel and transportation services; royalties and licensing agreements; business, professional, and technical services; and financial services.

<sup>9</sup>Organization for Economic Cooperation and Development

between \$171 billion and \$214 billion annually. The gains for the United States alone could amount to from \$27 billion to \$37 billion a year (in 1992 dollars)<sup>10</sup>—an impressive return compared to the \$19 million Congress appropriates annually for our membership in the WTO.<sup>11</sup>

By encouraging trade liberalization, the WTO helps to raise living standards in the United States and the rest of the world. It encourages more vigorous global competition among producers, leading to lower consumer prices, rising worker productivity, and higher living standards.

#### TRADE, JOBS, AND WAGES

One of the oldest charges against free trade is that it destroys jobs. The charge contains a grain of truth. Like technology, expanding the freedom of Americans to trade can accelerate the shift of employment from one industry to another. While trade is responsible for destroying some jobs, it also creates new jobs. The result is not more or fewer jobs in the U.S. economy but a better mix of jobs.

The notion that expanded international trade causes general unemployment in an economy is obviously false. In the past decade, as U.S. trade barriers have fallen and two-way trade has expanded, total civilian employment in the United States surged by 16 million, from 117 million jobs in 1989 to 133 million in 1999.<sup>12</sup> That explosion of job creation helped to push the unemployment rate down to just above 4 percent by the end of 1999, the lowest level in 30 years.<sup>13</sup>

Critics of trade mistakenly assume that imports raise the unemployment rate by displacing Americans who would otherwise make the same products domestically. In reality, import growth and the unemployment rate are negatively correlated. The more we import, the more jobs there are for Americans; or, to phrase it more precisely, the more Americans who hold jobs, the more we can afford to import.

Since 1973 the unemployment rate has tended to fall more rapidly in years with strong import growth and to rise in years when import growth was weak or negative (Figure 1). In fact, every percentage point increase in the rate of import growth during that period is associated with a 0.1 point drop in the unemployment rate. A 15 percent increase in real imports will typically be associated with a 0.9 point drop in the unemployment rate during the year (December to December), while a smaller 10 percent increase in real imports is associated with a 0.4 point drop in unemployment. A 5 percent fall in real imports is typically matched by a 1.1 point increase in unemployment.

The connection between the unemployment rate and imports offers no comfort to protectionists who promise to drive down the unemployment rate by restricting imports. Since 1973 there has not been a single year in which falling imports have been associated with a falling unemployment rate. The empty lower-left quadrant in Figure 1 shows the hollowness of the protectionists' argument. The debate over trade should not be about the number of jobs in our economy; it should be about the kind and quality of jobs.<sup>14</sup>

#### *The Real Story of Real Wages*

Even though trade does not reduce the total number of jobs in our economy, what about the quality of the jobs and the wage gap between high- and low-skilled workers? Critics of trade expansion contend that we are trading away good-paying jobs in manufacturing for lower-paying jobs in the service sector. As evidence, they point to widely quoted figures that are purported to show that the average real wage in the United States has fallen since 1973, and that trade with low-wage countries is primarily to blame.

The argument that trade liberalization through the GATT/WTO has made Americans poorer contradicts the most obvious facts about the U.S. economy in the year 2000. Americans today are much better off than they were in the early 1970s by virtually every economic measure available. Americans are living longer, enjoying better health, and consuming more goods and services per capita than ever before.

<sup>10</sup> Council of Economic Advisers, "America's Interest in the World Trade Organization,"

<sup>11</sup> U.S. Trade Representative, "1999 Annual Report of the President of the United States on the Trade Agreements Program," March 2000, Annex II.

<sup>12</sup> Council of Economic Advisers, *Economic Report of the President 2000* (Washington: Government Printing Office, 2000), p. 348.

<sup>13</sup> *Ibid.*, p. 354.

<sup>14</sup> Total employment in an economy is determined by labor market flexibility and by broader, macroeconomic factors such as monetary policy. This means, of course, that proponents of trade expansion who argue that it will "create jobs" are propagating the same fallacy as opponents who argue that it will "destroy jobs."

The claim of declining real wages is misleading for two reasons: it overstates inflation, and it does not acknowledge the growth of nonwage benefits. In the past few years economists have reached a consensus that the official consumer price index systematically overstates inflation; the 1996 Boskin Commission estimated the overstatement to be about 1.1 percentage points a year.<sup>15</sup> Compounded over 25 years, an annual 1 percentage point overstatement of inflation would cause a 26 percentage point understatement of the growth in real wages—which would turn the alleged 4 percent drop in real wages into a 22 percent gain in purchasing power.<sup>16</sup>

The commonly cited real wage numbers also fail to include such nonwage benefits as health insurance premiums, retirement account payments, eye and dental care, stock options, and paid maternity leave. Nonmonetary benefits as a share of wages have risen by one-third since 1973: from 32.7 percent in 1973 to 42 percent in 1995.<sup>17</sup> Failure to account for nonwage benefits makes the real wage numbers grossly misleading.

Even those flawed numbers indicate that the angst over real wages is misplaced. In the past three years real wages have begun to rise strongly again in step with rising productivity. According to the Bureau of Labor Statistics, real wages rose by an annual average of 2 percent in 1997, 1998, and 1999, during a period in which imports and foreign investment in the United States were rising to record levels.<sup>18</sup> Real per capita disposable income is up 17 percent in the past decade.<sup>19</sup>

This rising tide of real compensation has lifted all boats, including those of less-skilled workers, as the expanding U.S. economy has raised demand for all types of labor. According to the Council of Economic Advisers, "Between 1993 and 1998, real average household incomes have grown between 9.9 and 11.7 percent for every quintile of the income distribution, and the median African American household has seen a 15 percent increase in real income. Between 1993 and 1998, family incomes in the lowest quintile rose at a 2.7 percent annual rate, slightly faster than the 2.4 percent rate recorded by the top quintile."<sup>20</sup>

If the critics of trade were right—that more open trade drives down real wages, especially for low-skilled workers—then none of those developments should be happening.

#### *Who's Flipping Hamburgers?*

Predictions that trade would turn us into a nation of hamburger flippers have proven to be ludicrous. That myth is built on the misconception that service jobs are somehow inherently inferior to those in manufacturing, which gives rise to the erroneous assumption that the ongoing growth of the service sector has caused a decline in real living standards.

Since the passage of NAFTA and the Uruguay Round Agreement, the service sector in the United States has expanded so much that, today, service-producing industries account for more than 80 percent of all jobs in the United States. It is true that a significant number of service jobs are relatively low paying, in particular those in the retail trade, but the fastest-growing sectors of service employment are on the high end. According to a study by the U.S. Department of Labor, 81 percent of the new jobs created since 1993 have been in industry/occupation categories paying above-median wages, and 65 percent are in the highest-paying third of categories.<sup>21</sup>

Those new jobs are in communications, computer programming, finance, teaching, management, and other white-collar professions. Overall, the typical manufacturing job pays only about 1 percent more than the typical service job, and that gap is about to vanish. For nonretail service jobs, the average pay is now about 5 percent higher than for manufacturing jobs.<sup>22</sup>

<sup>15</sup>The main reason why the CPI systematically overstates inflation is that it fails to capture the beneficial impact of new products on the purchasing power of our paychecks. Americans today can buy a minivan full of products—such as personal computers, VCRs, microwave ovens, cellular telephones, and digital cameras—that simply were not for sale in 1970, at least not a price any of us could afford. And when those new products are finally added to the CPI shopping basket, the most dramatic price reductions have already been realized.

<sup>16</sup>Author's calculation, based on an average annual CPI increase of 5.4 percent from 1973 to 1998.

<sup>17</sup>W. Michael Cox and Richard Alm, *Myths of Rich and Poor: Why We're Better Off Than We Think* (New York: Basic Books, 1999), p. 18.

<sup>18</sup>Council of Economic Advisers, *Economic Report of the President 2000*, p. 360.

<sup>19</sup>Ibid., p. 341.

<sup>20</sup>Ibid., p. 27.

<sup>21</sup>Council of Economic Advisers and U.S. Department of Labor, Office of the Chief Economist, "20 Million Jobs: January 1993–November 1999," December 3, 1999, p. 5.

<sup>22</sup>Cox and Alm, p. 146.

It would be wrong to describe the lower-paying service jobs as dead-end work. Many workers prefer those kinds of jobs for the flexible hours and work experience they offer. The fast-food industry, to cite the most obvious example, has become a virtual training program for the American workforce, with millions of workers gaining their first on-the-job experience in the industry. Today nearly 70 percent of workers flipping burgers and performing other tasks in the fast-food industry are under the age of 20.<sup>23</sup> For most of those workers, low-end service jobs are a valuable but temporary step on the ladder to greater economic success.

Critics of trade tend to romanticize the appeal of manufacturing jobs. This sector of the economy also has its share of low-end jobs that pay below-average wages, in particular in the textile and apparel sectors. Working conditions can also be less pleasant, safe, and secure than in the large majority of service jobs. The shift from manufacturing to service jobs partly explains the dramatic decline in the death rate from on-the-job accidents in recent decades.

It is simply a myth that an economy cannot prosper if the share of jobs in manufacturing is falling. The current U.S. economy is proof.

#### *The Gap between Rich and Poor*

Another charge against open trade is that it has widened the gap between rich and poor in America. The claim rests on the theory that trade with low-wage countries has driven down the wages of low-skilled domestic

labor. According to the theory, competition with poor countries causes U.S. industries to shift production away from labor-intensive goods, thus reducing the demand in this country for low-skilled workers. The result is what economists call “factor price equalization”—U.S. wages for low-skilled labor are dragged down toward the level in less-developed countries.

The theory sounds plausible on its face, but it fails to explain what has actually been occurring in the U.S. economy. It is true that, until the mid-1990s, the wage gap had been growing between workers with a college degree and those with only a high school education. But the evidence points to technological change, not international trade, as the primary reason for the widening gap between wages of skilled and unskilled workers.

If trade were the dominant factor, then most industries should be increasing their percentage of low-skilled workers to take advantage of lower wages. But, in fact, U.S. industries across the board have been shifting their workforces toward higher-skilled positions. This demonstrates that the rising wage premium for college degrees has been due, not to external competitive pressures, but to broader internal changes in the American economy. Specifically, a more information-based, technologically driven economy needs relatively more brains and less brawn than did the more manufacturing-based economy of the past.

It is true that, although technology has provided the much bigger shove, technology and trade have been pushing in the same direction—toward greater reliance on high-skilled workers. Anti-trade critics try to twist this into a black mark for globalization, but would they really prefer the opposite? Would anybody really want to see an American economy that relied increasingly on low-skilled workers? The increasing premium on education, skills, and training is surely good news for America’s future. If some Americans lack the skills to take full advantage of the promise of that future, the proper response is to improve our public policies on education and training—not to dumb down the American economy by blocking technological progress or erecting trade barriers.

#### AMERICA’S THRIVING MANUFACTURING BASE

Despite predictions of its imminent doom, manufacturing in America today is thriving. American factories are producing more goods than ever before. Healthy gains in efficiency have kept American manufacturers competitive in international markets, maintaining America’s position as the world’s no. 1 exporter of manufactured goods. The resurgence of U.S. manufacturing comes against a backdrop of record imports.

Far from deindustrializing, America in the past decade has experienced a robust expansion of industrial output. Since 1992, during a period in which the WTO and NAFTA have both been in operation, industrial production—which includes the output of U.S. mines, utilities, and factories—has increased 37 percent. Manufacturing output by itself has risen even faster, by 42 percent (Table 1).

Consider the example of the U.S. auto industry. Domestic output of motor vehicles and parts has shot up 51 percent since 1992. Total domestic output of cars and light

<sup>23</sup> Ibid., p. 147.

trucks reached 12.6 million in 1999, a record high and up more than 3 million since 1992. Strong domestic demand for new cars, light trucks, and sport utility vehicles has helped to boost profits and employment in the industry. In 1998 domestic automobile employment approached 1 million, an increase of 177,000 since 1992. Industry profits were healthy in 1999. Those are not the signs of an industry that has been destroyed.

Contrary to what the critics of trade predicted, American industry has not been losing ground, either in absolute terms or relative to the rest of the world. America remains the world's top exporter of manufactured goods, with exports in 1998 worth \$528 billion.<sup>24</sup> America's share of global manufacturing exports held steady in the 1990s at about 13 percent.<sup>25</sup> Among America's leading exports in 1998 were aircraft, computer equipment, telecommunications equipment, valves and transistors, passenger cars, and motor vehicle parts. Compared with the other major industrial powers, including the once feared Japanese juggernaut, the United States has been widening its lead in industrial output in the past decade (Figure 2).

Open U.S. markets have been essential to the competitive strength of America's most dynamic high-tech manufacturing industries. For example, U.S. personal computer manufacturers are among our leading exporters. But open up one of those PCs and you'll find a microcosm of the global economy: operating system and microprocessor from the United States, memory chips from Japan and Korea, a disk drive made by a U.S. company in Singapore, a motherboard and peripherals from Taiwan. Any attempt to close off the American economy with tariff walls would be a disaster for the U.S. computer industry.

Free trade has been a tonic for American industry. International competition has spurred innovation, efficiency, and customer satisfaction. The biggest winners have been American families, who benefit from the lower prices, greater variety, and higher quality of products that international competition makes available. Not all industries benefit from open competition, of course. Output and employment in the domestic apparel sector continue to fall as production shifts to lower-cost producers abroad. But, for the health and vitality of the American manufacturing sector as a whole, not to mention the overall economy, international trade has been a blessing.<sup>26</sup>

Warnings about deindustrialization tend to focus, not on output, but on jobs. But even here, the worries are based on an irrelevant half-truth: manufacturing employment has not been growing. The number of Americans employed in manufacturing at the end of 1999 was about 18.4 million, up slightly from 1992 but down from the all-time peak of 21 million in 1979. Before the downturn in exports hit in 1998, in the wake of the East Asian economic crunch, the number of manufacturing jobs in the United States had actually increased by 700,000 from the first quarter of 1993 through the fourth quarter of 1997.

In the end, the debate over jobs is irrelevant because the real measure of a nation's industrial might is not the number of people employed in this or that sector but the value of what they produce. The fact that American manufacturers can produce 42 percent more than they could in 1992 with about the same number of workers is a testament to rising efficiency—"competitiveness," if you will—not industrial decline.

The shift to service-sector jobs is a natural consequence of a more advanced and prosperous economy. As incomes rise, families tend to spend a smaller share of their income on goods and a correspondingly larger share on services. We spend relatively more than we used to on such services as travel, eating out, recreation, lawn care, entertainment, and financial advice. It only makes sense that, as our relative consumption of manufactured goods falls, so too will our relative production—even as our absolute production continues to climb. Virtually all the other advanced economies in the world have undergone the same transition. The relative decline of manufacturing is a sign not of national decline but of a nation reaching a higher stage of economic development.

#### NO GIANT SUCKING SOUND

More than half a decade after congressional approval of NAFTA and the WTO, domestic investment in the United States is booming. The same open economy that

<sup>24</sup> United Nations, *Monthly Statistical Bulletin*, March 2000, p. 275.

<sup>25</sup> U.S. Bureau of the Census, *Statistical Abstract of the United States: 1999* (Washington: Government Printing Office, 1999), Table 1243, p. 755.

<sup>26</sup> For a more detailed analysis of the impact of international trade on domestic manufacturing and employment, see Daniel T. Griswold, "Trade, Jobs, and Manufacturing: Why (Almost All) U.S. Workers Should Welcome Imports," Cato Institute Trade Briefing Paper no. 6, September 30, 1999.

has benefited American consumers and workers has created a profitable climate for new business investment. As a result, more than a trillion dollars was spent in the United States last year on fixed nonresidential private investment.

The record expansion now heading into its 10th year has been marked by a healthy growth in investment. Since 1992 real nonresidential private investment in the United States has almost doubled, from \$630 billion to more than \$1.2 trillion (in 1996 dollars). Real investment in information-processing equipment and software has more than tripled.<sup>27</sup> The surge in investment and new technology has led directly to the rise in worker productivity that in turn has fueled economic expansion and rising living standards.

The predicted flight of capital to countries with lower costs and standards never materialized. In fact, during the past decade the United States has been the world's largest recipient of foreign investment. Year after year the United States has run a net surplus in its capital account, with foreign savers investing more in the United States than American savers sent abroad. This inflow of foreign capital has kept interest rates down, built new factories, and brought new technology and production methods to our economy. If there has been any giant sucking sound since 1993, it has been the rush of global capital to the safe and profitable haven of the United States.

American manufacturers continue to be net investors in Mexico and China, but the relative magnitude of the investments remain small. From 1994 through 1998 the annual net outflow of FDI in manufacturing to Mexico averaged \$1.7 billion; the net annual outflow of manufacturing investment to China has been even smaller, averaging \$661 million (Table 2). Those sums are inconsequential in a U.S. economy that averaged almost \$8 trillion in annual GDP during the same period. In contrast to the relative trickle of outward investment to Mexico and China, domestic investment in U.S. manufacturing in 1997 totaled \$192.3 billion.<sup>28</sup> In fact, from 1994 to 1998, the United States received an average annual net inflow of manufacturing FDI of \$12 billion.<sup>29</sup>

While anti-trade polemicists focus all their attention on jobs shipped overseas, they ignore the jobs shipped here. Today some 12.3 percent, or almost one in eight, of manufacturing workers in America are employed by a U.S. affiliate of a foreign-owned company.<sup>30</sup> Honda, Toyota, DaimlerChrysler AG, BMW, Fuji, and other foreign-owned companies in the United States have become major employers.

As is the case with trade, most of America's foreign investment dealings are with other advanced economies. According to a study by the Deloitte & Touche consulting firm, 80 percent of FDI by U.S. manufacturing firms in 1998 was in other high-wage countries.<sup>31</sup> The top five destinations for U.S. manufacturing FDI in 1998 were the United Kingdom, Canada, the Netherlands, Germany, and Singapore—all high-wage economies with labor, health, and environmental regulations comparable to or more restrictive than those of the United States.<sup>32</sup>

Outward U.S. foreign investment is not drawn primarily by low wages and lax regulations in poor countries. "Contrary to common belief, cheap labor does not drive U.S. manufacturing FDI," the Deloitte & Touche study concluded. "Indeed, global expansion strategies are driven in large part by relative economic stability, well-developed infrastructures, lucrative market potential, and talented and skilled workers. Access to lower cost labor and raw materials are important, but not the primary driver."<sup>33</sup>

By focusing on low wages in less-developed countries, the opponents of openness miss the crucial fact that workers in poor countries are much less productive than workers in the United States. Their wages are lower, not because they are inherently lazy or incapable, but because they lack the human and physical capital and the pro-market institutions that foster higher productivity. Their countries have historically followed unsound economic policies: punishing tax rates, heavy market regulation, neglect of education, traditional hostility to foreign investment, high import barriers, and inflationary monetary policy. The policy mistakes that have kept wages low in poor countries also discourage foreign investment.

<sup>27</sup> Council of Economic Advisers, "America's Interest in the World Trade Organization," Table B-17, p. 327.

<sup>28</sup> Joint Economic Committee of Congress, p. 10.

<sup>29</sup> U.S. Department of Commerce.

<sup>30</sup> William J. Zeile, "Foreign Direct Investment in the United States: Preliminary Results from the 1997 Benchmark Survey," *Survey of Current Business* 79, no. 8 (August 1999): 32.

<sup>31</sup> Deloitte Consulting, "Foreign Direct Investment Trends of U.S. Manufacturers: 1999 Annual Report," Deloitte & Touche, New York, 2000, p. 1.

<sup>32</sup> *Ibid.*, p. 12.

<sup>33</sup> *Ibid.*, p. 1.

The United States has nothing to fear from openness to trade and investment with less-developed countries. Global trade liberalization encouraged by the WTO promotes investment, growth, and development in the United States as well as our trading partners.

#### AMERICA'S BENIGN TRADE DEFICIT

With the U.S. economy performing so well during a period of record trade expansion, complaining about the trade deficit has become the last refuge of the enemies of openness, who routinely point to the record deficit as *prima facie* evidence that global trade is undermining the U.S. economy. They argue that future trade agreements threaten to "worsen" the deficit and therefore should be opposed.

America's trade deficit is not the result of unfair trade barriers abroad; it is the result of our continuing surplus of foreign investment. The net inflow of capital allows Americans to import goods and services in excess of what we export—hence the trade deficit. As long as our level of domestic investment exceeds our level of domestic savings, the United States will be a net recipient of foreign capital and will run a trade deficit. In contrast, nations such as Japan will routinely run trade surpluses because their level of domestic savings exceeds domestic investment.

Unless a policy addresses the balance of savings and investment, it will have no ultimate effect on the trade deficit. Protectionism aimed at reducing the trade deficit would only deprive foreign producers of the dollars they would otherwise earn by exporting to the United States. The resulting reduction of dollars in the international currency markets would then drive up the dollar's value, making U.S. exports less attractive abroad and imports more attractive at home—offsetting the effects on the U.S. trade deficit of a protectionist tariff.

Under current conditions, the U.S. trade deficit is actually a sign of America's relative economic health compared with that of our major trading partners. The deficit reflects the attractiveness of U.S. investments and the spending power of U.S. consumers, whose rising employment and real wages have spurred demand for imports. This is why, as a general rule, the U.S. trade deficit grows during periods of economic expansion and shrinks during periods of sluggish growth or recession.<sup>34</sup>

Trade liberalization through the WTO will not have a significant effect on the U.S. trade deficit in either direction. It will make the countries that participate in the liberalization more prosperous by allowing their citizens to reap the productivity gains from the spread of technology, more efficient production, and a more economical division of labor.

#### CONCLUSION

America's membership in the WTO has been a double blessing for the United States. The liberalization of markets abroad has created export opportunities for U.S. companies, raising profits, employment, and wages in industries that serve expanding global markets. Meanwhile, WTO membership exerts pressure on the U.S. government to keep our own market open to the global economy, which gives American families access to a wider range of affordable goods and services, thus raising the real value of our paychecks. The competition from abroad spurs domestic producers to keep prices down, develop new and better products, and adopt more efficient production methods. The ability to import raw materials, capital equipment, and intermediate inputs, such as competitively priced steel and semiconductors, lowers the cost of production for U.S. producers and keeps them competitive in global markets.

All the economic arguments against the WTO agenda of trade expansion have proven to be hollow in practice as well as in theory. The U.S. economy is thriving at a time of record trade and international investment. America's unprecedented integration into the global economy has been accompanied by record low unemployment, booming investment and industrial production, and rising real wages up and down the income scale.

Granted, open trade is not the only, and may not even be the chief, cause of the long boom we are experiencing, and a policy of open trade does not guarantee unbroken prosperity. Ultimately, the argument for free trade does not depend on current economic conditions. If the United States were mired in recession, free trade would still be the best policy both in theory and in practice. But at the very least, today's

<sup>34</sup> For a more detailed discussion of the causes and consequences of the U.S. trade deficit, see Daniel T. Griswold, "America's Maligned and Misunderstood Trade Deficit," *Cato Institute Trade Policy Analysis* no. 2, April 24, 1998.

juxtaposition of trade and economic expansion disproves the protectionist argument that open trade is a recipe for unemployment and falling living standards.

In testimony before the Senate in February, Federal Reserve Board chairman Alan Greenspan reminded senators that America's openness to imports and immigration has fueled the U.S. economy, prolonging our record expansion. "As we are creating an ever more complex, sophisticated, accelerating economy, the necessity to have the ability to bring in resources and people from abroad to keep it functioning in the most effective manner increasingly strikes me as relevant," he testified. The Fed chairman then went on to warn that, unless fears about trade and openness are addressed, "I do think the forces against globalization can significantly undercut this remarkable surge in prosperity that we are observing."<sup>35</sup>

By encouraging governments around the world to liberalize trade, the WTO enhances the individual freedom as well as the material well-being of Americans. Through a rules-based approach to trade policy, the WTO discourages governments from exercising self-defeating power over the economic lives of citizens. Because of the WTO, Americans are not only better off materially; they are also a bit freer from the power of government to decide what they produce and consume.

---

<sup>35</sup> Alan Greenspan, "The Federal Reserve's First Monetary Policy Report to Congress for 2000," Testimony before the Senate Banking Committee, February 23, 2000. The quote was in response to questions from Sen. Robert Bennett (R-Utah).

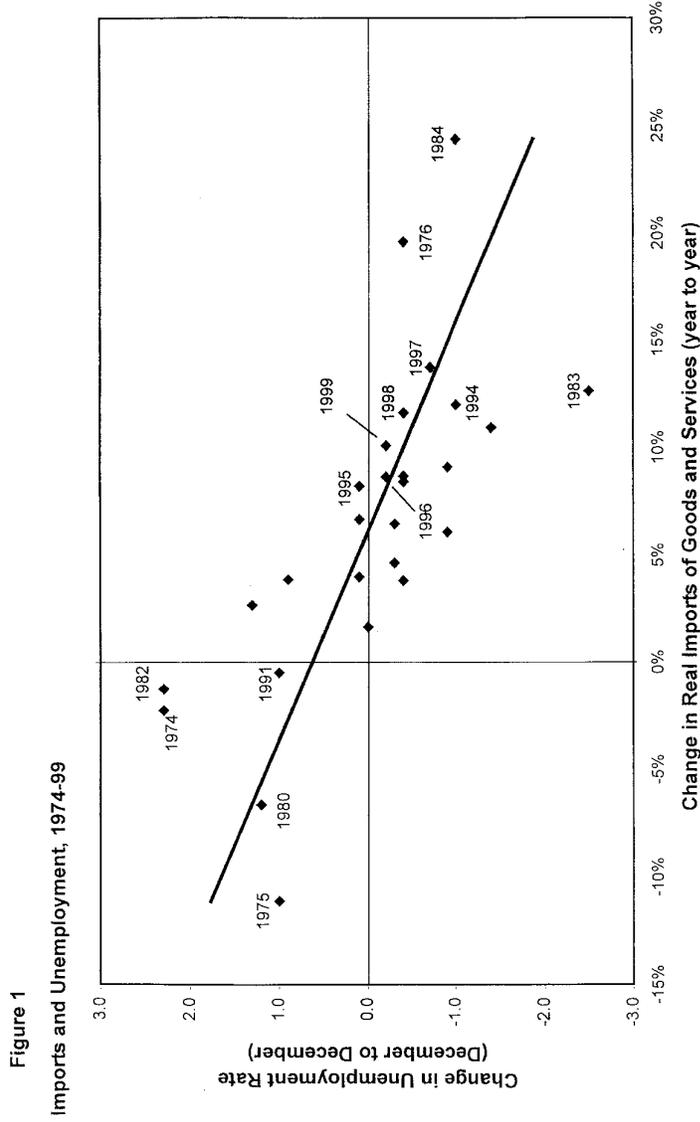
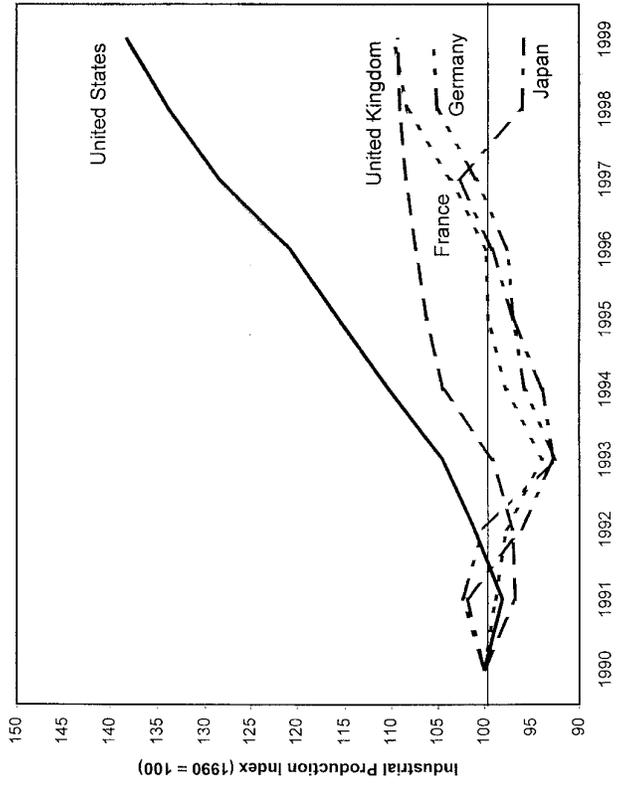


Figure 2  
Industrial Production, 1990-99



Source: Joint Economic Committee, *Economic Indicators*, January 2000, p. 35.

**Table 1**  
**America's Industrial Expansion, 1992-99**

	1992	1999	Change (%)
Industrial production index	100	137.2	37.2
<b>Manufacturing</b>	100	142.3	42.3
Iron and steel	100	122.9	22.9
Fabricated metal products	100	128.8	28.8
Industrial machinery and equipment	100	230.5	130.5
Electrical machinery	100	389.6	289.6
Motor vehicles and parts	100	151.0	51.0
Apparel products	100	90.8	-9.2
Cars and light trucks produced	9,491,395	12,592,967	32.7
U.S. motor vehicle industry, employment	812,500	989,800	21.8

Sources: Joint Economic Committee, *Economic Indicators*, January 2000, p. 17-18; and *Ward's Automotive Yearbook 1999* and *Ward's 1999 Motor Vehicle Facts and Figures Book* (Southfield, Mich., Ward's Communications).

**Table 2**

**U.S. Foreign Direct Investment Flows, Manufacturing, 1994-1998**  
**(Net flows, millions of \$s)**

	1994	1995	1996	1997	1998	1994-98 Average
Mexico	(1,707)	(1,910)	(1,626)	(2,745)	(399)	(1,677)
China	(454)	(341)	(520)	(949)	(1,039)	(661)
EU, Japan, Canada, total	(872)	(3,428)	23,681	16,901	64,268	20,110
European Union	(109)	(965)	13,382	12,113	59,008	16,686
Japan	1,728	779	8,504	2,678	2,413	3,220
Canada	(2,491)	(3,242)	1,795	2,110	2,847	204
World, total	(4,316)	(15,733)	13,213	7,989	60,774	12,385

Source: U.S. Department of Commerce, Bureau of Economic Analysis, "International Accounts Data," <http://www.bea.doc.gov/bea/dil.htm>.

Note: Figures in paranthesis are net FDI outflows.

### **Statement of the Luggage and Leather Goods Manufacturers of America, Inc., New York, NY**

The Luggage and Leather Goods Manufacturers of America (LLGMA) is submitting this statement in response to the Ways and Means Committee's request for public comment on continued participation of the United States in the World Trade Organization (WTO). LLGMA represents U.S. manufacturers, distributors, and retailers of luggage, handbags, business and computer cases, small leather goods, and other travel accessories.

LLGMA is opposed to H.J. Res. 90, which proposes the withdrawal of the United States from the World Trade Organization (WTO). Withdrawal of the United States from the WTO is unthinkable. It would constitute an abandonment of this country's role as the world's economic leader and its ability to positively shape and influence rules and regulations governing world trade.

The WTO provides a structure for conducting world trade and resolving disputes between nations. And as imperfect as the WTO Dispute Settlement process is, at its best, it provides a forum for settling disputes before they escalate into major trade wars, where retaliatory trade sanctions are common. U.S. travel goods companies, distributors, and retailers have more than once faced the threat of draconian tariff sanctions and such threats are highly disruptive to our businesses.

WTO disciplines on illegal export subsidies, intellectual property rights (patents and trademarks), transparent customs procedures and proper customs valuation, and use of illegal import restraints are important outgrowths of this nation's active participation and leadership in the WTO. These disciplines help our industry compete both in the United States and in markets abroad.

As a result of negotiations conducted under the auspices of the WTO, countries have been lowering their tariffs or agreed to legally bind them at certain levels. These tariff reductions along with the assurance that tariffs will not be raised have helped our members find new markets that were formerly closed to them.

For all these reasons, it would be a critical mistake for the United States to withdraw from the WTO. World trade must be rules-based, and the rules must take U.S. strengths and interests into account. The U.S. cannot influence this process outside the organization that creates and implements these rules. H.J. Res. 90 is a bad idea and LLGMA hopes that the Ways and Means Committee and Congress will oppose it.

---

**Statement of Darol Lindloff, President, Panda Energy International, Inc.,  
Dallas TX**

Thank you, Mr. Chairman, for the opportunity to submit this written statement to the Committee on the opportunities that may flow from improving trade relations with China. I am Darol Lindloff, President of Panda Energy International, Inc., an independent power company headquartered in Dallas, Texas. We are in the business of developing power plants and supplying electricity both in the United States and international markets. Panda has interests in two operating power plants in Maryland and North Carolina, three merchant power projects under construction in Texas, a hydroelectric project in Nepal, and the project I am about to describe in China. We also have a number of other projects actively under development elsewhere in the US.

I am not here to urge you either to grant or deny permanent normal trade relations, or PNTR, status to China. China is an important member of the international community; we all benefit if it is allowed to participate in world trade on the same terms as other countries and it subscribes to the same basic rules.

Rather, my purpose today is to call your attention to the story of how one US company has fared when trying to do business in China. As you and your colleagues decide whether to grant PNTR status to China in the coming week, I believe you will find valuable the story I am about to share and the issues it raises.

Panda spent the last six years developing a private power project in Hebei province in northern China. Construction is now complete, and the project is ready to start commercial operation.

POWER CONTRACT

Panda signed two contracts—an "Electric Energy Purchase and Sales Agreement" and a "General Interconnection Agreement"—with the North China Power Group Company in September 1995 under which the North China Power Group Company agreed to buy the electricity produced by the project at a price to be determined by a formula.

The North China Power Group is one of five regional power agencies that fall under what used to be known as the Ministry of Power and Industry but that, after recent reforms, is now called the State Power Corporation of China. The North China Power Group covers the region that includes Hebei province.

The contracts commit the North China Power Group Company to "dispatch," or call on, the plant for 100% of its capacity during peak hours and 60% to 65% during off-peak hours and trough periods.

The tariff, or price at which electricity from private power projects in this part of Hebei province can be sold, is set by the Tangshan Municipal Pricing Bureau. The pricing bureau sent Panda a notice in October 1995 that the company could assume a price of 0.5997 renminbi per kWh for purposes of its financial planning, but said the company would have to apply for the actual tariff 30 days before the project was ready to start commercial operation. The bureau attached the formula that would be used to set the tariff. This was the same formula used to arrive at the planned tariff. The only difference was that the actual tariff would be calculated by replacing the cost variables in the formula with actual costs closer to the time the project was ready to start supplying power.

## US BOND OFFERING

By the spring 1997, Panda was ready to start construction. It borrowed \$155.2 million in April that year by issuing public debt in the US capital markets. Of this amount, a sizable share was set aside in reserves to cover interest payments on the debt during construction and other working capital requirements.

A total of \$110 million has been injected to date into the Chinese joint ventures that own the project. (The project assets have been divided among four Chinese joint ventures. Panda owns approximately 83% of each joint venture. Other investors own approximately 5%, and the remaining 12% is owned by the Luannan government, the county within Hebei province where the project is located.)

The project consists of two 50-megawatt coal-fired generation units (*e.g.*, boilers and steam turbines). Construction of both units was completed last fall, and both had been "synchronized" with the regional power grid by December 1999 and were in a position to start generating electricity.

## TARIFF APPLICATION

In May last year, Panda applied to the Tangshan Municipal Pricing Bureau for its tariff. It plugged the actual numbers into the pricing formula and came up with a figure of 0.704 renminbi per kWh.

The pricing bureau audited the cost figures, made site visits, and came back with comments on the Panda application in July. Panda used the pricing bureau's figures in place of its own in the formula and arrived at a figure of .58685 renminbi for the tariff. However, on July 22, the pricing bureau showed Panda a draft order that said the tariff would be only 0.37 renminbi and suggested the North China Power Group Company would not buy the power at this price but rather the project would be allowed to charge the price if Panda could find customers itself to which to make direct retail sales of electricity.

The project does not have authority under Chinese law to make direct retail sales. Demand for power in the region has fallen since the project started construction. The Chinese appear to have assigned the swing industrial load (*i.e.*, the portion of demand that is more susceptible to economic cycles) to foreign-owned independent power projects, and reserved the safer base load to the public sector for Chinese-owned facilities.

A tariff of 0.37 renminbi would bankrupt the project, even if it could find retail customers for the entire output.

## EFFORTS TO SEEK HELP

Panda met with the vice mayor of the Tangshan municipal government, Zhang Yu, on August 3 in an effort to explain its situation. The vice mayor asked what was the lowest possible tariff the project would require to avoid defaulting on its debts. Panda sent a letter three days later that said the project would need a tariff of at least 0.53 renminbi per kWh to service the debt (or 0.453 renminbi per kWh if one ignored the share of the tariff that went back to the government in the form of value added taxes).

Over the next month, Panda tried to see other officials at both municipal and provincial levels. It had only limited success. For example, we showed up for a scheduled meeting with the deputy general secretary of the Tangshan municipal government only to be told that the gentleman was in Russia.

In early September, Panda learned that an executive vice governor of Hebei province, Mr. Cong Fukai, had given the problem to a deputy director of the Hebei Provincial Planning Commission, Mr. Cao Mangui, and told him to solve it. Around this time, Alan Turley, the commercial minister-counselor in the US embassy in Beijing, sent a letter to the executive vice governor urging him to help.

In late October, Mr. Cao summoned all the interested parties to the provincial capital. Panda was invited but not allowed in the room. Mr. Cao "split the baby." He took the 0.37 renminbi that had been proposed by the Tangshan pricing bureau and the 0.53 tariff that Panda said the project needed to avoid defaulting on its debt and settled on the midpoint of 0.45 renminbi.

Mr. Cao called in the Panda representatives the next morning, briefed them on the outcome, and asked whether they could accept the 0.45 figure. We responded on November 2 that the proposed tariff of 0.45 renminbi would leave the project unable to service its debts, but said we would see how much room we had with the US bondholders to restructure the debt.

Panda had initiated discussions with the bondholders starting in August at the first sign there might be trouble. The talks had progressed by this time to a point where the bondholders were demanding that Panda give up a majority of its owner-

ship interest in the project and also pay them a considerable amount to reduce the debt to a level that the project might be able to service at the reduced tariff.

I flew to China and delivered a letter in person on November 5 accepting the 0.45 tariff on two conditions—first, the tariff would be implemented quickly so that the project could start operation on schedule and, second, the tariff would come with an assurance that the government would buy the output at this figure as required under the power sales contract.

The following Monday, November 8, we were briefed on a report that Mr. Cao had written for the governor to send the Tangshan authorities directing them to accept the tariff of 0.45 renminbi, but not taking a position on the two conditions. The report justified the 0.45 tariff on grounds that the figure had been widely adopted for other foreign power plants in the province.

The report never made it to the governor. It became tied up in a maze of the governor's aides and was eventually blocked by the head secretary who was concerned about the harshness of the report on the Tangshan municipal government and who wanted to hear from the local government before allowing the report to reach the governor.

I tried to get Mr. Cao to come with me in person to the governor's office. Mr. Cao seemed to be trying to distance himself from our case and, the next day, we learned that he had been reassigned to another job. Mr. Turley at the US embassy sent another letter to the executive vice governor, Mr. Cong Fukai, on November 10 and this was followed up by a brief faxed memo from Bruce Quinn at the US embassy urging Mr. Cong to implement the compromise that I had travelled to China to say we would accept. The Hebei government responded around November 18 that a satisfactory solution had been reached.

The following day, we were given a brief order from the Tangshan pricing bureau that said in its entirety:

"In accordance with the opinion given by the leaders of the provincial pricing commission in the tariff coordination meeting on October 28, 1999, the tariff of the electric energy sold in Luannan County for Tangshan Panda Heat & Power Co., Ltd. will be 0.45 yuan/Kwh. The execution period of the tariff for the time being is one year. The above commercial tariff will become effective at COD [the commercial operation date]."

The problem with the order is Luannan County has only a 10 megawatt demand for electricity. Thus, the project is assured of earning the tariff on only about a tenth of its output.

Panda sent a letter to the executive vice governor of Hebei province on November 25 expressing its disappointment. The letter said, in part,

"Mr. Cong, you are a very important, powerful and busy person. I honestly do not know if you truly have been made aware of what has transpired over these last weeks, and this recent Tangshan Government action which has now put our project in a desperate situation. In the interest of fair business and future foreign investment, please get personally involved in this issue now and take some positive action to save us. Right now we have no future."

The letter was signed by John Zamlan, general manager of the Tangshan Panda Heat and Power Co., Ltd. in China.

#### CONCLUSION

As I said at the start of my statement, I am not here to ask you and your colleagues to grant or deny China PNTR status. I am here to relate a story of how one US company fared when it tried to supply electricity to the Chinese. Unfortunately, we have come to find that our experience is not all that uncommon. However, in our case, the consequences are potentially disastrous because Panda had to guarantee the US bondholders that they would be repaid. We feel like the jilted bride who entered into a marriage five years ago with the Chinese only to find them trying to walk away from the marriage now that the child has been born. This isn't fair.

At this time, we still do not have an assigned tariff necessary for the commercial operation of our facility. There is a growing lack of concern on the part of local and provincial officials for even granting a tariff. If this is not achieved soon, the consequence will be the failure and bankruptcy of a U.S. capital-markets funded international project in China.

Thank you.

—

**Statement of Pharmaceutical Research and Manufacturers of America  
(PhRMA)**

SUMMARY

The Pharmaceutical Research and Manufacturers of America (PhRMA) believes that the World Trade Organization (WTO) and the global trading system that it represents provide enormous benefits for all Americans. Contrary to claims made during and since the WTO Ministerial Conference in Seattle, international trade creates economic growth and opportunity -and this is the best hope for improving economic situations and living conditions for all of the world's citizens. Thus, not only is it in the interests of Americans that the U.S. participate actively as a member of the WTO, but we should encourage all of our trading partners to join the WTO as well.

PhRMA urges the United States Government to pursue every opportunity for improving the ability of the innovative pharmaceutical industry to compete in foreign markets. The United States has a substantial interest in ensuring that our trading partners do not erect barriers to our ability to compete in their markets, through non-market-based government interventions such as price and profit controls, inadequate intellectual property protection standards, unfair or coercive government procurement practices, high tariffs and other measures. We urge the U.S. Government to take advantage of our membership in the World Trade Organization to seek to remove these impediments to trade. We stand ready to work with the Office of the U.S. Trade Representative (USTR), other key actors in the United States Government, and the Congress, to pursue an effective course of action in a new round of trade negotiations and through other opportunities.

PhRMA also believes that the bilateral agreement on market access signed by the U.S. and China will bring significant gains for both of our countries, and we support the approval of Permanent Normal Trade Relations status for China.

STATEMENT

The Pharmaceutical Research and Manufacturers of America is a trade organization representing the country's leading research-based pharmaceutical and biotechnology companies, which are devoted to inventing medicines that allow patients to lead longer, happier, healthier and more productive lives. This year, PhRMA members expect to invest over \$26 billion in research and development efforts to identify and bring to market new drugs. Our members employ almost a quarter of a million Americans in a variety of high-skill, high-wage jobs. The industry's annual worldwide sales in 2000 are expected to exceed \$149 billion, an increase of more than 11 percent over 1999 figures. One third of this revenue comes from sales of our products in foreign markets. Our ability to compete successfully in those markets is dependent on effective, non-discriminatory trade rules that protect our technology and reduce trade barriers faced by our products.

BENEFITS OF THE WTO

PhRMA believes that the WTO has led to clear benefits for the global trading system as well as all of its participants. These benefits include:

- *Rule of law and discipline:* The WTO has transformed the 50-year old trading system from a complex set of rules applied to few members into a process where the rules are transparent and apply to all members, allowing all to enjoy the benefits of an open trading system.
- *Dispute settlement:* WTO members can rely on a process for the prompt settlement of disputes; while improvements could be made, the WTO has generated greater predictability in the application of rules.
- *Market access:* Tariffs are falling in many sectors, export opportunities are growing for all producers, and new entrants into the global marketplace, especially small and medium-sized enterprises, are benefiting from new market openings and innovations.
- *Intellectual property protection:* WTO members have accepted a landmark set of rules providing a minimum international standard for protection of patents, copyrights, trademarks and other forms of intellectual property. Strong IP protection is essential for the research and innovation of America's most competitive industries, and creates incentives for further investment and technological progress worldwide.

- *Global membership*: The WTO now includes 136 members, with 30 additional countries seeking to join. Since membership requires acceptance of WTO rules that help to open markets, having emerging economies of Eastern Europe, Asia, the Middle East, and Africa join helps to transform those economies.

- *Dynamic forum for trade liberalization*: The dynamism of the WTO has allowed the trading system to keep up with changes in technological development, providing concrete benefits to business and consumers alike, whether through accommodating new means of trade (such as e-commerce) or by lowering consumer prices through greater competition.

- *Economic stability*: The WTO has improved our ability to address economic crises. During recent financial upheavals, we were able to avoid the protectionism and retaliation that marked the Depression era, in large part due to the commitments to open markets engendered by the WTO.

While the benefits from the WTO and a global trading system characterized by rules and fairness accrue to both businesses and consumers generally, there are important gains which can be highlighted for the pharmaceutical industry and the patients that rely on it to develop new medicines.

- *Importance of trade*: The U.S. research-based pharmaceutical industry earns one-third of its revenues from sales in foreign markets, and therefore has a substantial interest in ensuring that our trading partners allow us to compete fairly in their markets.

- *Free trade is good commercial policy and good public health policy*: The pharmaceutical industry is pro-trade in part because it is good commercial policy for us. The WTO helps to remove trade barriers and open markets, which are good for our companies' bottom lines. But more importantly, free trade is good public health policy for the world. To help people live longer and to improve the quality of their lives, our industry needs access to market around the world, and to have our intellectual property rights protected.

- *Patients rely on a fair global trading system*: Our industry's ability to deliver medicines to patients depends on having consistent, fair and dependable trade rules that are agreed upon and implemented on a global basis.

The best hope for improving economic situations and living conditions for the world's citizens is through continued economic growth. Such growth will result from increased trade and globalization, the availability of new technologies, and greater choice and opportunities for consumers around the world. The WTO, and its Members, can help to achieve these goals.

#### PRIORITY ISSUES

PhRMA has five priority areas for the World Trade Organization and new trade round negotiations.

- *Intellectual property*. Preclude any attempt to reduce, dilute or delay implementation of existing TRIPS obligations, ensure the possibility of initiating work to enhance the Agreement at a suitable time during the next round, and seek to enhance existing standards through other bilateral and multilateral fora.

- *Market liberalization*. Encourage WTO Members to take note of the negative impact that non-market based government interventions have on international trade and investment, examine the use of such measures, and assess their impact on the benefits of trade and investment in innovative products and technology.

- *Government procurement*. Pursue expansion of the plurilateral Agreement on Government Procurement to ensure the coverage of governmental and quasi-governmental entities responsible for direct and indirect procurement of and/or payment for pharmaceutical products.

- *Customs and tariff issues*. Expand the pharmaceutical tariff agreement to cover both additional products and countries, complete the World Customs Organization's harmonization work program under the Agreement on Rules of Origin, and implement the Customs Valuation Agreement by developing Countries.

- *Sanitary and phytosanitary measures*. Emphasize the importance of transparent and non-discriminatory rules, and oppose any attempts to undermine the risk assessment and sound science standards of the Sanitary and Phytosanitary Measures Agreement.

The Uruguay Round of multilateral trade negotiations produced significant gains in the area of patent protection, particularly in the creation of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement"). USTR and other trade agencies have already stated their commitment to enforcement of existing trade agreements. PhRMA considers such efforts to be of critical importance, particularly with regard to Uruguay Round commitments on the protection of intellectual property rights, sanitary and phytosanitary measures, and customs

valuation. Such efforts will not be sufficient, however, to address the problems that the industry faces abroad.

Accordingly, PhRMA urges the members of the Ways and Means Committee to ensure that the U.S. Government retains its ability to pursue a forward-looking set of objectives in future trade negotiations. In these negotiations, the U.S. Government should advocate the creation of new trade rules to address, *inter alia*, the two most critical issues facing our innovative industry: insufficient intellectual property rights protection and non-market-based government interventions, which act as barriers to full market access for our medicines.

#### *Intellectual Property*

*Issue: Implementation of the existing obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) cannot be delayed.* The inclusion of intellectual property (IP) obligations in the Uruguay Round Agreement was a significant accomplishment for the U.S. Government. Developing countries were given an extended transition period to implement their obligations. For many of these countries, including key developing country markets like India and Argentina, this transition period expired on January 1, 2000. While many developing countries have used this transition period to implement the changes necessary to create functional intellectual property systems based on TRIPS standards, a significant number of countries have not made either the legislative reforms or the systemic changes essential to creating functioning IP systems.

#### *PhRMA Position*

- PhRMA urges the U.S. Government to hold developing countries to the commitments they undertook on intellectual property as part of the Uruguay Round Agreement.

—It is critical that the United States use the WTO dispute settlement proceedings to ensure compliance with the obligations of the TRIPS Agreement. In this regard, PhRMA urges the U.S. Trade Representative to place those countries that continue to have the most deficient IP standards at the top of the list for dispute settlement purposes, notably Argentina, Brazil, India and Egypt.

*Issue: Future work relating to the TRIPS Agreement should not permit any weakening of existing obligations.* Over the past year, the WTO TRIPS Council has discussed two issues of particular significance for PhRMA. First, the TRIPS Council has addressed obligations in the TRIPS Agreement to protect certain biotechnology inventions involving plants and animals. Second, there have been extensive discussions on the expiration of the moratorium on dispute settlement actions based on so-called “non-violation” deficiencies. Such disputes involve measures implemented by a WTO Member that indirectly deprive U.S. right holders of their protection, rather than being directly contradictory measures. In addition, a number of developing country WTO Members have made proposals to begin work that would lead to a weakening of the current obligations of the Agreement.

#### *PhRMA Position*

- PhRMA believes it will be necessary at an appropriate point in time to improve the standards in the TRIPS Agreement to reflect those found in fully industrialized countries, such as in the United States. However, PhRMA is also well aware of the desires of certain developing country WTO Members to avoid meeting the obligations they undertook in the Uruguay Round. PhRMA is fundamentally opposed to any re-opening and diminishment of the existing obligations of the TRIPS Agreement.

- PhRMA also urges the U.S. Government to:

—pursue a favorable outcome to the review of the protection of certain biotechnology inventions required by the Agreement to ensure that all such inventions can be protected

—foreclose any possibility of re-opening commitments undertaken in the Uruguay Round on specific provisions of the Agreement or that would extend the transition periods provided to developing countries.

#### MARKET LIBERALIZATION

*Issue: Non-market-based government interventions have the potential to distort free trade and open competition.* In a growing number of foreign markets, PhRMA member companies face non-market-based government interventions designed to stifle price-based competition and limit consumption of pharmaceutical products, by deny-

ing patients access to American innovative medicines. While the industry recognizes and supports the need for governments and consumers to contain costs, the approaches used by governments can often distort free trade in these products and open competition. These measures may deny to WTO members the benefits of trade and investment in innovative products and technology, including the ability of patients to access pharmaceutical products. In some cases, government interventions are intended to protect domestic pharmaceutical industries from imports; in these instances, there is clear discrimination against foreign products, violating WTO requirements for the national treatment of all products.

*PhRMA Position*

- The U.S. Government should encourage the WTO to take note of the negative impact that non-market-based government interventions may have on international trade and investment, examine the use of such measures, and assess their impact on the benefits of trade and investment in innovative products and technology. This is an important priority because these measures can lead to international market distortions that profoundly undermine the goals of free trade.
- The U.S. Government should address the use of such non-market-based government interventions within the pharmaceutical markets of its trading partners through a variety of approaches, including, but not limited to, the TRIPS Agreement, the General Agreement on Trade in Services, and the Agreement on Trade-Related Investment Measures.

*Issue: Government procurement of pharmaceuticals often ignores fair trade practices and open competition.* Many of the public sector entities responsible for the direct and indirect procurement of and/or payment for pharmaceutical products are not covered by the Government Procurement Agreement, or do not adhere to the rules set forth in the Agreement. As a result, purchases of pharmaceutical products by government (or quasi-governmental) entities often ignore the principles of fair competition and transparency.

*PhRMA Position*

- PhRMA urges the U.S. Government to pursue the expansion of the scope of the plurilateral Government Procurement Agreement to ensure the coverage of governmental and quasi-governmental entities responsible for the direct and indirect procurement of and/or payment for pharmaceutical products. WTO Members who are not currently parties to the Government Procurement Agreement should be encouraged to ratify it and bring their procurement policies into accordance with the Agreement.

*Issue: Corruption remains a problem in many countries and has a negative impact on both business and the general public.* Corrupt business practices raise the cost of doing business, and discourage investment. The World Bank estimates that billions in procurement-related bribes are paid annually, while other experts estimate that corruption results in price differences of 20–30%, reflecting a waste of scarce public and private resources.

*PhRMA Position*

- PhRMA requests that the U.S. Government broaden the WTO's inquiry into transparency in government procurement practices to encompass the impact of government corruption on trade. As an interim position, PhRMA urges the U.S. Government to ask WTO members to join them in declaring the public health sector to be a corruption-free zone.

*Customs and Tariff Issues*

*Issue: The pharmaceutical tariff elimination agreement, while beneficial for consumers and the industry alike, is limited in the scope of its coverage of products and countries.* The number of countries participating in the "zero-for-zero" tariff elimination agreement on pharmaceuticals remains limited, allowing for many "free riders" whose products are not assessed duties upon importation into the U.S., but who do not reciprocate with respect to U.S. exports to those countries. In addition, the coverage of products is not comprehensive. Although there is a schedule for periodic updates, such negotiations cannot keep pace with rapid developments in the industry, creating unproductive administrative costs.

Our industry works diligently to make our products available worldwide, yet we are often frustrated to find that countries with the largest population of medically underserved people often have high tariffs on medicines. We firmly believe that tariffs on pharmaceuticals represent nothing more than a tax on the sick, and should be opposed outright by all trading nations.

*PhRMA Position*

- PhRMA requests that the U.S. Government call upon all WTO members to immediately reduce tariffs on medicines to zero. Should that not be possible in the short run, PhRMA supports improvements to the pharmaceutical tariff elimination agreement by revising the tariff nomenclature to permit coverage of new products without the cumbersome process of negotiating update agreements every three years. PhRMA also seeks to include the “free-rider” countries, either through direct inclusion in the agreement, or through full participation in the Accelerated Tariff Liberalization initiative. All additional countries acceding to the WTO should be required to become signatories to the pharmaceutical tariff elimination agreement.

*Issue: Rules of origin and customs valuations are inconsistently implemented on a global basis, leading to an often arbitrary commercial environment.* The Harmonization Work Program under the Agreement on Rules of Origin has not been completed, resulting in uncertainty for the industry and inconsistencies in the international marketplace. There are conflicting local regulations, rulings, and questions about the applicability of foreign customs rules to drug registration agency rules. Customs valuations of traded finished drug products, bulk active ingredients, and intermediates are subject to arbitrary valuation schemes, because of the lack of full implementation of the Customs Valuation Agreement by developing countries.

*PhRMA Position*

Prompt completion of the World Customs Organization’s (WCO) Harmonization Work Program under the Agreement on Rules of Origin will permit the industry to apply consistent, predictable country of origin rules for labeling and other purposes. The U.S. position is that chemical reactions, normal dosage formulation, and activities resulting in a change in tariff heading confer the origin status of the country in which the prescribed activity took place. PhRMA agrees with this position, and urges its adoption by the WCO. The U.S. should urge all WTO members to adhere to the implementation schedule of the WTO Customs Valuation Agreement, and deny requests for further delays.

*Food and Plant Safety*

*Issue: Efforts to re-open the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) would cause commercial damage to the industry without any clear safety benefit to consumers.* Some are calling for changes to the SPS Agreement that would base health and safety regulations on political goals or vaguely phrased “consumer concerns” that are not grounded in fact, rather than on sound science and on a risk assessment.

*PhRMA Position*

- PhRMA believes that the U.S. Government should emphasize the importance of the implementation of transparent and non-discriminatory rules consistent with the intent of the SPS Agreement, and should oppose any attempts to undermine its risk assessment and sound science standards, particularly with respect to the “precautionary principle.” The U.S. Government should object vigorously to any effort to dilute the disciplines already found in the SPS Agreement or to limit the scope of their application.

*China and Permanent Normal Trade Relations Status*

Today there are 17 major American research-based pharmaceutical companies in China which enjoy a 12 percent share of the Chinese pharmaceutical market of US\$6 billion, or around \$720 million in annual sales. PhRMA member companies employ almost 20,000 workers directly in their operations in China. PhRMA member companies have invested some US \$1 billion in China over the past decade. The American industry operates throughout China, and its presence and investment there have provided China’s citizens with access to modern life-saving medicines, allowing them to lead longer and healthier lives.

The bilateral agreement on market access signed by China and the U.S. in November 1999 will bring significant gains for America’s pharmaceutical sector, including:

- Reduction in the average tariff rate on pharmaceuticals by about 60%, from the current level of 9.6% to 4.2%.
- Ability of any entity to import most products, including pharmaceuticals, into any part of China. Currently, U.S. companies’ ability to do business in China is strictly limited because the right to engage in trade (importing and exporting) is restricted to a small number of companies receiving specific authorization, or who im-

port goods to be used in production. Because this practice has limited U.S. exports, its elimination will benefit U.S. companies and their workers.

- Permission for foreign enterprises to engage in the full range of distribution services. China has generally prohibited companies from distributing imported products or providing related distribution services. The removal of this prohibition will enable U.S. companies to increase their activity in China. More importantly, this will mean significant benefits to Chinese consumers in terms of the quality of the products and services they receive.

- Implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). PhRMA considers this to be a very important part of the commitment of the Chinese Government, especially in terms of enforcement of established laws and granting of exclusive marketing rights through use of a patent. The protection of intellectual property will enable research-based pharmaceutical companies to continue to discover and develop new medicine.

- China's WTO accession should lead to greater industry confidence in the Chinese market, and should gradually lead to increased investment by the industry in China. This will also generate jobs and greater resources for the industry to invest in research and development for new medicines in the United States. Although U.S. labor has expressed concern that jobs will leave the U.S. for China, the opposite is in fact true: the development of an enhanced market in China will lead directly to greater employment in the U.S.

#### CONCLUSION

PhRMA appreciates the opportunity to present these comments on the future of the World Trade Organization. PhRMA looks to USTR and other U.S. trade agencies to seek significant improvements to existing international trade rules in a new trade round, with the objective of eliminating all constraints to the operations of free markets on a global basis. At the same time, the U.S. Government must continue to seek compliance with existing WTO rules through vigorous enforcement efforts. Gains already achieved through previous negotiating rounds should not be held hostage to the initiation of the next round.

---

#### **Statement of George Scalise, President, Semiconductor Industry Association**

The Semiconductor Industry Association (SIA) appreciates this opportunity to testify regarding the benefits of continued participation by the United States in the World Trade Organization (WTO) and the proposed accession of China to the WTO.

SIA is the leading trade association representing the U.S. computer chip industry. SIA member companies comprise 90 percent of U.S.-based semiconductor production. SIA serves as a forum for chip manufacturers to work collectively to advance the competitiveness of the U.S. industry and to promote trade, technology, environmental protection, and worker safety and health.

#### I. THE U.S. SEMICONDUCTOR INDUSTRY.

According to Department of Commerce data, the semiconductor industry is the leading manufacturing industry in the United States in terms of value-added to the U.S. economy, contributing 20 percent more to U.S. GDP than the next leading industry.

U.S. semiconductor makers employ about 276,000 people nationwide, and the presence of the industry is widespread—35 states have direct semiconductor industry employment. And these are high paying jobs. The average wage in the semiconductor industry is nearly twice the average of private industry overall.

Semiconductors are an increasingly pervasive aspect of everyday life, enabling everything from computers to automobiles to modern defense systems to the Internet, which is, in fact, a world wide web of silicon chips. They have sparked the growth of the U.S. electronics industry, which provides employment for 4.2 million Americans in all 50 states.

The industry is both capital intensive and R&D intensive: indeed, SIA members must spend a third of their revenues on research and capital equipment, among the highest percentage of any industry in the world.

The R&D and capital equipment investments of the semiconductor industry have been a powerful force of efficiency in the economy. We are proud to be in an industry where the cost of our products declines while the functionality increases rapidly.

The increase in computing power and the decrease in prices have allowed the spread of PCs to homes, schools and small businesses, and have been a driving force behind the explosion of the Internet and e-commerce in the United States.

While investing heavily in the industry's future competitiveness and technological capabilities, SIA members also have always actively sought to secure foreign market access 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—SIA has been dedicated since its inception to promoting market opening around the world. That is why U.S. participation in the WTO, and China's accession to the world trade body, are key issues for the semiconductor industry.

## II. THE BENEFITS OF PARTICIPATION IN THE WTO TO DATE.

SIA has been a strong supporter of the Uruguay Round agreements and the WTO. The Uruguay Round brought forth important changes to the world trading system, including the progression from the General Agreement on Tariffs and Trade (GATT) to the more comprehensive WTO. Importantly, the Uruguay Round agreements contained continued commitments to market opening measures and the rules against unfair trade—the essential underpinnings of the world trading system. Additionally, the Uruguay Round expanded the areas covered by the international trading system, including intellectual property rights, investment, and services.

The experience of the semiconductor industry provides a good illustration of the concrete benefits that have been possible because of the WTO. Three examples are highlighted below: the reduction in semiconductor tariffs in the EU after its 1995 expansion; the elimination of tariffs on a broad range of information technology goods under the WTO's Information Technology Agreement; and the moratorium on e-commerce duties. Each of these profited the U.S. semiconductor industry and each is directly attributable to the operation of the WTO and its rules-based system.

### *Tariff Cuts in the EU After Expansion.*

Prior to the Uruguay Round, tariffs on semiconductors in the EU stood at 14%. These high tariffs constituted a significant barrier to exports of U.S. semiconductors to the EU. In the Uruguay Round, the United States succeeded in partially reducing these tariffs, but they remained an impediment to our exports.

The WTO rules provided the means to reduce EU tariffs further. In 1995, after the completion of the Uruguay Round, the EU was expanded to include Austria, Sweden and Finland, and these countries increased their tariffs on semiconductors to the higher rates imposed then by the EU. As a direct result of GATT Articles XXIV(5) and XXIV(6), the United States had the right to negotiate compensation from the EU for the tariff increases resulting from this expansion. As part of that compensation, the United States secured a reduction in EU semiconductor duties to either 7% or zero. These substantial tariff cuts, which expanded opportunities for U.S. chipmakers in the EU and lead to increased exports there, were the direct result of U.S. rights that existed under the WTO agreements.

### *The Information Technology Agreement.*

As noted above, the presence of high tariffs on semiconductors has been a key barrier to the export opportunities and competitiveness of U.S. computer chips. The WTO has been instrumental in helping to reduce tariff barriers. In 1997, the Information Technology Agreement (ITA) was concluded under the auspices of the WTO. Under this agreement, 52 economies to date, representing over 90 percent of trade in information technology products, have agreed to totally eliminate their tariffs on semiconductors and a variety of other information technology products. As a leader in high-tech products, the United States will gain much from zero duties on these products.

It is worth noting that the Information Technology Agreement is unique in that countries agreed to eliminate their information technology tariffs without tying these concessions to benefits in other areas or sectors. This is due to the recognition of the benefits achieved by tariff elimination, such as lower costs for businesses and consumers and improvements in a country's information technology infrastructure.

As will be discussed below, the ITA should be deepened and widened. SIA believes that the United States should push to widen the ITA to include all WTO Members. Further, the ITA should be deepened through the so-called "ITA II" process to include other high-tech products. It is important to remember, though, that without the WTO, it is doubtful that the ITA would exist at all.

*The Moratorium on E-Commerce Duties.*

Another tariff-related issue of importance to SIA is the tariff treatment of electronic commerce. As e-commerce expands, so does the demand for semiconductors. One of the surest ways to slow the growth of e-commerce, however, is to subject it to tariffs. Under the auspices of the WTO, in 1998 WTO Members agreed to a temporary moratorium on e-commerce duties, which the United States is now pressing to make permanent. Here again, the United States, as the clear world leader in e-commerce, has received substantial and real benefits from its participation in the WTO.

These are just a few of the areas in which the United States has obtained concrete benefits which were made possible by U.S. participation in the WTO. The bottom line is that reducing trade barriers and opening foreign markets provides substantial benefits to U.S. firms and their workers. And the WTO is instrumental to U.S. market-opening efforts.

### III. THE BENEFITS OF CONTINUED PARTICIPATION AND THE DANGERS OF WITHDRAWAL.

Participation in the WTO promises even more benefits to the United States in the future. As will be discussed below, the United States stands to gain markedly from the WTO expansion to include China. Further, as the Uruguay Round commitments come into full effect, and as the WTO takes further steps towards improving market access, the benefits of being in the WTO will continue to grow.

The progress in the WTO will not come automatically, however. The United States must continue to play a leading role in defining the agenda of the WTO. We must do our best to ensure that issues important to the United States are addressed in ways beneficial to us. Thus, continued U.S. membership and leadership within the WTO are essential to promoting U.S. economic interests. Discussed below are key issues important to SIA.

*The Antidumping Rules.*

SIA is a strong supporter of the antidumping law. That the benefits of open markets may be eroded by unfair trade practices has been recognized since the inception of the international trading system—the GATT specifically sanctions measures to remedy the distortions caused by dumping. The semiconductor industry in the United States knows first hand the importance of these rules to ensure that producers, often in protected home markets, do not abuse the system. Injurious dumping in the semiconductor sector threatened the very existence of the U.S. industry as recently as the mid-1980s.

The rules on antidumping were negotiated in great depth in the Uruguay Round. In many ways, these rules are still untested: The regulations to implement them were only fully adopted in the United States in 1998 and a number of countries are now challenging U.S. antidumping actions at the WTO under the new rules. Yet a number of WTO Members are pressing for a renegotiation of these rules in any new WTO round of negotiations.

It would be inappropriate and premature to alter the Uruguay Round antidumping rules so soon after they were overhauled. Additionally, it is clear from the statements of various trading partners that they would like to do more than alter the antidumping rules—they would like to eliminate them. The United States must resist these efforts. The maintenance of a strong and effective antidumping remedy is a critical component of the international trading system. SIA applauds the USTR for its steadfast position against including the Antidumping Agreement on the agenda for the new round of WTO negotiations. The United States should stand firm within the WTO against future efforts to weaken the antidumping rules. To do so requires continued active U.S. participation in the WTO.

*WTO Dispute Settlement.*

As noted above, a number of WTO Members have begun to abuse the WTO dispute settlement system. Several countries have challenged the use of WTO-approved trade remedies by the United States, including the antidumping and countervailing duty laws, as well as the Section 337 law on enforcing intellectual property rights against infringing imports. Further, the EU has abused the dispute settlement system by using it to seek to overturn a deal the EU struck with the United States in the early 1980s regarding the Foreign Sales Corporation tax regime.

These developments are of significant concern to SIA. We are still hopeful that these cases can be resolved in a way that maintains the continued vitality of U.S. rights to act against unfair trade practices and that ensures that U.S. businesses will have a level playing field in international trade with respect to varying tax re-

gimes. SIA believes that these cases demonstrate the need for a continued active U.S. government role within the WTO to reform the dispute settlement system and to prevent its abuse in the future.

*Expanding the Information Technology Agreement.*

As noted above, the Information Technology Agreement has produced concrete benefits for the U.S. high-tech industry. While 52 economies have signed onto the ITA, it is now time to finish the job and request that the remaining WTO Members eliminate their IT tariffs so their economies can benefit from increased application of information technologies. Further, the ITA does not cover all information technology products. The United States will benefit by expanding the ITA to include more countries and more goods.

The United States, therefore, should encourage all WTO member countries to join the ITA as soon as possible and thereby permanently eliminate tariffs on semiconductors, semiconductor manufacturing equipment, and related information technology products. While the United States has been successful in encouraging many countries to join the ITA and eliminate their tariffs, increased participation in the ITA should remain a top priority. ITA participation remains very limited in certain regions of the world. In Latin America, for example, only a few countries are currently signatories to the ITA. Persuading additional WTO Members to join the Agreement should continue to be a U.S. trade policy priority.

The United States stands to benefit, also, from the current ongoing review of the ITA to expand the product coverage of the agreement (ITA II). Every effort should be made to reach agreement among the existing ITA signatories to expand the product coverage of the agreement as soon as possible.

Expeditious elimination of tariffs on semiconductors and other information technology products will spur development of a competitive electronics industry in foreign markets by allowing U.S. producers to sell advanced semiconductors to their foreign customers at the lowest possible price, and thereby will also increase U.S. exports and jobs.

*Maintaining the Moratorium on E-Commerce Duties.*

While SIA supports the position of the U.S. government that the temporary moratorium on e-commerce duties remains in effect after the suspension of the Seattle WTO Ministerial meeting, some other countries claim that it has expired. SIA believes that this moratorium is very important for the continued growth and expansion of the Internet generally and e-commerce specifically, and must therefore be made permanent. The United States must lead in this effort. Moreover, given the increasing importance of electronic commerce over the Internet and the leading role of the United States in this industry, SIA believes that the United States should, in addition to encouraging permanent implementation of duty-free treatment, also urge WTO Members to commit to tax-free treatment of electronic transmissions.

*Full Implementation of TRIPs Obligations.*

The WTO brought intellectual property rights for the first time under the umbrella of the international trading system. The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) served as a landmark in the protection of intellectual property worldwide. U.S. industries in a broad variety of sectors have benefited greatly from the new rules for intellectual property protection contained in the WTO and the contribution the WTO has made for greater appreciation of these rules throughout the world. The U.S. high-tech industry will continue to benefit so long as the TRIPs obligations are fully implemented by WTO Members.

As the representative of an R&D intensive industry, however, SIA is very concerned about the full and effective protection of intellectual property rights. Recently, many countries have balked at complying with their TRIPs obligations in the timeframe to which they agreed in the Uruguay Round. Failure to meet these deadlines means that the expected commercial gains from the TRIPs Agreement will not be realized. The United States should continue to push for full implementation of TRIPs obligations, particularly by less developed countries, within the original timeframe.

These and other issues, such as rules on investment, access to state-invested enterprises, and certain rules of origin issues, remain important to SIA. In the coming months and years we hope to be able to work with Congress and the Administration to ensure that the needs of the U.S. semiconductor industry and the hundreds of thousands of workers it employs are addressed at the WTO. If the United States were to opt out of the WTO, however, that move would significantly hinder the ability of the United States to promote U.S. economic interests and to achieve further market-opening measures in the future.

#### IV. CHINA'S ACCESSION PRESENTS ENORMOUS BENEFITS WITH NO U.S. CONCESSIONS

SIA has strongly supported China's bid to join the WTO, on the condition that the accession was accomplished on a commercially viable basis. The agreement with China secured by the United States last November meets this objective and promises to provide important opportunities for U.S. high-tech industries. In order to reap the benefits of China's accession to the WTO, however, Congress must grant permanent normal trade relations (PNTR) status to China. SIA cannot state strongly enough the importance of this vote and our support for granting China PNTR status this year.

##### *Substantial Opportunities.*

China's accession to the WTO promises to open this significant and growing market to U.S. products and businesses, generating exports and jobs for the United States. China is the world's most populous country and for the past decade has been the fastest growing major economy in the world. In the next decade, China is expected to become one of the largest markets in the world. Based on U.S. Commerce Department data, China represented the 12th largest high-tech export market in 1998, with electronics exports exceeding \$3.0 billion. Electronics comprised 21 percent of total U.S. exports to China in 1998.

Electronics means semiconductors. The current semiconductor market in China is estimated to be up to \$8 billion per year. Some analysts expect it to become the third largest semiconductor market by 2001 (behind only Japan and the United States) and the second largest by 2010. The current semiconductor equipment and materials market in China is estimated to be over \$1 billion per year and is projected to reach almost \$4 billion in 2003.

China's other markets are similarly immense. The market for computers in China is growing at 37 percent per year. International Data Corporation predicts that by 2003, China will be the third largest PC market. China's software market is growing at 28 percent per year. By the end of this year, China's cellular telecommunications market is projected to be second only to the United States. More than 9 million people are using the Internet in China already, with that number set to more than double by the end of the year.

##### *China's WTO Commitments.*

Prior to the U.S. agreement with China, SIA set forth specific concerns about trade and investment in China which we believed an agreement with China should address. The agreement ultimately reached addresses each of these concerns, as discussed below.

*Tariff Elimination and the Information Technology Agreement.* China currently imposes tariffs of 6–10% on semiconductors and average tariffs of 13% on information technology products. These tariffs pose a significant obstacle to U.S. exports to China. Upon accession to the WTO, China will join the ITA, and will thereby eliminate its tariffs on semiconductors and many other high-tech products.

*Purchasing by State-Invested Enterprises.* State-invested enterprises control a significant share of the trade in electronic goods into and out of China. This presents the risk that these enterprises will be encouraged to purchase from domestic suppliers, discriminating against U.S. goods. As part of its accession agreement, China has agreed to ensure that state-owned and state-invested enterprises will make purchases and sales based solely on commercial considerations. Given the significant role of state-invested firms in the electronics industry in China, as well as expressions by the Ministry of Information Industry (MII) of an interest in promoting purchases of domestically-produced goods in the telecommunications sector, this is an issue that bears continued monitoring and enforcement efforts.

*Elimination of Investment Restrictions.* In the past, China has imposed a variety of onerous foreign investment restrictions, including export targets, local content requirements, and pressure to transfer technology, which hinder firms seeking to do business in China. As a part of its WTO accession agreement, China has agreed to end local content and export performance requirements and to ensure that laws on the transfer of technology will be consistent with WTO obligations to protect intellectual property rights. Again, these commitments will require active monitoring and enforcement if U.S. firms are to receive the expected benefits.

*Trading and Distribution Rights.* China has limited imports by restricting "trading rights"—the ability of companies to import and export from China. Additionally, China restricts the ability to distribute goods and to provide after-sales services. These restrictions are particularly important to the semiconductor industry because they interfere with key means of competition. Design and development of application-specific chips requires extensive contact between semiconductor producers and

the ultimate end-users. As part of its accession obligations, China has agreed to grant trading rights to all firms and to open the market for distribution services and after-sales servicing within three years after accession for most sectors.

*Protection of Intellectual Property Rights.* China has patent, copyright, and trademark laws, but does not have a strong record of enforcing them. China's accession to the WTO means that it will be bound by the obligations in the TRIPs Agreement. Further, China has agreed to be bound by these obligations without any transition period. This commitment is an important step toward protecting U.S. intellectual property rights in China.

*Non-Market Economy Antidumping Rules.* Chinese state-invested enterprises could in the future make significant below-cost sales of semiconductors in international trade, adversely affecting the U.S. semiconductor industry. Although China is moving towards a market economy, we should not let its accession to the WTO obscure the fact that China is very different from most other WTO Members. The level of state involvement in the economy and control of prices presents special challenges and conditions which must be addressed. In realization of these facts, the United States has secured the right to continue to use the non-market economy (NME) methodology in the application of its antidumping laws against China for 15 years after China's accession to the WTO.

*Congress Should Approve PNTR Status for China.*

In order to secure the benefits of China's accession to the WTO, Congress must approve PNTR status for China. The United States would gain nothing by declining to grant PNTR status to China, and by failing to grant PNTR status to China we would be shooting ourselves—our business, workers, and communities—in the foot. China will join the WTO. If we do not grant PNTR status, then when China joins it will not be obliged to comply with its WTO obligations vis-à-vis the United States. Meanwhile, it is likely that we will continue to grant NTR status to China annually. Each year for the past *twenty years* we have extended NTR status to China—providing access to our market as if it were already a WTO Member. The only result from not granting PNTR status to China, then, will be that U.S. businesses and workers will lose out to foreign companies in the race to develop China and to take advantage of the benefits that a market of almost one-fifth of the world's population will provide.

Therefore, SIA urges Congress not to pass up on this important opportunity to bring China into the world trading system and to permanently normalize trade relations with China. The significant market reforms that China will undergo as a result of its accession to the WTO will benefit both China and foreign firms by promoting the growth and continued development of the Chinese economy. Further, as China liberalizes its market, these changes will strengthen those within China seeking a more open and democratic system as well. China's accession to the WTO can therefore serve as an important force in making China a more productive member of the international community.

Thank you for this opportunity to present the views of the U.S. semiconductor industry.

---

### **Statement of U.S. Integrated Carbon Steel Producers**

This statement sets out the views of the five major integrated U.S. producers of carbon steel products—Bethlehem Steel Corp., U.S. Steel Group, a unit of USX Corp., LTV Steel Co., Ispat Inland Inc., and National Steel Corp.—on the need to ensure that the future direction of the World Trade Organization (WTO) properly serves the interests of U.S. industries. Unless the health and wellbeing of American industries—and the workers they represent—are fully accounted for by the WTO, support for international trade will wane, and the significant strides made by the United States and its trading partners in this very important area over the last decade will be put in jeopardy.

Perhaps more than any other domestic industry, the U.S. steel industry has had to adjust to the new WTO framework concluded during the Uruguay Round. During the last five years, the steel industry has coped with the implementation of novel and untested domestic legislation, a radically altered method of dispute resolution, and, at the same time, an unprecedented level of unfairly traded imports largely as a result of the Asian and Russian financial crises. Even after five years, the practical effects of these seminal events continue to emerge, constantly presenting new challenges for domestic steel producers.

As daunting as these challenges continue to be, they have provided the steel industry with the appropriate landscape for which to judge the effectiveness of the WTO system. The U.S. steel industry is therefore well positioned to assess how the WTO is in fact working, and the types of reforms that are necessary.

#### THE NEED TO EVALUATE U.S. PARTICIPATION IN THE WTO

The idea that U.S. participation in the WTO must be evaluated is not controversial; practically all parties agree that some type of modification of the WTO system may be necessary. The need to evaluate the WTO was most recently evidenced by the failure of the world's major trading partners to agree on an agenda for negotiations in Seattle last December. However, even before the Seattle Ministerial, deficiencies that affect the manner in which the WTO operates had been identified. For instance, one notably common view has been that the WTO, as an institution, lacks the necessary components of transparency and accessibility, particularly in the area of dispute resolution, to gain widespread acceptance. Accessibility and transparency in the decision-making process are essential elements for any international institution, particularly one as significant as the WTO. The setbacks resulting from the WTO Ministerial conference in Seattle simply exposed the inability of the WTO to take into account the interests of all of the parties affected.

The Congress must now focus its attention towards two related notions as it navigates the future course of the WTO. First, the ability of domestic industries to rely on the U.S. unfair trade laws in order to prevent illegal dumping and subsidization must, at a minimum, be maintained. And second, it is imperative that the WTO dispute settlement process be modified in order to prevent abusive litigation by foreign governments and to provide for a fair and transparent decision-making process. Both of these notions are essential to the global trading system, and U.S. support for international trade.

#### THE UNITED STATES MUST MAINTAIN ITS COMMITMENT TO THE UNFAIR TRADE LAWS IN FUTURE NEGOTIATIONS

In the months leading up to the WTO Ministerial conference, the United States' firm position was that the WTO Antidumping and Subsidies Agreements would not be the subject of negotiations. For instance, in its 1997 markup of fast track legislation, the Committee on Ways and Means approved without dissent a provision instructing U.S. negotiators to reject any agreement that would weaken existing disciplines against dumping and subsidies. Further, over 200 members of the House co-sponsored a resolution last year stating that the Congress would not consider legislation to implement a trade agreement that required changes to our trade laws. The U.S. position on antidumping and anti-subsidy rules was set forth clearly and did not undermine efforts to begin a round on those issues ripe for negotiation by the WTO.

The Administration's actions in following through on its commitment to keep the renegotiations of our trade laws off the table is recognized and appreciated. At the same time, it remains vital that this position be re-affirmed and that it be made clear to our trading partners that the United States will not discuss changes that will weaken the trade laws in future bilateral or multilateral negotiations.

#### *The U.S. Steel Industry Needs Strong Unfair Trade Laws*

The United States is in a unique position in that its market is the most open and transparent in the world while the markets of certain foreign competitors remain largely closed to outsiders. Consequently, U.S. steel producers, like other U.S. industries, are particularly vulnerable to unfair trade practices such as dumping and subsidization.

Unfairly traded steel imports continue to harm the American steel industry and its workers. Since the beginning of the current steel import crisis, over 10,000 jobs have been lost and five companies have gone into bankruptcy at a period in which the economy as a whole has witnessed unprecedented growth. The steel industry's last line of defense against unfairly traded imports is the antidumping and anti-subsidy remedies available under the unfair trade laws.

Foreign unfair traders realize that the only significant obstacle to unfettered abuse of the open U.S. market is the unfair trade laws. Countries which have recently suffered severe economic turmoil—Japan, Korea, and Russia—have continued to target the U.S. market with dumped and subsidized imports. Without the full force and effect of the unfair trade laws, every indication is that massive foreign dumping and subsidization will persist, and cause greater injury. In short, further erosion of our trade laws will lead to further injury to the domestic steel industry and its workers.

*The Global Trading System Also Needs Strong Unfair Trade Laws*

The antidumping and anti-subsidy rules enshrined in U.S. law and the WTO Agreements, as well as in domestic legislation throughout the world, are essential pillars of the global trading system. Illegal trade practices such as dumping and subsidization distort the marketplace and preclude the benefits of open and fair global competition from coming to fruition.

Since its origin in 1947, the GATT has prohibited illegal dumping and subsidization. Article VI of the GATT condemns dumping that "causes or threatens material injury to an established industry or materially retards the establishment of a domestic industry." Likewise, GATT Article XVI recognizes subsidies as a distortion of the free flow of goods and services and a major obstacle to a system of international competition based on relative efficiencies. To remedy the disruptive and injurious effects of dumped and subsidized imports, Article VI permits the imposition of antidumping and countervailing duties on unfairly traded imports through the implementation of domestic laws, such as the U.S. trade laws.

These provisions are vital to the international trading system—they promote free trade by ensuring *fair* trade. Moreover, one of the primary objectives of the unfair trade laws is to encourage foreign governments to abandon anti-competitive practices and establish open and fair global competition. Strong antidumping and anti-subsidy rules are essential if global and regional open market policy objectives are to be achieved and maintained. Quite simply, maintaining open trade requires the enforcement of fair trade.

The current WTO unfair trade rules were comprehensively negotiated and concluded only after spending substantial effort and resources during the five years of Uruguay Round negotiations. These rules were designed to ensure a basic level of fairness and to prevent abuse by countries with closed markets of other countries' open market policies. The U.S. unfair trade laws now in place were significantly amended five years ago in order to conform with the agreements negotiated during the Uruguay Round. Re-opening negotiations on these laws would only undermine confidence in the WTO system and future negotiations, and would severely erode support for free trade.

## THE WTO DISPUTE SETTLEMENT PROCESS MUST BE IMPROVED

At the conclusion of the Uruguay Round of negotiations, it was widely acknowledged that the rules regarding WTO dispute settlement would be among the most radical and striking features of the post-Uruguay international trading system. However, as several recent instances have demonstrated, the rules governing WTO dispute settlement fail to provide for an acceptable method of resolving legitimate claims in a fair and judicious manner. Instead, the WTO dispute settlement process has evolved into an alternative forum for foreign countries to attempt to gain what they failed to achieve in multilateral negotiations—the weakening of U.S. trade laws.

*The WTO Dispute Settlement Process Punishes Transparency*

The openness of our market and the transparency of our trade laws has meant that the United States has increasingly become the favorite target of foreign countries at the WTO. In order to bring a claim before the WTO dispute settlement body, the challenged domestic measure must be identifiable. The fact remains that in the United States, the laws that regulate trade, and the administrative and judicial processes by which they are administered, are visible, accessible, and transparent. However, the legal and political frameworks that operate to regulate trade in many other countries are, in large part, impenetrable and non-transparent.

The WTO has demonstrated an inability to deal effectively with the elimination of non-transparent barriers to trade. Therefore, in the future, the United States will continue to find itself in front of the WTO dispute settlement body at the behest of foreign competitors. A dispute settlement system that punishes transparency and rewards hidden anti-competitive practices is not in the interest of the U.S. industries, nor the global trading system as a whole.

*The WTO Dispute Settlement Process Is Subject To Abuse by Foreign Countries*

Since the inception of the WTO, U.S. trade laws have been a primary target of foreign countries, in terms of both frequency and significance. There are currently at least eight cases attacking U.S. trade-related laws before a WTO panel, the WTO appellate body, or in WTO consultations. A number of countries, particularly Japan and Korea, are now trying to achieve through the WTO dispute settlement system what they could not achieve through multilateral negotiations.

In fact, Japan (with Korea following suit) has endorsed a strategy to challenge at the WTO every U.S. trade law decision that is adverse to the interests of the Japanese industry, regardless of the merits of the claims. Such a strategy is entirely inconsistent with the concept of a judicious method of resolving disputes, and amounts to abuse of the dispute settlement process. By categorically appealing every adverse decision to the WTO, foreign governments effectively transform the dispute settlement body into a bastardized forum for bilateral or multilateral negotiations. In addition, since panel decisions rarely result in total vindication for one party, even in cases where the United States is victorious, the strength of the U.S. trade laws will be partially weakened. Over time, countries that are allowed to engage in this strategy will achieve their desired result—gradual erosion of the U.S. trade laws.

Important and hard-fought U.S. policies, previously negotiated by U.S. law-makers, are being superseded by the decisions of unqualified foreign panelists. If the WTO dispute settlement body is to be an effective forum for resolving legitimate international trade disputes, measures must be in place to prevent its abuse.

*WTO Panel Decisions Are Rewriting Domestic Laws*

The WTO dispute settlement body has effectively rewritten domestic legislation by subverting international agreements previously negotiated by the U.S. government. For instance, in December of 1999, a WTO panel ruled in *UK Bar* that the WTO Subsidies Agreement prevented the United States from imposing countervailing duties on steel bars imported from the United Kingdom after ownership of the heavily subsidized bar operation had been privatized. This decision, if adopted, will gut the anti-subsidy statute to its core—governments could use limited subsidies to create or expand burgeoning industries and then escape discipline by simply selling off their ownership interest.

The *UK Bar* holding, of course, has ramifications beyond the steel industry; all domestic industries that compete with publicly owned or recently privatized foreign companies are encompassed. Since U.S. industries are almost invariably privately owned companies, and not state-run entities, the decision is decidedly adverse to the interests of the country as a whole.

The decision in *UK Bar* usurps the roles statutorily assigned to the Department of Commerce and manufactures obligations that the United States would never have agreed to in multilateral negotiations by disregarding the standard of review properly applicable to countervailing duty cases. In doing so, the WTO panel ignored a prior WTO Ministerial Declaration whose sole purpose was to ensure that countervailing duty cases would use the same standard of review as antidumping cases. Under the WTO Antidumping Agreement, national authorities are assigned the primary role in interpreting the complex provisions of the agreement, and their reasonable interpretations must be upheld. In the Uruguay Round negotiations, the United States fought for and gained (but not without sacrifice) this largely deferential standard of review. The panel's failure to apply that standard in *UK Bar* led to an unacceptable result, and demonstrates the panel's unchecked ability to rewrite the trade laws and agreements enacted by the Congress and negotiated by the U.S. government.

*WTO Panels Are Not Accessible or Representative And Must Be Held Accountable*

Decisions such as *UK Bar* highlight the many flaws in the makeup, procedure and jurisdiction of WTO panels. WTO panels are comprised of three foreign individuals who are not trained nor necessarily qualified to serve in a judicial capacity, yet these panelists can, without accountability, overrule laws passed by the Congress and negotiated and administered by the U.S. government.

The decision-making process itself does not afford basic due process protections. Private parties are not allowed to participate as a matter of right, and the proceedings are conducted in an opaque and secretive fashion. Under the current WTO system of resolving disputes, the parties most directly interested and affected are effectively shut out of the process. Such a system is entirely at odds with even the most fundamental notions of fairness.

The disturbing prospect of having international bureaucrats sitting in judgement of U.S. laws, with little or no jurisdictional accountability, has been recognized by the Congress. In 1995 Senators Dole and Moynihan proposed a bill, endorsed by the Administration, that would establish a WTO Dispute Settlement Review Commission in order to allow effective monitoring of the operation of the WTO system to ensure that U.S. rights are being protected.

This proposal would establish a commission of federal judges to review the operation of the WTO dispute resolution system and, particularly, decisions adverse to the United States. The Commission would provide some accountability for the ac-

tions of WTO panelists and appellate body members by tying the Commission's findings to expedited procedures for consideration of a joint resolution withdrawing Congressional approval of the WTO agreements.

Creation of such a commission would in and of itself discourage dispute resolution panels from exceeding their authority, and would provide reassurance to Americans that their laws were being respected. The Administration should work with Congress to enact such a WTO Dispute Settlement Review Commission.

#### CONCLUSION

The future direction of the WTO depends, in large part, on the active participation of the United States, the world's largest and most competitive market. In guiding the WTO's future direction, the Congress must ensure that the interests of U.S. industries are not undermined by the WTO system.

In order to accomplish this, the United States must maintain its firm position that the unfair trade laws will not be weakened through future multilateral negotiations. As the recent steel import crisis has demonstrated, strong, effective and vigorously enforced trade laws are necessary to ensure that American industries and workers are not left defenseless against unfairly traded imports. Moreover, the unfair trade laws are essential to maintaining an open market policy in the U.S., and encouraging the same abroad.

The United States must also make changes to the WTO dispute settlement process. The current WTO dispute settlement process rewards non-transparency. The process is being abused by foreign parties to achieve the effective erosion of U.S. trade laws—an effort that was flatly and rightfully rejected by U.S. negotiators in Seattle. In addition, the current process effectively shuts out the parties most affected, and operates in an overly secretive fashion. The United States must provide for accountability of WTO panel decisions in order to ensure that international bureaucrats do not unfairly strike down the U.S. trade laws without repercussions.

The administration of American trade policy is the proper responsibility of the Congress, not international bureaucrats.

U.S. WHEAT ASSOCIATES  
WASHINGTON, DC 20002  
*March 28, 2000*

The Honorable Bill Archer, Chairman  
House Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
*Washington, D.C. 20515*

Dear Chairman Archer:

The wheat industry commends you on holding a hearing on the tremendously significant issue of U.S. membership in the World Trade Organization. We respectfully request that this letter be included in the record for the hearing scheduled for March 30, 2000. The membership in question is of vital importance to U.S. wheat growers.

The Uruguay Round Agreement, which created the WTO, marked a major departure in how trade negotiations were conducted multilaterally. The Agreement on Agriculture provides specific staged reductions in global farm protection: the tariffication and reduction on non-tariff barriers to trade; the capping and reduction on a volume and value basis for export subsidies; and the aggregate measure of domestic support subject to certain reduction commitments.

Without the pressure for greater market access, the elimination of non-tariff trade barriers, and the disciplines on the use of export subsidies the WTO affords, the livelihood of U.S. wheat growers would be in greater jeopardy. While great strides were made during the Uruguay Round, much work is left to liberalize world wheat trade. Wheat growers have identified the WTO as the best means to further farm trade liberalization. Export subsidies from the EU continue to be a thorn in the side of U.S. wheat producers and without the leverage of other WTO member countries further discipline of export subsidies would be impossible. Additionally, the U.S. wheat industry is pressing for greater disciplines under the auspices of the WTO on the structure and practices of monopoly state trading entities such as the Canadian and Australian Wheat Boards.

*H.J. Resolution 90*

According to USTR, opening markets by lowering trade barriers contributed as much as a 36 percent increase to U.S. exports between 1994 and 1999 despite the Asian crisis which has been very hard on American agriculture. The number of U.S. jobs supported by exports increased by 1.4 million from 1994 to an estimated 11.7 million in 1998 (the last year available). Jobs supported by goods exported from the United States are estimated to pay between 13 percent to 16 percent more than the U.S. national average wage. Anyone serious about the economic stability of American agriculture knows that we export over 30 percent of what we produce.

The approval of this legislation would deal a devastating blow to the WTO and the current rules-based world trading system we depend upon. It would be an affront to the promotion of free and fair trade. This action would precipitate a return to an era of obscene tariffs, outrageous non-tariff barriers to trade and massive trade distorting subsidization. Choices for American consumers and open markets for our producers provide the backdrop for U.S. progress and innovation. The high and consistent growth of the U.S. economy necessitates an active role for the U.S. in promoting global trade. We need to work with other countries to strengthen and improve the WTO, not run from the challenge.

The WTO and the market opening rules it provides are essential to the health of U.S. agriculture and the future economic stability of our entire economy. The wheat industry calls upon you and your colleagues to quickly put an end to the resolution to take the U.S. out of the WTO.

If you do not commit yourselves to this, what has been gained will have no value. The United States leadership role in guiding world trade and development will have ended and the economic future of the agriculture industry will be severely hampered.

*The Impact on Wheat Growers*

In the past couple of years, an unfortunate series of unpredictable events, the Asian financial crisis, natural disasters here at home and a surge in world production have conspired to severely depress the U.S. farm economy. Although our trading partners in Asia and other parts of the world have experienced extreme economic upheavals, their commitments to market opening agreements have permitted their markets to remain open. While we have real stress going on in our rural communities, and we see no end in sight in the short term, we know that any future market growth lies in our ability to export to the world.

Trade is a big part of our eventual recovery. For many farmers, trade and trade policy is an abstract concept, but for wheat farmers it is a very necessary element in our businesses. The U.S. wheat industry exports, on average, nearly half of total production. That accounted for 28.9 million tons (MT) flowing out of our nation's ports last year to over 130 countries worldwide. The WTO provides an effective rules based system of world trade that strives to ensure free and fair competition. Trade in wheat is an especially competitive business as 35.5 MT was exported by monopoly state-run trading entities (Canada and Australia) while another export subsidy driven 15 MT left the European Union last year.

The U.S. is a mature market; we can not expect much increase in domestic consumption. With 96 percent of the world's consumers outside of our borders we cannot delay negotiations to open world markets. For the wheat industry there is no option but to push forward as rapidly as possible with the WTO negotiations to further open world markets.

*Conclusion*

As the Seattle Ministerial approached, the industry was consistently warned to moderate its expectations. We were told repeatedly that Seattle was a beginning of a negotiation not an end. Suspension of the talks in Seattle represents a delay in getting started on a negotiating process that is not only inevitable but also critically important. There is only one direction for the United States to pursue at this point; we must move forward.

U.S. farmers are hurting now, and it is unrealistic to wait for conditions in the world market to improve on their own. The President and Congress can greatly assist in this effort by working together to pass legislation approving Permanent Normal Trade Relations for China and fast-track trade negotiating authority, and by soundly rejecting House Joint Resolution 90.

Thank you for your attention to our comments and recommendations.

Sincerely,

CHRISTOPHER SHAFFER,  
*Wheat Export Trade Education Committee*  
*U.S. Wheat Associates*

CHAIRMAN TERRY DETRICK, PRESIDENT  
*National Association Wheat Growers*

