WORLD TRADE ORGANIZATION SINGAPORE MINISTERIAL MEETING

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

SEPTEMBER 11, 1996

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WORLD TRADE ORGANIZATION SINGAPORE MINISTERIAL MEETING

WEDNESDAY, SEPTEMBER 11, 1996

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

The Subcommittee met, pursuant to notice, at 2:08 p.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (Chairman of the Subcommittee) presiding.

[The advisories announcing the hearing follow:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
August 13, 1996
No. TR-30

CONTACT: (202) 225-6649

Crane Announces Hearing on World Trade Organization Singapore Ministerial Meeting

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the World Trade Organization (WTO) Singapore ministerial meeting. **The hearing will take place on Tuesday, September 10, 1996, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m.**

Oral testimony at the hearings will be heard from both invited and public witnesses.

BACKGROUND:

The Uruguay Round agreements were approved by Congress in late 1994 and entered into effect on January 1, 1995. The agreements established the WTO as the successor organization to the General Agreement on Tariffs and Trade to implement the agreements internationally, resolve disputes, and conduct future negotiations. Since the WTO went into effect, there have been continuing negotiations on certain services negotiations under the auspices of the WTO, including financial services, basic telecommunications services, and maritime services.

Trade ministers from WTO member countries will meet in Singapore in December to assess the status of world trade under the WTO. Specifically, they will address the progress made in implementing the Uruguay Round agreements in the 2 years of operation of the WTO; the "built-in agenda" of 74 issues listed in the WTO that members have committed to review or negotiate by 2000; further market access liberalization in selected areas such as the information technology industry; the working party report on trade and the environment; the extended negotiations in services; and possible new issues for further negotiation.

In announcing the hearing, Crane said: "The WTO meeting of trade ministers in Singapore is a significant opportunity for us to assess how the WTO Agreements have been functioning. It also provides the occasion to look to the future, laying the groundwork for further negotiations on tariffs, services, and the built-in agenda. However, we should also assure that any new issues suggested for negotiation are appropriate to the mandate and competence of the WTO."

FOCUS OF THE HEARING:

The hearing will examine, in the context of the Singapore Ministerial meeting, the implementation of the Uruguay Round agreements and the WTO and the progress made thus far in their nearly two years of operation. In addition, the hearing will address the goals and prospects for the Ministerial, including the "built-in agenda" already set for further negotiation, further market access liberalization in selected areas, the working party report on trade and the environment, the extended negotiations in services, and potential new issues for further negotiation.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225-1721 no later than close of business, Friday, August 30, 1996.

(MORE)

The telephone request should be followed by a formal written request to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff at (202) 225-6649.

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

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

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements for review by Members prior to the hearing. **Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than 2:00 p.m. on Friday, September 6, 1996.** Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement by the close of business, Tuesday, September 24, 1996, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

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

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages

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. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

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

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

Note: All Committee advisories and news releases are now available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS_MEANS/' or over the Internet at 'GOPHER.HOUSE.GOV' under 'HOUSE COMMITTEE INFORMATION'.

*****

NOTICE -- CHANGE IN DATE

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
September 6, 1996
No. TR-30-Revised

CONTACT: (202) 225-6649

Change in Date for Subcommittee Hearing on the World Trade Organization Singapore Ministerial Meeting

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee hearing on the World Trade Organization Singapore Ministerial Meeting scheduled for Tuesday, September 10, 1996, at 2:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building, **will be held instead on Wednesday, September 11**.

All other details for the hearing remain the same. (See Subcommittee press release No. TR-30, dated August 13, 1996.)

*****

Chairman CRANE. Good afternoon, and welcome to the hearing of the Subcommittee on Trade concerning the first Ministerial Meeting of the WTO, World Trade Organization, to be held December 9–13, in Singapore.

Ambassador Charlene Barshefsky will join us in examining the implementation of the WTO Agreements and the progress made thus far in their nearly 2 years of operation in the context of the Singapore meeting. In addition, we will discuss the goals and prospects for the meeting, including the built-in agenda already set for further negotiation, further market access, liberalization in selected areas, the Working Party Report on Trade and the Environment, the extended negotiations on services, and potential new issues for further negotiation.

As you know, I am strongly committed to the effective working of the WTO. A WTO that works properly will ensure that job-creating U.S. exports receive fair access to 122 nations around the world. Our economy is strengthened, and more jobs are created when we have fair rules promoted by an institution with the moral authority to safeguard that they are followed.

Our participation in a smoothly functioning trading system requires that we play by the same fair rules we insist that our trading partners adopt. I am convinced that Americans instinctively understand the principles of fair play and will accept occasional adverse dispute settlement decisions in stride. The simple fact is that we use the WTO dispute settlement procedure successfully against our trading partners to force open markets far more often than they are used against us.

The Singapore Ministerial is a significant opportunity for us to assess how the WTO Agreements have been functioning and provides the occasion to look to the future, laying the groundwork for further negotiations. However, we should assure that any new issues suggested for negotiation are appropriate to the mandate and competence of the WTO.

In this regard, I have some concerns over whether it is appropriate to include issues relating to labor and the environment under the aegis of the WTO. We should not move forward on these issues without having a clear consensus both within the United States and with our key trading partners on these issues.

At this point, I would like to yield to our distinguished colleague Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman.

Mr. Chairman, Mr. Rangel is delayed on the floor, and I would ask unanimous consent that his statement be included in the record.

Chairman CRANE. Without objection, so ordered.

[The opening statements follow:]

OPENING STATEMENT OF HON. CHARLES B. RANGEL

Mr. Chairman, I commend you for holding this hearing today in advance of the first ministerial meeting of the World Trade Organization, to be held in Singapore in December. This meeting will review the implementation of the Uruguay round agreements and seek agreement on some trade liberalizing initiatives and the future WTO agenda.

It is unrealistic to expect, only 2 years after completion of the most comprehensive trade negotiations in history, that major trade initiatives will result from this first WTO ministerial. Full and proper implementation by countries of commitments

made under the Uruguay round agreements should be a primary focus of the ministers to ensure that the benefits can be realized and that the WTO is responsive to U.S. interests. The meeting should also demonstrate ongoing progress toward further trade liberalization by building on the existing agreements and agreeing to a work program to discuss some new issues.

I strongly support continued U.S. efforts—conducted by both Republican and Democratic administrations—to seek agreement on establishment of a working party in the WTO to examine the relationship between trade and core labor standards. Such a group should work closely with the ILO and conduct a constructive dialogue on positive ways to promote labor standards through increased trade and to ensure that workers receive the benefits of trade liberalization.

Regular review and oversight by this Subcommittee of the operation and functioning of the WTO is essential to ensure that the intent of Congress in approving implementing Legislation for the Uruguay round agreements is fulfilled. Active engagement by this Subcommittee in overseeing the future agenda and activities of the WTO is also necessary to ensure that Congress continues to be an equal partner with the Executive Branch during the course of future WTO negotiations that may involve changes in U.S. Law or Domestic Policy. So again, Mr. Chairman, I thank you for holding this hearing and look forward, as always, to working with you on a bipartisan basis to help ensure the success of our trade agreements program.

I welcome Ambassador Barshefsky back to the Subcommittee and look forward to hearing the views of all witnesses regarding Uruguay round implementation and prospects for the Singapore Ministerial.

OPENING STATEMENT OF HON. JIM RAMSTAD

Mr. Chairman, thank you for calling this hearing today to discuss the upcoming World Trade Organizing (WTO) Singapore Ministerial Meeting.

As we all know, international trade and exports are critical to our economy. With only 4 percent of the world's population, slow population growth, and an economy that is growing at an anemic rate of slightly over 2 percent annually, our continued economic prosperity and growth depend on access to markets outside our borders.

In my home state of Minnesota, we rely on exports. Minnesota accounts for 4.5 percent of total U.S. agriculture commodity exports and our service exports are estimated to be several billion dollars annually.

Between 1992 and 1995, our manufacturing exports increased 23 percent. All this translates into more and better paying jobs for Minnesotans.

The Uruguay Round Agreements have already helped cut tariffs around the world by one-third and reduced a number of non-tariff barriers. In addition, because of WTO commitments, world income is expected to rise by over $500 billion annually by 2005.

We must continue to work hard to ensure that these agreements are being met by all member countries. The Singapore Ministerial Meeting will provide us with an excellent opportunity to review the progress of the WTO and lead the way in pushing for continued negotiations and further market access liberalization.

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

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

Our first witness is our colleague, Hon. John Spratt of South Carolina, if he would come forward to the dais.

STATEMENT OF HON. JOHN M. SPRATT, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. SPRATT. Mr. Chairman, thank you for the opportunity to testify today. I commend you and Mr. Rangel and your Subcommittee for holding a hearing on the WTO ministerial meeting to be held in Singapore.

Although few Americans have heard of these Singapore talks, these discussions could have broad implications for millions of American workers and the industries that employ them.

Today most of my testimony will touch on the Singapore talks as they relate to textile and apparel imports, and I would like to end with a few words about high and discriminatory tariffs that are still imposed on the exports of one industry in which we have a clear competitive advantage—the paper and wood products industry.

I represent a textile district, so I voted against the Uruguay round implementing legislation because I believed it would lead to more textile imports and fewer textile jobs, and so far, I am sorry to say that my fears are being realized. But I recognized that I was in the minority in Congress and that the United States, along with 122 other nations, has to comply with the rules of the WTO.

By the same token, I believe that what the United States should do now is see to it that foreign countries meet their obligations under the WTO. The director general of the WTO recently said that a major purpose of the Singapore talks is to review the full and prompt implementation of commitments in the WTO Agreement. If such a review is made, it should cover the obligations of all signatories including the textile-exporting countries.

A fair review will show that we have met our obligations under the ATC, Agreement on Textiles and Clothing, and a fair review will also show that major textile-exporting nations like India and Pakistan have failed to meet theirs. Since June, the exporting nations led by Pakistan have mounted a campaign to have the United States and the world community reopen the ATC agreement, reopen the negotiations and speed up the elimination of quotas. They accuse the United States of failing to fulfill the spirit of the ATC.

At the same time, these same countries flout their obligations under the ATC, and yet they seek to change the agreement and impose even greater demands upon us. Maybe they hope their campaign will divert attention from their noncompliance, but it should not.

Look first at the U.S. record of implementation. Under the ATC, we agreed to phase out the textile quota system by the year 2005, and we are doing so. We compiled and released to the public a 10-year integration schedule. No other nation went as far as we did in listing products to be integrated back into the General Agreement on Trade and Tariffs, and no other nation operated with more transparency. We did so to give ample notice to the exporting countries, to our own domestic industry, and to domestic retailers. We have already eliminated quotas on 16 percent of the products listed on the annex, as the ATC requires, and we will be allowing growth on growth. In addition, we have begun to cut tariffs.

Now look at the record of the exporting countries. They made two promises under the ATC, neither of which has been kept. First, they promised to open their domestic markets to our textile imports so that American firms would have the same right to sell products to them as they have the right to sell to us. That is free trade; that is reciprocity.

But the export countries do not practice what they preach. They lecture us about our markets being closed to their textile and ap-

parel products, while keeping barriers within their own markets that bar U.S. textile firms from selling there.

Consider just two statistics to make my point. In 1995, the United States imported more than $1.5 billion in Indian textile goods while India purchased from the United States only $21 million—$1.5 billion in imports from India, $21 billion in sales from the United States to India. Pakistan sold us $768 million in textile goods that same year, and they purchased in return $10 million of textile imports.

Rather than open its markets to U.S. products, India is actually closing its markets, shutting them further to us. Recently, India imposed supplementary tariffs on top of already steep tariffs. In the case of floor covering, for example, India now levies a tariff of 95 percent, a totally prohibitive tariff.

Second, the exporting countries under article 5 of the ATC promised to bear down on illegal transshipments, rerouting, false declarations and other means of quota evasion. In a nutshell, this meant that the exporting countries promised to comply with quotas and stop quota circumvention. But since the ATC went into effect, our Customs Service has found increasing cases of quota evasion. Although for the most part, the most persistent violator is China, not a WTO member, there are member states like Hong Kong which are implicated; in fact, Customs is having a lot of resistance out of Hong Kong right now, trying to obtain its help to investigate very, very probable cases of transshipment which involve the city of Hong Kong.

I would like to submit a letter that Congressman Coble and I have sent to the President for the record about this matter.

Chairman CRANE. Without objection.

[The following was subsequently received:]

Congress of the United States
Washington, DC 20515

July 30, 1996

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

As the leaders of the Congressional Textile Caucus, we are writing to express our serious concerns with the World Trade Organization Ministerial in Singapore this December. We understand that representatives of apparel and textile exporting countries want the meeting to address the subject of the Agreement on Textiles and Apparel (ATC). Specifically, they have suggested that the phase-out of quotas should be expedited and that the phased integration of products should be altered.

We believe the United States should vigorously reject this effort. The United States apparel and textile industries still are denied effective market access to many countries around the world. They also are plagued with quota avoidance through transshipments and with counterfeiting of U.S. brand names and designs in other countries. Also, many different kinds of subsidies remain in effect around the world which convey unfair advantages to foreign exporters.

The United States should insist that, if textiles and apparel are to be on the agenda for the Singapore Ministerial, the meeting should be devoted to an assessment of the performance of all countries in opening their markets and preventing fraud, circumvention, and counterfeiting that is common in the world today. Representatives of the apparel and textile industries in the European Community and the United States recently met and issued a joint statement calling for the Singapore Ministerial to focus on such an assessment. We are including for your information a copy of the joint press release issued by the industries.

The United States has fully met the requirements of the ATC and the rest of the Uruguay Round agreement. Our tariffs and quotas are being phased down according to schedule, the first round of apparel and textile integration has been completed and the subsequent two rounds have been announced.

The Uruguay Round went into effect only 19 months ago. Any attempts by the textile exporting countries to change the terms of the agreement reached after seven painful years of negotiation are unjustified, unnecessary and potentially damaging to U.S. workers and production. There is no doubt the U.S. has and will continue to honor its WTO commitments; the complaining countries should do the same.

Respectfully,

John Spratt

John M. Spratt, Jr.
Member of Congress

Howard Coble

Howard Coble
Member of Congress

Mr. SPRATT. We are pleased that the Clinton administration is bearing down on it and is sympathetic to our concerns, but we need to address these topics in Singapore, as our government has said.

The Uruguay round took effect less than 2 years ago. Despite our objective in these negotiations, which was to seek balance in every sector so that there would be trade gains to offset the trade losses, I think everybody would have to agree that the textile and apparel industry came out a net loser. This was a donor industry; there were concessions made out of this sector to pay for gains in other sectors. We are now paying daily for those. The textile and apparel trade deficit with WTO members was $34 billion in 1994; last year, it was $35.8 billion.

I was in Geneva as the Uruguay round neared its conclusion, and I presented to the USTR the industry's last plea. At the very least, the industry asked, make our obligation to open our markets to each exporting country contingent on its opening its markets to U.S. textiles and apparel.

Our negotiators made such a proposal, but the negotiations ended before it was made explicit enough in the agreement. It was understood, nevertheless, that reciprocal access was implicit in the ATC. The exporting countries charge that we are not abiding by the spirit of the ATC, but this was the spirit of the ATC, and they are not keeping pace with it.

The textile-exporting countries seek to change the terms of an agreement that is already heavily balanced in their favor. It is absurd of them, Mr. Chairman, to ask that we tilt this agreement even more to their advantage; it is outrageous that they make this demand when they have not upheld their minimal obligations to open their markets to our textile and apparel goods. We have kept our obligations under the ATC. What we should discuss in Singapore is why the exporting countries have not met theirs and what the WTO should do in return about it.

If I could have just a minute to turn to another topic, the paper and wood products industry. Today, you will hear from four witnesses who represent the American Forest and Paper Association and the United Paper Workers International Union. They will be urging that the Clinton administration push the EU, European Union, in Singapore to drop its steep tariffs on U.S. paper and wood products. What they seek is zero-zero by 1998—free trade between Europe and the United States in paper and wood products, and no tariffs on products on either side of the Atlantic within 3 years.

I strongly support their position. I have written Ambassador Barshefsky to urge our government to join Canada, which also supports it. I would like to submit that letter also with my testimony.

Chairman CRANE. Without objection, so ordered.

[The following was subsequently received:]

Congress of the United States
House of Representatives
Washington, D.C. 20515

June 5, 1996

The Honorable Charlene Barshefsky
United States Trade Representative
600 17th Street, NW
Washington, D.C. 20506

Dear Ambassador Barshefsky:

I am writing to express my interest in the tariff discussions which took place at the April 19-20 Quad meeting of trade ministers. In particular, I am interested in the Canadian proposal to eliminate tariffs on paper and wood products. The largest cash crop in my state is timber and I support efforts to encourage increased exports of U.S. forest products since greater exports will lead to more jobs in my district.

At the Quad meeting, I understand that the Canadian Government offered to apply the final Uruguay Round rate in zero-for-zero sectors as of January 1, 1998. For the U.S. forest products industry, and for the workers they employ in my Congressional district, this would mean an end to almost 20 years of tariff inequity. Its adoption would help enable our highly competitive suppliers to sell in Europe. For the nation as a whole, it has been estimated that early implementation of paper tariff cuts would produce additional exports of approximately $1 billion between 1998-2000, rising to over $2 billion by 2004. Equally important, each $1 billion additional exports in this industry is associated with 9,000 high-paying U.S. manufacturing jobs.

The Uruguay Round Implementing Act provides the authority and the mandate to negotiate additional tariff cuts in zero-for-zero sectors, including paper and wood. I hope you will use that authority to maximum effectiveness in this case. In particular, I urge you to consider making the Canadian initiative a U.S. negotiating objective for the Singapore Ministerial meeting in December.

Thank you for your consideration.

Respectfully,

John M. Spratt, Jr.
Member of Congress

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20508

AUG 6 1996

The Honorable John M. Spratt, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Spratt:

Thank you for your recent letter concerning a tariff reduction package for the WTO Singapore Ministerial that includes paper and wood products.

I share your interest in providing export opportunities for U.S. firms and workers in the paper and wood industries. Last year, as countries began to implement the results of the Uruguay Round, U.S. exports of paper and paper products grew by 41 percent to all WTO members (excluding Canada and Mexico) and by 47 percent to the European Union. On wood, where we did not succeed in a duty-elimination agreement (but did reduce tariffs), exports to WTO members grew by 7.2 percent last year.

Despite these positive results, the Administration continues its commitments in the Statement of Administrative Action of the Uruguay Round Agreements Act to seek accelerated staging of Europe's duty reductions on paper products and to push for multilateral elimination of tariffs on wood and wood products. On paper, we achieved an agreement to eliminate duties over a ten year period. This concession was hard fought in the Uruguay Round. We also pressed this in our compensation negotiations with the European Union (EU) when it enlarged to include Finland, Sweden and Austria. On wood, the opposition to further liberalization is primarily from Japan. I raised these issues with the EU and our other Quad partners at our recent meeting in Kobe, Japan. We instructed our officials to explore more fully the issues of tariff acceleration and further tariff reductions and to report to us at the earliest opportunity.

I appreciate your interest in the WTO Singapore Ministerial and, particularly, further market access liberalization and the development of a market access package. I will keep you informed of our progress on this issue.

Sincerely,

Charlene Barshefsky by m

Charlene Barshefsky
Acting United States Trade Representative

Mr. SPRATT. Today, tariffs on U.S. paper products going to Europe are more than triple the tariffs that we impose on European paper products coming into our country.

I have several papermills in my district, one of which makes coded paper and newsprint. Right now, Europe is sending us coded paper and displacing jobs in my very back yard, and they are taking advantage of this very advantageous situation because of the differential in tariffs between us.

This Subcommittee included in the Uruguay round implementing legislation a mandate that the administration treat zero tariffs on paper and wood products as a negotiating priority. I hope that this Subcommittee will bear down on the administration and on the delegation that we are sending to Singapore and insist that they follow through and accomplish this agreement with the Europeans.

Thank you very much, Mr. Chairman, for this time. The director general has called upon us to review compliance with the WTO. Let us take him at his word and make Singapore a venue where our government presses our trading partners to meet their WTO obligations so that U.S. companies and American workers can finally get a fair shake in world markets.

Thank you very much.

[The prepared statement follows:]

Congressman John M. Spratt, Jr. (D-S.C.)
House Ways and Means Subcommittee On Trade
September 11, 1996

Thank you for the opportunity to testify today. I commend your subcommittee for holding a hearing on the WTO Ministerial Meeting to be held in Singapore. Although few Americans have heard of the Singapore talks, these discussions could have broad implications for millions of American workers and the industries that employ them. Today, most of my testimony will focus on the Singapore talks as they relate to textile and apparel imports. But I would like to end with a few words about high and discriminatory tariffs imposed on our exports of paper and wood products.

I represent a textile district, and I voted against the Uruguay Round implementing legislation because I believed it would lead to more textile imports and fewer textile jobs. So far, I am sorry to say, my fears are being realized. But I recognize that I was in the minority in Congress, and the United States, along with 122 other nations, must comply with the rules of the WTO. By the same token, I believe that what the United States should now do is ensure that foreign countries meet their obligations under the WTO.

The Director General of the WTO said recently that a major purpose of the Singapore Talks is to review "the full and prompt implementation of commitments" in the WTO agreement. If such a review is made, it should cover the obligations of <u>all</u> signatories, including the textile exporting nations.

A fair review will show that we have met our obligations under the Agreement on Textiles and Clothing. A fair review will also show that major textile exporting nations, like Pakistan and India, have failed to meet theirs. Since June, the exporting nations, led by Pakistan, have a mounted campaign to have the United States and the world community reopen the ATC negotiations and speed up the elimination of quotas. They accuse the United States of failing to fulfill the "spirit" of the ATC. At the same time that countries like these flout their obligations under the ATC, they seek to change the agreement and impose even greater demands on us. Maybe they hope that their campaign will divert attention from their record of non-compliance. But it should not.

Let's look first at the U.S. record of implementation. Under the ATC, we agreed to phase-out the textile quota system by 2005, and we are doing so. We compiled and released to the public a ten-year integration schedule, listing exactly when quotas on all products will be lifted. No other nation went so far; and no other nation operated with more transparency in its integration process. The U.S. did so to give ample notice to exporting countries, the U.S. industry, and domestic retailers. We have already eliminated quotas on 16% of the products listed on the annex, as the ATC requires, and we are allowing imports to increase as authorized by the "growth on growth" provisions of the ATC. In addition, we have

begun to cut tariffs on a variety of products. By 2005, the tariffs on some will drop by as much as 30%.

Now let's look at the record of textile exporting countries. They made two promises under the ATC, neither of which has been kept. First, they promised to open their domestic markets to textile imports, so that American firms would have the same right to sell our products to them as they sell to us. That is free trade and reciprocity. But the exporting countries don't practice what they preach. They lecture us about our markets being closed to their textile products while keeping barriers within their own markets that bar U.S. textile firms from selling there.

Consider just two statistics to make my point. In 1995, the United States imported more than $1.5 billion in Indian textile goods while India purchased from the U.S. only $21 million---let me repeat, $21 million---in U.S. textile products. The same year, Pakistan sold us $768 million in textile goods, while buying from us only $10 million in imports. Rather than open its markets to U.S. products, India is closing its markets even tighter. Recently, India imposed supplementary tariffs on top of already steep tariffs. In the case of floor covering, for example, this means that Indian tariffs are 95%.

Second, exporting nations under Article 5 of the ATC promised to bear down on illegal transshipments, re-routing and false declarations concerning country of origin. In a nutshell, this means that exporting countries promised to comply with quotas and stop quota circumvention. But since the ATC went into effect, our Customs Service has found increasing cases of quota evasion. Although the most persistent violator is China, which is not a WTO member, member states like Hong Kong, are also implicated. In fact, for the past several months, Customs has met enormous resistance from Hong Kong as it has tried to obtain Hong Kong's help in investigating goods made in China but shipped under Hong Kong labels to use Hong Kong's excess quotas.

I would like to submit a letter that Congressman Coble and I sent the President last July, in which we expressed concerns about the Singapore talks and textiles. I am pleased that the Clinton Administration understands and is sympathetic to the concerns we have raised. On July 17, our government issued a paper urging the Committee on Trade in Goods, an arm of the WTO, to examine the problems of compliance with the market access and transshipment sections of the ATC. Those are precisely the topics we should take up in Singapore.

The Uruguay Round took effect less than two years ago. Despite our objective, which was to seek a balance of trade gains and losses within each sector, the textile and apparel industry came out a net loser. This was a donor industry where concessions were given up for the sake of gains in other sectors. This industry is now paying dearly for those concessions. Our overall trade deficit in textiles and apparel with the world was $34 billion in 1994, the

year before the WTO became effective; last year, the textile/apparel trade deficit was $35.8 billion, which represents an increase of more than 5%. If you look at imports just from WTO countries, the figures are particularly revealing about the price we are paying for GATT. Our textile/apparel trade deficit with WTO countries increased in 1995 over 1994 by almost 11%.

I was in Geneva as the Uruguay Round neared its conclusion, and I presented U.S.T.R. with the industry's one last plea. "At the very least," the industry asked, "make our obligation to open our markets to each exporting country contingent on its opening of its markets to U.S. textiles and apparel." Our negotiators made such a proposal, but the negotiations ended before it was made explicit enough in the agreement. It was understood, nevertheless, that reciprocal access was implicit in the ATC. The exporting countries charge that we are not abiding by "the spirit of the ATC," but this was the "spirit of the ATC."

The textile exporting countries seek to change the terms of an agreement already balanced heavily in their favor. It is absurd of them to ask that we tilt this agreement even more to their advantage. It is outrageous to make this demand when they have not upheld their obligations to open their markets to our textile and apparel goods.

We have kept our obligations under the ATC. What we should discuss in Singapore is why the exporting countries have not met theirs, and what the WTO should do about it.

Let me turn from textiles to another major employer both nationally and in South Carolina, the paper and wood products industry. Later today, you will hear from witnesses who represent both the American Forest and Paper Association and the United Paperworkers International Union. They will be urging the Clinton Administration to push the EU in Singapore to drop its steep tariffs on U.S. paper and wood products. What they seek is "zero for zero" by 1998: no tariffs on paper and paper products on either side of the Atlantic by 1998. I strongly support their position and I have written to Ambassador Barshefsky to urge our government to join Canada which already supports it. I would like to submit my letter with my testimony.

Today, tariffs on U.S. paper products going to Europe are more than triple the tariffs that we impose on European paper products. That is neither free nor fair trade. As a result of these high and discriminatory tariffs, European exports to the United States have surged while our exports to Europe remain flat. High European tariffs deny American paper companies sales they have earned by their competitive advantage, and they deny good-paying jobs to American paper workers.

The Ways and Means Committee included in the Uruguay Round implementing legislation a mandate that the Administration treat zero tariffs on paper and wood products as a negotiating priority.

This committee and the Congress wisely recognized the importance of this issue for our economy and our workers. I know that the Clinton Administration also sees the importance of "zero for zero" and has been working hard to achieve it.

If there are to be talks in Singapore, let's not waste them on rhetoric about free trade; let's go prepared to talk about sectors like paper and forest products, where U.S. firms have a competitive advantage but cannot use it.

The Director General has called us to review compliance with the WTO. Let's take Mr. Ruggiero at his word and make Singapore a venue where our government presses our trading partners to meet their WTO obligations so that U.S. companies and American workers can finally get a fair shake in world markets.

Chairman CRANE. Thank you, John.

Mr. Coyne.

Mr. COYNE. No questions, Mr. Chairman.

Chairman CRANE. Mr. Matsui.

Mr. MATSUI. I thank the Chairman.

I would like to thank the gentleman from South Carolina for his testimony. John, actually, I have been asked to ask you this question by L.F. Payne, who is a Member of this Subcommittee but was not able to attend.

You have introduced your legislation, which you spoke about, and you have identified certain problems with the WTO. Would you briefly describe in what way your legislation, if it should be enacted into law, would give assistance to the textile industry?

Mr. SPRATT. First of all, we want to see the rules that we have strictly enforced, and we want stiffer sanctions when we apprehend countries that are violating the quota system that we still have for these few remaining years—for example, transshipment, quota evasion, and mislabeling. It is still an epidemic problem, and it is still a problem estimated by Customs itself to be of the magnitude of $2 to $4 billion involving China alone.

So, we are saying let us stiffen the sanctions because we have found that detection is extremely difficult. It involves a lot of manpower and effort. You catch them mostly by chance. If we can increase the penalties, we can rely more upon deterrence to stop this practice. We have a list of additional sanctions included in the bill.

Second, we are saying let us condition the opening of our markets further with countries that are in the WTO or those outside the WTO, like China, that still have not joined, and we still have more negotiating leverage with them, upon their opening their markets on a reciprocal basis to us. That is free and fair trade.

So, we are trying to lay that down as a working principle of our trade relations with our trading partners like China, who enjoy liberal access to our markets. But China, Pakistan, India, and Bangladesh, which have enormous capacity, already ship tremendously to us, but simply do not buy anything in return. That is not just because we do not make products that will be attractive to them because they have such a low wage advantage. We make a lot of cloth, a lot of yarn, a lot of basic textile products that they could probably use and buy from us if there were only a free and open opportunity to do so.

We also make some end products that would probably sell in the Indian market, for example, where there is a substantial middle class—sheets and towels and things like that. If we had the opportunity to access their markets, we could probably be selling in return to make up for the displacement in our markets of their substantial imports to us.

Our bill seeks these two things—enforcement of the rules of trade that we have now, with tougher sanctions on the violators, and reciprocity, market opening for those countries that enjoy liberal access to our markets.

Mr. MATSUI. Thank you. No further questions, Mr. Chairman.

Chairman CRANE. Thank you.

Ms. Dunn.

Ms. DUNN. No questions, Mr. Chairman.

Chairman CRANE. Mr. Houghton.

Mr. HOUGHTON. No questions, Mr. Chairman.

Chairman CRANE. Mr. Ramstad.

Mr. RAMSTAD. No questions.

Chairman CRANE. With that, we thank you very much, John, for your testimony.

Mr. SPRATT. Thank you, Mr. Chairman. I appreciate this opportunity.

Chairman CRANE. Our next witness is Hon. Charlene Barshefsky, Acting U.S. Trade Representative.

STATEMENT OF HON. CHARLENE BARSHEFSKY, ACTING UNITED STATES TRADE REPRESENTATIVE

Ms. BARSHEFSKY. Thank you, Mr. Chairman.

I would ask that my full statement be submitted for the record.

Chairman CRANE. It most assuredly will be.

Ms. BARSHEFSKY. Thank you.

It is a pleasure to see you, of course, and the Members of the Subcommittee, and it is a pleasure to be before you today to discuss the WTO Singapore Ministerial Meeting.

It goes without saying, Mr. Chairman, that your Subcommittee has played a vital leadership role with respect to the passage of the Uruguay round and with respect to making the WTO a reality. I believe that trade policy works best when it is bipartisan. That is the way we have always operated, and I think the statistics show that that is the best way for the country to operate.

Trade of course matters because of its ability to enhance domestic economic opportunity and to increase high-wage jobs in America. We do not negotiate trade agreements to get the agreements; we negotiate them to get the jobs they produce. They serve as a tool for economic prosperity.

This view of trade is fundamental to this Subcommittee, and it is fundamental to the President of the United States. That is why trade policy has played such a fundamental and important role in U.S. economic prosperity and growth these past 4 years. Let us take a moment to look at the record.

We are currently in the fifth year of economic expansion, with low inflation, strong industrial production, and very good prospects for continued job and output growth. Over 10 million net new jobs have been created, and these jobs are geared toward higher wage endeavors.

For the third year in a row, the United States has been cited as the world's most competitive major economy by the World Economic Forum.

Trade has been one tool to accomplish these successes through the negotiation of new trade agreements, enforcing compliance with current agreements, and pursuing new expansion opportunities in Asia, Latin America, Europe, and Africa.

Export growth has accounted for one-fifth of the overall growth of our economy since 1992. About 1.5 million new jobs are supported by this increase in exports. Overall, about 11.5 million jobs are supported by exports, and these jobs are good-paying jobs.

Trade in goods and services has risen from a value equal to 25 percent of U.S. GDP to just about 30 percent of GDP, or $2 trillion.

This Subcommittee has every reason to be proud of America's economic record as this administration is proud of America's economic record. In the last 3 1/2 years, U.S. exports in goods and services have grown by 37 percent; our manufactured product exports are 42 percent higher now than in 1992; our exports of advanced technology products have grown by 49 percent; the value of our agricultural exports is at a record high—it was a record last year, and we are going to break that record and start to create another record this year. Our commercial service exports are up 28 percent.

Our goods trade deficit with Japan has reached its lowest level in 4 years. Our goods exports to Japan have grown 47 percent since 1992 even though the Japanese economy was in severe recession. I think our market opening agreements with Japan have paid off. As you know, in those sectors in which we have concluded agreements, U.S. export growth has been on average 85 percent. That is three times higher the overall rate of export growth to Japan. This is quite evident indeed in the auto sector, both for vehicles and for auto parts.

Exports to our NAFTA partners are up. Indeed, exports to Mexico are now up 34 percent, much higher than the pre-NAFTA level, and this in the face of the worst economic downturn in Mexico in recent history. And of course, our exports generally to Latin America and to the Pacific rim countries are also up.

Our exports to China have also grown, but Mr. Chairman, as this Subcommittee is well aware, we are concerned about the trade figures with respect to China and intend to continue aggressively to pursue market access and agreements compliance with China.

Prospects for U.S. trade growth are likewise strong as we look ahead, particularly in the emerging markets of the world, where 85 percent of the world's consumers reside. We are very well-positioned to capture a portion of that growth, and we look forward to doing just that.

Of course, locking those countries into a system of rules is critical for us to achieve the kind of economic performance we would like, and that is where the WTO comes into play. As you know, the GATT system of trade rules has played a critical role in making markets more open and more fair, in creating rules and transparency and trade regimes that formerly were opaque. It has also been the foundation of our agreements in many other sectors, such as NAFTA, the FTAA and APEC, all of which draw on fundamental WTO principles as their core.

Of course, now we turn to the first trade ministerial meeting of the WTO in Singapore in December. I would like to simply outline quickly for you what we would like to accomplish.

First, we are most proud of the dispute settlement mechanism in the WTO, and we want to be sure that that mechanism is adhered to fully. We have brought more cases than any other country in the world—17 now. We just won our first case on distilled spirits against Japan. We settled one, and we are about to settle three others because countries prefer not to go through the system if they can avoid it.

We have a number of pending cases, however, including against Canada's unfair barriers to American print publications, EU re-

striction on bananas, and Japan's distribution system which inhibits sales for imported film and photographic paper.

Second, Mr. Chairman, I would like to comment briefly on sovereignty, and I would like to answer directly some questions that have been raised on occasion about whether the WTO impinges on the sovereignty of the United States. Unequivocally, the answer is no.

First, the WTO operates by consensus only. This rule is now enshrined in the WTO, and as the world's most major single trading nation, what we say carries a lot of sway.

Second, no substantive right or obligation of the United States can be altered or changed without our consent.

Third, the WTO cannot change our laws or our environmental, health, or safety standards. Only Congress can do that.

Fourth, we maintain the right to use all of our trade laws. And of course, this administration has been very aggressive, having brought 42 enforcement actions in 44 months under our trade laws.

And last, of course, as you know, the WTO is not a treaty. It is a contract. And although I would hate to see this ever happen, were it to come to it, we could withdraw from the WTO.

As we look ahead to Singapore, apart from dispute resolution, I would like to talk about several areas. First, of course, as Mr. Spratt said, we are looking to ensure full implementation by our trading partners of the commitments they made in the WTO. That is absolutely critical. We are doing it in the textiles sector; we will ensure full implementation in every sector.

Second, we need to ensure that the "built-in agenda," that is, the agenda of work that was created at the end of the Uruguay round, continues fully in every aspect. Whether it is standards, investment, agriculture, rules of origin, Customs, or government procurement, the current work program of increased transparency, of notification, must continue, and we must ensure that it does.

In this same connection, we would like to see countries come forward with improved offers in basic telecommunications services, to try to conclude that agreement by mid-February. We are working closely with Europe on it, but improved European offers, while necessary, are not sufficient. If Asia does not move forward and improve its offers, no agreement will be possible.

Also in this vein, with respect to the "built-in agenda," we need to ensure that the existing Subcommittees on Trade and Environment moves forward, making recommendations that are consensus in nature.

Third, we would like to see the WTO move toward continued market access. In this regard, we are pushing the ITA, Information Technology Agreement, very hard, under which we and our trading partners would go to zero tariffs by the year 2000 in products critical to the information superhighway, from cellular phones to high-end computers to local area networks and telephone switching equipment. This is a critical area for us. Tens of billions of dollars are at stake. We are pushing this in APEC, where we have received a very good reception. We have some concern about whether the European Community has the necessary mandate from its member states to move forward.

Fourth, of course, we need to agree on new directions for trade policy. The WTO must continue to remain relevant to today's concerns. Nowhere is this more important than with respect to the work on trade and labor. As you know, Mr. Chairman, section 131 of the Uruguay round implementing legislation charges the President with pursuing this issue in the WTO. We must find a way to address the question of labor and trade so that we can ensure that our workers can compete on the basis of fair play rather than unfair advantage. Dealing with this issue in the WTO is part of our effort to make sure the playingfield is level.

As you know, Mr. Chairman, more and more, people in this country and in other countries question whether trade agreements are good for them, question whether trade agreements in fact create jobs. We must find a way of reassuring them that trade liberalization and market access are job-creating, and indeed for this country are necessary if we are to maintain our standards of living and increase economic opportunity for ourselves and for our children.

Our proposal in the WTO seeks to give expression to the relevance that open markets and a rules-based trading regime have for improving the welfare of workers and to demonstrate that workers have a stake in continued trade liberalization.

Of course, we do not want to prejudge the outcome of these talks or suggest a particular set of disciplines or particular prescriptions. I agree with you, Mr. Chairman, we must work together to come to consensus within our own country before we get too far ahead of ourselves. But as the implementing legislation directs and as the President has committed, we will begin the dialog on this issue in the WTO.

Additional matters to keep the WTO relevant include issues of competition policy and trade and investment. These are very complicated areas. They are, even within our own business community, somewhat controversial. Here again, we believe the beginning of the dialog in the WTO makes sense, but we want to work with the Subcommittee to ensure that we move cautiously so that all of the U.S. interests and rights are preserved, particularly our antitrust laws and our antidumping laws.

Finally, Mr. Chairman, as you know, this administration has gone to great lengths to combat bribery and corruption. We look at the WTO to make the contribution in this area. You know that in the OECD, there is a political commitment now to condemn the tax deductibility of bribes and to criminalize bribery and corruption. The contribution the WTO Singapore meeting can make is to achieve consensus on an interim transparency agreement in government procurement. It is particularly in the government procurement area that bribery and corruption are most serious. If we can achieve greater transparency in public procurement processes, greater due process, and rights of appeal, we feel that this will have indirectly an important impact on the bribery and corruption question.

In conclusion, Mr. Chairman, we believe the WTO Singapore meeting should be treated like a board of directors meeting, setting the pace and the tone, ensuring that existing commitments are fulfilled, keeping the organization relevant. And as we look toward the Singapore meeting, we look forward to working with you and

Members of the Subcommittee so that we can, in the bipartisan fashion that has been so critical, continue the tremendous job of economic growth for the United States on which we have embarked together.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF AMBASSADOR CHARLENE BARSHEFSKY·
ACTING UNITED STATES TRADE REPRESENTATIVE

before the

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

September 11, 1996

Mr. Chairman and members of the Committee, thank you for inviting me to speak with you today about the WTO and the preparations now under way for its first ministerial conference, which will be held in Singapore on December 9-13 of this year. This Committee played a most important role in providing the necessary leadership to make the WTO a reality by taking the lead in assuring passage of the Uruguay Round Agreements Act. Your continued leadership in the development of U.S. policy for the WTO is a strong sign of U.S. commitment to use trade as an engine for sustainable growth.

The Administration, with the bipartisan cooperation and support of Congress, has always sought to achieve enhanced opportunities to sell U.S. goods and services in foreign markets. This Administration has entered into agreements which open new markets to U.S. exports; and then monitored and enforced those agreements, utilizing U.S. trade laws where necessary.

When then-USTR Kantor appeared before you just six months ago, he reported that the WTO was already beginning to contribute to a fairer and more predictable trading environment in which to generate additional jobs and growth in the United States. Today, I can confirm that this continues to be the case. U.S. growth and prosperity are increasingly linked to and dependent on the global economy. Our commercial, financial and political stakes in the well-being and prosperity of the rest of the world increase steadily with each passing day. While the close of the Cold War era has resulted in our Nation's holding an unparalleled position of power and leadership, it is a supremacy sustained by an appreciation that the inexorable determinants of the modern world are the dynamism of market competition and the reality of economic interdependence. To ignore these facts would be to act irresponsibly with respect to our obligations both to the American public and to America's friends and allies abroad.

U.S. commercial policy has traditionally been focused on Canada, Europe and Japan. While these markets will continue to be large trade markets in terms of size, the emerging markets of Asia, Latin America and elsewhere hold much more promise in terms of large gains for U.S. exports.

- Some 96 percent of the world's population lies outside the United States and roughly 85 percent of total world population is found in low or middle income countries.
- Low and middle income countries are already importing more than $1 trillion a year from high income industrialized countries.
- More than 40 percent of U.S. exports currently go to these increasingly lucrative destinations.

Over the last ten years, many of these countries began to adopt much more market-oriented internal policies and to reduce trade barriers at the border. Because of the adoption of more market-oriented policies, many of these countries are experiencing, or are poised to experience, very rapid rates of growth -- in the range of 5 to 6 percent a year or better.

A group of 12 large emerging markets, dubbed the "Big Emerging Markets" (BEMs), has been identified on the basis of their sizable populations and considerable and rapidly growing markets for a wide range of products. (The BEMs, with nearly half the world's population or 2.8 billion

people, are Argentina, Brazil, China, Hong Kong, Taiwan, India, Indonesia, Mexico, Poland, South Africa, South Korea and Turkey.)

- Overall, GDP in the BEMs is expected to grow an average of 6.3 percent annually from 1996-2000, compared with an average of 2.9 percent among the industrialized countries.

- BEMs' imports of goods and services could increase by 75 percent by 2000.

- What is happening in the BEMs is happening elsewhere in the emerging market world. In fact, low and middle income countries are expected to account for roughly three-quarters of the total increase in global imports outside our borders in coming years.

The United States is particularly well-placed economically to serve the emerging markets in Asia, Latin America and elsewhere with exports. The traditional strength of the United States in world trade has been the tools of development--capital goods. Nowhere is there more demand for these goods -- such as telecommunications and aircraft, industrial scientific instruments and construction equipment, and agricultural and data processing machinery -- than in the fast growing emerging markets. Added to the advantages of the United States in the capital goods area are our strengths in agriculture, food and some U.S. branded consumer goods and commercial services. For all these sectors, the emergence of new middle classes in low and middle income countries will create major new opportunities for U.S. exports.

The movement of low and middle income countries toward freer markets and faster growth presents the U.S. economy and U.S. workers with a unique opportunity. By rapidly increasing our exports to these markets, we expand demand for the goods and services from our most productive industries -- ones that offer more productive, higher wage U.S. jobs. Expanding trade with emerging markets will help us work better, work smarter and grow faster. The resulting improved performance of the U.S. economy will assist us in dealing with all those domestic economic issues that can be more easily dealt with when growth is faster. It will, for example, be easier to eliminate fully the federal budget deficit and support economically the retirement of the large baby boom generation with the type of stronger economic growth that exporting to emerging country markets can help us achieve. Expanding trade with these countries presents a challenge for us, but an even greater opportunity.

One of the principal trade (and economic) policy issues before us is how the United States can best position itself to help keep these countries on the right economic course with increasingly open markets to U.S. and global trade, and how the United States best benefits from serving the rapidly growing needs of the new emerging markets. The WTO can be a tremendous tool in our efforts to meet the challenge of securing access to these important markets, which is why it is especially important that we pay careful attention to the full implementation of the WTO as it gets on its feet -- and set a course for the organization to continue to play a vital role in the expansion and guaranty of market access in the years to come.

Before assessing implementation and the status of preparations for the WTO Ministerial, it may be helpful to first address two issues that will help to put our objectives for Singapore in the proper context. We need to knock down two misconceptions. First, that trade agreements like the WTO are bad for U.S. workers and economic growth, and the second that the WTO erodes U.S. sovereignty. Neither of these contentions is true.

Performance of the U.S. Economy

Four years ago, President Clinton pledged to pursue policies to help restore jobs, growth and economic opportunity in America. Since that time, the President has followed through on his promise -- which included an activist foreign trade policy -- and the economy has responded.

The budget deficit has been cut every year during this Administration and now stands at half of the dollar value it was in 1992. The budget deficit last year was smaller as a percent of GDP, at 2.3 percent, than was the case for any other major world economy. The budget deficit this fiscal

year (ending September 30, 1996) is expected be roughly $117 billion--the lowest budget deficit in fifteen years (and roughly 1.6 percent of GDP).

Evidence of the current strength of the American economy is abundant.

- We are in the 5th year of economic recovery with good prospects for continued growth. (Unusual for this late in a recovery, inflation is low, our ability to expand industrial production is not currently constrained by a lack of available production capacity and prospects for business investment and job growth remain good.) Last quarter, the economy grew at an annual rate of 4.8 percent (though growth is expected to moderate from here forward).

- In the second quarter of 1996, U.S. GDP was running at an annual rate of $630 billion constant dollars higher than in 1992. From full year 1992 to the second quarter of 1996, real GDP has been growing at an average annual rate of 2.6 percent Annual disposable income is now more than $1,000 (constant 1992 dollars) higher than in 1992 on average for every man, woman and child in the country.

- Since the beginning of 1993, over ten million net new jobs have been created, causing unemployment to stay at a level below 6 percent since late 1994. The current unemployment rate (August) is 5.1 percent. Evidence suggests that job creation has been geared toward higher-wage jobs. A recent CEA study concluded that 68 percent of net job creation in the period from February 1994 to February 1996 was for jobs paying above-median wages.

Part of the President's plan for economic prosperity has been the expansion of trade, in part through the negotiation of new trade agreements, enforcing compliance with current agreements and pursuing regional trade expansion in Asia, South America and Europe. Trade (exports plus imports) in goods and services (including earnings on foreign investment) has risen from a value equal to 25 percent of GDP in 1992 to one equal to nearly 30 percent of GDP in 1995, from $1.6 trillion to $2.1 trillion.

The expansion of U.S. exports has been impressive. From the fourth quarter of 1992 to the second quarter of 1996 (three and one half years):

- the value of U.S. merchandise exports to the **world** has grown by 35 percent;

- U.S. exports to **Japan** have grown by 47 percent, despite the Japanese economy's being at or near recession throughout the period;

- U.S. exports to the rapidly growing **Asian Pacific Rim** countries, excluding Japan and China, have likewise grown by 47 percent;

- U.S. exports to NAFTA partner **Canada** are up by 51 percent and to **Mexico** by 34 percent;

- the increase to **Mexico** is particularly remarkable in light of that country's severe recession, which lowered Mexican GDP by 7 percent in 1995. U.S. exports to Mexico fell by 9 percent, but recovery (to which NAFTA had contributed) has been rapid. U.S. exports to Mexico in the first six months of 1996 rose nearly 19 percent from a year earlier;

- U.S. exports to other markets in **Latin America** were up by nearly 32 percent over the three and one half year period; while to the **European Union** (experiencing only modest economic recovery over the period) U.S. exports were up by 24 percent.

Also,

- U.S. exports of **manufactured products** are currently running at an annual rate of $525 billion so far in 1996, or 42 percent higher than in 1992.

- U.S. exports of **advanced technology products** (a sub-part of manufactured products) have grown even faster. They are running at a rate of $160 billion so far this year, some 49 percent higher than in 1992. The United States also enjoyed a trade surplus in advanced technology products of $13.6 billion in 1995. The surplus in the first 6 months of 1996 is a third higher than in the comparable period of 1995.

- The value of U.S. **agricultural** exports, after a number of years of slow growth, have increased sharply in the last year and a half. They were up by 22 percent in 1995 to a level of $56 billion. In the first 6 months of 1996, agricultural exports are up by another 13 percent relative to a year earlier.

- U.S. **commercial service exports** are currently running at an annual rate of $227 billion, up 28 percent from 1992.

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

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

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

The growth of U.S. jobs supported by exports has, in fact, been significant under the Clinton Administration.

- Since 1992, jobs supported by exports rose by 1.5 million to an estimated level of 11.4 million in 1996.

- Of those 11.4 million jobs, an estimated 7.7 million were supported by goods exports, including 950,000 jobs attributable to agricultural goods exports.

Export-supported jobs have risen significantly, in part because of the underlying strong growth in U.S. exports. Goods and services exports so far in 1996 (based on the first 6 months) are running at an annual rate of $848 billion, some 37% or $230 billion higher than in 1992.

Why have exports grown so much?

- Some improvements in foreign growth have recently helped U.S. exports, as has a competitively valued dollar (though the dollar has been appreciating for a number of months now).

- The Administration has achieved a great deal of foreign market opening through the negotiation of over 200 trade agreements, including the WTO Agreement, NAFTA and a number of bilateral agreements with Japan.

- In addition, thanks to an activist trade policy, U.S. business understands better than ever that, if it makes an effort to export but encounters foreign government barriers, the Administration, backed by a supportive Congress, will be ready to help. The

commitment of the President to open markets has thus made it more worthwhile for business to make the effort to export even in restricted market environments.

Trade Balance Not the Measure of Our Trade Competitiveness or Economic Success

For the past three years the United States has been ranked as the world's most competitive major economy by the World Economic Forum. In agricultural, manufacturing and service sectors, the U.S. produces some the world's best products and some of the best value for the price. Our exports, as noted earlier, have accordingly grown rapidly. Especially noteworthy was the record $56 billion in agricultural exports last year. The $26 billion trade surplus in agriculture in 1995 was the second highest ever. Since the beginning of the Administration, the expansion of goods and services exports has accounted for about a fifth of the increase in our GDP.

The United States has enjoyed a sustained period of healthy growth, rising employment, falling unemployment and moderate inflation. The rise in our trade deficit earlier in the Administration was, in fact, related to the favorable performance of the U.S. economy. The U.S. economy began to recover earlier than other countries from the global recession of the early 1990s and to grow faster than the markets of many of our major trading partners. As a result, our demand for imports rose at a time when foreign demand for U.S. exports was dampened by lack of growth in foreign purchasing power. The Japanese economy, for example, is just now emerging from a long recession during which it experienced very little growth for 4 years.

No previous Administration has made a greater effort, or had more success, in reducing barriers to U.S. trade. Foreign trade barriers influence the trade balance, and we address these barriers vigorously. However, more recent increases in the deficit largely reflect the superior performance of the U.S. economy. The figures tell the story.

- Even as our trade deficit has risen, U.S. industrial production has grown nearly 17 percent in real terms over the last three and one half years. In contrast, the level of industrial production in Japan -- a country with which we still have a large deficit -- is currently slightly below where it was three and one half years ago. In Germany, another country with which we run a deficit, industrial production is currently 4 percent below where it was three and one half years ago.

- Similarly for employment. The 10.5 million job growth since the President took office stands in sharp contrast to a near zero job growth in the other high income, large industrial economies of the G-7. In the United States, the unemployment rate is currently 5.1 percent compared to an average rate in the vicinity of 10 percent for France, Germany and the United Kingdom.

My point is not to criticize our foreign trade partners, but only to provide some context for the rise in the U.S. trade deficit, a context that is reassuring with regard to the relative U.S. economic performance over the last three and half years.

Although the trade deficit did rise earlier in the Administration, we are seeing progress now.

- The U.S. export growth rate accelerated in 1993, 1994 and 1995. So far in 1996, exports are about 8 percent above the same period of 1995.

- Starting in July of 1995, the growth of U.S. exports exceeded the import growth rate. We have just completed the 12th consecutive month in which export growth has exceeded import growth.

- As a result, it appears that the U.S. trade deficit has peaked and begun to fall. In the first 6 months of 1996, the goods trade deficit was 3.5 percent below the deficit of a year earlier, while the goods and services trade deficit was 14.2 percent below a year earlier.

Even at its recent peaks, the trade deficit, as a share of U.S. GDP, is well below the heights it reached in the mid 1980s.

- On a goods and services basis, the trade deficit equaled 1.5 percent of GDP in 1995 and an estimated 1.2 percent of GDP in the first half of 1996. This compares to the previous peak in the goods and services trade deficit equal to 3.3 percent of GDP in 1987.

- For goods trade alone, the deficit represented 2.4 percent of GDP in 1995 and estimated 2.2 percent in the first half of 1996. This compares to the previous peak of 3.2 percent of GDP in 1987.

The evidence of an improvement in the U.S. trade balance is nowhere greater than with Japan.

- In 1995, our exports to Japan were up by 20 percent while imports from Japan were up by less than 4 percent. As a result, the deficit fell from over $65 billion in 1994 to $59 billion in 1995.

- In the first 6 months of this year, exports were up by over 11 percent while imports have fallen by 10 percent, and the deficit is running at a rate 31 percent below a year earlier.

Many factors account for these recent improvements. However, the Administration's aggressive trade policy vis a vis Japan has played an important role in expanding U.S. exports.

- A recent study by the Council of Economic Advisors has shown that in goods sectors where we have reached trade agreements with Japan under the WTO, the Framework Agreement and other bilateral initiatives, U.S. exports have grown by 85 percent since the Administration took office -- or three times faster than the overall growth of exports to Japan.

In the automotive sector, where we reached agreement last year, the changes in the trade figures have been particularly promising.

- In the first 6 months of 1996, U.S. exports of vehicles and parts to Japan were up by over 18 percent, while imports were down by almost 20 percent.

- The 6-month deficit fell from $19.1 billion in 1995 to $14.5 billion in 1996 (a 24 percent decrease).

As the deficit with Japan, though still large, has receded, legitimate concerns have grown about the increase in the U.S. trade deficit with China. Though the rate of increase has clearly slowed, the deficit with China was running at an annual rate of $36 billion in the first half of 1996. We are particularly concerned in light of Chinese restrictions on market access for U.S. exports. We have targeted such Chinese practices as well as sought vigorous enforcement by China of existing bilateral trade agreements. U.S. exports to China grew by 57 percent between 1992 and 1995, though the rate of export expansion slowed sharply in at least the first half of 1996.

While our deficit with China is large, the composition of our trade with China has favorable aspects.

- U.S. exports to China are heavily weighted toward higher valued capital goods such as aircraft (43 percent of total U.S. exports to China) and industrial supplies (37 percent of total).

- Imports from China are dominated by consumer goods, such as apparel, toys and consumer electronics (71 percent to total U.S. imports from China). The increase in such imports from China tends less to displace U.S. production than it does U.S. imports of such items from now higher cost foreign producers in Asia and elsewhere.

The WTO is Good for American Interests

Despite the numerous benefits of trade liberalization and expansion, concerns are still raised about the Uruguay Round Agreements and the creation of the WTO. Some fear that the WTO Agreements have caused American jobs to go abroad. The evidence, however, suggests that the United States is benefiting in many ways, including job growth.

Trade agreements that permanently change the rules and structure of trade, like the WTO Agreement, are really investments in long term growth.

- At the time of its consideration by Congress, the Administration estimated that the Uruguay Round could result in a U.S. economy $100 to $200 billion (constant dollars) larger, after ten years, than it would have been without the Agreement.

- This would be the equivalent of increasing the U.S. average GDP growth rate by as much as 0.3 percent a year for a decade.

The WTO Agreement only entered into force on January 1, 1995, but we are already seeing impressive growth in sectors that are critical to the U.S. economy and sectors where we fought hard to open markets.

For agriculture, U.S. exports to WTO Members grew by 28 percent in the first year of the WTO's operation, and continued to grow at a healthy pace in the first six months of 1996. Countries that heretofore had banned imports of U.S. products, such as rice and apples, were required to open their markets. As stunning as the numbers are, the pressure on countries to faithfully implement the Agreement has probably been an even greater accomplishment. We're making sure the Committee on Agriculture is viewed by all WTO members as a forum where detailed scrutiny is given to each and every country's progress in adhering to commitments on domestic support, import performance under tariff rate quotas and export subsidies.

For industrial goods -- where we obtained substantial market opening through the so-called "zero-zero initiatives" and chemical harmonization -- U.S. exports to WTO Members of products covered by these initiatives grew nearly 30 percent in 1995 and continued to expand in the first six months of 1996, growing by 15 percent over the levels achieved in the first half of 1995.

- In 1995, exports of paper grew more than 40 percent; construction equipment by nearly 30 percent; chemicals and agricultural equipment by over 25 percent; and export growth in steel nearly doubled.

The WTO Does Not Challenge U.S. Sovereignty

Members of this Committee know well that none of the gains realized by establishing the WTO have come at the expense of U.S. sovereignty. The WTO retains many of the strengths and traditions of the General Agreement on Tariffs and Trade (GATT). It is a member-driven organization, continuing the nearly fifty-year practice of decision making by consensus.

As the world's largest economy, the United States has a major voice in making any decisions, and no substantive right or obligation of the United States can be altered or changed without our consent. The WTO cannot force the United States to repeal or amend any provision of federal or state law or to apply or enforce our law in any particular manner. Only the U.S. Congress, along with state and local governments, can change federal, state or local laws or regulations. Neither can the WTO dictate to us our environmental or health standards. In the WTO panel decision on reformulated gas, the panel itself noted that it was not its task to examine the desirability or necessity of the environmental objectives of the Clean Air Act.

We maintain the right to use our trade laws -- and this Administration is committed to using those laws to ensure other countries live up to their obligations. The WTO Agreements contain tougher dispute settlement rules which are already serving U.S. interests, but they are not our only tool to open foreign markets. We have used -- and will continue to use -- all of our trade laws to stand up for the interests of American workers and firms.

Making Use of Stronger Enforcement and Dispute Settlement Mechanisms

Much of our activity since the WTO entered into force has focused on enforcement and implementation of the results of the Agreements. For the multilateral system to remain credible, the Agreements already in hand, as well as the current work before the WTO, must be fully implemented. Effective enforcement depends on strong implementation of the Agreements internationally -- this has been our top priority over the past year and as we look to Singapore.

The WTO dispute settlement mechanism is proving to be a very effective tool to open other nations' markets. The United States insisted on tough new dispute settlement rules because we bring -- and win -- a significant number of cases before dispute settlement panels. And we settle a lot of disputes by initiating the dispute settlement process -- indeed, enforceability of the dispute settlement rules has made settlement of disputes a much more frequent, speedy and useful outcome. Before the WTO, the global trading rules did less to benefit American workers.

The United States has invoked formal procedures under the new WTO dispute settlement mechanism in 17 cases -- far more than any other country in the world. Eleven new cases have been launched since January 1996 when the USTR Monitoring and Enforcement Unit was created.

The process is certainly working to our benefit already: we won the first case that we took to the WTO, involving Japan's taxes on liquor imports; we have signed a settlement agreement in one case, involving EU imports of grains; and we are working towards settlement on at least 3 others (Japan sound recordings, Portugal patent term, Turkey box office tax.) Among some of the other important cases which we are vigorously pursuing are:

- **Canada - magazine imports.** The United States invoked WTO procedures in March 1996 to challenge Canada's discriminatory practices that protect its domestic magazine industry, and the matter was referred to a WTO dispute settlement panel in June 1996. The panel's report is expected by February 1997.

- **EU - banana imports.** After holding consultations with the EU under WTO dispute settlement procedures in 1995, the United States, Guatemala, Honduras and Mexico were joined by Ecuador in February 1996 in challenging the EU's practices relating to the importation, sale and distribution of bananas. A dispute settlement panel was established in May 1996, and its report is expected to be issued by January 1997.

- **Japan - distribution services.** In June 1996, the United States initiated WTO dispute settlement proceedings regarding measures affecting market access for distribution services applied by the Government of Japan pursuant to or in connection with Japan's Large Scale Retail Stores Law.

- **Japan - photographic film and paper.** In June 1996, the United States initiated WTO dispute settlement proceedings to address various laws, regulations and requirements of the Government of Japan affecting the distribution, offering for sale and internal sale of imported consumer photographic film and paper. The measures include a number of laws, regulations and administrative actions, originating in Japan's strategy of liberalization countermeasures in this sector, and inhibiting sales of imported film and paper. Japan's photographic film and paper market is valued at about $2.8 billion per year.

Let me also cite some specific examples of the results we have achieved from focusing on implementation of new obligations assumed in the WTO:

- **TRIPs.** During the past 6 months we have invoked dispute settlement procedures in 4 cases to enforce other countries' obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement):

  -- **Japan - sound recordings.** In February, the United States initiated WTO dispute settlement proceedings against Japan for denying protection to hundreds of millions of dollars' worth of U.S. sound recordings made between 1946 and 1971. Japan subsequently agreed to change its law, and consultations are continuing on Japan's plans for implementing such a change.

  -- **Portugal - patent protection.** In April, the United States invoked WTO dispute settlement procedures to challenge Portugal's patent law, which fails to provide the required minimum twenty years of patent protection to all patents still in effect on January 1 of this year. As a direct result of the U.S. challenge, Portugal announced a series of changes to its system to implement its obligations.

  -- **India - patent protection.** In July, the United States invoked WTO dispute settlement procedures to challenge India's failure to establish a "mailbox" mechanism for patent applications for pharmaceuticals and agricultural chemicals, and a system of granting exclusive marketing rights in such products. Both are clear TRIPs Agreement obligations.

  -- **Pakistan - patent protection.** The United States is also using the WTO dispute settlement mechanism to enforce Pakistan's obligation under TRIPs to establish the "mailbox" and exclusive marketing rights systems. In July, after our consultations with Pakistan failed to produce concrete results, the United States requested that the matter be referred to a panel.

  We will continue on an ongoing basis to monitor the steps countries have taken -- or failed to take -- to implement their TRIPs obligations.

- **TRIMs.** We are currently undertaking a similar initiative with respect to the WTO Agreement on Trade-Related Investment Measures (TRIMs), which prohibits WTO members from imposing on foreign investors certain performance requirements or linking the receipt of incentives (e.g., tax benefits, tariff reductions, etc.) to certain performance requirements. Such measures are applied in some sectors of importance to U.S. firms and workers -- especially in the auto sector -- and we expect to use WTO procedures to ensure strict adherence to the TRIMs Agreement to prevent the proliferation of such measures that can be so harmful to U.S. interests.

- **Agriculture.** We have been examining closely how countries are implementing the market access, domestic support and export subsidy commitments that they made under the WTO Agriculture agreement, and we have already used WTO procedures to address problems in that area as well as other barriers facing agricultural exports:

  -- **EU - grain imports.** In July 1995, the United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligations on imports of grains. Last September we requested that a dispute settlement panel be established to review our complaint, but before a panel was established a settlement was reached. The settlement ensures implementation of the EU's Uruguay Round market access commitments on grains, reduces import charges on rice and provides for consultations on the EU's "reference price system."

- **Hungary - agricultural export subsidies.** In March 1996, the United States, joined by Argentina, Australia, Canada, New Zealand and Thailand, began a process of consultations with Hungary under WTO dispute settlement procedures concerning Hungary's lack of compliance with its scheduled commitments on agricultural export subsidies.

- **Korea - meat imports.** The United States and Korea consulted under WTO procedures and reached a settlement in July 1995 concerning Korea's food regulations, which contained arbitrary shelf-life restrictions that were a barrier to U.S. exports of many agricultural products. Under the terms of the settlement, Korea agreed to convert to a manufacturer-determined shelf-life system for U.S. beef, pork, poultry and other foods. Manufacturer-determined shelf-life systems are used throughout the world. Korea also agreed to remove other barriers to U.S. agricultural exports.

- **EU - meat imports.** In January the United States invoked WTO dispute settlement procedures to challenge the EU's restrictions on imports of meat from animals treated with growth hormones. In May a panel was established to review the U.S. complaint, and its report is expected by February 1997.

- **Australia - salmon imports.** Australia bans imports of untreated fresh, chilled or frozen salmon from the United States and Canada, allegedly for sanitary reasons, even though a draft risk assessment found in 1995 that imports of eviscerated fish are not a basis for concern about the transmission of fish diseases to Australia's fish stocks. In November 1995 the United States invoked WTO dispute settlement procedures and consulted with Australia on these restrictions. The Australian government is in the process of reconsidering the scientific basis for the restrictions.

Dispute settlement is not the only WTO forum used by the United States to ensure that other countries' obligations are met. For example, when the European Communities expanded to include Austria, Finland and Sweden, we obtained compensation valued at over $4 billion and which included substantial reductions in Europe's semiconductor tariffs. These negotiations were conducted under WTO rules.

Transparency remains a fundamental issue for the WTO. As this Committee may recall, the Uruguay Round Agreements Act mandated the United States to move the WTO ahead in this critical area. We are continuing to pursue every avenue to make the WTO and its proceedings more open and transparent, particularly with respect to dispute settlement. In July, we reached an agreement that advanced this important objective and the system will be much improved as a result. We obtained much needed improvements in the system by, among other things, assuring the prompt derestriction of dispute settlement panel reports when they are circulated to the members.

I am also pleased to report to you that the WTO has finally entered the Information Age and, like many other organizations, has put itself on the Information Superhighway. One can access the WTO home page (including via the USTR home page) and stay current on the variety of issues before the Organization. This transparency is welcome. At the same time, the WTO is looking to build bridges with non-governmental organizations (NGOs). NGOs will be able to attend the Singapore Ministerial meeting. These are important improvements that should further strengthen understanding of the WTO.

Looking Ahead to Singapore

The WTO Agreement mandated that the WTO meet at ministerial-level at least every two years. Preparations for the meeting in December in Singapore are under way in Geneva, primarily in the respective Committees responsible for implementing the respective Agreements, and under the direction of the Chairman of the General Council, Ambassador Rossier of Switzerland, and

Director General Ruggiero.. At Singapore, Ministers will have before them a series of reports and decisions covering the broad range of issues before the WTO and its future course.

You may recall that in the GATT, Contracting Parties met once a year, but traditionally the meetings were not at ministerial level unless an extraordinary event was planned like the launch or conclusion of a new round of trade negotiations. With trade so vital to our economic interests, we made the decision that more regular involvement of Ministers should take place in the WTO. Singapore, as the first of such meetings, will undoubtedly set precedents for the future. This is one of the reasons why we have argued that the first conference be realistic in its aspirations.

A second important difference about this meeting, as compared to previous GATT Ministerial meetings, is that the WTO already has a substantial forward-looking agenda in terms of the mandates that are reflected in many of the Uruguay Round Agreements. In some areas, such as services and rules of origin, substantial negotiations were mandated.

The Singapore meeting will not call for the launch of a new trade round, or the establishment of targets for free trade in the future. What it will do, and we hope effectively and efficiently, is: review how far the WTO has come with respect to its present agenda; expand market access opportunities; and determine what areas the WTO must address to stay on the cutting edge of trade policy and to maintain the widespread consensus for free and fair trade around the globe. Essentially, this meeting should be seen as the first meeting of the WTO's Board of Directors. It will be an important test of the WTO's credibility as a forum for continuous consultation, negotiation and liberalization.

I will touch upon some of the highlights for the Committee in terms of what is already required of the WTO.

IMPLEMENTATION AND THE BUILT-IN AGENDA

I spoke earlier about the priority this Administration attaches to implementation of the WTO Agreements. Like many other countries, we believe that this must be given substantial priority. It is clear that the American people will not support new agreements if current agreements are not enforced. I should note that in its report to the President in March, the Advisory Committee for Trade Policy and Negotiation (ACTPN) indicated the importance that it attached to this aspect of the agenda. Thus, one of the most important tasks we have this Fall is to assure that the committees administering the respective WTO Agreements report on the state of implementation, the problems and successes and how we should proceed in the future. All WTO committees and other subsidiary bodies are currently drafting reports on their activities and the status of implementation of their respective Agreements. Final reports are expected to be submitted to the General Council by late October or early November so that it may adopt its own consolidated report to Ministers well in advance of the Singapore meeting.

There is a broad consensus that implementation -- including the built-in agenda -- must be an important focus of the Ministerial. The WTO work program presents an ambitious set of obligations and initiatives, the full and timely implementation of which is critical to the credibility of the WTO and to gaining full advantage of all the benefits of the WTO Agreements. While our objectives and preparations for this aspect of the Ministerial may not enjoy as much visibility as for some of the other Singapore agenda items under discussion, we attach immense importance to achieving a successful outcome in this fundamental area of the WTO's work. We have argued that there is nothing mundane about such critical matters as the progress being made, for example, in implementing agricultural support reduction commitments or in putting in place the necessary mechanisms for the protection of pharmaceutical patents.

"Implementation" is the functional equivalent of "enforcement." This Administration has devoted a tremendous amount of attention and resources to monitoring and ensuring that the several hundred trade agreements which we have negotiated are honored faithfully, and our attention to this aspect of the Singapore agenda is a leading example. But enforcement is not the only consideration. Through our review of how the Agreements are working in practice, we may

identify areas where adjustments in certain provisions are warranted or the streamlining of certain obligations -- such as in the case of notifications of laws and practices -- might make the system work better overall. Obviously, these sorts of questions need to be approached on a case-by-case basis, but the basic emphasis should be on how to ensure or improve compliance with substantive obligations while avoiding an over-bureaucratization which impedes compliance by smaller countries and detracts from the usefulness and efficiency of the organization generally.

Developing countries, in particular, have signalled an interest in focusing the Ministerial on implementation questions. This is, in part, due to their reluctance to see the WTO take up new issues and take on new obligations -- but it also reflects a genuine concern that they may need help of some kind in digesting all that they have already committed to taking on. While we may not wholly accept their rationales, we are eager to face squarely the implementation issues and to look for constructive ways to further implementation without undermining the basic principle of mutual obligation.

The review and assessment of implementation matters leads naturally into a discussion of fulfilling the "built-in agenda" and, in many ways, the two areas are broadly synonymous with the idea of simply executing the WTO's present work program. Full and timely implementation of existing obligations is often the necessary prerequisite for moving on to the next stage of liberalization that may be contemplated by the built-in agenda. If problems are being experienced in assuming the obligations already agreed to, this can both impair the WTO's ability to meet prescribed deadlines for initiating subsequent stages of negotiation and alter the scope and nature of issues which will be negotiated. As a result, in conjunction with a stocktaking of implementation, the United States and a number of other countries have insisted that Ministers take a close look at the depth and breadth of built-in agenda timetables and commitments in order to be able to properly coordinate the progression of how and when we move from implementation, to preparing for reviews and negotiations, and on eventually to the negotiations themselves.

Services

As the Committee knows well, the Uruguay Round created an entirely new body of rules to govern trade in services. The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership. The agreement includes specific commitments by WTO member countries to restrict their use of barriers in important sectors in which the U.S. is competitive, including professional services, computer services, environmental services, and value-added telecom services. The agreement also provides a legal framework for addressing barriers to trade and investment in services and provides a forum for further negotiations to open services markets around the world.

This was one of the most difficult negotiations, and one where the most additional negotiation and work was mandated at the conclusion of the Uruguay Round. I want to take this opportunity to bring you up to date on the negotiations thus far and the extensive program of work already under way and envisioned for the future.

Basic Telecommunications

Obtaining market-opening commitments in the critical area of basic telecommunication services remains a top priority for us. The United States claims the largest single part of the $500 billion global market, in large part because we have fostered the most competition in the world. The U.S. information industries are poised to take great advantage of a truly market-opening agreement.

We have offered to open our telecom services market *if other nations open theirs.* At the original deadline for these talks, April 30, we had eleven offers from developed countries that matched the United States' offer. Several nations in Eastern Europe and in Latin America made offers that matched that of the United States in openness after a time lag of one to five years.

However, too many important trading partners sought to keep protectionist policies indefinitely. Rather than accept a bad deal -- or walk away from the good offers -- the United States won support for an extension of the talks until February 15, 1997. More and better offers are necessary for us to succeed this time around. Foreign investment restrictions, for example, are blatantly protectionist and they can and should be eliminated among developed countries. Other countries -- including some in Asia that have enjoyed outstanding economic growth under the open multilateral trading system -- have made nominal offers or none at all. We will not conclude any agreement until more of these nations make offers to phase in open-market policies over fixed and reasonable periods of time.

Financial Services

Negotiations in financial services are expected to resume in the first half of 1997. Because important countries in Asia and Latin America were not willing to provide sufficient market-opening commitments in the extended negotiations on financial services, in July 1995 we committed only to protect the *existing* investments of foreign financial service providers in the United States. We have reserved the right to provide differing levels of treatment with respect to any expanded and new activities by these financial service providers, or with respect to entirely new entrants to the U.S. financial market. We are now beginning to prepare for these talks, focusing again on obtaining meaningful commitments that remove barriers facing U.S.financial services providers.

Maritime Services

In another negotiation extended beyond the end of the Uruguay Round, on maritime services, the Administration demonstrated its resolve not to buy into a bad deal, one that would not serve the interests of U.S. industry or labor. This negotiation ended on June 28 of this year, and further discussions in this sector are suspended until 2000, when all services sectors are subject to further negotiation.

Almost without exception, no participant offered to remove restrictions so as to approach current U.S. openness in this area. Consequently, we undertook no commitments in this sector. While 36 WTO Members have scheduled commitments in this sector, by and large the commitments are from countries that either are consumers of shipping services (i.e., they have no domestic shipping industry), or they have small domestic markets and their commitments hold limited value.

Further Negotiations in Services

The GATS calls for a new round of negotiations of multi-sectoral market opening commitments every five years, with the first such round to begin in 2000. Accordingly, an important aspect of the work under way in Geneva is to lay the groundwork for those negotiations. Technical work is under way to help ensure clarity and accuracy in scheduling of commitments, and to expand coverage to include new and emerging technologies.

In addition to the negotiations on new sectoral commitments, the GATS mandated work in "rules" issues such as subsidies, safeguards and procurement. The Administration has been participating actively in these discussions. The discussions on procurement are important because it is the first time in the WTO that all WTO members are focusing on government procurement rather than the selected number of countries that currently adhere to the plurilateral agreement on government procurement.

Finally, part of the on-going work deals with licensing and other barriers in the area of professional services, a sector in which U.S. companies are very competitive. With the strong support of our private sector, the U.S. is actively working to ensure that measures relating to qualifications, technical standards, and licensing requirements in the field of professional services do not constitute unnecessary barriers to trade. The WTO Working Party on Professional Services is now focusing on accounting services, and we hope to expand the work program next year to other professions, such as engineering and architecture.

In sum, across the range of services sectors, the objectives which we are pursuing for Singapore which we are pursuing in the various committees are to: seek the much needed improvements in basic telecom offers to assure success in early 1997; agree to pursue significant, market-opening results from all participants in next year's financial services negotiations; agree to strengthen and expand the work program on professional services; and begin the preparations for securing higher levels of commitments in all sectors as part of the next round of multi-sectoral services negotiations in 2000. Our actions in these negotiations provide ample evidence that the Administration has been aggressive in pursuing America's interests, but that we will not sacrifice substantive, market opening commitments for the sake of securing an agreement.

Market Access Issues

As I noted previously, the tariff liberalization we achieved in the Uruguay Round has led to impressive growth in U.S. exports. But, as any exporter knows, lower tariff rates are only one element in achieving "real" market access liberalization and export growth. For example, exporters want information on the tariff structure in potential markets. In the WTO Market Access Committee, we are working to revamp the WTO database on tariffs and trade information so that more countries supply this information and the WTO makes it available on a timely basis. Likewise, exporters want assurance that any changes to the Harmonized System Nomenclature do not result in increases in tariff bindings -- that is why the review of 1996 updates to the Harmonized System Nomenclature through the Market Access Committee is so important. We are also using the new WTO rules on pre-shipment inspection and the broadened obligations on customs valuation to address U.S. exporters' concerns in these areas.

Import and export practices of state trading enterprises can and, at times, do operate in ways that distort trade, particularly in agriculture. As a result of our efforts and those of some of our trading partners during the Uruguay Round, there is now an official working definition of state trading enterprises and a separate WTO Working Party on State Trading. All agricultural imports are subject to the new rules on agriculture, including commodities imported by state trading enterprises, and quantitative and budgetary limits are established on agricultural export subsidies, including subsidies provided by state trading enterprises, regardless of their specific governmental relationship. These Uruguay Round results are positive steps that help lay the foundation for further progress on this issue.

However, a key problem with state trading -- and perhaps the largest obstacle we currently face -- is that the activities of state trading enterprises are not sufficiently transparent to determine whether WTO rules and commitments are being violated. We are working to remedy this situation , and I am convinced that we are making progress. Part of the problem in years past was the lack of serious attention to the activities of state trading enterprises. With the new WTO Working Party and persistent U.S. pressures within the WTO and elsewhere, high-level attention to this issue is no longer in question. Within the Working Party, we have taken the lead in the development of a new notification format that will improve reporting requirements and are developing an illustrative list of what constitutes a state trading enterprise based on its activities, mechanisms and privileges. We are also addressing some of the concerns about state trading with those countries seeking entry into the WTO, including China and the countries of the former Soviet Union.

On another front, the WTO Balance of Payments (BOP) Committee has used the strengthened WTO rules to move countries away from reliance on BOP measures and, when implemented, toward more transparent price-based measures rather than quotas. Since January 1995, seven

countries committed to disinvoke long-standing BOP arrangements by no later than the end of the year (Poland, Slovakia, Turkey, Philippines, Israel, South Africa and Egypt). As a result, exporters to Poland, for example, no longer face the 10 percent BOP surcharge that existed on nearly all items; the remaining 3 percent surcharge will be eliminated at the end of this year. Likewise, South Africa will eliminate its 15 percent BOP surcharge on key household appliances and its 40 percent BOP surcharge on luxury goods by the end of this year.

Another area that has important implications for the conditions of market access is the ongoing work by the WTO Committee on Rules of Origin. The WTO Agreement on Rules of Origin mandates a three-year work program designed to lead to the multilateral harmonization of non-preferential rules of origin. Throughout the Uruguay Round negotiations, which led to the Origin Agreement, we received important guidance from U.S. exporters concerning the market access barriers they experienced as a result of various origin practices of our trading partners. In the same way, we will continue to work with the private sector as we proceed under the Origin Agreement's harmonization work program.

The U.S. proposals for the rule of origin work program are being carefully developed with industry input on a sector-by-sector basis, under the auspices of a Section 332 study being done at USTR's request by the International Trade Commission. Our guiding principles for the harmonization work program are that the rules must provide certainty, and must have a sound basis that reflects today's complex commercial and trading environment. Combined with our efforts to enforce full implementation of the significant procedural disciplines that already exist under the Origin Agreement, the results of the harmonization work program will serve to diminish -- if not eliminate -- abuses of discretion being experienced by our exporters at the borders of our trading partners whenever the origin of a product is at issue. This will greatly advance predictability, transparency, and uniformity for U.S. trade and investment interests.

Trade and the Environment

Another significant feature of the built-in agenda item will be the report of the WTO Committee on Trade and Environment (CTE), the establishment of which was one of the key achievements of the Marrakesh Ministerial meeting. This Committee has played an invaluable role in helping to develop an understanding of the complex relationship between trade and environment policies. An important part of this analysis has been an examination of the extent to which the rules of the trading system provide adequate flexibility for governments to adopt sound environmental policies, while at the same time ensuring that trade rules guard against protectionist trade measures.

The Committee is now in the process of developing a report to Ministers on the long list of issues that it has been reviewing. While work on the report has just begun, and it would be premature to try to forecast its exact content, we are confident that the report will serve to sharpen the focus of further work on this multifaceted and complex issue. We are also cautiously hopeful that the report will include a number of specific recommendations or conclusions for Ministers.

To provide you with a flavor of the work of the Committee, let me describe a number of the key areas of work.

Multilateral Environmental Agreements

The CTE has spent quite a bit of time discussing the relationship between trade measures in multilateral environmental agreements - MEAs for short - and the WTO. I should note from the outset that there has never been a dispute under the WTO, or the GATT before it, involving trade measures required by MEAs. Nevertheless, there has been a great deal of interest in clarifying the legal relationship between trade measures taken pursuant to MEAs and the WTO.

There have been quite a number of proposals in the Committee, ranging from a suggestion that Ministers endorse the legal status quo to proposals to amend the GATT to ensure that there is flexibility in the rules for trade measures taken pursuant to MEAs. Among those who favor

flexibility, there is also a range of views as to the nature and stringency of criteria that must be met as a condition of such flexibility.

Despite these differences of view, we think that there are a number of common threads that have come out of the discussion thus far. For instance, we see broad agreement on the importance of international cooperation in dealing with environmental challenges. We also sense that there is a broad appreciation that trade measures can play an important role in MEAs, although, like any tool, they must be used judiciously. In addition, I think that there is a growing appreciation that disagreements are least likely to occur between countries that are parties to both the WTO and an MEA. Finally, there is a strongly felt need to ensure that trade and environment officials work closely together in the negotiation of MEAs, as well as trade agreements.

Ecolabeling

Ecolabeling is another of the issues that has received a great deal of attention in the CTE. Ecolabeling can be an important market-based instrument for pursuing environmental objectives. At the same time, there is concern among many members of the CTE, as well as U.S. firms, that ecolabeling may be used as a disguised form of protectionism. Against this backdrop, there has been discussion within the CTE of the extent to which ecolabeling is covered by existing WTO disciplines and whether additional disciplines and/or flexibilities should apply.

A key point of discussion has been whether all forms of ecolabeling are covered by the Agreement on Technical Barriers to Trade - or TBT Agreement - which provides important safeguards against discrimination, including requirements for transparency and public participation in standards making. The United States has taken a firm view that the TBT Agreement applies to all forms of ecolabeling and a number of other countries share this view. We also believe that the TBT Agreement affords broad flexibility for countries to implement innovative environmental measures, subject to appropriate disciplines. Other countries, however, have expressed doubts as to whether all forms of ecolabeling are covered by the TBT Agreement and the discussion of this issue will likely extend beyond Singapore.

Looking ahead, we have proposed to increase disciplines on ecolabeling programs with respect to transparency and public participation. While the TBT Agreement provides important and valuable rules in this area, our proposal seeks to ensure that there is reasonable access to the process of creating ecolabels at the earliest possible time in their development.

As many of you are aware, there have been suggestions that we should go even further and propose additional substantive guidance in this area. However, after talking with many of you and interested parties in the business, environmental and labor communities, we believe that considerable further analysis and dialogue will be necessary before any additional proposals can be considered. Given the substantial international interest in this issue, you can be sure that it will be front and center in the future work of the CTE.

The Environment & Market Access

Another valuable aspect of the CTE's work has been its thoughtful analysis of the relationship between trade liberalization and the environment. While there is no automatic relationship between trade liberalization and environmental benefits, a broad view has developed that the agriculture sector has great potential for win-win results. This bodes well for the WTO's future work in this sector. Beyond agriculture, there appears to be substantial agreement that the CTE should seek to identify other win-win possibilities.

Looking to ensure that these win-win possibilities blossom into realities, we have proposed that the Singapore Ministerial endorse the concept that countries should perform environmental reviews of trade agreements with potential for significant environmental effects.

In short, we expect that the CTE will produce an extensive report which conveys a substantial record of accomplishment insofar as its analysis of the many intricate relationships between trade and environment issues is concerned. While it would be ideal to deliver some concrete results, perhaps the best result to be claimed is that this process has succeeded in getting both trade and environment officials with policymaking responsibilities not only talking, but *listening*, to one another. The CTE has established itself as an integral aspect of the WTO's work, with contributions to provide over the long term -- rather than exclusively for this initial ministerial meeting.

If I were to try to summarize the "built-in agenda" and what it stands for, it is clear that we had our eye on the next century and the need for the Agreements to remain dynamic in order to sustain the relevance and vitality of the WTO. The juxtaposition of various negotiating initiatives under this agenda essentially provides the components for substantial negotiations in many areas when the results in key areas such as agriculture and services are implemented. The next phase of agricultural negotiations is scheduled to commence in 1999, while another round of general services negotiations begins in 2000. The most innovative and controversial elements of WTO subsidy rules must be reviewed for possible extension or renegotiation by the end of 1999. Part of our goal at Singapore is to prepare now for those discussions. While no one could reasonably object to being "prepared," there will undoubtedly be some differences of view as to how much advance work is appropriate.

FURTHER LIBERALIZATION AND THE INFORMATION TECHNOLOGY AGREEMENT

One area that did not receive attention as an item for a "built-in agenda" was further tariff liberalization -- although some agreements, like the zero-for-zero on pharmaceuticals, did provide for expansion. Nevertheless, we think it should be possible and desirable to secure an agreement for a modest package of market openings at Singapore. Clearly, further liberalization need not wait the launching of a comprehensive negotiation -- a message worth sending in order to illustrate the dynamic yet permanent nature of the WTO's role in facilitating continual market access. To this end, we have already been working with our major trading partners to craft a tariff package consistent with the existing, residual tariff-cutting authority provided by the Congress through the Uruguay Round Agreements Act.

Working first with our fellow "Quad" countries (Japan, Canada and the European Union), and then seeking broader participation among other important players -- such as our APEC partners -- our efforts have focused on building a tariff package around an Information Technology Agreement, or "ITA". The ITA would provide for staged duty reductions beginning in 1997 down to zero by the year 2000 on a variety of state-of-the-art information technology products, such as multimedia personal computers, LAN equipment, supercomputers and semiconductors. Given the significant market growth for these products, and the critical role they play in establishing the necessary infrastructure for participation in the Information Age, an ITA would be a boon to both producers and consumers in countries across the globe. And, given our industries' competitive edge, the United States would be one of its prime beneficiaries.

Our interests in a tariff package are not limited to information technology, however. The Statement of Administrative Action of the Uruguay Round Agreements Act specifically mentions such items as wood products, white distilled spirits, non-ferrous metals, oilseeds and oilseed products as sectors where obtaining further reductions in and elimination of duties is a priority. During the Uruguay Round, we also were not able to achieve our objectives to eliminate duties on certain other goods like scientific equipment, certain chemicals and allied products and fish and fish products. To advance our efforts in these areas, our Singapore market access objectives include:

- Seeking additions to the Uruguay Round pharmaceutical zero/zero package. Participants in this package have completed the technical work, and it is clear that agreement will be reached to add 300 to 400 new items to the existing agreement.

- Seeking expanded participation in the Uruguay Round sectoral initiatives, particularly chemical harmonization.

- Pursuing zero tariff deals in certain sectors that were attempted unsuccessfully during the Uruguay Round, like oilseeds and oilseed products and white distilled spirits.

- Pursuing acceleration of staged tariff reductions in paper, and perhaps other sectors if acceleration would encourage new participants in sectoral initiatives.

There is, naturally, no assurance that we will achieve all the goals that we set out for ourselves. All the ingredients are present for an important, even if limited, market access package, but there is a lot more work left for us to do in building the necessary international consensus. Ideally, this means we'll realize an ITA. I am very much encouraged by our Asian partners' enthusiasm and hopeful that the European Community will exercise leadership and join the emerging consensus. I can assure you, however, that we will continue to work intensively with our trading partners in an effort to develop more market access opportunities for U.S. exporters, both at Singapore and beyond. Market access is the leading priority of this Administration in the WTO and in all of our trade agreements. We will take advantage of every opportunity to continue to make gains on this front.

ADDING TO THE WTO'S AGENDA

The last, and arguably most controversial, area to be considered at Singapore is the question of adding "new" issues to the agenda of the WTO. This is an important consideration for the WTO, as it goes to the heart of how the organization can be made continually relevant to the ever-changing nature of international trade and the global economy. Under the GATT, we progressed from an exclusively tariff-based regime to one which included rules dealing with a variety of non-tariff issues, such as standards, subsidies, customs valuation, import licensing and government procurement practices. As a result of the Uruguay Round, we added such issues as services, trade-related investment measures, trade-related aspects of intellectual property rights and the relationship between trade and the environment.

Now that the WTO is up and running, we must face whether, when and how to take up the next generation of trade issues. There are a variety of ways in which to do this -- ranging from negotiations to work or study programs -- but the particular approach for each issue must be tailored and timed according to both the preparedness of the issue for consideration in a trade context and the preparedness of the WTO membership to take on any such issue in a substantively and politically meaningful way. In short, it involves striking a balance.

Director General Ruggiero personally is leading the consultations on the development of this agenda item, exploring with delegations the potential list of issues that will expand the WTO's program of work.

Some suggestions were eventually referred for consideration to existing WTO bodies which have competence for the relevant subject matter. For example, the Committee on Regional Trading Arrangements is examining certain ideas put forth to conduct a comprehensive review of the role and relationship of regional agreements to the multilateral system. Of the remaining issues, four appear to have attracted the most attention: These are government procurement, trade and labor standards, investment and competition policy. No consensus has yet emerged on these issues but an active process is under way in Geneva. A consensus is necessary before work can be added to the WTO's agenda. I will briefly review the issues for you.

Interim Agreement on Government Procurement

Effectively, what the United States has proposed is that Ministers endorse the negotiation of an interim arrangement on procurement which would extend to all the Members of the WTO, not merely those which are signatories to the Government Procurement Agreement. This interim arrangement would establish disciplines on transparency, openness and due process in procurement practices, such that suppliers from all WTO Members would have equal access to information on procurements, the procurement process and to bid challenge mechanisms. Our interest in procurement reform arose out of a number of objectives, including our desire to identify opportunities for addressing the pervasive problem of bribery and corruption affecting international commercial transactions. While this is not, *per se*, an "anti-bribery" initiative, if successful, it will go a long way toward discouraging such practices in international procurements.

We see this as a first step toward eventual negotiations aimed at reducing and even eliminating domestic preferences. Ideally, over time, a single multilateral agreement on government procurement would emerge -- incorporating transparency, openness and due process, on the one hand, and non-discriminatory treatment on the other. However, recognizing that not all WTO Members are prepared to or capable of assuming all of these disciplines immediately, we believe an interim arrangement would be reasonably achievable and of benefit to all participants. Notwithstanding some caution displayed by our trading partners, I have been gratified by the generally positive receptiveness which other countries have shown in respect to this proposal.

Trade and Labor Standards

Let me be very precise and direct. This is a priority for the Administration as we approach the Singapore meeting. I started my remarks today by calling attention to two important points: first, this Administration cares deeply about securing better and expanded market access around the globe for our goods and services because economic growth means jobs here at home. We negotiate trade agreements not for the sake of negotiating agreements, but because they are an important tool to building a better future for our country and a path to more, higher paying jobs for American workers.

Second, our economic well-being, prosperity and standard of living are linked to those of our partners, particularly those in the big emerging markets. This is the same reason why the preamble to the Agreement establishing the WTO states clearly that "relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of goods and services." And, it is the same reason why the GATT had nearly identical language in its preamble.

Trade and labor standards is not a new issue on the trade agenda. We must find a way to address this question so that we can move forward and ensure that our workers can compete on the basis of fair play rather than unfair advantage. Dealing with this issue in the WTO is part and parcel of our effort to make sure we compete on a level playing field.

Section 131 of the Uruguay Round Agreements Act mandates that the President seek the establishment of a working party in the WTO to examine the relationship between trade and labor standards. Consistent with this mandate, we have proposed that Ministers at Singapore establish a working party to begin such an examination. We do not have a consensus yet, but we have made our priorities well known.

As I have said in my discussions with my counterparts in Asia and Latin America and Europe, we do not want to prejudge the outcome or suggest a particular set of disciplines or prescriptions. What we want to pursue are core standards -- (1) freedom of association; (2) the right to organize and bargain collectively; (3) an end to child labor exploitation; (4) prohibition of forced labor; and (5) non-discrimination in employment -- which virtually all Members of the WTO have already endorsed in the United Nations and other institutions. What we are talking about is

seeing whether we can reinforce the work of the International Labor Organization (ILO) by ensuring that improving market access around the world helps to realize these labor standards.

In pressing to begin WTO work in this area we have tried to make clear that we are not talking about negotiating wage rates, harmonizing labor costs, or seeking justification for the imposition of protectionist measures. Work completed in the OECD and other fora has confirmed that there is a mutually reinforcing relationship between core labor standards and trade liberalization. We believe that it is important for the WTO to openly acknowledge this relationship, and from that to begin a dialogue.

More and more, the working people of America -- and, in fact, other countries -- question whether trade agreements are good for their interests. We have to find ways to reassure them that trade liberalization is integral to the fulfillment of their own interests and well-being. Our proposal in the WTO, therefore, seeks to give expression to the relevance open markets and a strong rules-based trading regime have for improving the welfare of workers, and to demonstrate the very real stake which workers have in the further expansion of the multilateral trading system.

Competition

Some of our trading partners, in particular the European Commuity, have suggested that competition be added to the WTO's work program. We consider the issue of competition to be important. Moreover, we believe that government actions which enable private companies to do things which undermine the benefits of negotiated trade concessions are currently fully actionable in the WTO.

However, the broader issue of competition is not ripe for any kind of negotiation in the WTO to establish a comprehensive new framework of rules. This is an extremely complicated and multi-faceted issue, which encompasses a broad range of questions relating to both private company and governmental actions. We have looked at these questions carefully, working closely with our interagency colleagues from the Department of Justice, the Federal Trade Commission and the Department of Commerce, in particular. The fact of the matter is that an extraordinary amount of work and study remains to be done in this area -- in conjunction with further consultation with the Congress and the private sector -- to determine whether any sort of negotiating program in the WTO is appropriate. Some work is already under way in the OECD. At Singapore, we may want to consider joining a consensus to agree to begin a limited, educational program within the WTO. However, any such WTO work program would have to be modest and cautious, and done in careful coordination with other agencies, especially the Departments of Commerce and Justice and the Federal Trade Commission. In no such work would we alter our antitrust or our antidumping laws.

It bears noting that selective aspects of the competition question have already been taken up in the WTO. A leading example is the negotiation on basic telecommunications services, in which we have been seeking the full adoption by others of a body of pro-competitive regulatory principles. To date, only 31countries have agreed to adopt these principles, which in themselves represent an important element of assuring greater access to telecommunications markets. Perhaps such tangible, practical efforts to address competition questions are the most appropriate starting point for the WTO to involve itself in this issue.

Investment

The U.S. priority in the investment area is the conclusion of a Multilateral Agreement on Investment in the OECD. We are pursuing these negotiations with the aim of securing non-discriminatory investment treatment for U.S. companies with effective dispute settlement procedures. We have a commitment from our trading partners to complete these negotiations by May of next year.

Given the priority we are attaching to the negotiations in the OECD, we are not in a position to support investment negotiations in the WTO. However, we believe that some work on investment in the WTO could be useful provided it is modest in scope and educational in nature. We are now working with our trading partners to develop a post-Singapore WTO work program on investment that would not include negotiations, but would focus on open and sound investment policies and their related benefits. At present, there is resistance from some developing country WTO members to even such a limited work program.

OTHER SINGAPORE MINISTERIAL ISSUES

Accessions

Although the topic of accessions has not specifically been identified as a Singapore Ministerial agenda item, Ministers are expected to review and discuss the broad range of accession applications -- rather than singling out any one or several applicants for particular attention. The United States supports accession to the WTO of countries capable and willing of undertaking WTO obligations and of providing commercially viable market access commitments for goods and services. Currently, there are 31 countries whose application for accession have been accepted. Active work is under way on approximately 20 of them, including China, Taiwan, Russia, Ukraine and Saudi Arabia. The accession negotiations of Latvia, Estonia, and to a lesser extent Lithuania and Armenia, are now well advanced.

Since entry into force of the WTO, four countries have completed their negotiations to accede to the WTO. These are: Ecuador, which became a member in January 1996; Mongolia, whose accession was approved by the WTO in June 1996; and Bulgaria and Panama where approval of the accession packages completed in July is expected this Fall. In all four cases, the commitments and concessions in both goods and services market access and in implementation schedules for the WTO Agreements exceeded those generally accepted by countries with similar economies in the Uruguay Round -- particularly in respect to market access for goods and services and the implementation of WTO commitments on an accelerated basis. In particular, these countries agreed to:

- Full binding of all tariff lines, industrial as well as agricultural, including full or partial acceptance of chemical harmonization.

- Elimination upon date of accession of most existing practices inconsistent with GATT 1994 or other WTO Agreements, including: minimum import valuation; nontariff taxes and charges on imports, customs charges, or internal taxes also applied to similar domestic goods; and several categories of restrictions on imports, including quotas, minimum import prices, and restrictive licensing schemes.

- Broad initial commitments to market access and national treatment for foreign service providers in key sectors of interest to the United States, including value-added telecommunications and a wide range of financial services (including insurance), as well as in accounting, management consulting, construction, engineering, wholesale distribution, and hotel services and tourism.

- Commitments for early implementation of TRIPs and the Agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade, without recourse to transitions.

- Immediate implementation of the Customs Valuation Agreement (Mongolia, Panama, Bulgaria).

- Commitments from Mongolia and Bulgaria (the first transforming economies to complete accession to the WTO) that the state foreign trade monopoly was abolished and to provide additional periodic reports on privatization and reforms and enhanced transparency for remaining price controls.

The Least Developed Countries

One aspect of the WTO's work that has recently been given some attention is the plight of the least developed countries. I know that this Committee recently held hearings on Africa, where many of these poorest countries are located. In the President's report on a Comprehensive Trade and Development Policy for the Countries of Africa, which was mandated by the Uruguay Round Agreements Act, the Administration took a close look at how best to assist the people and leaders of Africa in their pursuit of sustainable development and increased trade and investment in order to become fully integrated into the global economy. The report focused in particular on: trade liberalization and promotion; investment liberalization and promotion; development of the private sector; infrastructure enhancement; and economic and regulatory reform. The roles of the IMF, IBRD and WTO are all addressed in this report.

The report found that several conditions are essential to meeting the goals of economic development and integration. First, responsibility rests firmly with the least developed countries of Africa and elsewhere to make the right political and economic policy choices. Everything else hinges on this. However, the fact that so many countries are pursuing critical structural adjustment policies is clearly a basis for optimism. Second, to be successful, the development strategy must be trade-led and market-oriented. Countries need to adopt policies and regulatory frameworks that foster openness, entrepreneurial creativity, private investment and a legal system that protects property and other basic rights. Third, given the decline in official development assistance from both bilateral and multilateral donors, the capital to finance development in the least developed economies must come increasingly from private sources and/or increased savings -- underscoring the importance of creating a more hospitable environment for private investment. The WTO is helping least developed countries to take better advantage of the opportunities presented by the Uruguay Round, but there are limits to what can be done in the trade context alone. Providing enhanced commercial opportunities is only part of the solution, and it will be most beneficial only for those countries which have first undertaken the necessary economic and policy reforms. It is up to the least developed countries themselves to seize the moment and take the steps necessary to participate fully in today's global economy.

Conclusion

This statement was not intended to review each and every issue at stake in the WTO and the preparations for Singapore. I have, instead, tried to illustrate the strength and credibility of the WTO as a force for continued consultation, negotiation and liberalization of international trade. It is an important tool in our arsenal to open markets. In the next century, we will face new challenges. The rules-based system of the WTO and its expanded membership should position America to take full advantage of opportunities in emerging markets with certainty and predictability.

Chairman CRANE. Thank you, Ms. Barshefsky.

One of the goals of the Uruguay round was to liberalize trade in textiles by phasing out quotas for this industry over 10 years; yet under the WTO textile agreement, the United States sought to establish a significant number of new quotas. In light of the fact that no other country has even approached this level of calls, this seems to me to be an abuse of the safeguard provision in the textile agreement.

Could you please comment?

Ms. BARSHEFSKY. I am happy to, Mr. Chairman.

The total number of calls is actually lower than it had been in the years 1991–1994. When the GATT system became the WTO, a number of countries insisted that a call that was made under the GATT system be transferred as a call under the WTO, this caused a major increase in the WTO call total in 1995. That increased significantly the number of calls under the first year of operation of the WTO, when in fact, had those calls not been transferred to WTO—that is, had those countries not been insistent—the number of calls would have been quite low.

There has only been two calls the first 6 months of this year, relative to over 20 in the preceding year. So, we are satisfied that we are not being unduly harsh in this sense, but of course, we do want to protect our interests.

Chairman CRANE. As you know, I am working with my colleague Congressman McDermott to develop legislation to expand trade with Sub-Saharan Africa, and one concern is that the textile quota in the Uruguay round was divided in such a way as to leave these countries with a very small piece of the pie.

Given that textile manufacturing is often a critical first step leading to economic and industrial development, how do you suggest we alleviate this problem, because doing nothing, expanding the level of imports permitted in the United States, or giving Africa more quota to the detriment of other trading partners, creates potential problems beyond what we have.

Also, do you expect the issue of trade with the least developing countries to come up at the Singapore meeting?

Ms. BARSHEFSKY. Mr. Chairman, with respect to the textile issue, there are actually very few countries in Sub-Saharan Africa that operate under quota. You may know that the administration provided Congress a report with respect to Africa. It is a report that indicated the range of problems confronting this continent—everything from lack of education, lack of proper sanitation, lack of economic growth, relatively small markets that cannot capitalize on economies of scale, terrible employment problems, of course, and poor policy choices on the part of many of the African governments.

We have identified a range of problems, and we have proposed to look at some possible solutions to them, including redirecting the resources of the multilateral banks and the regional banks to projects that would promote education, promote health and promote infrastructure development, and second, to begin to look at ways in which we can create programs to attract heavy private investment in Sub-Saharan Africa.

You may know, if you look at expenditures by the World Bank and the regional banks to Africa, the expenditures have fallen off

pretty consistently year after year. There is less and less money. The administration is looking at whether we can promote initiatives to encourage more private investment in Sub-Saharan Africa.

This range of problems, including the textile issue you mention, is one that we are going to have to take a very close additional look at because the economic progress or promise of that subcontinent is not being met, very clearly.

I do expect the issue of the least developed developing countries to come up in Singapore. Of course, as you may know, the United States itself takes more than half of all the manufactured goods made by middle and lowest income countries. We take 51 percent of everything they export. The Quad countries and everyone else in the world take the other 49 percent.

If we look at countries whose income per capita is less than $1,000, we take more of those goods than Japan or the entirety of the European Union or Canada. So, we are very receptive to the goods of these countries.

But, I believe there is more that we can do. One thing that the administration has previously indicated is that we would like to redirect the GSP Program from those countries which, frankly, no longer need the benefits—for example, Malaysia, which now takes one-quarter of program benefits—to those countries who could use these benefits, which would be Sub-Saharan Africa, principally.

This is one suggestion, and we will be working with your staffs to see how we can reallocate these GSP benefits now that the program has been renewed. There are other areas that we will need to look at, but we do expect this issue to come up in Singapore.

Chairman CRANE. I have one more quick question for you. Can you provide us with an update on the information technology agreement, specifically, what is the status of negotiations with the EU and other countries, and what is the chance of concluding any agreement by the Singapore ministerial?

Ms. BARSHEFSKY. Mr. Chairman, we have been pursuing this idea quite vigorously with the European Union, with our Quad countries, with the Asian countries in the APEC context and elsewhere. We have received from the Quad a general endorsement for the ITA. Canada and Japan are largely ready to move forward immediately as is the United States.

The difficulty, Mr. Chairman, is that the European Union does not seem to have a full mandate from its member states to move forward. That is very unfortunate, particularly unfortunate because European tariffs in information technology products are high.

A number of Asian countries are very interested in the initiative, and we have gotten good feedback from Singapore and Hong Kong, the Philippines, Indonesia, and indeed, most recently from Malaysia. We will continue to pursue this very vigorously, but certainly if the European Union cannot come forward, it would be virtually impossible to conclude an ITA because we will not let Europe free-ride on tariff reductions by other countries.

Chairman CRANE. Ms. Barshefsky, I appreciate your testimony and your response to my questions, but I know you are aware that the bells have gone off for a recorded vote. Virtually everybody on the Subcommittee has questions for you, so if you would be kind

enough to let us take a break here while we run over and vote, we shall reconvene very shortly after this vote.

The Subcommittee stands in recess.

[The Subcommittee recessed from 2:44 p.m. until 3:53 p.m.]

Chairman CRANE. The Subcommittee will reconvene.

Ms. Barshefsky, I know you have a speech at 4 o'clock with the Business Roundtable, and I monopolized your time. It has been an important enough presentation, and since we will have an executive session with you in the library before this session adjourns, I am asking my colleagues to reserve their questions for you for that time. They can submit all questions for the record, and you can examine those questions and respond accordingly. But we apologize for this interruption, and we will excuse you, Ms. Barshefsky, and thank you so much for coming.

Ms. BARSHEFSKY. Thank you very much, Mr. Chairman. You are very kind and gracious. Thank you.

Chairman CRANE. You are more than welcome.

[The following was subsequently received:]

Questions Submitted by Chairman Crane

Question 1:

The extended developments in the services area have proven to be quite difficult. In addition, the WTO's "built-in" agenda sets forth more issues for further negotiation. Do you feel that the WTO system can make significant progress at trade liberalization without the pressure and balance of concessions that is available in a large trade round, encompassing a wide range of sectors?

Answer 1:

The "built-in" agenda, together with other trade liberalization initiatives that the Ministers might agree to at Singapore will provide an ambitious and extensive work program. The WTO should establish itself as a forum for continuous consultation, negotiation, and trade liberalization. Our efforts leading to Singapore will emphasize this approach.

Question 2:

I understand the United States has been roundly criticized for its unwillingness to participate in the ongoing WTO maritime services negotiations. I am concerned that this lack of participation may affect our ability to obtain successful agreements in other areas important to the United States, such as basic telecommunications services. How has the refusal to participate in the maritime services negotiations and our unwillingness to accept full deals in the financial services and telecommunications negotiations affected our leadership in the WTO?

Answer 2:

The WTO's first major negotiating task was to complete the unfinished business of the services negotiations -- financial services, basic telecommunications and maritime transport. Each of these three negotiations is unique. But we have not yet -- and I emphasize the word "yet" -- successfully concluded them for the same reason: other nations have not been willing to open their markets in a comparable manner to the United States. The United States will not accept a deal for the sake of a deal, nor will we accept a deal where other countries expect something for nothing. If trade agreements do not serve to reduce trade barriers, and offer equal access on equal terms, we -- as the world's most open market -- lose. At the same time, the WTO loses credibility and is *weakened* by agreements that aim too low. The Clinton Administration remains absolutely committed to the WTO, and to ensuring that it fulfills its potential.

TELECOM: The United States is working hard to ensure that the WTO does succeed. For example, it was U.S. leadership which led to an extension of the original deadline for negotiations on telecommunication services to provide opportunities for participants to

reevaluate their offers. We sought a caesura -- not a cessation -- in these negotiations, and it is working. A better deal already is in sight while the U.S. offer remains on the table.

FINANCIAL SERVICES: We remain dissatisfied with financial services commitments from a number of our important trading partners. That was the reason we scaled back our offer in the negotiations that ended in July 1995. We remain committed to a successful negotiation on financial services by the end of 1997.

MARITIME: As we demonstrated in the maritime services negotiations, the Administration will not buy into a bad deal, one that does not serve the interests of our private sector. The U.S. market is largely open in this sector, but almost without exception our important trading partners showed no willingness to open their markets and remove restrictions. To the contrary, they wanted to use the negotiation to legitimize their restrictions by binding them in the GATS.

Question 3:

You have fought the EU hard on its trade restrictive eco-seals, but so far without success for U.S. business. What can you do now that would be effective? Will you support WTO panel challenges?

Answer 3:

Since a number of U.S. industry associations brought to our attention their concerns with the EU program we have been actively working with the EU on this issue. We have been quite concerned that the EU program is not as transparent as it should be, in terms of opportunities for U.S. industry to have meaningful input into the creation of labeling criteria. We have also discussed specific concerns of U.S. industry with respect to particular labeling criteria. We have made some progress with the EU on the transparency front but not as much as we would like to see.

Our efforts are continuing. We and the EU have agreed to look at the issues that have arisen in the context of ecolabeling under the trans-Atlantic initiative. As part of this process, our respective environment agencies (EPA and DG11) will be meeting in the near future to discuss how ecolabeling is conducted both in the EU and the United States. The United States has also put forward a proposal in the WTO Committee on Trade and Environment aimed at increasing the transparency of and ability of foreign producers to comment on ecolabeling programs as they are being developed.

We have not been asked by any U.S. firm or industry group to initiate a WTO panel challenge. If such a request were received, we would carefully evaluate its merits based on the information and argumentation provided.

Question 4:

You recently announced your intention to take trade actions against countries that permit bribery and corruption. The new Government Procurement Agreement has rules that permit fairer competition and transparency in government procurement, but it was only signed by 20 countries. How do we encourage more countries to sign this agreement?

Answer 4:

We are pursuing government procurement initiatives in the WTO to complement anti-corruption work in other fora, including the OECD, OAS and the multilateral development banks. Specifically, we are pressing more countries to join the WTO Government Procurement Agreement (GPA) and have proposed a Singapore Ministerial initiative. Our Singapore initiative calls for the negotiation of an Interim Agreement on transparency, openness and due process in government procurement practices of all WTO Members. This would serve as a launching pad for further WTO-wide negotiations on government procurement, including the possibility of a full multilateralization of the GPA under the WTO. While our efforts in the WTO are not focussed explicitly on bribery and corruption, as they are in the OECD, we see transparency, openness and due process in government procurement as being an important guarantor against bribery and corruption in foreign procurement markets.

Questions Submitted by Congressman Amo Houghton

Question 1:

I understand that the goal of this agreement is to bring tariffs for computer products to zero on a world-wide basis. *While I support that goal, I think we must be careful in defining computer products to avoid incorporating products where zero duty treatment could be extremely damaging.* For example, I have in my office computers that can display broadcast television signals -- C-Span and CNN -- as well as perform computing functions like word processing, data-based management, etc. Will the monitor on this device be considered a computer or a television set?

The answer makes a huge difference. If the monitor is a computer part, then the tariffs go to zero. On the other hand, if it's a television set, it's excluded from the ITA and the prevailing tariffs will apply. The Tariffs on television sets and tubes are rather significant because the industry has been found to be import sensitive and hence excluded from past tariff negotiations.

I know you are aware of the fact that the American television industry has gone through tremendous adjustment over the past 25 years. Import competition has been intense. But, the industry is adjusting. I fear that the elimination of tariffs on monitors that perform television functions would cause serious harm to the television industry in light of the blurring distinction between a computer monitor and a television.

Can you tell me how the USTR plans to deal with this problem in the ITA negotiations?

Answer 1:

In terms of treatment under the current U.S. tariff schedule, the U.S. Customs Service is responsible for such classification determinations. However, for purposes of the ITA, we are defining the terms of product coverage in the form of a positive affirmative list, in addition to the traditional articulation in terms of tariff nomenclature. This is being done to ensure certainty of coverage, rather than having significant questions of ITA coverage and non-coverage being determined through tariff classification of such products. In this regard, we are consulting closely with our private sector, including ISAC-5, to develop a workable distinction between "televisions" --that are not included in the ITA --and the computer monitor devices to be covered by the ITA.

Question 2:

How do you evaluate Japan's compliance with our bilateral trade agreements to date? In particular, I'm interested in Japan's actions to bring an end to the keiretsu relationships and closed distribution systems that have been barriers to selling building materials in Japan, such as flat glass.

Answer 2:

- While we are pleased with the improvements we have seen so far, we would like to see additional progress.

- Our trade agreements with Japan have contributed to a significant reduction in our trade deficit with Japan. Despite Japan's recession, U.S. exports to Japan grew 20.4 percent in 1995 over the previous year, reaching a record $64 billion. This trend has continued this year with exports up 7.5 percent during the first seven month of the year.

- Moreover, in the goods sectors covered by our Uruguay Round, Framework, and other bilateral agreements, U.S. exports have grown more than 85 percent since this Administration took office.

- Looking at just one example, the critical auto and auto parts sector, sales of U.S.-made Big Three vehicles are up 16.4 percent in the first seven months of this year, and the U.S. deficit in this sector has fallen by nearly 22 percent during this period.

- Notwithstanding these achievements, we would like to see more progress.

- On autos, for example, the agreement sought to address the pervasive structural and regulatory barriers U.S. and other foreign companies face in the Japanese market. While we are pleased with the initial progress we have seen, we are continuing to push on deregulation of the aftermarket and access to dealerships.

- Similarly, on glass, which sought to address issues similar to those faced by U.S. auto companies, we have seen some real progress. Nonetheless, we are closely monitoring the agreement to ensure that it is fully implemented and that the positive changes we have seen are not reversed.

- As you may be aware, we are dealing with many of the same issues in the film case, which we are handling in the WTO. This case gave us a clear understanding of how Japan's closed distribution systems and excessive regulation have interacted to keep out competitive foreign products.

- These are difficult issues to address, but this Administration is committed to taking the steps necessary to resolve this issue and to enforce all of our agreements to ensure full access to the Japanese market for U.S. companies.

Questions Submitted by Congressman Jim Ramstad

Questions 1:

What has been the reaction of individual states to the WTO and are there any issues that will be discussed at Singapore that will affect their interests?

Answer:

The Administration consulted closely with the states during the negotiation and implementation of the Uruguay Round Agreements. As required under the Uruguay Round Agreements Act, we established an expanded consultative process to provide for the exchange of information and involve states in the formation of policies that may have a direct effect on state interests. Additionally, we have utilized the Intergovernmental Policy Advisory Committee to ensure that the states and local governments are fully informed of our objectives as we move forward in our preparations for trade negotiations, including the Singapore Ministerial. I am not aware of any issues that directly impact individual states' interests. However, we will continue our close working relationship with the states as we continue to shape the Singapore agenda.

Question 2:

Have there been significant problems with WTO member countries meeting Uruguay Round implementation obligations? Have notification requirements been too onerous on countries? Has the U.S. met all of its notification obligations?

Answer:

Much of our activity since the WTO entered into force has focused on enforcement and implementation of the results of the Agreements. Effective enforcement depends on strong implementation of the Agreements internationally -- this has been our top priority over the past year and as we look to Singapore.

Have their been problems with implementation? Yes, there have been problems in some areas, but we expected that there would be. We have and will continue to pursue implementation issues in all appropropriate fora. The dispute settlement mechanism is proving to be a very effective tool to open other nations' markets and ensure that the agreements are faithfully implemented. And, although the United States has invoked formal procedures under the new WTO dispute settlement mechanism in 17 cases -- far more than any other country in the world, we also settle a lot of disputes just by initiating the dispute settlement process.

There have also been some problems in the area of compliance with notification obligations. The volume and burden of one-time notifications required in the first year of the organization's existence was significant, but has now passed. We are now in the second cycle of periodic

notifications and compliance has improved. We are continuing to work in the WTO on ways to ensure or improve compliance with substantive obligations, with a particular focus on helping smaller countries meet their notification obligations.

The United States has fulfilled its notification obligations.

Question 3:

Does the U.S. have any objectives for dealing with the issues surrounding import-oriented State Trading Enterprises in WTO discussions? Is there a consensus for dealing with this issue?

Answer 3:

The Administration is concerned that import and export practices of state trading enterprises can and, at times, do operate in ways that distort trade, particularly in agriculture.

In the Uruguay Round we took some positive steps -- e.g., a working definition of state trading entities, the establishment of a separate WTO Working Party on State Trading with an ambitious workplan -- that help lay the foundation for further progress on this issue.

However, a key problem with state trading -- and perhaps the largest obstacle we currently face -- is that the activities of state trading enterprises are not sufficiently transparent to determine whether WTO rules and commitments are being violated. With the new WTO Working Party and persistent U.S. pressures within the WTO and elsewhere, this issue is receiving high-level attention.

Within the Working Party, we have taken the lead in the development of a new notification format that will improve reporting requirements and are developing an illustrative list of what constitutes a state trading enterprise based on its activities, mechanisms and privileges.

We are also addressing specific concerns about state trading with those countries seeking entry into the WTO, including China and the countries of the former Soviet Union.

We've been working very closely with USDA and other agencies on this issue. In this context, I draw your attention to Secretary Glickman's testimony on September 12 before the House Agriculture Committee on state trading and other factors affecting U.S. agricultural trade.

We've been consulting with Congress and the private sector on this important issue, and want to continue to exchange ideas on this important issue.

Question 4:

Negotiations on further liberalization in agriculture are slated to begin in 1999. How should the Ministerial address this sector? What are the U.S. objectives in the meantime?

Answer 4:

The key issue in agriculture at the Singapore Ministerial will be whether to initiate a work program in 1997 to prepare for the "Continuation of the Reform Process" required by paragraph 20 of the Agreement on Agriculture.

During the course of the Uruguay Round negotiations on agricultural trade liberalization, the United States and Cairns member countries agreed to accept smaller reductions in support and protection on the understanding that the reform process would continue in future years.

The continuation of the reform process was an extremely important concession for us because we agreed to accept the binding of wholly disparate levels of support and protection in return for the expectation that these would be progressively reduced through future negotiations.

We support early preparation of a work program by the WTO Committee on Agriculture to prepare for the initiation of negotiations in 1999. The work program should cover all the key areas in agricultural trade liberalization including domestic support issues, market access and export subsidies.

Question 5:

Has the 1996 Farm Bill strengthened or weakened the U.S. negotiating position for the upcoming 1999 WTO agricultural negotiations, especially in regard to reducing or eliminating internal support/subsidies?

Answer 5:

The passage of the 1996 Farm Bill has strengthened our negotiating position for the upcoming 1999 WTO agricultural negotiations. Now that the U.S. has decoupled agricultural subsidies from many commodities, we are in a better position to pressure our trading partners that have not yet broken this link to follow our lead.

Question 6:

How effectively has the WTO Committee on Agriculture functioned? Specifically, how effectively has it reviewed 1) member countries' efforts to make Uruguay Round-mandated changes to agricultural policy and 2) members' requests for exemptions from Uruguay Round-mandated internal support reductions?

Answer 6:

The WTO Committee on Agriculture has provided a useful forum to focus attention on the implementation by member countries of their Uruguay Round commitments. The increased transparency provided by the notification schedule established by the Committee encourages members to adhere to their commitments and helps to clarify cases prior to more formal dispute settlement procedures. In a recent draft report, the Agriculture Committee Secretariat noted that, in general, Members have complied with the notification requirements. There have been instances where notifications have been incomplete or have not been submitted within the specified time frames. However, in only a limited number of cases are notifications due still outstanding.

At this time, we are aware of only one country that has not complied with its Uruguay Round commitments. Hungary has exceed her export subsidy commitments. We are now pursuing that case through the formal WTO dispute resolution process.

There have been no requests for exemptions from Uruguay Round-mandated internal support reductions.

Question 7:

Have any member countries formally filed any "Notices of Intent" against our new Country of Origin rules that went into effect on July 1, 1996 and, if so, what is your reaction to this?

Answer 7:

Over the past months, we have held consultations with Canada, the European Union, El Salvador, Honduras, Hong Kong, India, Korea, Pakistan, Philippines, Singapore, Switzerland, Sri Lanka, Thailand, and Indonesia. Some of these consultations were the result of requests under Article 4 of the Agreement on Textiles and Clothing. Working with our colleagues from other agencies, we have attempted to treat all consultations in a positive manner, as an opportunity for ensuring transparency and predictability for our trading partners while also exercising our responsibility to ensure full compliance with our legislated mandate with regard to the rules of origin that were implemented July 1, 1996.

Questions Submitted by Congresswoman Jennifer Dunn

Question:

At the March 1996 Trade Subcommittee hearing on the WTO, I asked a question of then-Ambassador Mickey Kantor regarding the "zero-for-zero" liberalization of tariffs for paper and wood. I was assured that tariff acceleration was a USTR commitment. Has this commitment to the process of trade liberalization/tariff elimination on zero-for-zero wood and paper tariffs continued to be a priority of the Administration under your watch?

Answer:

Let me assure you that I share your interest in providing export opportunities for U.S. firms and workers in the paper and wood industries. We want to build on the positive results of the Uruguay Round which, since its implementation, has helped to generate a 47% increase in U.S. exports of paper and paper products last year to the European Union. We are continuing our efforts to secure improved access for paper and paper products through accelerating the implementation date for zero duties.

We also are interested in pursuing further tariff reductions in sectors, such as wood and wood products, where Uruguay Round efforts to achieve zero tariff rates were unsuccessful. The wood sector remains high on our list of priorities for further tariff reductions.

Question:

I understand you recently met U trade negotiator Sir Leon Brittan in an effort to develop some common approaches to the Singapore agenda. Were you successful in getting him to agree to a tariff package beyond the Information Technology Agreement? Did you give him an indication of the U.S. priority areas for tariff acceleration? Can you explain what those were, and did they include paper and wood?

Answer:

As you might expect, the European Union has been most reluctant on paper tariff acceleration, and Japan is opposed to any further reductions in wood. I re-affirmed to Sir Leon Brittan that acceleration of paper tariffs is a priority for the United States. I also confirmed our continued interest in achieving a zero-for-zero initiative multilaterally on wood and wood products. We agreed to continue our discussions concerning elements of a Singapore market access package at the Quad meetings next week.

Question:

Although the Administration does not have broad fast track authority, the Uruguay Round Agreements Act gives authority to negotiate further tariff concessions in the zero-for-zero sectors. Looking ahead to the Singapore Ministerial, can you describe your expectation for how successful the USTR will have been in using this authority to improve market access in the zero-for-zero sectors.

Answer:

Section 111 of the Uruguay Round Agreements Act (URAA) provides the President considerable flexibility to proclaim accelerated reductions in tariffs or additional tariff reductions in sectors of interest to the United States. Exercise of this authority, however, is subject to receipt of concessions in these sectors from other countries and reaching a multilateral agreement on the tariff cuts or accelerated staging under the auspices of the World Trade Organization.

We have already been working with our major trading partners to craft a tariff package consistent with authority provided by Section 111 of URAA.

At the April 19-21 meeting in Kobe, Japan, Quad members (United States, European Union, Japan and Canada) agreed to pursue discussions for further liberalization in a number of areas in preparation for the Singapore WTO Ministerial meeting in December. One possibility that is being explored is the acceleration of tariff reduction commitments made during the Uruguay Round. Acceleration of paper tariffs is a priority for the United States .

We also agreed at Kobe to explore the possibility of negotiating further tariff reductions in those sectors, such as wood and wood products, where Uruguay Round efforts to achieve zero tariff rates were unsuccessful. In its Statement of Administrative Action of the Uruguay Round Agreements Act the Administration made a commitment to seek multilateral elimination of tariffs on wood and wood products. This sector remains high on our list of priorities for further tariff reductions. At the APEC Ministerial in Christchurch, New Zealand, I urged our APEC partners to participate in a zero-for-zero initiative on wood and wood products. I strongly encourage U.S. exporters of wood and wood products to work with the private sector in APEC countries to pressure governments on this initiative.

We want the market access package at the Singapore Ministerial to include as many areas covered by our negotiating authority as possible. There is, naturally, no assurance that we will achieve all the goals that we set out for ourselves. All the ingredients are present for an import, even if limited, market access package, but there is a lot more work left for us to do in building the necessary international consensus. I can assure you, however, that we will continue to work intensively with our trading partners in an effort to develop more market access opportunities for U.S. exporters, both at Singapore and beyond.

Question:

The Government of Canada has apparently proposed that the Uruguay Round final tariff rates could be moved up to January 1, 1998. The U.S. and Canadian paper industries are supporting this proposal. It is my understanding that Japan would also be agreeable. Is USTR working, with the Canadian government in particular, to ensure that this proposal is accepted at Singapore?

Answer:

The authority provided in Section 111 of the Uruguay Round Agreements Act does not include acceleration of tariff reductions for all tariffs. However, we do have authority to accelerate staging in the ten zero-for-zero sectors achieved in the Uruguay Round (agricultural equipment, beer, construction equipment, brown distilled spirits, furniture, medical equipment, paper, pharmaceuticals, steel and toys) and chemical harmonization.

We support Canada's efforts to secure improved access for paper and paper products through accelerating the implementation date for zero duties. However, as you might expect, the European Union is resisting specific proposals to accelerate the staging of its duty reductions for paper and paper products.

Question:

Finally, the United Paperworkers Union has testified that securing the early elimination of European paper tariffs is important maintaining jobs here in the United States. What will the USTR do to ensure that this important objective is achieved at Singapore.

Answer:

At the April 19-21 meeting in Kobe, Japan, Quad members (United States, European Union, Japan and Canada) agreed to pursue discussions for further liberalization in a number of areas in preparation for the Singapore WTO Ministerial meeting in December. One possibility that is being explored is the acceleration of tariff reduction commitments made during the Uruguay Round.

Since the meeting in Kobe, we have had the opportunity to explore tariff liberalization further with our trading partners. As you might expect, the European Union has been most reluctant on paper tariff acceleration. Nevertheless, we will persevere in our efforts to develop a market access package for Singapore.

Questions Submitted by Congressman Rob Portman

Question:.

Madam Ambassador, the next major WTO panel ruling to be issued in which the U.S. is a complainant will be the one involving the EU banana policy. I understand that your office has done an outstanding job in making the case to the panel that this regime is illegal in virtually all of its parts. Because many of the new WTO agreements are being tested by this case, we will all be watching it carefully and look forward to a successful outcome.

I noticed in a recently issue economic report that the harm resulting from this regime is far greater than earlier projected for almost all parties involved -- for U.S. service suppliers, for Latin America suppliers, and even for Caribbean suppliers. Are you hopeful, Madam Ambassador, that with a successful WTO outcome, it will finally be possible to negotiate real reform in this sector for U.S. and other interests.

Answer:

First let me thank you for complimenting USTR for our work on this case. Our written submission is available for public reading, and I would be happy to send you a copy if you wish. We have also been coordinating closely with the other complainants in this case -- Ecuador, Guatemala, Honduras and Mexico.

The complainants maintain that the EC's banana regime violates fundamental provisions of the GATT and other WTO agreements, including the most-favored nation and national treatment obligations, and key provisions of the General Agreement on Trade in Services.

The member states of the EC, just like the United States, are sovereign nations. The WTO cannot force compliance of a panel report. However, I am hopeful that the EC will fulfill its WTO obligations and decide to bring its banana regime into conformity with international trade rules. That has been our objective for the past several years, and it remains our goal. The United States, along with the complainants, have been willing to negotiate such an outcome with the EC. We are using the WTO process to try to convince the EC to finally negotiate with us on a mutually acceptable solution.

Chairman CRANE. We will resume now with our next witness, Mr. Fred Bergsten, the director of the Institute for International Economics.

Mr. Bergsten, if you could try to confine your opening remarks to roughly 5 minutes, and all other submissions will be made part of the permanent record.

STATEMENT OF C. FRED BERGSTEN, DIRECTOR, INSTITUTE FOR INTERNATIONAL ECONOMICS

Mr. BERGSTEN. Thank you very much, Mr. Chairman. I am delighted to do that, and I do have a written statement for the record.

I would like to make three central points. The first is that the Singapore Ministerial of the World Trade Organization will be a very important session. As Ambassador Barshefsky leaves, I will say that I think her analogy to a board of directors is not correct.

The board of directors of a company meets regularly, every month or every quarter. The ambassadors in Geneva do this, and so do the Quad countries. But, the ministers of the world trading system get together infrequently. They met very infrequently in the history of the GATT, and Singapore will mark the first time they will convene in the World Trade Organization.

Consequently, this ministerial is much more important than a board of directors meeting. Indeed, this session cannot be treated as business as usual. It offers, rather, an opportunity to set the whole next phase for the global trading system over perhaps the next 5 to 10 years.

Because it is so important, we in the United States need to decide where we want the trading system to go over the next 5- to 10-year period and then work back from that to our strategy for the Singapore Ministerial. That is point one.

Point two is that I support a number of things the administration has in mind for Singapore—pursuing the "built-in agenda," trying for an Information Technology Agreement, and the like. But we have to start from the premise that the United States has a major interest in further trade liberalization at the global level, for two reasons.

Increased trade can help America solve its most pressing economic and social problem, which is widespread stagnation of wages, incomes and standards of living. We can create plenty of jobs but, as you know, the median family income has been virtually unchanged for over 20 years. Export jobs pay 15 to 20 percent more than the national average, and worker productivity at exporting firms is 20 to 40 percent higher. If we can further expand the role of exports in our economy, then we will help deal with our most pressing domestic economic problems.

Exports have done very well. They have doubled as a share of the economy in the last 20 years. If we could double them again in the next 10 to 20 years, we would help solve our most pressing domestic problem, and that, it seems to me, is an overriding reason to press for more trade liberalization.

The second reason is that the United States is the world's most open market. When we talk about international trade liberalization, we are really talking about other countries reducing their barriers much more than we reduce ours.

In fact, I will make a radical proposal. I think the United States should start advocating global free trade by a date certain in the early 21st century because that is the only way we can get a level playingfield. We have already reduced most of our barriers. Most other countries have not. If we could get agreement to go to global free trade, we would get a level playingfield. The only way for us to get fair trade is to go for free trade.

You were at Miami and, as you know, we have agreed to do that in the Western Hemisphere. We have agreed to do it in APEC for the Asia Pacific region. That is my third point. I think it would be quite feasible, to start thinking in terms of global free trade by a date certain—perhaps 2010 or 2020.

A table appended to my statement shows that 60 to 70 percent of world trade takes place within regional trading arrangements that have already moved to free trade, like the European Union, or have committed legally to do so, like the NAFTA, or have made political agreements to do so, like the Miami Summit for the Western Hemisphere and APEC. If you add those up, the striking fact is that about two-thirds of world trade is already covered. Globalizing free trade would not be that much of an additional step. In fact, it would mainly add U.S.-Europe, where a lot of trade is free already; that is much less contentious than trade with developing countries, and I think we could add it to the picture.

The new director general of the World Trade Organization, Renato Ruggiero, is in fact advocating adoption of a free trade goal of that type. So, the Government of the United Kingdom, and several other countries have begun to talk of it.

In my view, such a sweeping vision could only be adopted by the world's political leaders. Even a ministerial such as Singapore cannot achieve that. We know from the Miami Summit of the Americas, the APEC summits and others that this is a commitment the political leaders must make. I therefore believe that the World Trade Organization should start planning to hold the first World Trade Summit in the next year or so to launch a program of the type that I am describing.

The GATT never held a summit. The IMF and the World Bank never had a summit. The next annual summit of the G–7 is going to be hosted by our President, in Denver next June and could push in that direction but I think we should now be thinking in terms of a global free trade goal, and a World Trade Summit in order to get it launched within the next couple of years.

There are many specific opportunities for the United States in such a program. I detail these in my statement. let me just stress here the liberalization of trade in services, where the United States has such a strong competitive advantage. The Uruguay round agreed on a set of principles in this area, but there has been very little actual reduction of barriers.

Right now, there are efforts under way in financial services, telecommunications, and maritime services. I support all of those but, Mr. Chairman, my candid view is that the current strategy is not working. The current strategy as carried out by the administration is to pursue sector-specific talks. The most recent was telecommunications; that was already mentioned. These talks did not meet the April 1996 deadline for completion. A new deadline in

February 1997 has been set. Financial services talks will also be scheduled again next year.

So far, the record is very disappointing. I support it strongly, but I think it is going to continue to be disappointing. Why? Because when you try to liberalize trade in one sector only, you simply do not appeal to enough countries to get the deal you want. In the case of telecommunications, the Asian countries did not make the kinds of offers that we wanted. Why not? They see no chance for gaining access to the U.S. or European markets in telecommunications. You have to offer them something in another sector that is of interest. That is why we have always had trade rounds in which enough issues were on the table to appeal to the countries that we want to open their markets to our own exports.

Competition policy is another major issue that should be on the table. An agreement in this area would help deal with the fundamental U.S.-Japan problem. Also important are investment policy and government procurement, which I discuss in my statement. In particular, the upcoming Singapore Ministerial could launch work programs on each of these key issues to help prepare the ground for addressing them substantively in the near future.

In conclusion, Mr. Chairman, I would recommend that the administration—which has chosen, as we know, to downplay any discussion of trade during this election year—take the lead at Singapore in beginning to position things for a new, far-reaching trade initiative over the next few years. It is obviously not all going to be agreed to at Singapore. As I have suggested, a higher-level meeting may be needed in 1 to 2 years. But, things could start to be uneasy at Singapore. All the administration needs to do is resume its leadership of 1993 and 1994, through which, with the full support of the Congress, it successfully completed NAFTA, completed the Uruguay round, launched APEC, and launched the Free Trade Area of the Americas.

It should start by taking an energetic lead at the APEC summit in November, pushing the full APEC membership to move toward achieving their goal of free trade in that region by 2010/2020. That would have a powerful effect in galvanizing global emulation at Singapore.

The final point is to recommend that you in the Congress support a goal of that type. We know that new trade legislation is going to be needed soon. Congress is going to have to address the liberalization initiatives that the administration already took in the Western Hemisphere and in APEC, and see whether it will endorse those approaches. Adding the further dimension of globalization would add only modestly to the needed negotiating authority. I think the United States could reap enormous benefits from such an effort. I believe Singapore offers an opportunity to start moving in that direction. I would urge both the administration and the Congress to decide where we want to go over the long run and work back from that to see Singapore as a launching pad to begin the process that will unfold of necessity over several years.

Thank you.

[The prepared statement and attachment follow:]

AMERICAN TRADE POLICY AND THE WTO MINISTERIAL IN SINGAPORE

C. Fred Bergsten
Director
Institute for International Economics*

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

September 11, 1996

The Ministerial Conference of the World Trade Organization (WTO) in Singapore in December can set the course for the global trading system into the early part of the twenty-first century. But the WTO can seize this opportunity only if its key members develop a clear vision of where they want to take the organization over the next decade or so, and then use Singapore to begin the process of realizing that vision.

The Ministerial should of course pursue the "built in agenda" left over from the Uruguay Round, which includes a number of issues of key importance to the United States. I also strongly support the administration's effort to use its existing negotiating authority to the fullest possible extent by achieving an Information Technology Agreement (ITA) and additional liberalization in a few other sectors. Especially praiseworthy is the administration's tactic of seeking agreement on these goals by APEC, at its annual summit in Subic shortly before Singapore, which would increase the pressure on the European Union and others to accept the proposal in the WTO (and thus demonstrate again how APEC an be a major force for global trade progress).

But it would be a great mistake to treat the meeting otherwise as "business as usual" or a routine stocktaking event. Singapore needs to start developing a strategic purpose for the WTO that is well understood, if not yet explicitly agreed or even fully articulated, by all the key participants.[1]

The United States has two strong reasons for pursuing further global trade liberalization through the WTO. First, increased trade can be a big help in enabling America solve its most pressing economic and social problem--widespread stagnation of wages, incomes and standards of living.[2] Export jobs pay 15 percent more than the average wage. Worker productivity at exporting firms is 20-40 percent higher. These firms expand employment 20 percent faster than nonexporting firms and are 10 percent less likely to fail. Small and medium-sized exporters do

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*Also Chairman of the Competitiveness Policy Council and Chairman of APEC's Eminent Persons Group throughout its existence from March 1993 to November 1995. A more detailed version of the views expressed in this statement can be found in the author's "Globalizing Free Trade," *Foreign Affairs*, May-June 1996.

[1]Sir Leon Brittan, the chief trade negotiator for the European Union, has noted that the "WTO needs a clear strategic vision" and that "the increased involvement of Ministers, of which the Singapore meeting is a first symbol, must result...in the development of a vision of (the WTO's) future development..." See his "Expanding World Trade: The WTO Road to Singapore," Geneva, 1 April 1996, p. 3.

[2]For the latest data and analysis of this phenomenon, see *Running in Place: Recent Trends in US Living Standards*, Competitiveness Policy Council, September 1996.

even better than large ones and account for 70 percent of all sales abroad.[3] Hence a shift to export jobs from import-competing jobs would help considerably, even though the latter pay more than the national average too, even if trade liberalization had no impact on the American trade balance.

Better yet would be a shift to export jobs from the nontradeable (mainly services) sector, most of which pay less than most tradeables (mainly manufacturing), which would occur if liberalization helped the United States reduce its trade deficit. The United States continues to run annual trade deficits of about $175 billion. An improvement of even $100 billion in America's net external position, lowering the deficit to about 1 percent of GDP, would on balance create 1-2 million more of these high-paying export jobs. Total elimination of the external deficit would have twice as favorable an impact.

Such improvement in the country's net external position should be a cardinal policy goal of the next administration. It would provide a major boost in dealing with the country's chief domestic problem. If the next administration and Congress are successful in eliminating the budget deficit by 2002 or so, the national saving rate should rise sufficiently to provide the internal macroeconomic prerequisites for such an improvement on the trade front.

But American exports must have full access to foreign markets for such gains to be realized. Exports have done well in recent years. They have more than doubled as a share of total U.S. output since 1960. They would make an important contribution to solving America's fundamental economic and social problems if they could double again by 2010.[4]

The second United States interest in further global trade liberalization is that it would mean a sharp reduction in barriers in most other countries compared with very little additional liberalization in the United States, where markets are already largely free.[5] From the American standpoint, such an initiative is the only way to achieve a truly level playing field across the world economy. Indeed, a push for global free trade is the only way for the United States to achieve fair trade. At a stroke, it would greatly increase and roll into a single package the benefits that otherwise would be provided for the American economy by NAFTA, APEC, and the Free Trade Area of the Americas. The proposed ITA is an example of this approach in a sector where the United States has a strong competitive advantage.

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[3]These and other data are derived in J. David Richardson and Karin Rindal, *Why Exports Matter: More!*, Washington: Institute for International Economics and the Manufacturing Institute, 1996.

[4]Some critics have argued that recent American trade liberalization initiatives have been a failure because of the sharp deterioration of our trade balance with Mexico. That deterioration was wholly caused by the Mexican macroeconomic and financial crisis, however, which had nothing to do with NAFTA. In fact, NAFTA shielded the United States from an even greater impact from the Mexican crisis by deterring Mexico from responding (as in the past) by erecting new import controls and exempting the United States from those new controls which it did impose.

[5]America's remaining barriers carry a net economic cost of only about $10 billion in an economy of $7 trillion. See Gary C. Hufbauer and Kimberly Ann Elliott, *Measuring the Costs of Protection in the United States*, Washington: Institute for International Economics, January 1994.

Hence the United States should begin developing a vision of global free trade by 2010 or some other target date during the early part of the twentieth century. Such a goal is eminently feasible: 60-70 percent of world trade (see attached table) now takes place within regional groupings that have already achieved free trade (such as the European Union and Australia-New Zealand) or have signed an agreement that will achieve it (such as NAFTA) or have made a political commitment to do so by a date certain (such as APEC and the Free Trade Area of the Americas).

Globalization of all these regional initiatives is in fact the logical culmination of the process of liberalization that has been adopted by almost all countries no matter how diverse their cultures, histories, income levels, geographical locations or past trade policies. Some of the most far-reaching regional agreements, including the EU and NAFTA but especially APEC, join rich and poor countries at very different levels of development in a common trade enterprise--forever ending the North-South conflict that was for so long a major barrier to trade progress.

The dynamic new Director General of the WTO, Renato Ruggiero, has already been advocating adoption of such a free trade goal. So has the government of the United Kingdom.

But such a sweeping vision can only be adopted by the world's political leaders. This has been the experience in each of the regional arrangements. Some of the most dramatic and unexpected trade breakthroughs in recent years, such as the free trade commitments adopted in APEC and for the Americas, became possible only when political leaders seized the opportunity of summit meetings to launch such bold initiatives.

The WTO should thus hold the first World Trade Summit in late 1997 or 1998, perhaps in the context of celebrating the fiftieth anniversary of the postwar trading system, to launch a program of "global free trade by 2010." The GATT never held a summit. Neither have the International Monetary Fund nor the World Bank. The next annual summit of the Group of Seven major industrial countries, which the United States will host in Denver in June 1997, could provide a strong push for such an initiative.[6]

The Case for Globalizing Free Trade

There are three basic reasons for setting a vision of "global free trade by 2010." First, it is essential to keep the bicycle of trade liberalization moving forward. We know from history that the trading system tends to topple, or even retreat, in the face of omnipresent protectionist pressures unless it progresses steadily toward reduction of impediments. In particular, substantial backsliding occurred when the GATT went into semi-hibernation for a number of years after the conclusion of both the Kennedy and Tokyo Rounds. Such a result could be extremely detrimental to American exports and thus to the American economy.

Protectionist pressures remain exceedingly powerful, including in the largest trading areas. There is a recurrent view in the United States, as again revealed in our current presidential campaign, that increased trade, especially with lower income countries, is a major cause of the stagnation in real wages that we have experienced for a generation. There is widespread complaint in Europe that the region's extremely high

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[6]This would also help restore the needed leadership role for the G-7, whose sharp decline in recent years is analyzed in C. Fred Bergsten and C. Randall Henning, *Global Economic Leadership and the Group of Seven*: Washington, Institute for International Economics, June 1996.

unemployment, which has averaged more than 10 percent throughout the first half of this decade, is importantly due to trade. It would be foolhardy to let the bicycle stop at this crucial juncture--especially when the United States has so much to gain from further expansion of world trade and our own exports.

Second, it is essential to avoid the risk of conflict between the burgeoning array of regional trading arrangements. To date, the regionals have been positive forces--perhaps even essential catalysts--in driving global liberalization. They have kept the bicycle moving forward since the end of the Uruguay Round.

But determined leadership in the key countries, especially the United States, has been required to achieve these positive interactions. There have been some close calls, as in 1990 and again in 1993 when the near failure of the Uruguay Round could have suddenly cast NAFTA and APEC as alternatives to the global trading system rather than supportive components of it. The proliferation of regional arrangements over the past few years may make it more difficult to maintain consistency with the global system. And the next potential regional arrangement, a TransAtlantic Free Trade Area (TAFTA) between North America and Europe, could have a very negative effect on the global trading system by encompassing new discrimination by rich against poor and reversing all the progress toward North-South trade cooperation.[7]

Third, there are opportunities for huge economic gains from further trade liberalization. The Uruguay Round teed up a number of traditional border barriers for complete elimination by tariffying most agricultural restrictions, binding most tariffs of developing countries and ending quota protection for textiles.[8] In addition, a number of "new issues" are now ripe for action:

-- Liberalization of trade in services. The Uruguay Round agreed on a set of principles to govern services trade but few barriers have been reduced and the results to date of sector-specific talks on financial services, telecommunications[9] and maritime services have been disappointing.

-- Competition policy, which increasingly lies at the heart of "trade disputes" between the United States and Japan, which are actually disputes about anticompetitive corporate behavior and governmental policies toward it.

-- Investment policy, which has become central to trade (especially in services) but received short shrift in the Uruguay Round. It is now being discussed in the OECD but there is no reason why the WTO cannot begin to address it too.

-- Government procurement, which has huge trade effects but where national participation and entity coverage under

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[7]A thorough analysis of TAFTA will appear in Ellen Frost, *The New Transatlantic Marketplace*, Washington: Institute for International Economics, forthcoming 1996.

[8]See John Whalley and Colleen Hamilton, *The Trading System After the Uruguay Round*, Washington: Institute for International Economics, 1996.

[9]In the telecom sector alone, open markets could yield at least $1 trillion in consumer benefits by 2010. See Ben Petrazzini, *Global Telecom Talks: A Trillion Dollar Deal*, Washington: Institute for International Economics, June 1996.

the existing code are still quite limited. Interim membership could be offered to countries that are willing to at least take on the code's obligations regarding transparency, which would *inter alia* help deal with the critical problem of corruption.[10]

-- Firmer disciplines on regional arrangements, now that there are so many and that it is widely recognized that the relevant WTO rules are both grossly inadequate and poorly implemented.

-- Better protection against process protection, such as abusive use of antidumping policies to offset agreed liberalization--including by the increasing number of developing countries that are using it against American exports.

In short, there is plenty of fuel to drive the bicycle forward. All of these issues are also being addressed in the various regional fora, and heading off the inevitable evolution of conflicting arrangements that could otherwise result adds strongly to the case for globalizing the attack on them.

The Role for Singapore

It would be unrealistic to expect that the Ministerial Conference in Singapore in December would be ready to adopt a global vision as far-reaching as proposed here. On the other hand, the conference could take a number of steps that--without committing governments to such a path--would pave the way for adopting such a vision over the next year or so if a consensus to do so could be created.

Two procedural steps would be to start preparing for a Global Trade Summit in 1998 and to create a private advisory group to begin developing the needed vision.[11] In addition, the Ministerial could launch work programs on each of the key issues cited (and many more) to prepare the ground for addressing them substantively in the near future.[12]

The Singapore Ministerial should also debate several key questions that must be answered whatever the extent of the next WTO initiative. First, should such an initiative follow the traditional pattern of a comprehensive "round" or the current experiment with separate sector-specific negotiations (and perhaps a few functional talks)? The European Union has now come out clearly in favor of a round.[13] The traditional logic is

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[10]See Kimberly Ann Elliott, *Corruption and the Global Economy*, Washington: Institute for International Economics, forthcoming 1996.

[11]Formal advisory bodies, such as the wisemen's group that helped plan the Uruguay Round for the GATT and the Eminent Persons Group that devised the basic APEC strategy, have provided leaders with ideas that were unlikely to emerge from their own bureaucracies. The Singapore Ministerial should appoint an independent advisory committee to develop the vision and strategy that will be needed for the WTO to realize its potential evolution in the years ahead.

[12]The Institute for International Economics will shortly release a comprehensive proposal for Singapore in Jeffrey Schott, *WTO 2000: Setting the Course for World Trade*, Washington: forthcoming, 1996.

[13]Sir Leon Brittan concluded his "Expanding World Trade: The WTO Road to Singapore," p. 9 with "My vision is of a dynamic WTO which ...works from now on to lay the foundations for the further

compelling: much more can be accomplished when a number of key issues are tabled together, permitting tradeoffs across those that are of chief interest to different countries. The alternative sectoral approach tends instead to a lowest-common-denominator approach and may even fail, in whole or in part, as seen last year in financial services and as threatened now in both telecommunications and maritime services.

At the same time, we clearly do not want to wait a decade or more for the next round to be launched and completed. Hence it is essential to work out, first internally and then with our trading partners, an agenda of issues that is large enough to elicit the needed tradeoffs but small enough to be manageable within three or four years. The ultimate goal of global free trade could then be reached through a series of "roundups," as my colleague Jeffrey Schott artfully calls them, of issues that are negotiated on a continuing basis and implemented every few years.

A second critical issue is the meaning of "free trade." Should it be limited to traditional border barriers (tariffs and quotas), extended only to nontraditional but still border impediments (such as government procurement and many investment policies), or applied also to "purely domestic" measures that have significant external effects (such as intellectual property protection and labor standards)? A new principle should be agreed: that the goal is to assure the contestability of markets by eradicating all impediments to that objective.

A third key topic is globalizing participation in the WTO. "Global free trade" cannot be achieved if such major countries as China, Russia and Taiwan remain outside the organization. Yet some of the nonmembers seem unable or unwilling to accept its rules. Some new formula may be needed to enable them to engage in the coming initiative even if they have not yet become full members.

Finally, the WTO itself needs to spearhead a global educational campaign on the benefits of free trade. Despite the unprecedented support for freer trade around the world, considerable protectionist pressures remain. Some backlash to the rapid pace of recent liberalization is perhaps inevitable. The political leadership of every country is primarily responsible for convincing its own citizens of the merits of the strategy. But countries can help each other do so, both by sharing their experiences in overcoming domestic opposition and in reinforcing each others' efforts. Such cooperative salesmanship will be an essential component of any initiative as ambitious as seeking "global free trade" by a date certain.

Conclusion

The WTO Ministerial Conference in Singapore can be a historic event. It can take the initial steps toward completing the process launched by the creators of the GATT over half a century ago to eliminate border barriers to trade. It can go well beyond that goal and set the stage for the next half century of global trade relationships.

There are only three requirements for the Ministerial: agreeing on the need to develop an ambitious vision for the world trading system and the organization that runs it, initiating a process that will produce that vision, and beginning to debate the substantive and procedural topics that will permit any such vision to be realized in practice. The United States has a major national interest in the successful launching of such a process.

Round we know we shall need to usher in the millennium."

I recommend that the administration, which has chosen to downplay any discussion of trade during this election year, take the lead in such an effort. To do so, it need only resume its activist leadership of 1993-94--through which, with the full support of the Congress, it successfully completed NAFTA and the Uruguay Round and launched APEC and the Free Trade Area of the Americas. It should start by taking an energetic lead in APEC, generalizing the ITA tactic noted above by pushing the full APEC membership to adopt aggressive "Individual Action Plans" to begin implementing their commitments "to achieve free trade and investment in the region by 2010/2020." Such an APEC initiative would have a powerful effect in galvanizing global emulation at Singapore.

I also recommend that the Congress support the administration in such an effort. New trade legislation is of course going to be needed soon (although the administration can begin the proposed process without additional authority, just as it negotiated the first two years of the Uruguay Round without explicit approval.)[14] Congress will in any event have to address the liberalizations to which the administration has already made political commitments in APEC and the FTAA. Globalizing free trade would add only modestly to the needed authority, adding primarily Europe with which trade is already largely free. The United States could reap enormous benefits from such an effort and Singapore offers an opportunity to start moving in that direction.

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[14]The contentious issues of labor and the environment, which torpedoed the efforts to restore fast track authority in 1994 and 1995, should be finessed by neither ruling them in nor ruling them out of the legislative mandate--leaving them open for inclusion or exclusion in each succeeding negotiation based on the merits of each situation at the time.

Regional Free Trade Arrangements
Share of World Trade, 1994[a]

European Union	22.8
EUROMED	2.3
NAFTA	7.9
Mercosur	0.3
Free Trade Area of the Americas	2.6[b]
ASEAN Free Trade Area	1.3
Australia-New Zealand	0.1
APEC	23.7[b]
Total	61.0

[a] Trade among the members of each regional group.

[b] Excluding trade among the members of their own subregional groups.

Chairman CRANE. Thank you.

Mr. Bergsten, does the administration's focus on labor, the environment and other controversial and traditionally nontrade issues jeopardize your goal, in your estimation, of achieving global free trade early in the next century?

Mr. BERGSTEN. It certainly makes it more complicated, Mr. Chairman, both internationally and, as you know better than I, domestically. There is a lot of international dispute over those topics. Each one may need to be treated differently; these issues are not to be viewed as parallel in all cases. Many other countries that want to address them, and there are legitimate issues that do need to be addressed and should be addressed. The question is, how can we do this while ensuring they do not impede the kind of liberalization process on trade itself that we want?

Domestically, that has been, of course, the stumbling block in getting fast track authority in the last couple of years. I think the remedy is clear—you neither rule them in nor rule them out. Wait and see what is appropriate in individual negotiation, and then make your judgment on whether to include them.

The administration itself, for example, has not raised those issues in APEC, despite its general thrust on them in the WTO and elsewhere. It publicly said it would not, and it has not done so. So you have to pick and choose, and I do not think a general solution, as was debated on both sides in the fast track consultations of 1 to 2 years ago, is very productive.

Chairman CRANE. Thank you, Mr. Bergsten.

Mr. Rangel.

Mr. RANGEL. Mr. Bergsten, were you suggesting to the chair that these environmental and labor requirements that we had in the last fast track caused problems in NAFTA and other negotiations?

Mr. BERGSTEN. They did cause some problems in the NAFTA negotiations, although I think not overwhelming ones. That was because Mexico was so eager to strike the NAFTA deal with us that it essentially accepted whatever we proposed, including even on those fronts that did rankle the Mexicans when we initially reopened the negotiations to include those requirements.

It will would be much more difficult to bring environmental and labor issues to the forefront in some of the negotiations that will be coming over the next years, including in the Western Hemisphere, certainly in APEC, and certainly in the World Trade Organization as a whole.

Mr. RANGEL. I just have not heard any of our trading partners indicate that this is a major problem, and as you know, that appears to be the only partisan problem that we on this Subcommittee face. So, I was surprised to hear you agree, so readily with the chair that it was a problem, since the only problem I saw was the Republican leadership. I had not really heard in the international community that there was a general feeling that they would rather not address these issues. Even though no one likes to be told what to do, there may be some question as to how we handle it, but I would like to emphasize what you have said, that it is important, and it cannot be ignored. So, it is going to be important from America's viewpoint, too.

Your exciting presentation is the best hope that I have to improve the quality of life and jobs for Americans. I do not see where there is anything else that I will have to work with. And so, therefore, I hope that instead of talking about a level playingfield, I can give a fair advantage to any U.S. firm because of the need for jobs.

My major problem, though, is that I do not see how America is being prepared for this great thrust into the next century as we move forward, taking advantage of our research and our development, how we could possibly keep our competitive lead, with millions of people in jail and scheduled to go to jail, and the tremendous cost that is involved, not in people who are not productive, but just in containing them. And when I see other countries sending thousands of students here, only to return home to teach other students, I wonder whether there is any game plan as to how far America will be able to get on this tremendously successful expansion of economic growth. How do education and research and development work together? And when we talk about labor standards, there has to be some minimum that we have to expect in a country, and there has to be something left in our country for unskilled people to do, and if there is not, we just cannot ignore them. And then, there is the large number of people who played by the rules and somehow just did not keep up, but they are 50 or 55, and a merger or acquisition decided that they really were not needed today.

As we go through this most exciting era, to hear you tell it—and it is going to be exciting—I mean, just your enthusiasm should have everyone just waiting to see what the Congress can do to stay out of the way and let the free marketplace work its will. And, I see just so many people who are not even a part of all of this at all. No one is talking to them. What happens to them?

Mr. BERGSTEN. I fully share your concern about those people and the fact that we as a country have not done a very good job to position ourselves to take advantage of what I talked about. But, we would have to do that with or without international trade.

As you know better than anybody else, the answer to the problem of the people who lack skills, and you said it, is education, training and upgrading skills so that they will be able to compete just within the dynamics of our own economy. We have got to do that anyway, regardless of our position in the global marketplace.

My first point is simply that, if we can open international markets more, we can take greater advantage of the improvement in the skills of our own human capital. You are, of course, right that not everybody is going to get that upgrading, either today or a generation from now, even if we have a better game plan. In that sense, it is fortunate that the biggest share of our economy is still not having to compete internationally. Over 70 percent of our economy is services. A few services do compete internationally but most do not. My second point is that, if we can improve the capability of our work force and our corporate structure in the services sector, which is the next big area where productivity increase is required, then we do not have to worry much about international competition because most of the services sector is really not facing foreign competition. Where we get the benefits from that is in our manufacturing industries.

Let me relay what may be a stunning fact. As you well know, there has been a steady decline in our labor force in manufacturing over the last 20 years because of increased productivity, though some have blamed the decline on trade. Those jobs are among the highest paying in the country.

Because of the export boom and the projections for its continuation over the next 4 or 5 years, it now looks like that decline in the manufacturing sector will be arrested and will even turn around. The share of the labor force in high-paying manufacturing jobs is going to rise again because of our success in penetrating foreign markets. We should build on that and do even more of it. But admittedly, that is only part of the picture. If we do not do the education and training, we will lose out, but that is with or without trade, and the services sector is something of a buffer or a safety valve against the risks inherent in globalization.

Mr. RANGEL. I can understand that, Mr. Bergsten. It has just been my experience that almost all people can start out with the low skill opportunity and that, in and of itself, provides the dignity, the drive and the hope so that the family unit remains even though the good-paying job is not there, so that the kids will find a greater ability to find their way into either the service or the high-tech export sectors.

Now, there is a break right there in the middle, and it is a very costly break. I guess my question would be, notwithstanding tradition and constitutional barriers, most people agree that this is a national problem. Having said that, they have difficulty finding a national solution. In other words, they believe that this has to be handled by a local school board.

Do you agree that that is what we have to do?

Mr. BERGSTEN. I share your frustration at that. One hat that I have worn for 5 years, as you know, is as chairman of the Competitiveness Policy Council, which the Congress set up in the Trade and Competitiveness Act in 1988. Early on, we identified education as one of the fundamental—perhaps the most fundamental—competitiveness problems of the United States. But then, tries to identify remedies, one runs into exactly what you just said. Policy is set by 15,000 local school boards.

So we put out a series of proposals to try to work within that—developing national standards as a guideline and trying to induce local authorities to move in that direction. This has, of course, moved exceedingly slowly. There is even some backsliding on it now in various legislative and other avenues. I must admit that, to me, that is the most serious problem facing our whole economic growth and competitiveness outlook—the fact that we are not doing a good job of developing our human capital and that our institutional structure is so complex that it almost defies the prospect of effective reform.

So, if I could find some way that was politically feasible to move to more national leadership of education and training for the whole population, I would dearly love to do it. I think nothing could make a bigger contribution.

Mr. RANGEL. Have you written something on this that you could send me? I have an idea that is receiving some support from the multinationals and that is, much like we created the economic

empowerment zones, to suggest that if a local school board could break down the barriers with the union and the local government and find the ideal relationship with business along with a national standard, we could create educational empowerment zones. As such, maybe we could get the class size down so that teachers can give up the hard-earned sabbaticals and other things that cost money but really do not lend to actually teaching. Maybe we could develop a relationship between teaching, graduation, and the job market. Then we might be able to find those areas competing for a model situation to make it cheaper for local government to support an alternative approval that is working.

In any event, I would welcome what you have written in support just of education, and then we will see where we can go from there.

Thank you very much for your testimony.

Mr. BERGSTEN. Thank you.

Chairman CRANE. I thank you, too, Mr. Bergsten. We look forward to working with you and solicit your input always.

Mr. BERGSTEN. Thank you.

Mr. CRANE. Our next panel of witnesses represents different industry sectors: Tom Ehrgood, international trade counsel with Digital Equipment Corp., on behalf of the Information Technology Agreement Coalition; our former colleague Henson Moore, president and chief executive officer of the American Forest and Paper Association, together with Keith Romig, environmental and public policy officer of the United Paperworkers International Union; Jacques Gorlin, director of the Intellectual Property Committee, and Eric Smith, president of the International Intellectual Property Alliance.

We welcome you all. I thought the gentleman at the end of the dais looked familiar.

Mr. RANGEL. He is on television a lot. His name is Henson Moore.

Chairman CRANE. Well, gentlemen, will you proceed in the order in which I introduced you, starting off with Mr. Ehrgood, and try to confine your remarks to 5 minutes, and all extended remarks will be made a part of the permanent record.

Mr. Ehrgood.

STATEMENT OF THOMAS A. EHRGOOD, JR., INTERNATIONAL TRADE COUNSEL, DIGITAL EQUIPMENT CORP., MAYNARD, MASSACHUSETTS, ON BEHALF OF THE INFORMATION TECHNOLOGY AGREEMENT COALITION

Mr. EHRGOOD. Thank you, Mr. Chairman, Congressman Rangel.

I would like to note that my statement includes a number of separate statements filed by associations who participate in the ITA, Information Technology Agreement, Coalition.

I am very happy to have the opportunity to speak at this hearing on behalf of the ITA Coalition. The Coalition is remarkable for its breadth. It consists of 12 associations who together, collectively, represent the range of the U.S. IT, International Trade, industry, ranging from components all the way to software publishers.

This Coalition has come together and has been working hard together in support of the Information Technology Agreement, an agreement to eliminate all tariffs on IT products by the year 2000.

The ITA Coalition is extremely grateful to USTR for the work that USTR has done through the year in promoting this negotiation and is also grateful for the priority that USTR has placed on a successful ITA in the market access agenda of the WTO Ministerial. We believe this is as it should be. If this agreement succeeds, which we hope it will, it will represent the culmination of decades of multilateral negotiations to progressively bring down tariffs in the electronics and the IT sector worldwide.

If it succeeds, we will see a strong catalyst for the development and real implementation of the information highway, or the GII, Global Information Infrastructure, or as the European like to say, the "information society."

I would like to stress at the outset something about the beginning of this negotiation. The conditions in which this negotiation kicked off back in April were extremely auspicious. At the April Ministerial Quad Meeting in Kobe, the launch of the negotiations capped a 6-month process in which we achieved an extraordinary consensus of strong, enthusiastic support for the ITA from industries in the United States, Europe, Canada and Japan, matched also by equal enthusiasm from the governments in those countries.

Over the first months of the negotiation from April to June, we made extraordinary progress, USTR leading the way with lots of industry input and good work in other countries. We made great progress on defining product scope, we solved technical problems about how this agreement would operate, and the prospects really looked very good.

And then we came to June. In June, we found ourselves with a significant roadblock. That roadblock took the form of the EU withdrawal from the negotiation, withdrawal from the negotiation as a result of its insistence, not satisfied, that the EU would be a participant in the negotiation of a renewed semiconductor agreement and a member of a trilateral agreement from the start.

The agreement did not work out as the EU had hoped, although there are a couple of tables that were set up, one a global government form, the other a semiconductor industry council, two tables where there is an obvious place for the EU Commission and the semiconductor industry.

But in any event, the EU has not yet returned. You heard a little bit from Ambassador Barshefsky about why the EU has not returned. It appears to her that the EU has not returned because there may not be a sufficient mandate. Whatever it is, whatever the problems in the member states or in the Commission, it is essential that the EU return, and we hope and are optimistic that this will be achieved in Seattle later this month at the Quad ministerial meeting.

We are at a critical juncture in the negotiation of this ITA. There is a lot to do. Not only do we have to bring the EU back, we also need to firm up the participation of the APEC member countries, and then, even when we have done that, we really have to sort out a lot of details of the negotiation in a short period of time. So, a full court press is necessary from industry. USTR is doing that, and we are delighted with it. And we need to see some other active participation from other governments as well.

Mr. Chairman, it is critical that the ITA succeed—and here is the point that I really want to stress—not just for the tariff benefits that the ITA promises, but also to ensure that the positive goal of stimulating trade in information technology products is reinforced and kept alive. This is especially important today, when the U.S. IT industry faces a couple of very serious threats, primarily in Europe.

The first such threat is the threat that much of the computer product family would be reclassified as consumer electronics products because of the ever accelerating audio reproductive and video reproductive capabilities in computer products.

The second threat is the application of impossible, burdensome rules of origin in the EU, specifically a 45 percent value-added requirement.

We are resisting these threats with some good success. We appreciate the help of USTR in this, but here again we get to the ITA, and what we find is that it is essential, in this environment of sorting out these difficulties, to have a positive initiative, something that positively keeps alive the vision or the attention on the goal of promoting IT trade, not thwarting it.

Thank you very much.

[The prepared statement and attachments follow:]

STATEMENT OF THOMAS A. EHRGOOD, JR.
INTERNATIONAL TRADE COUNSEL, DIGITAL EQUIPMENT CORPORATION
FOR THE INFORMATION TECHNOLOGY AGREEMENT COALITION
TO THE HOUSE WAYS AND MEANS SUBCOMMITTEE ON TRADE

SEPTEMBER 11, 1996

Mr. Chairman, members of the committee, I am Thomas A. Ehrgood, Jr., International Trade Counsel of Digital Equipment Corporation. Thank you for the opportunity to testify on issues related to the World Trade Organization's Singapore Ministerial.

Today, I am appearing on behalf of the Information Technology Agreement Coalition. Led jointly by the Information Technology Industry Council and the American Electronics Association, the ITA Coalition is a group of twelve American high technology industry associations from all segments of information technology, including software, computers, telecommunications, semiconductors, and internetworking equipment. We and our member companies have been working to promote the successful negotiation of the Information Technology Agreement, or ITA, which would eliminate tariffs on all information technology products by the year 2000, with tariff phase-outs to begin in January of 1997. The ITA will be an MFN agreement with an open invitation to all countries to join.

With your agreement, Mr. Chairman, we ask that short statements be included in the record from some of our members -- including the American Electronics Association, Semiconductor Industry Association, Electronic Industries Association, European American Chamber of Commerce, and a quadripartite industry statement including the Information Technology Industry Council and its counterparts in Japan, Europe and Canada.

Mr. Chairman, the ITA Coalition and its members are extremely pleased that the United States Trade Representative's Office has placed the ITA at the center of its market access objectives for the WTO Singapore Ministerial. We believe this is as it should be. When successfully concluded, the ITA will bring to culmination decades-long multilateral efforts to eliminate tariffs in the electronics and information technology sector. This will provide huge benefits not only to IT exporting companies, but, more important, to the global economy as a whole.

The ITA will be a catalyst to complete the Global Information Infrastructure, or GII, because the elimination of tariffs on IT products will make the GII widely accessible to the world population by significantly lowering the costs of building and using this infrastructure. This will enable more businesses and people to experience the productivity gains made possible through technology and create a more competitive world market.

From its launch, the ITA's prospects were auspicious. Governments and industries outside of the United States clearly saw the ITA's great promise. Last November, members of the Trans-Atlantic Business Dialogue meeting in Seville strongly endorsed the ITA. This April, the ITA was formally launched with the declaration of the Quad ministers initiating the negotiations. Through late spring and early summer USTR and its Quad counterparts laid the groundwork by sorting through the difficult technical issues involving an agreement of this complexity. This work was done hand in hand with the cooperation of industry groups, including ours, from the U.S., Japan, Europe and Canada. By June, the ITA appeared to be well on its way toward successful conclusion at the WTO Ministerial in Singapore.

However, since that time roadblocks have arisen -- especially in the EU. In particular, when the US and Japan launched negotiations to renew the Semiconductor Trade Agreement, or STA, the EU insisted that it be included in that negotiation and made that point a condition for continuing to negotiate the ITA.

Now that the STA negotiations are over it remains unclear whether the EU will consider that its interests were sufficiently met in the agreement to bring the EU back to the ITA negotiating table. The ITA Coalition is hopeful it will. We believe the STA and the ITA would represent compatible agreements. We, like USTR, are watching with interest how the EU will proceed and are doing everything we can to positively influence the outcome.

A second EU roadblock concerns the question of linking IT tariff cuts to tariff cuts in other sectors or to other nontariff issues. We would urge that these linkages not be made because doing so would dramatically alter the ITA negotiations and threaten their successful conclusion.

In the meantime, USTR is aggressively pursuing Asian support for the ITA through APEC and other fora with the goal of achieving significant progress at the APEC ministerial in Manila this November. We support USTR's strategy in this effort and are taking appropriate steps to complement that strategy with our industry counterparts in Asia.

Mr. Chairman, the timing of this hearing is important, because the ITA is now at a critical juncture. Three months remain before the Singapore Ministerial and the promise of tariff elimination for information technology products is too great to be lost. Frankly, we do not expect it will be lost, but it will take a full-court press in the fall to bring all the parties back to the table to put this agreement in effect. Otherwise, loss of the ITA could leave us worse off than the status quo of continued tariffs on IT products. This is because there is emerging in other countries the use of new tools to erect obstacles to the information society.

In particular, I would mention the use of customs classification to move products into higher duty categories of consumer electronics, and the establishment of complex rules to dictate whether a product can receive tariff benefits based on arbitrary criteria to determine its country of origin. We expect an ITA would minimize the damaging effects of these new trade instruments, but the failure to conclude an ITA would remove a positive IT initiative from the WTO agenda and create an incentive that could allow these practices to flourish.

Finally, Mr. Chairman, I should elaborate briefly on this practice of customs classification for revenue-raising purposes because of its potential for fundamentally altering the lexicon of information technology without rational forethought. The fact is, our industry is now in an information revolution. Indeed, we are in the digital age. What this means is that the products and innovations that emerge from this revolution are utilizing the same digital technology to perform multiple functions within single units, using as just one example a laptop computer that can simultaneously serve as a fax machine, telephone, television, radio and video machine, all while the user is typing a letter or cranking out numbers on a spreadsheet. These are all digital functions.

Without an ITA, how these products get categorized could have far reaching implications for the competitiveness of this industry. Even with an ITA, the worst-case scenario could foresee an ambitious Customs official for one of our trading partners classifying a wide range of products into some high-tariff category that is not within the scope of the ITA tariff elimination agreement -- in effect, emptying the ITA basket of duty free products. USTR has appropriately made this issue known to our trading partners in the WTO. It may be that the case should be made more strongly in Singapore. This is essential as we work toward a common understanding of how the information technology industry should take us into the next century.

That concludes my statement, Mr. Chairman. I will be pleased to answer any questions.

AMERICAN ELECTRONICS ASSOCIATION

Information Technology Agreement

The American Electronics Association, representing all segments of the information technology industry, from computers, semiconductors and telecommunications, to software, internetworking equipment and computer-based analytical instruments, strongly supports negotiation of the Information Technology Agreement (ITA). The ITA would boost the export competitiveness of many of our association's 3200 member companies by eliminating tariffs on information technology products on an MFN basis by the year 2000.

The ITA would reduce to zero all post-Uruguay Round tariffs on information technology products by January 1, 2000, with staged reductions beginning in January 1997. The ITA is intended to include as many countries as possible.

Major benefits will flow from the elimination of IT tariffs. In particular, zero tariffs will:

- provide stimulus for increased U.S. exports by making information technology products and services more price-competitive in global markets now protected by tariff walls;
- facilitate worldwide implementation of the Global Information Infrastructure (GII) by reducing the cost of the inputs and making seemless communications around the world available to more people and businesses;
- alleviate the administrative burden borne by companies and customs authorities in ensuring accurate, complete and timely payment of duties; and
- reduce the propensity of governments to complicate and manipulate valuation, product classification and origin rules for reasons of tariff protection.

The need for tariff protection for IT products is over. Indeed, it is dubious that tariffs in the IT sector provide any protection at all for indigenous industries. Studies in Europe, for example, show that the cost of collecting tariffs in this sector is greater than the revenue generated by those tariffs, while price-sensitive manufacturers see their competitive position erode from the higher cost of inputs.

For these reasons, AEA urges that the US, Quad, APEC, Latin American and other governments conclude negotiations on an ITA by the time of the WTO Ministerial Meeting in Singapore in December 1996.

For More Information, Contact Greg Garcia at 202-682-4433; or (email) Greg_Garcia@aeanet.org

INDUSTRY RECOMMENDATIONS FOR AN INFORMATION TECHNOLOGY AGREEMENT AS AGREED TO BY EUROBIT, ITAC, ITI AND JEIDA

Background

In January of 1995 the information technology industry associations of the U.S., Europe and Japan (ITI, EUROBIT and JEIDA) agreed to a set of industry recommendations to the G-7 Meeting in Brussels on the Global Information Infrastructure (GII). One of their key recommendations was to eliminate tariffs in the information technology sector through the adoption of an Information Technology Agreement (ITA). Rapid conclusion of the ITA's objective of eliminating information technology tariffs should be pursued in the broader context of other GII issue areas resulting in the removal of all existing barriers and obstacles to open trade. The specific recommendation stated, "To achieve market access necessary to build the GII, all tariffs affecting information technology and telecommunications technology products and components, including semiconductors, must be eliminated." Since that statement, Canada's IT industry association (ITAC) has also lent its support to this principle.

ITI, EUROBIT, JEIDA and ITAC have since supported an initiative called the Information Technology Agreement that would eliminate all tariffs on information technology and telecommunications products no later than January 1, 2000. Products covered under this Agreement include:

- Computer Hardware (including all computer peripherals and multimedia/multifunctional products)
- Semiconductors, Integrated Circuits, and other electronic components (including, for example, transistors, crystals, and resistors)
- Semiconductor Manufacturing Equipment
- Computer and Telecommunications Software
- Telecommunications Equipment
- Parts and Accessories of the above

The realization of an ITA would make the Global Information Society as widely accessible as possible through the elimination of the remaining customs tariffs on a range of IT products. Elimination of tariffs on IT equipment will make these products and services available to a wider segment of the world's population by significantly lowering costs. This will enable more businesses and people to experience the productivity gains made possible through technology and create a more competitive world market.

This agreement only addresses the elimination of all information technology tariffs on a most-favored-nation basis and does not seek to include agreements on any non-tariff or non-IT product issues.

At the November 1995 Transatlantic Business Dialogue in Seville, over 120 American and European corporate leaders advocated the conclusion of an ITA by December 1996. A month later in Madrid, the EU and US governments agreed to a New Transatlantic Agenda Plan that also endorsed an ITA.

Critical Success Factors:
In order to have a successful ITA negotiation, a number of critical success factors have to be included in the agreement. These include:

- Tariff elimination on the products identified above in one or two stages by no later than January 1, 2000.
- Acceptable rules of interpretation which make clear the negotiator's intent that the ITA's scope extends to future generations of information technology products.
- Administrative Tools (for example, a policy process for making anticipatory ITA product coverage determinations, as well as an ongoing review mechanism) within the WTO that would ensure the integrity of the agreement for ITA product coverage purposes.
- Quad countries conclude an ITA by no later than the December 1996 Singapore WTO Summit. In order to achieve a speedy realization of the GII, as many countries as possible should join the ITA at the Singapore Ministerial Meeting

Classification:
In light of rapid development of technologies in the IT domain, it has to be ensured that present and future product generations will be covered by the ITA, with special reference to multimedia products (for which care must be taken for determining the list of multimedia products and corresponding definitions) and that the ITA conclusions are not undermined by customs authorities' decisions in areas such as classification and rules of origin.

The ITA addresses these classification issues. For example, a basic principle for addressing computers stipulates that the ITA will cover any computer whether or not it also has the capability to receive and process telephony signals, television signals or other analogue or digitally process audio or video signals. For example, any computer is covered whether or not it also is capable of displaying full motion video, as is any computer incorporating or consisting of video conferencing apparatus.

On the other hand, a television receiver or audio reproduction system today is not covered by the ITA. Such devices are not today, for example, freely reprogrammable by the user.

Conclusion:

We strongly advocate that the Quad partners agree to conclude an ITA as described above at their April meeting in Kobe, Japan and set a process for completing negotiations before the Singapore WTO Summit. We also hope that the G7 Summit in July gives momentum to an ITA through discussions. With an agreement in principle between Quad members, it is our expectation that nations from other regions are more likely to sign on to an ITA WTO accord at the Singapore Summit.

EUROBIT, ITAC, ITI and JEIDA
April 16, 1996

SIA SEMICONDUCTOR INDUSTRY ASSOCIATION
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STATEMENT OF THE SEMICONDUCTOR INDUSTRY ASSOCIATION IN SUPPORT OF THE CONCLUSION OF AN INFORMATION TECHNOLOGY AGREEMENT AT THE SINGAPORE MINISTERIAL MEETING OF THE WTO

SEPTEMBER 10, 1996

The Semiconductor Industry Association (SIA) supports the efforts of the Clinton Administration to successfully conclude an Information Technology Agreement (ITA) to eliminate tariffs on information technology products at the Singapore Ministerial Meeting of the World Trade Organization (WTO). Among the products to be covered by the ITA are semiconductors and semiconductor manufacturing equipment, both of great interest to SIA.

SIA has long advocated the elimination of tariffs on semiconductors and related products. At SIA's request, the United States, Canada, and Japan eliminated duties on semiconductors and computer parts in 1985 without waiting for the conclusion of the Uruguay Round negotiations. SIA supported the elimination of tariffs in its home market because it believes that the U.S. semiconductor industry's health depends on the health of its customers in the information industries, and that its customers can produce the best products if they do not have the costs and administrative burdens associated with duties.

In 1994, the Uruguay Round resulted in a commitment by Korea to eliminate its semiconductor tariffs by 1999, as well as reductions in semiconductor duties in the European Union. In 1995, at the request of the European industry, EU semiconductor tariffs were further reduced from as much as 14% to either 7% or zero as compensation for tariff increases resulting from the enlargement of the EU to include Austria, Sweden and Finland. The remaining EU duties, while significantly reduced from their previous levels, continue to impede the EU electronics industry from designing competitive U.S. semiconductors into their electronics systems. Elimination through the ITA of the remaining EU semiconductor duties and other semiconductor tariffs around the world would greatly benefit chip consumers worldwide and thus benefit the U.S. semiconductor industry.

In an effort to spur progress on the current ITA effort, SIA has been actively working with industry associations from Japan and Europe to promote a worldwide semiconductor industry consensus in favor of tariff elimination for semiconductors and related equipment. In July of this year, SIA met with the European Electronic Component Manufacturers Association (EECA) to discuss, inter alia, the ITA. As a result of that meeting, SIA agreed to an EECA request that silicon wafers, which are used to make semiconductors, should also be subject to full tariff elimination under the ITA.

In August, SIA and the Electronic Industries Association of Japan (EIAJ), together with the U.S. and Japanese governments, reached industry-to-industry and government-to-government agreements on cooperation in the semiconductor sector. These two agreements provide for the creation of new government and industry fora on the semiconductor industry. The Global Governmental Forum (GGF) created under the government-to-government agreement will be a multilateral forum involving the United States, Japan and the EU, as well as other interested countries. The first meeting of the GGF is to take place no later than January 1, 1997, which will allow this new institution to meet virtually simultaneously with the Singapore WTO Ministerial Meeting. At the industry level, a new Semiconductor Council is to be created, with membership open to all industry associations whose governments either have committed that all tariffs on semiconductors will be expeditiously eliminated or have suspended these tariffs pending formal tariff elimination.

SIA views the ITA as offering an important opportunity to promote the increased competitiveness of the worldwide information technology industry through the elimination of tariffs and increased multilateral cooperation. Conclusion of this important agreement at the Singapore Ministerial Meeting of the WTO would be a significant achievement for the world trading system -- completing the work of the Uruguay Round -- and would be of tremendous value to the development of the Global Information Infrastructure.

Electronic Industries Association

INFORMATION TECHNOLOGY AGREEMENT

BACKGROUND

The Information Technology Agreement (ITA) eliminates tariffs for information technology products by the year 2000. Products covered by the agreement include semiconductors, computer hardware, software and telecommunications equipment. The agreement includes General Rules of Interpretation to guide governments in classifying existing and future information technology products

The Information Technology Agreement is currently being negotiated among the United States, the European Union, Canada, and Japan. These countries intend to conclude negotiations by the end of 1996 and to implement phased-in tariff reductions starting January 1, 1997. Governments and industry are also working to expand country participation in the agreement. Taiwan, Korea and other countries have already expressed interest in joining the ITA.

The current ITA negotiations are being conducted primarily between the United States and the European Union. The negotiations are proceeding along two tracks - political and technical. At the political level, there is widespread consensus on the value of the ITA, with negotiations focusing on many of the specifics of the agreement. At the technical level, the negotiations are focused on product coverage and classification issues.

BENEFITS TO THE ELECTRONICS INDUSTRY

The electronics industry is becoming increasingly global. Many of EIA's companies receive a large portion of their total revenues from international sales and they rely on importing components that are integrated into their most competitive products. The Information Technology Agreement benefits these companies because it eliminates the tariffs that hinder exports and it lowers the cost of the inputs that our industry uses in their products.

The ITA General Rules of Interpretation provide companies with clear and predictable guidelines for their customs operations and they make it easier for governments to classify information technology products. As the information technology industry continues to develop increasingly complex products in shorter periods of time, the General Rules of Interpretation will help avoid disputes over how these products are classified.

Consumers of information technology products also benefit from the agreement. Elimination of information technology tariffs lowers prices and makes these products available to a wider segment of the world's population. This will enable more people and businesses to experience the productivity gains made possible through technology and create a more competitive world market. The ITA will help with the development of the Global Information Infrastructure by providing users with inexpensive and easy access. In all, the ITA is an important agreement that will benefit many aspects of the U.S. and the world economy and bring our industry into the 21st century

For more information or additional documents on the Information Technology Agreement, please contact Maggie Angell in the EIA Government Relations Department at 703/907-7579.

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Policy Statement of the European-American Chamber of Commerce on an Information Technology Agreement

March 20, 1996

Transatlantic Consensus
The transatlantic community, both in the private and public sector, has expressed its commitment to reach an information technology agreement (ITA). At the November 1995 Transatlantic Business Dialogue (TABD) in Seville, over 120 American and European corporate leaders advocated the conclusion of an ITA by December 1996. The overwhelming majority of the Seville participants supported a commitment to eliminate all tariffs on information technology (IT) products by January 1, 2000, or sooner. A month later in Madrid, the EU and US agreed to a New Transatlantic Agenda and Action Plan that also endorsed an ITA.

As an organization of 80 multinational companies of European and American parentage, the European-American Chamber of Commerce adds its voice in strong support of an ITA. Eliminating tariffs in this critical, rapidly-changing industry would make all transatlantic companies more efficient by reducing the cost of maintaining competitive technology. In addition, EU and US companies in the IT products industry strongly support an ITA because it would reduce customs burdens, increase the flow of trade in the transatlantic market, and promote greater market access in other countries that sign onto the agreement.

The Chamber encourages the EU and US governments to work together to conclude an ITA by December 1996 that incorporates the following objectives.

Objectives
Tariff-Based Agreement – The Chamber seeks an ITA that would eliminate tariffs – on a most-favored-nation basis – for the following product categories no later than January 1, 2000: (1) computer hardware products, (2) semiconductors and integrated circuits, (3) semiconductor manufacturing equipment, (4) computer software, (5) telecommunications equipment, and (6) passive devices. Eliminating tariffs in these product categories would constitute a very significant accord. Negotiators should not risk delaying the agreement by considering non-tariff or non-IT product issues.

WTO/GATT Compatibility – Transatlantic business selected the ambitious December deadline in hopes that an ITA will be completed during the December 1996 WTO Ministerial Meeting. As a building block of the Global Information Society, a WTO-compatible ITA would provide the maximum benefit to as many nations and companies as possible. The EU and US Quad partners, Japan and Canada, are expected to give momentum to an ITA through discussions in their April meeting and possibly agree to an ITA outline at the G-7 Summit in July. With an agreement in principle between Quad members, nations from other regions are more likely to sign on to a WTO accord. Without early concerted action between the EU and US, however, little progress can be expected on meeting these objectives.

Avoid Reclassification Obstacles – The Chamber opposes any efforts to reclassify IT products into other tariff headings in a way that would erode the integrity of a negotiated ITA. A benefit of reaching an ITA on the broadest possible range of products would be that IT goods would be classified under clear rules, largely eliminating the need to negotiate tariff classifications.

General Rules of Interpretation – In order to deal with the rapidly-changing nature of IT products, negotiators must equip the ITA with General Rules of Interpretation (GRIs) that clarify the extent of product coverage. The Chamber recommends that negotiators carefully review draft GRIs prepared by US and EU industry experts, who continue to coordinate their efforts through the TABD and other fora.

Conclusion
Concluding an ITA would advance the Global Information Society and deliver on commitments made at the Madrid EU-US Summit. To be successful, an accord must remain focused on eliminating tariffs. Corporations on both sides of the Atlantic ask for a more open global market and reduced administrative burdens for IT products, regardless of the relative trade-off of tariff revenue. The Chamber urges negotiators to look beyond conventional trade-off considerations and do what best serves consumers and transatlantic companies – conclude an ITA.

Chairman CRANE. Thank you, Mr. Ehrgood.

Chairman CRANE. Now, we welcome back before us our distinguished former colleague, Henson Moore.

STATEMENT OF W. HENSON MOORE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN FOREST AND PAPER ASSOCIATION

Mr. MOORE. Thank you, Mr. Chairman.

I am here today on behalf of the more than 200 member companies of the American Forest and Paper Association, which is the national trade association of the forest products and paper industry. This industry has a vital stake in the outcome of the Singapore Ministerial from two points, one of tariffs, and one of the European eco-label. Time today gives me only time to talk a little bit about the tariff issue, but my statement deals with the eco-label issue as well.

As my colleague representing United Paperworkers International Union will attest, this means a great deal to us in terms of being able to maintain high-paying manufacturing jobs in the United States.

During the Uruguay round trade negotiations, the United States forest products industry originated the zero-for-zero concept. Regrettably, the Uruguay round failed to achieve zero tariffs in 5 years for either paper or wood products. The phaseout period for paper tariffs was extended to 10 years, and wood tariffs were reduced by an average of only 28 percent. In accepting this result, the United States accepted a continued substantial tariff inequity which leaves our industry at a competitive disadvantage, and in some product segments, actually threatens our ability to survive.

In the case of paper, for example, some European tariffs are still as high as 7 percent, while most paper products enter the United States duty free. This difference makes a real difference in our ability to compete.

Using the protection of this tariff wall, European producers have been able to build new production capacity, some or most of which is targeted at export markets, some of which or most of which at the United States.

The current tariff imbalance thus not only undermines our ability to compete for exports, but also threatens our own domestic markets as well.

For all of these reasons, our industry lent its support to the Uruguay round implementing legislation only after this Subcommittee included legislative authority and a mandate, accepted by this administration in its Statement of Administrative Action, to continue to press for the achievement of zero tariffs on both wood and paper products within 5 years as a matter of priority.

The Singapore Ministerial is the time to deliver on that mandate. Canada, Japan, the European Union and the United States are discussing a tariff package which could be agreed upon at Singapore. The EU reportedly has suggested a 2-year acceleration of Uruguay round commitments. The Government of Canada has proposed that the Uruguay round final rates be applied as of January 1, 1998. We have urged and do so again at this hearing that the U.S. Government to do one of two things—either put forth its own proposal for

a reduction in tariffs, officially on the record, or get behind the Canadian proposal and back it, to immediately cause the taking down to zero of the tariffs on paper and to continue to work forward on doing something about wood products.

Now, I would like to share the time, Mr. Chairman, with my colleague here from the United Paperworkers Union.

[The prepared statement and attachment follow:]

STATEMENT OF
W. HENSON MOORE, PRESIDENT AND CEO
AMERICAN FOREST & PAPER ASSOCIATION

Thank you, Mr. Chairman.

I am here today on behalf of the more than 200 member companies of the American Forest & Paper Association (AF&PA), the national trade association of the forest, pulp, paper, paperboard, and wood products industry. The vital national industry which AF&PA represents accounts for 8% of total U.S. manufacturing output. Employing approximately 1.4 million people, the forest and paper industry ranks among the top 10 manufacturing employers in 46 states.

This industry has a vital stake in the outcome of the Singapore Ministerial. Agreements on market access and environmental trade restrictions will have a direct impact on our ability to compete for future export sales and, as my colleague representing the United Paperworkers International Union will attest, on our ability to maintain high paying manufacturing jobs here in the U.S. as well.

Market access

During the Uruguay Round trade negotiations, the U.S. forest products industry originated the zero-for-zero concept. We did so because we are a globally competitive industry, confident of our ability to sell where markets are genuinely open--and also because regional trade arrangements and GSP preferences already give zero tariff access to our principal competitors in many important markets.

Regrettably, the Uruguay Round failed to achieve zero tariffs in five years for either paper or wood products: the phase out period on paper tariffs was extended to ten years, and wood tariffs were reduced only by an average of 28%.

In accepting this result, the U.S. accepted a continued substantial tariff inequity which leaves our industry at a competitive disadvantage and, in some product segments, actually threatens our ability to survive.

In the case of paper, for example, some European tariffs are still as high as 7%, while most paper products enter the U.S. duty free. In a commodity market, this additional 7% cost burden can make it virtually impossible to compete.

Using the protection of this tariff wall, European producers have been able to build new production capacity, some of it targeted at export markets. When European demand proves inadequate, the duty free U.S. market has proven an easy target for predatory pricing.

The current tariff imbalance thus not only undermines our ability to compete for exports, but also threatens our own domestic markets as well.

For all these reasons, our industry lent its support to the Uruguay Round implementing legislation only after this Committee included legislative authority and a mandate--accepted by the Administration in its Statement of Administrative Action--to continue to press for the achievement of zero tariffs on both wood and paper products within five years as a matter of priority.

The Singapore Ministerial is the time to deliver on that mandate.

Canada, Japan, the EU and the United States are discussing a tariff package which could be agreed at Singapore. The EU reportedly has suggested a two year acceleration of Uruguay Round commitments. The Government of Canada has proposed that Uruguay Round final rates be applied as of January 1, 1998. In making this proposal, the Government of Canada has specifically identified paper as a priority product for such treatment.

We have urged the US. Government to use its tariff authority to maximum benefit by supporting the Canadian proposal on paper and to continue to press for zero tariffs on wood products.

This is a problem which only our government can solve. But the cost of failure will be borne by our workers and our shareholders. For paper products, we estimate it could mean $1 billion in additional U.S. exports each year between 1998 and 2000, rising to $ 2 billion annually after 2004. For wood products, the lost sales could range as high as $1.2 billion each year.

I would also like to point out that in the TransAtlantic Business Dialogue recommendations on trade liberalization, business representatives on both sides supported a targeted approach towards accelerated or increased tariff dismantling, including total elimination of duties in those industrial sectors which have expressly requested this.

Environmental trade restrictions

Also on the agenda at Singapore will be a report from the WTO Committee on Trade and Environment (CTE) regarding the compatibility of various environmental trade measures with the international trade regime. Among the issues to be highlighted are the proliferation of ecolabeling schemes and Multilateral Environmental Agreements (MEAs).

Over the past three years, our industry has been the target of an EU ecolabeling effort which has been deficient in transparency and discriminatory in effect. We have had the support of the U.S. Government--including USTR, Commerce, State, and EPA. But notwithstanding Super 301 citations, a strong recommendation by the TransAtlantic Business Dialogue (attached), and even discussions at the Summit level, in July the EU proceeded to adopt ecolabel criteria for fine paper products which--based on the use of European standards--will clearly exclude most U.S. suppliers, without any demonstrated environmental benefit.

The lesson from this experience is clear: available bilateral policy instruments for dealing with trade distorting effects of such programs must be bolstered by explicit disciplines in the WTO. In coalition with a broad group of U.S. industries representing sales in excess of $900 billion annually, we have asked USTR to seek Ministerial language which would tighten existing disciplines and incorporate concepts which have proven useful here in the U.S. in preventing fraudulent advertising and consumer deception. We have gotten generally positive responses from other WTO delegations, and we believe it is important that the U.S. demonstrate leadership on this issue.

At the same time, however, the European Union is attempting to use the CTE report to win WTO endorsement of their approach, which is based on production processes and methods (PPMs). Acceptance of the European proposal would grant a license to similar attempts at green protectionism and stimulate a new generation of trade barriers under green cover. The U.S. must not allow this to happen.

AF&PA also believes there is a need for the CTE report to clarify the limited circumstances under which trade measures can be used in Multilateral Environmental Agreements to achieve environmental objectives.

Mr. Chairman, that concludes my statement. I would be pleased to expand on any of these issues during the question period. Thank you.

Attachment

FOREST AND PAPER INDUSTRIES

I. DESCRIPTION AND SCOPE OF THE ISSUE

The issue group consists of representatives of the forest and paper industries of Europe and the U.S. The group will explore areas of potential common interest where concerted action could lead to expanded transatlantic trade.

Ecolabeling

The most immediate issue on which the Issue Group wishes to focus our governments' attention is the EU proposed program for ecolabeling of paper products. The European and U.S. forest and paper industries are actively committed to continuous improvement of environmental performance, and support constructive, market-based approaches to product labelling that provide customers and consumers with transparent, understandable and credible information about products.

In particular, the EU ecolabel scheme is opposed by European and U.S. industry on the grounds that it is discriminatory and a breach of fair competition and trade. The EU scheme, of which the initial objective was to label products, not processes, is not acceptable because:

- It does not encourage companies to improve their environmental behaviour;
- It does not give adequate information and fails to educate consumers;
- It is elitist, does not reflect sound scientific research and, based on the criteria for both tissue and fine paper, reflects political expediency more than environmental science.
- It raises trade barriers and restricts the free movement of goods, which could lead to a deterioration of transatlantic trade relations.

The EU ecolabel scheme was included in the U.S. Trade Representative's October 1995 report to Congress under the "Super 301" program as an area of continuing concern because the EU process for developing ecolabel criteria has been insufficiently transparent and failed to provide for adequate participation by non-EU interests.

II. JOINT KEY PROPOSALS

Industry believes that the EU ecolabel scheme should be extensively revised. It has little commercial or political support in Europe and strong opposition outside the EU, particularly in Brazil, Canada, Australia, New Zealand, Mexico and Japan, as well as in the U.S. In recognition of this, it is proposed that there be:

- Cessation of further work on paper criteria;
- Review of the EU ecolabel regulation and elimination of its inherent flaws;
- Creation of a scheme which the industry can support, which will result in real environmental improvement, and which will provide consumers with transparent, understandable and credible information about the products they buy.

III. ACHIEVEMENTS EXPECTED BY NOVEMBER 1996

European and U.S. industry seek to have EU action on ecolabeling requirements for all paper products suspended, pending completion of the review of the overall scheme and revisions to the program in a manner which insures non-discrimination, transparency and consistency with WTO disciplines.

IV. MESSAGE TO GOVERNMENTS ON BUSINESS EXPECTATIONS

Both sides of the Transatlantic Business Dialogue urge governments to address the need for clarification in the WTO regarding the application of TBT disciplines to ecolabeling schemes, specifically with regard to the issue of process and production methods (PPMs). Our industries believe that ecolabels were initially designed to label products, not processes and production methods, and that PPM-based schemes, as applied, discriminate against foreign suppliers.

Chairman CRANE. Thank you, Henson.

Mr. Romig.

STATEMENT OF KEITH D. ROMIG, JR., ENVIRONMENTAL AND PUBLIC POLICY OFFICER, UNITED PAPERWORKERS INTERNATIONAL UNION

Mr. ROMIG. Thank you, Mr. Chairman, Congressman Rangel, and also thanks to you, Henson.

As I said, my name is Keith Romig, and I have been asked to testify on this issue by our president, Wayne Glenn.

We represent about 250,000 people, the overwhelming majority of whom work in the primary pulp and paper industry. Their jobs are directly affected by the terms under which the U.S. paper industry must conduct its international trade.

I am not coming before you to ask for any special protection for our jobs, but for simple trade equity on this issue between us and the European Union. The reason I am here with the American Forest and Paper Association is because, in spite of the fact that we sometimes have very emphatic disagreements with industry on a variety of issues, on this particular issue, we agree.

The UPIU, United Paperworkers International Union, originally opposed the original Uruguay round because we were concerned that it contained terms unfavorable to American industry and American workers and that its implementation might become skewed against workers here in the United States. We want free trade to be fair trade.

Under the current implementation of the Uruguay round, as Mr. Moore commented, the tariffs on U.S. paper being shipped to Europe are sometimes more than three times higher than the corresponding tariffs on European paper shipped into the United States. In my written testimony is the assertion that this is costing between $1 and $2 billion annually in sales for the industry. To put that in human terms, $1 billion in sales translates to 9,000 or 10,000 jobs, 9,000 or 10,000 families. It could be a whole community, maybe two or three communities. It is a lot of effect when these jobs are lost or not created.

You have heard testimony that the Europeans are building new papermills and new paper machines to make use of the 8-year tariff advantage they are going to have if the situation is not corrected. They are creating jobs there to export paper here. This is not fair trade.

We believe that we can compete on a level playingfield with anyone in the world. Furthermore, our members' wages sustain dozens if not hundreds of small communities throughout the United States. Many of these communities would be absolutely devastated if their mills were forced to close.

This is a highly competitive industry, and I also want to point out that this is an industry that for the most part has not moved substantial production offshore. We appreciate that, and I want to commend the Subcommittee.

For these reasons, we join with the American Forest and Paper Association today in asking you to urge the U.S. Trade Representative to push for EU acceptance of the Canadian proposal to zero out the tariff on paper and paper products on both sides of the Atlantic

in 1998, or to submit its own proposal to do so. Adoption of this proposal will right a wrong that has cost and could continue to cost our members and other workers thousands of well-paid family supporting jobs.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF

KEITH D. ROMIG, JR.
ENVIRONMENTAL AND PUBLIC POLICY OFFICER
UNITED PAPERWORKERS INTERNATIONAL UNION (UPIU)

ON

THE GOALS OF THE SINGAPORE MINISTERIAL MEETING

BEFORE THE

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
SEPTEMBER 11, 1996

Good afternoon, Mr. Chairman. My name is Keith Romig. I have been asked by Wayne Glenn, President of the United Paperworkers International Union (UPIU), to advise him on public policy issues, and when appropriate, to make the UPIU's views known to Members of Congress and other policymakers. This is one such occasion.

The UPIU represents about 250,000 members nationwide, approximately 150,000 of whom work in the primary pulp and paper industry. Their jobs are directly affected by the terms under which the U.S. paper industry must conduct its international trade.

I come before you today, not to ask for special protection for our jobs, not to hide the U.S. pulp and paper industry behind new tariff walls, but to ask for simple trade equity between us and the European Union. I am here with the American Forest and Paper Association because on this issue we agree.

The UPIU opposed the original Uruguay Round agreement because we were concerned that it contained terms unfavorable to American industry and American workers, and that its implementation might become skewed against U.S. workers.

We want free trade to be fair trade. Under the current implementation of the Uruguay Round, tariffs on U.S. paper products shipped into the European Union are as much as three times higher than the tariffs on corresponding EU products shipped into the U.S., and will remain so until 2004.

You have heard testimony that these differential tariffs are costing the U.S. industry over $1 billion in lost sales. Just for information's sake, $1 billion in lost sales translates to approximately 9,000 lost jobs. Lost sales also translate into investments not made and jobs not created. Since it costs as much as $1 billion to build a new pulp and paper mill, any loss of market share now could well be permanent.

You have heard testimony that the Europeans are building new paper mills and new paper machines to make use of their 8-year tariff advantage. They are creating jobs there to export paper here. This is not fair trade.

Our members are well able to compete on a level playing field with anyone in the world. Their wages sustain many communities throughout the United States, and many such communities would be devastated if their mill were to close. This is a highly competitive industry, which unlike many others, has not moved the bulk of its production off-shore.

For these reasons, we join the American Forest and Paper Association in asking you to urge the U.S. Trade Representative to push for EU acceptance of the Canadian proposal to zero out the tariffs on paper and paper products on both sides of the Atlantic in 1998. Adoption of the Canadian proposal will right a wrong that has cost and could continue to cost our members thousands of well-paid family-supporting jobs. Thank you very much, and I'd be happy to take any questions.

Chairman CRANE. Thank you, Mr. Romig.
Mr. Gorlin.

STATEMENT OF JACQUES J. GORLIN, DIRECTOR, INTELLECTUAL PROPERTY COMMITTEE

Mr. GORLIN. Mr. Chairman, Members of the Subcommittee, I appreciate your invitation to provide the views of the IPC, Intellectual Property Committee, on the Singapore Ministerial Meeting.

A strong intellectual property statement at the Singapore Ministerial Meeting is essential to the continued pursuit by the United States of effective intellectual property protection and enforcement abroad. To ensure concrete results on intellectual property in Singapore, the United States will have to quickly begin to include the proper and timely implementation of the Uruguay round agreements, especially the TRIPs, Trade-Related Aspects of Intellectual Property Rights, Agreement among its principal objectives for the Singapore Ministerial Meeting.

Mr. Chairman, our pursuit of the proper and accelerated implementation of the TRIPs Agreement may appear to the Subcommittee to be single-minded, and to a large extent, it is. Industry support for the TRIPs negotiations was motivated by the expected commercial benefits from the improved intellectual property protection that would result from the TRIPs Agreement. Until industry begins to realize those commercial benefits, many parts of the TRIPs Agreement remain promises. The value of a TRIPs Agreement is in its timely and proper implementation.

The various proposals about loading up the WTO agenda with so-called new issues are not reassuring for those of us who are still concerned about the implementation of the Uruguay round agreements. We need a Singapore Ministerial that will make certain that the trade momentum in favor of strong worldwide intellectual property protection that we achieved over the last 10 years is not dissipated. Trade ministers in Singapore should commit their governments to the proper and timely implementation of the already completed Uruguay round agreements before agreeing to any new negotiating objectives for the trade agenda.

Current U.S. policy on intellectual property calls not only for the acceleration of TRIPs implementation, but also for the implementation of intellectual property standards of protection and enforcement that go beyond those contained in TRIPs. These objectives reflect the concerns of U.S. industry about the substantive deficiencies and long transition periods of the TRIPs Agreement. They also recognize the emerging nature of technological developments and the need for intellectual property protection to keep pace with the blistering velocity of technological change in order to ensure the continued competitiveness of U.S. industry in the world marketplace.

The tripartite approach to gaining improved intellectual property protection abroad supported by the IPC has multilateral, bilateral and regional dimensions. Each of the three dimensions is aimed at particular countries and sets of intellectual property-related issues. Many of these issues go beyond TRIPs implementation. The issue before the Subcommittee today, TRIPs implementation in the context of the Singapore Ministerial Meeting, is thus but one consider-

ation in the ongoing drive of U.S. industry to gain improved worldwide intellectual property protection and enforcement.

Mr. Chairman, the intellectual property-related objectives of the United States for Singapore should be: First, endorsement of the proper and accelerated implementation of the TRIPs Agreement. The IPC believes that the task of getting the ministers in Singapore to support TRIPs acceleration should be easier now that both the European Commission and the administration have signalled their support for TRIPs acceleration. Nevertheless, the IPC believes that the United States will have to continue to play the leading role in ensuring concrete results on intellectual property in Singapore.

Second, endorsement of the timely review called for in the TRIPs Agreement of the current biotechnology exclusion, with a view toward its deletion. The mandated review, scheduled for 1999, was included in TRIPs at the insistence of those countries, like the United States, which supported the patentability of biotechnological inventions, with the express intent of gaining the removal of this carve-out for the TRIPs standards.

Third, opposition to efforts underway within the WTO to weaken the TRIPs standards. A number of WTO members have already indicated that they will be looking to use Singapore to begin the rollback of key TRIPs standards. The IPC is particularly troubled by the views that India and a number of other developing countries have put forward in the WTO's Committees on Trade and Environment (CTE). These views, presented ostensibly out of a legitimate concern for protection of the environment and biodiversity, are in reality nothing more than direct attacks on the standards contained in the TRIPs Agreement.

It is interesting to note, Mr. Chairman, that, whenever India runs up against TRIPs standards that get in the way of its environmental or biodiversity goals, it suggests that they be weakened. Among the changes in TRIPs that India suggests are a shorter patent term, widened exclusions from patentability, widened grounds for patent revocation, and a streamlining of what they call burdensome conditions limiting the issuance of compulsory licenses. The United States has so far effectively countered these TRIPs rollback arguments within the CTE. It is critical that there not be any slippage in our defense of strong intellectual property protection and enforcement in Singapore.

Finally, avoidance of any action in Singapore that could be interpreted as supporting the extension of the application of a 5-year nullification and impairment moratorium to TRIPs. The 5-year moratorium can only be extended by unanimous vote of the WTO Ministerial Conference, and it should be permitted to die. The demise of the 5-year moratorium will plug a major loophole in the system of intellectual property protection envisaged under the TRIPs Agreement.

Mr. Chairman, the disproportionate focus on new issues for the Singapore Ministerial would perpetuate the perception that the developed countries are ambivalent about the proper and timely implementation of the Uruguay round agreements, especially the TRIPs Agreement. A strong ministerial statement in Singapore on intellectual property along the lines that the IPC has proposed

should correct this misperception and give a critical boost to U.S. efforts to gain effective intellectual property protection and enforcement worldwide.

Thank you.

[The prepared statement follows:]

STATEMENT OF
JACQUES J. GORLIN, DIRECTOR
INTELLECTUAL PROPERTY COMMITTEE

I am Jacques J. Gorlin, Director of the Intellectual Property Committee (IPC). I appreciate your invitation to provide the views of the IPC on the World Trade Organization (WTO) Singapore ministerial meeting. My testimony today will focus on the role that the Singapore ministerial will play in meeting the U.S. policy objectives of the proper and accelerated implementation of the TRIPS Agreement.

The views of the IPC on the TRIPS Agreement and its implementation are known to the Subcommittee. IPC representatives have appeared before this Subcommittee on numerous occasions over the course of the Uruguay Round negotiations and since the completion of the round. Most recently, in March of this year, Peter Richardson of Pfizer provided the IPC's analysis of the current state of TRIPS implementation and addressed the broader question of how to ensure that we continue to make gains in improving the worldwide protection of intellectual property. I do not want to repeat his testimony, but I believe that, before undertaking any discussion of the Singapore ministerial's role in meeting U.S. intellectual property objectives, it is important to briefly review the current state of play regarding TRIPS implementation.

The IPC was formed in March, 1986--six months before the Punta del Este ministerial meeting that launched the Uruguay Round--with the specific mission of mobilizing domestic and international support for the negotiation of an intellectual property agreement in the GATT. The current members of the IPC--General Electric, Hewlett-Packard, IBM, Johnson & Johnson, Merck, Microsoft, Pfizer, Procter & Gamble, Rockwell International, Texas Instruments and Time Warner--represent the broad spectrum of private sector U.S. intellectual property interests. In June, 1988, the IPC achieved a significant milestone when it reached a tripartite consensus with the Keidanren, representing Japanese industry, and UNICE, representing European industry, on how the GATT should deal with intellectual property in the Uruguay Round negotiations. The 100 page report defined in detail the minimum standards for ensuring fundamental protection for all categories of intellectual property and proposed procedures for enforcing that protection. The IPC continues to collaborate closely with our private sector counterparts abroad in support of our mutual objective of strong worldwide intellectual property protection.

Senior management of the IPC member companies worked very closely with U.S. negotiators and the Congress--especially with members of this Subcommittee and their staffs--and with our private sector counterparts in Europe and Japan to develop a GATT agreement that would contain adequate and effective intellectual property protection. The IPC recognized the substantial progress that had been made in the negotiations and, as a result, supported the TRIPS Agreement and the intellectual property-related provisions of the Uruguay Round Agreements Act.

The IPC's long support for the negotiation of the TRIPS and NAFTA agreements and our continuing search for improved worldwide intellectual property protection stem from the inexorable link between intellectual property protection and American competitiveness and job growth. America's competitive edge rests ultimately on our creativity and resourcefulness--the unique ability of Americans to generate new ideas and develop new ways of looking at the world. Our most internationally-competitive industries depend on intellectual property protection: for example, the computer software, motion picture, sound recording, pharmaceutical, chemical and electronic industries are among the largest and fastest growing segments of the U.S. economy. Employment in these industries grew at close to four times the rate of employment in the economy as a whole between 1983 and 1993. Furthermore, the foreign sales of these industries make major positive contributions to the U.S. balance of payments.

In stressing the importance of the intellectual property-dependent industries to the U.S. economy, I underline the IPC's concern that policy makers in the United States and in our trading partners not fall into the trap of thinking that the negotiation of the TRIPS Agreement has by itself solved the intellectual property problems that we are facing today. Should policy makers adopt this view, technology-exporting countries will be taking a major economic risk, because the resultant loss of intellectual property protection abroad will endanger the future commercial health of those industries that have had a demonstrated track record of making positive contributions to economic and commercial activity.

The translation of the TRIPS Agreement into improved intellectual property protection on the ground--TRIPS implementation--is the critical issue. Included in the concept of TRIPS implementation is not only the proper and timely implementation of the intellectual property standards currently found in the agreement but also the periodic upward adjustment of those standards to higher levels of intellectual property protection. The necessity of ensuring the strengthening of the TRIPS Agreement was foreseen in the agreement itself and is an integral element of TRIPS implementation. Under the procedures outlined in Article 71.1, any new copyright-related standards, for example, that will be developed in the Berne Protocol and New Instrument currently under negotiation in WIPO would be folded into the TRIPS Agreement.

In the context of the preparations for the Singapore ministerial meeting, TRIPS implementation falls between the cracks. It is neither part of the "built-in agenda," which consists of the commitments that already exist to begin new negotiations in agriculture, services and other areas before the turn of the century; nor is it among the "new" issues of an expanded trade agenda. The various proposals about loading up the WTO negotiating agenda with so-called "new issues" are not reassuring for those of us who are still concerned about the implementation of the Uruguay Round agreements. These proposals reflect a common pitfall of trade negotiators, who are ready to move on to the negotiation of new issues even before the results of the previous negotiations are fully implemented. This is especially true for intellectual property where we face long and discriminatory transition periods and uneven national implementation. We need a Singapore ministerial that will make certain that the trade momentum in favor of strong worldwide intellectual property protection that we achieved over the last ten years is not dissipated. Trade ministers in Singapore should commit their governments to the proper and timely implementation of the already-completed Uruguay Round agreements before agreeing to any new negotiating objectives for the trade agenda.

Our pursuit of the proper and timely implementation of the TRIPS Agreement may appear to the Subcommittee to be single-minded. To a large extent, it is. While the successful negotiation of the TRIPS Agreement was a testament to the joint efforts of U.S. industry and government, industry's participation in that effort was motivated by the expected commercial benefits from the improved intellectual property protection that would result from the TRIPS Agreement. Until industry begins to realize those commercial benefits, some elements of the TRIPS Agreement remain promises. The value of the TRIPS Agreement is in its timely and proper implementation.

Current Intellectual Property Situation

As we indicated in our testimony of March 13th, the current intellectual property situation is very complicated. Current U.S. policy on intellectual property, which is contained in the intellectual property objectives of the Uruguay Round Agreements Act that were crafted by this Subcommittee, calls not only for the acceleration of TRIPS implementation but also for the implementation of intellectual property standards of protection and enforcement that go beyond those contained in TRIPS. These objectives, which have come to be known respectively as "TRIPS implementation" and "TRIPS plus," reflect the concerns of U.S. industry about the substantive deficiencies and long transition periods of the TRIPS Agreement. They also recognize the emerging nature of technological developments and the need for intellectual property protection to keep pace with the blistering velocity of technological change in order to ensure the continued competitiveness of U.S. industry in the world market place. The issue before this Subcommittee today--TRIPS implementation in the context of the Singapore ministerial meeting--is thus but one consideration in the ongoing drive of U.S. industry to gain improved worldwide intellectual property protection and enforcement.

In its March 13th testimony, the IPC suggested a tripartite approach to gaining improved intellectual property protection abroad. The approach had multilateral, bilateral and regional dimensions, each of which was aimed at particular countries and sets of intellectual property-related issues. Many of these issues went beyond TRIPS implementation. Given the focus of today's hearing on the Singapore ministerial, however, I will limit my analysis to how WTO procedures may be used to gain the proper and timely implementation of the TRIPS Agreement.

WTO-Based Strategy for TRIPS Implementation

In initiating TRIPS-related consultation and dispute settlement cases against Japan, Portugal, India and Pakistan, the Administration has already demonstrated its willingness to use the WTO procedures against countries that fail to conform their national laws and regulations to

their TRIPS obligations. The IPC commends the Administration for taking these actions. WTO-related activities to gain the proper and accelerated implementation of the TRIPS Agreement, however, go beyond the use of multilateral dispute settlement procedures. A fully integrated WTO strategy on intellectual property should include the following four elements:

- **WTO Action Cases** that involve the launch of consultation and dispute settlement cases under the TRIPS Agreement. Developed countries--such as Japan and Portugal--and a number of developing countries with violations of TRIPS articles that are not subject to any transition periods--such as India and Pakistan--would be subject to these action cases. Another group of countries--overlooked in the current debate over TRIPS implementation--would also be subject to these action cases. For example, the IPC believes that some of the former socialist countries in Central and Eastern Europe are not eligible for the Article 65.3 transition period and, therefore, come under WTO discipline. As opposed to the self-elected delay permitted developing countries under TRIPS Article 65.2, which does not provide any guidance or criteria for eligibility, the delay in TRIPS implementation for those countries covered by Article 65.3 is far from automatic. The five year delay only applies to a country that meets the following three criteria:

  - In the process of transformation from a centrally-planned into a market, free enterprise economy;

  - Undertaking structural reform of its intellectual property system; and

  - Facing special problems in the preparation and implementation of its intellectual property laws and regulations.

  A number of these countries--such as Poland--had enacted relatively good patent laws prior to the conclusion of the TRIPS Agreement and it is, therefore, highly questionable whether they are eligible for the five-year delay under Article 65.3. Their intellectual property protection and enforcement, however, fall short of TRIPS in some important respects and we, therefore, urge the Administration to pursue WTO action cases against these countries.

- **WTO Adherence** for those newly industrializing countries (NICs) with TRIPS-inconsistent standards of protection and enforcement. Because of their advanced stage of economic development, NICs, such as Israel, Argentina and Singapore, should properly be subject to full TRIPS obligations without the additional transition periods permitted developing countries. WTO consultation and dispute settlement cases should be instituted against these countries, which, we can expect, will initially oppose our WTO complaint on the grounds that they are developing countries.

- **WTO TRIPS Acceleration** for those countries that are not yet subject to the full WTO dispute settlement process. Nevertheless, full use of the WTO consultation procedures found or alluded to in TRIPS Articles 63, 67, 68 and 69 should be part of the menu of actions that should be considered vis-à-vis these countries.

- **WTO Accession** for all countries that are current or future candidates for WTO membership that would be contingent on the immediate implementation of all TRIPS obligations and outstanding bilateral commitments to the United States at the time of accession without any excessive transition periods. This approach would also extend to the use of OECD accession for current or future candidates for membership to that organization as a lever to gain the immediate implementation of, at a minimum, TRIPS obligations.

Taken together, these four approaches form the basis of a coherent and broad strategy within the WTO to gain improved intellectual property protection abroad through the proper and accelerated implementation of the TRIPS Agreement. To succeed, such a WTO-based strategy will require close international cooperation, especially between the United States and the European Union (E.U.).

E.U. - U.S. Cooperation

The close cooperation that was developed between U.S. and European industry during the TRIPS negotiations and that has continued into the implementation phase results from the shared perception of the benefits that industries on both sides of the Atlantic will gain from improved intellectual property protection and enforcement worldwide. Two developments that

have taken place since the Subcommittee's last hearing reflect this cooperative spirit. The progress report of the Transatlantic Business Dialogue, which was released on May 23rd, contained specific proposals covering the wide range of intellectual property elements. With the release of the progress report, the two business communities provided their two governments with a substantive blueprint of what the governments must do in both the short and long terms to promote a higher level of intellectual property protection and enforcement abroad.

A further impetus to improved intellectual property protection was provided just one week later when the European Commission and the U.S. Government sponsored the Transatlantic Workshop on Intellectual Property in Rome. The Rome workshop provided an unprecedented opportunity for representatives of U.S. and European industry to present their views directly to U.S. and European Commission officials on outstanding intellectual property issues of concern to industry on both sides of the Atlantic. Both governments welcomed the spirit of cooperation that generally permeated the meeting and indicated that they would be open to future industry approaches for similar meetings and other cooperative efforts. European Commission Vice President, Sir Leon Brittan, reacted to the workshop by pledging that the "Commission will work hand in hand with the United States to secure correct implementation and effective enforcement by our trading partners" of the TRIPS Agreement.

In its own way, the Commission has moved beyond "correct TRIPS implementation" and has given its support to "TRIPS acceleration." On October 23, 1995, Sir Leon Brittan, in a speech at the Trade Policy Seminar in Stockholm, raised the possibility that "developing countries, given adequate technical assistance, could beat the WTO deadlines for TRIPS." A recent "non-paper circulated at the request of the European Communities and their Members States on TRIPS and the preparations for the Singapore Ministerial Conference" outlined the EU's position on TRIPS implementation:

> With regard to developing country Members, it would be desirable if more advanced such Members could consider to implement TRIPS in advance of the transitional period to which they are entitled; in any event developing country members should make the necessary preparations in order to have TRIPS-compatible legislation in place at the latest by the end of the transition period... With regard to new Members, the TRIPS provisions must be fully applied as of the date of accession.

These are reassuring statements by the European Commission. However, the United States will have to continue to play a leading role in ensuring concrete results on intellectual property in Singapore. To do so, the United States will have to quickly begin to include the proper and timely implementation of the Uruguay Round agreements, especially TRIPS, among its principal objectives for the Singapore ministerial meeting. This will send a strong signal to both the Europeans and the rest of the WTO about U.S. intentions for Singapore with respect to intellectual property.

The Intellectual Property Agenda in Singapore

Among the positive U.S. objectives for Singapore should be, as I have already indicated, an endorsement by the trade ministers of the proper and accelerated implementation of the TRIPS Agreement. Failure to achieve this objective will not only have a profound adverse effect on the multilateral efforts of the United States currently underway in the WTO but will also call into question our regional and bilateral intellectual property efforts to gain improved intellectual property protection and enforcement.

An additional U.S. objective for Singapore should be the endorsement by the trade ministers of the timetable for improved intellectual property protection that is contained in the TRIPS Agreement itself. This is an integral part, as I have already discussed, of TRIPS implementation. The most relevant prospective provision is found in TRIPS Article 27.3(b), which calls for a review in 1999 of the exclusion of certain biotechnological inventions from patentability. The 1999 review was included in TRIPS at the insistence of those countries like the United States which supported the patentability of such inventions in order to ensure that the TRIPS exclusion would not become permanent.

While the United States will hopefully come to Singapore with an intellectual property agenda that focuses on the attainment of positive intellectual property-related objectives, other countries have already signaled that they will be looking to use Singapore to advance their intellectual property agenda of rolling back the TRIPS Agreement. The Singapore outcome will be a litmus test of the future direction of intellectual property protection and the credibility and

willingness of the developed countries to go to the mat for improved intellectual property protection worldwide.

India and a number of other developing countries, however, have something else in mind for Singapore and have been using the WTO Committee on Trade and Environment (CTE) to pursue their agenda. In a series of non-papers, India has raised its concerns about the impact of the TRIPS standards on the ability of developing countries (*i*)to gain the transfer of environmentally sound technologies under multilateral environmental agreements and (*ii*) to control their biological and genetic resources in order to ensure equitable sharing of any commercial benefits under the UN Convention on Biological Diversity. In another non-paper, Korea has suggested that the CTE recommend to the Singapore ministerial meeting that it recognize the need to clarify the relationship between the protection of intellectual property rights under TRIPS and the environmental objectives of the multilateral environmental agreements.

These non-papers, presented ostensibly out of the legitimate concern for the protection of the environment and biodiversity, are in reality nothing more than direct challenges to the standards of intellectual property protection and enforcement contained in the TRIPS Agreement. Whenever India and Korea run up against a TRIPS standard that gets in the way of their environmental or biodivesity goals, they suggest the need to revisit the TRIPS standards. These suggestions include a shorter patent term, widened exclusions from patentability, widened grounds for patent revocation and a streamlining of the "burdensome" conditions limiting the issuance of compulsory licenses. The United States has so far effectively countered these TRIPS-roll back arguments within the CTE by demonstrating that the Indian and Korean environmental and biodiversity goals can be met without any relaxation of the TRIPS standards. It was a partnership among U.S. industry, the Congress and the Administration that fought the battle in support of strong intellectual property protection at the UN Biodiversity Conference in Rio de Janeiro and continues to do so in the Conference of the Parties to the UN Convention on Biodiversity and the WTO CTE. It is critical that there not be any slippage in our defense of strong intellectual property protection and enforcement in Singapore.

Finally, the United States should ensure that the Singapore ministerial does not interfere with the "natural demise" of the five-year moratorium on the application of the "nullification and impairment" provisions to TRIPS. The five-year moratorium, which unfortunately was one of the three changes made in the TRIPS text in the final negotiations of 1993, temporarily removed a multilateral procedure available to all other Uruguay Round agreements, to redress violations of the "spirit"--in contrast to the "letter"--of the TRIPS Agreement. The moratorium continues to have the potential of adversely affecting our ability to reap any early commercial benefits from TRIPS in the industrialized countries for the next three and a half years. TRIPS Article 64.3 calls on the TRIPS Council to examine the nullification and impairment issue and submit its recommendations to the WTO Ministerial Conference. The moratorium, however, can only be extended by a unanimous vote of the WTO Ministerial Conference.

Under a TRIPS regime that includes a nullification and impairment provision, WTO member countries must provide not only high standards of intellectual property protection and enforcement but must also provide for the full enjoyment of the expected commercial benefits. Some WTO members with current weak intellectual property regimes will be tempted to limit the enjoyment of the commercial benefits as they assume their TRIPS obligations. The demise of the five year moratorium will plug a major loophole in the system of intellectual property protection envisaged under the TRIPS Agreement.

Conclusion

A strong intellectual property statement in Singapore is essential to the continued pursuit by the United States of strong intellectual property protection and enforcement abroad. To be effective, the statement should:

- Endorse the proper and accelerated implementation of the TRIPS Agreement;
- Endorse the timely review of the current biotechnology exclusion, as called for in the TRIPS Agreement, with a view toward its deletion;
- Oppose any efforts underway within and outside the WTO to weaken the TRIPS standards; and

- Avoid any action that could be interpreted as supporting the extension of the application of the five year nullification and impairment moratorium to TRIPS.

The Singapore ministerial meeting will set the future WTO trade agenda. It would be unfortunate if the United States and the other Quad countries, out of a desire to appear forward looking, were to inadvertently pull the rug out from under the implementation of the Uruguay Round results we all worked so hard to achieve.

The disproportionate focus on new issues for the Singapore ministerial would perpetuate a misperception that the developed countries are ambivalent about the proper and timely implementation of the Uruguay Round agreements, especially the TRIPS Agreement. A strong ministerial statement in Singapore on intellectual property along the lines that the IPC has proposed should correct this misperception and give a critical boost to U.S. efforts to gain effective intellectual property protection and enforcement worldwide.

Chairman CRANE. Thank you, Mr. Gorlin.
Mr. Smith.

STATEMENT OF ERIC H. SMITH, PRESIDENT, INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

Mr. SMITH. Thank you again, Mr. Chairman, for inviting IIPA, International Intellectual Property Alliance, to address the importance of the WTO to the copyright industries, that is, the business and entertainment software industries, motion pictures, music and recordings, and publishing.

On this overall topic, the views of Mr. Gorlin from the IPC and of the copyright industries making up the IIPA are identical, so I need not repeat the points made by him, points which also appear in our written testimony. However, I do wish to emphasize a few points on U.S. trade policy at Singapore and what is needed by our industries to increase trade and create new jobs.

Inadequate copyright protection and enforcement represent the copyright industries'—one of the largest and fastest growing sectors of the economy—number one trade barrier. These industries continue to lose an estimated $18 to $20 billion annually to copyright piracy around the world. These industries have become increasingly globalized, with over half of their overall revenues and job growth due to international trade. The fastest growth is occurring in countries which are not generally classified as developed. These developing countries account for 60 percent of our economy's losses due to piracy.

Already, the copyright industries and other IPR-based industries are growing faster than the economy as a whole, and in the case of the copyright industries, close to three times faster. As we move into the digital age, Mr. Chairman, the opportunities for growth will expand, but so will the piracy threat. If we are to remain competitive, if we are to move our economy into the 21st century, we must ensure that the climate for trade in copyright-based products is conducive to continued strong growth.

The most effective way to do this is to undertake aggressive and immediate implementation of the most important multilateral agreement yet written for our industries—the TRIPs Agreement. Implementation at all levels, even of just the enforcement provisions of the text, by our trading partners, will make an enormous difference in the revenues generated and jobs created back home by our companies.

Implementation just is not as sexy as focusing on new issues, but it is implementation that will bring the gains we need. For these reasons, implementation must be the highest priority of the U.S. Government at Singapore. We recommend that the United States should seek to ensure, first, that the TRIPs Council report to the trade ministers calls for full implementation, particularly of members' enforcement obligations; that the trade ministers endorse the full and prompt implementation and acceleration of TRIPs obligations and the accession of new members without transition, and last, that the TRIPs obligations are not weakened and that the "nullification and impairment" remedy moratorium is not extended beyond the year 2000.

We also ask that the Congress and the Subcommittee monitor these developments closely and ensure that USTR and other relevant agencies continue to assert U.S. leadership in securing full implementation and, Mr. Chairman, that they have adequate resources to do the job properly.

To accomplish these objectives in Singapore, the United States must have allies. The EU has indicated publicly its support for strict and accelerated implementation. Our capable negotiators should take up that offer now. If the EU and the United States act together, the gains will be very significant. We and they have identical interest in this important area of intellectual property protection.

Finally, Mr. Chairman, we fully support the effort to conclude an Information Technology Agreement with the broadest possible coverage for high-technology hardware, software and other products and to implement fully the GATS Services Agreement, and to begin now the process of achieving real progress in extending commitments in the area of audiovisual services and high-technology services.

Thank you very much.

[The prepared statement follows:]

Testimony
of

Eric H. Smith
President
International Intellectual Property Alliance

Representing

The International Intellectual Property Alliance

Before

The Subcommittee on Trade
of
The Committee on Ways & Means
United States House of Representatives

September 11, 1996

Mr. Chairman and distinguished Members of the Subcommittee:

I am Eric H. Smith, President of the International Intellectual Property Alliance ("IIPA"). We greatly appreciate the opportunity to once again present the views of the copyright-based industries on the critical subject of the World Trade Organization (WTO).

We have had the honor of presenting our views to the Subcommittee on WTO-related topics on four previous occasions. Most recently, in March, 1996, we highlighted the importance of effective implementation of the TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights) and the GATS (Services) agreement, and outlined strategies to accomplish this objective. The upcoming Singapore Ministerial offers an important opportunity to advance this crucial goal.

The IIPA is a coalition of eight trade associations that collectively represent the U.S. copyright-based industries -- the motion picture, music and recording, business and entertainment software and book publishing industries. IIPA's member associations are:

American Film Marketing Association (AFMA);
Association of American Publishers (AAP);
Business Software Alliance (BSA);
Information Technology Industry Council (ITI);
Interactive Digital Software Association (IDSA);
Motion Picture Association of America (MPAA);
National Music Publishers' Association (NMPA); and
Recording Industry Association of America (RIAA).

The Singapore Ministerial will provide a critical opportunity to solidify and deepen one of the most signal achievements of the Uruguay Round that gave birth to the WTO: the TRIPS agreement. TRIPS is the first enforceable set of worldwide standards both for protection of intellectual property, and for practical judicial and administrative enforcement of those protections. For this country's copyright-based industries, the absence of effective protection for copyrighted products represents our number one trade barrier, alone causing from $18-20 billion in losses to the U.S. economy and U.S. workers annually. At the same time, these industries have been growing at a rate which far exceeds that of the U.S. economy as a whole. And they have become increasingly globalized: more than half of their overall revenues (and job growth) is due to international trade in these creative products. In short, these industries represent the leading edge of the world's high technology, entertainment and publishing industries and are among the fastest growing and largest segments of our economy.[1] Out of all the sectors of the U.S. economy benefitting from the Uruguay Round, the sector that relies on copyright, patent, trademark and other types of intellectual property protection has the most to gain from the effective, immediate and full implementation of the WTO agreement, and the most to lose if implementation of a crucial part of that agreement -- TRIPS -- is slow, spotty or superficial.

For a decade, a strong TRIPS agreement, in combination with an aggressive use of important bilateral trade tools like Special 301, has been at the forefront of the trade policy agenda of the U.S. copyright-based industries. As we have previously testified, the pact that went into effect on January 1 of this year is not a perfect agreement, but it is a major milestone in the effort to raise world standards for the protection and enforcement of intellectual property rights. The Singapore Ministerial offers the first opportunity for the trading nations of the world -- at the trade minister level -- to assess progress toward those goals in the first year of the TRIPS agreement, and to map out an agenda for aggressive implementation of TRIPS standards in the year ahead.

To develop an effective approach to TRIPS implementation in Singapore, the U.S. must have a clear set of objectives and strategies. IIPA has joined with our colleagues in the IPC to urge that such an approach must contain four critical elements. We call them the "4 A's":

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[1]In a report released on February 16, 1995 entitled "Copyright Industries in the U.S. Economy: 1977-1993" which was prepared for the IIPA by Economists Incorporated, we outlined the importance of these industries to the U.S. economy. For example,

- The core copyright industries accounted for $238.6 billion in value added to the U.S. economy, or approximately 3.74% of the U.S. Gross Domestic Product (GDP) and the total copyright industries accounted for $362.5 billion in value added, or approximately 5.69% of GDP (in real 1993 dollars).

- The core copyright industries enjoyed more than twice the growth rate of the economy as a whole between 1991 and 1993 (5.6% vs. 2.7%).

- Employment in the core copyright industries grew at close to four times the employment growth in the economy as a whole between 1988 and 1993 (2.6% vs. 0.7%).

- Between 1977 and 1993, employment in the core copyright industries doubled to 3 million workers, about 2.5% of total U.S. employment. Over 5.7 million workers were employed by the total copyright industries, about 4.8% of the U.S. work force, in 1993.

- The core copyright industries contributed at least an estimated $45.8 billion in foreign sales to the U.S. economy in 1993, approximately an 11.7% gain over the $41.0 billion contributed in 1992. The copyright industries are second only to motor vehicles and automotive parts among U.S. industries in terms of estimated foreign sales and exports.

- commencing WTO actions against non-complying countries by means of dispute settlement proceedings;

- insisting on immediate adherence to TRIPS obligations by the so-called "newly industrialized countries" (NICs) and other countries that do not qualify for taking a transition period;

- pressing for acceleration of TRIPS implementation by developing countries that do qualify for transition periods, and

- insuring that, in negotiations for WTO accession by non-WTO members, new members are required to fully implement TRIPS, without transition, by no later than the date of accession.

Actions in the WTO: First, the U.S. must work within the WTO to enforce those TRIPS obligations which have already come into effect, in most cases on January 1, 1996. For developed countries, all the copyright law and enforcement obligations are now operative. For all other countries, the national treatment and MFN obligations of Articles 3 and 4 are in effect, even if transition periods apply for other substantive and enforcement obligations.

The task of assessing compliance with TRIPS by these countries will not be easy. Fortunately, the TRIPS Council -- the institutional mechanism established within the WTO for TRIPS implementation -- is already hard at work. Led by the U.S. government, the Council spent a week last July in detailed discussion of the compliance of the developed countries with their substantive copyright obligations in TRIPS. The Council has also established a calendar for formal review of other aspects of the TRIPS Agreement, including the crucial area of enforcement. Unfortunately, the TRIPS Council review of all elements of TRIPS will not be completed until well into 1997, which spotlights the importance of early U.S. government engagement with countries that fail to comply with either their substantive or enforcement obligations. This engagement must be both bilateral and multilateral including bringing dispute settlement cases where warranted.

In view of the crucial importance of using the dispute settlement and the Council process to leverage improvements in protection, we urge Congress to keep a watchful eye on these developments. We also ask you to ensure that USTR and other agencies involved have adequate resources to do the job properly.

This first stage of TRIPS compliance will inevitably be controversial. Many developed countries, for example, have been members of the Berne Convention (which forms to basis of most of the substantive copyright obligations in TRIPS) for many decades; Western European countries have belonged to Berne for more than a century. A public, international discussion of their levels of compliance with their Berne obligations may strike some of them as uncomfortable or even inappropriate. But that is exactly why the TRIPS agreement was so essential. The high levels of protection guaranteed by Berne were almost totally unenforceable -- until now. We must not flinch from a rigorous examination of compliance with Berne obligations, and with the other key "Berne-plus" elements of TRIPS (like full protection for sound recordings), and we must be prepared to confront those developed countries that have not yet shouldered the obligations that they became subject to almost a year ago. In that regard, we applaud USTR for its leadership in bringing Japan to dispute settlement because of its failure to meet its TRIPS obligation to protect pre-existing sound recordings, and urge them to see this case through to a successful conclusion. By the same token, the U.S. cannot turn a blind eye to the fact that some of our other major trading partners have not yet fulfilled their TRIPS obligations, especially in the field of enforcement. At the Singapore Ministerial, the U.S. must send the message that these

shortcomings cannot be tolerated, and that a failure to correct them will compel us to bring other developed countries into the dispute settlement process.

Adherence to TRIPS Obligations by All Developed Countries: The second major area of the U.S. TRIPS agenda involves countries which are shirking their responsibilities to take on TRIPS obligations immediately by relying on transitional provisions to which they are not entitled. A handful of countries, including Korea, Israel, Singapore, Bahrain and UAE qualify, by any objective measure, as developed countries, and yet are grasping at the fig-leaf of developing country status in order to excuse their non-compliance with TRIPS obligations. Several of these countries refused even to participate in the question and answer process at the TRIPS Council on the grounds that WTO had no jurisdiction to inquire into their fulfillment of the substantive and enforcement obligations of TRIPS until the year 2000. While we recognize that the WTO permits member countries to "self-designate" their status with regard to the main transitional provisions of TRIPS, these decisions are subject to dispute settlement and abuse of this right should not be tolerated or suffered in silence. At Singapore, the U.S. must make it clear that it expects these countries to do the right thing by their trading partners, and that if they do not, the U.S. is prepared to invoke the dispute settlement process, in an appropriate case, to compel them to do so. Also at Singapore, the U.S. should join with other developed countries to make the case to all countries that TRIPS levels of intellectual property protection and enforcement will benefit their local economies, and particularly their local copyright-based creators -- publishers, record companies, songwriters, performers, software developers and film, video and TV producers along with their upstream and downstream supporting entities -- as much as, if not more than, it will benefit foreigners.

Acceleration of TRIPS obligations: The third major objective of U.S. policy on TRIPS implementation involves the bona fide developing countries within the WTO membership. The U.S. policy is already clearly stated in the Uruguay Round Agreements Act (URAA): we should work to accelerate the full compliance of developing countries with TRIPS, in advance of the January 1, 2000 deadline. The U.S. has already shown that it is prepared to roll up its sleeves and help these countries , through technical assistance and loan of experts, to achieve this acceleration. (Indeed, this will be the main topic at the TRIPS Council meeting later this month.) For our part, the copyright industries are already fully engaged in helping to draft and critique laws and regulations to bring them into compliance with TRIPS, and in training police, prosecutors, judges and other officials to enforce those laws.

The importance of this policy objective -- endorsed by the Congress in the URAA -- must not be underestimated. IIPA estimates that 60% of the losses suffered by the U.S. economy due to copyright piracy occur outside the "developed" world. It is here that markets for copyrighted materials are developing the fastest. While the full WTO membership, owning to political consideration, ultimately allowed certain countries to choose to delay the implementation of TRIPS obligations, the U.S. should not permit that privilege to be abused by permitting open and wholesale theft of U.S. products embodying intellectual property. Developed countries should seek to persuade these countries that it is not in their interest to condone such theft as a matter of their own domestic economic development. In addition, the U.S. should make use of all "carrots and sticks" at our disposal to back this up. In this regard, we applaud the leadership exercised by this Committee to obtain approval of the GSP renewal legislation. Unilateral trade benefits extended to countries provide leverage to ensure that they do not unreasonably close their markets to U.S. trade, through piracy or otherwise.

WTO Accession: The final policy objective concerns accession by countries that are not yet members of WTO. These include major trading nations like China, Russia and Taiwan and other important countries like Saudi Arabia where piracy remains high. For the

success of WTO and the world trading system, we must strive to bring these nations into the organization as expeditiously as possible. But we must also make the price of admission perfectly clear. With regard to intellectual property rights, that admission price must include full compliance with all TRIPS obligations upon the date of accession without transition. None of these countries should be under any illusions that it can enter the WTO without being in a position to shoulder all its responsibilities for the protection of intellectual property rights.

Fortunately, the U.S. government has taken this position so far in its accession negotiations. But there will be strong counter pressures to compromise, particularly with countries like Russia, China and Saudi Arabia. Make no mistake: these countries do not need a transition period. They can meet TRIPS standards before they accede, and they should do so. The U.S. policy should be clear and unequivocal. We urge Congress and this subcommittee to insist that this remain firm U.S. policy.

The U.S. position on TRIPS at the Singapore Ministerial must be based on these four interrelated policy elements. The U.S. should first make a maximum effort to ensure that the report of the TRIPS Council calls for full implementation of all substantive copyright obligations discussed at the July TRIPS Council meeting. It should then work vigorously for endorsement by the trade ministers of a declaration on prompt and full implementation and acceleration of TRIPS obligations. Ministers should be asked to endorse the U.S. position on accession by non-WTO members, a position which Leon Brittan of the EU has said publicly that he agrees with. This declaration should emphasize that the enforcement obligations in the text are critical elements of WTO member compliance.

These broad overall policy objectives, though not in precisely the same terms, have been endorsed by the intellectual property-based industries in both the U.S. and Europe in the recent (May 1996) interim report of the Transatlantic Business Dialogue (TABD). The U.S. and EU industries have gotten together on a common set of recommendations to their governments in this area because they recognize how important it is for the world's two largest trading blocs to work together to halt the scourge of piracy worldwide. The TABD report deals not just with TRIPS implementation, but also with further improvements in intellectual property protection designed to take us into the 21st century.

We hope that through the impetus of joint private sector actions, such as the TABD process, we can convince the European Union to join with our own government to cooperate in Singapore and in other fora on this critical implementation process. This effort got off to a good start last May when the European Commission and the U.S. government jointly sponsored the "Transatlantic Workshop" on "Intellectual Property Rights in the Framework of the Joint EU - U.S. Action Plan" in Rome. While it is too early to tell what cooperative actions might be taken by the two governments, both the EU and the U.S. have virtually identical interests in seeing prompt TRIPS implementation. If the two blocs were to get together, both rhetorically and in terms of cooperating in dispute settlement, the possibilities for major economic gains are enormous. In the time remaining before Singapore, effort should be made to ensure that this cooperation is further cemented and a common TRIPS agenda for Singapore crafted.

Other TRIPS related issues, including threats to weaken the non-copyright standards, will be mentioned by my IPC colleague. One of these -- the five year moratorium on the traditional "nullification and impairment" remedy -- is, however, worth stressing. This moratorium will expire in the year 2000 unless extended. While we know of no overt attempt as yet to extend the moratorium, if raised in Singapore, the U.S. should strongly oppose. This remedy permits WTO members to attack violations of the "spirit" of the text, as opposed to its legal "letter," to go after the denial of commercial benefits which were part

of the bargain made in the negotiations but which may not violate a specific provision of the text.

Finally, beyond TRIPS, let me briefly mention two other areas which have significant implications for many of the copyright industries:

First, concluding the Information Technology Agreement (ITA) must be a key item taken up at the Ministerial. The U.S. should push for an agreement that puts on the glide path to zero the tariff rates on the broadest possible range of computer hardware, software and other copyrighted products in digital format.

Second, the U.S. should push for implementation of the GATS (Services) agreement. The computer services and software industries were able to obtain commitments from many countries in this area and their implementation must be ensured. The filmed entertainment industry, however, received commitments from only 14 countries and effort must be made, through immediate preparation for the new round of market access negotiations envisioned in GATS to begin in the year 2000, to extend coverage for this critical U.S. industry. This effort should focus on obtaining significant commitments in audiovisual services and other services affected by rapidly changes in technology and the convergence among all the information and entertainment industries.

Mr. Chairman, your subcommittee will be hearing a lot today about the new directions for WTO that must be set in Singapore. There are many important areas which must be brought under WTO disciplines if the full potential of broader world trade is to be realized. Yet the U.S. should take care not to focus only on the inclusion of new agenda items in the WTO process (or for that matter only on "built-in" agenda items) whether in Singapore or otherwise. Negotiation resources are limited. It will take considerable effort to ensure that existing obligations -- like TRIPS -- are implemented promptly and effectively. We do not ask that these areas be ignored, only that a balance be achieved.

TRIPS has set a floor, a lowest common denominator of IPR protection which all trading nations must meet. That is a huge accomplishment, but it is not enough. The floor must be raised as new technology spawns not only new forms of production and distribution of copyrighted works, but also new and virulent forms of copyright piracy. But as WTO members discuss ambitious plans for new negotiations in new areas, the U.S. must ensure that the implementation of existing agreements is given full time and attention. Prime among these is TRIPS. The US must go to Singapore determined to translate the promise of this central achievement of the Uruguay Round into reality. This challenge should be at the top of our country's agenda for Singapore.

Chairman CRANE. Thank you, Mr. Smith.

Chairman CRANE. Henson, I have a question for you and Mr. Romig. Do you believe that the administration's response to the EU eco-labeling scheme has been sufficient, and if not, what would you change?

Mr. MOORE. Mr. Chairman, the government has been working with us very strongly, including USTR, Commerce, State and EPA. The U.S. Government has even issued a super-301 citation. There has even been discussion of it at the summit level. But in spite of all of this, the EU in July decided to adopt eco-label criteria that essentially favor European products against those produced in this country without any increased protection for the environment.

I think our government is doing just about everything it knows how to do. It needs to move to this level at Singapore. That is the next thing it needs to do, and whether they will or not, we do not know.

So that, Mr. Chairman, if I had to ask our government to do anything further, it would be to take this up at Singapore and to be sure, as you will hear a subsequent panel discuss today, that we see to it that we seek ministerial language which would tighten existing disciplines and incorporate concepts which have proven useful here in the United States in preventing fraudulent advertising and consumer deception. Our FTC guidelines which we follow in the United States on eco-labeling ought to be the kind of thing we have internationally, and that is not what the Europeans have come up with.

Chairman CRANE. Do you have anything to add to that, Mr. Romig?

Mr. ROMIG. Just simply the general principle that eco-labeling and other devices should not be used as fronts for restraining trade or favoring European products over American products.

Chairman CRANE. Thank you.

Mr. Rangel.

Mr. RANGEL. To the gentlemen who are as concerned as I am with the outrageous violation of our intellectual property rights, what remedies do you suggest except our protesting what they do?

Mr. GORLIN. I think that there are different remedies that we can prescribe. First, if the offending country is a developed country, then it is already under the discipline of the WTO TRIPs Agreement. We should continue to do what the administration has already done in a number of cases, and we commend them for it, which is to bring dispute settlement cases against these developed countries. Countries that call themselves developing countries are at this point, immune from WTO, and we believe that the U.S. should be using all the regional and bilateral pressure that it can exert to get these countries to improve their intellectual property protection, including the use of section 301.

Mr. RANGEL. Are you satisfied with the agreements that were reached with China?

Mr. SMITH. The China agreement covers principally copyright and trademark, so I will answer that. Yes, we are. Obviously, it is going to take some additional time before the Chinese are in a position to fully implement the agreement, and that is something for which we have pressed very hard, along with USTR.

The agreement that was entered into in June—the report that was issued we were very supportive of. It did not answer all the issues by any means, but the Chinese appear to be moving forward slowly, and if we keep the pressure on them, I think we will see that market open up in the next year or so.

Mr. RANGEL. Mr. Smith, could you be a little more specific in terms of sanctions or reactions that we could have with those countries, developing or developed, that constantly ignore our warnings not to violate the intellectual property rights?

Mr. SMITH. We have a powerful set of tools available. Taking a country that is now a member of the TRIPs text, or bound by the TRIPs text, to dispute settlement is a very powerful tool, and it has already worked in a number of cases to back down countries that have insisted on doing things that are not in compliance with the agreement, and USTR has done that.

There are other bilateral tools, as Mr. Gorlin has said—there is special 301, there is withdrawing unilateral trade benefits—that we can and should use aggressively to keep those markets open to these critical products.

Mr. GORLIN. I think there is one other leverage that we have. There are many countries, such as China that are not yet members of the World Trade Organization, and that are applying for accession. Also, a number of countries are applying to the OECD. I think we should make accession to these international organizations contingent on, at a minimum, their immediate implementation of TRIPs. The TRIPs standards include standards not only of protection but also of enforcement and we must work with them to enforce the intellectual property standards as well. So, I think we have very good leverage against a good number of countries who are interested in joining these international organizations.

Mr. RANGEL. Well, it has been my experience that when we talk about doing those, we are led to believe that the adverse economic effects of retaliations are far more severe than our losses.

Mr. GORLIN. That is a question we always ponder, the question of the credibility of our threats. On the other hand, we must work with these countries to help them improve their intellectual property protection, wherever we do have leverage against their countries, we should use it. I already indicated that we have leverage against countries that want to join the WTO. The annual special 301 review and announcement provide additional leverage as many countries come to the table, with improved intellectual property protection and enforcement in anticipation of the announcement.

Mr. RANGEL. Are you satisfied that your country is sufficiently aware of this problem and maintains it as a priority?

Mr. GORLIN. I am sorry—this country?

Mr. RANGEL. Yes.

Mr. GORLIN. Yes. We seek to inform the country——

Mr. RANGEL. But are you satisfied with our position as relates to this very important subject?

Mr. GORLIN. I think more can be done, especially in terms of the signals that we as a country send to offending countries. I believe that one of the counterproductive signals that we are currently sending on the questioned implementation of the TRIPs Agreement is that we have not included TRIPs implementation on a key U.S.

issue or objective for Singapore. While we are already looking at the next generation of issues, and we have failed to focus on the proper accelerated and timely implementation of the TRIPs Agreement.

Mr. RANGEL. Thank you.

Thank you, Mr. Chairman.

Chairman CRANE. I want to thank all of you for your anticipation and remind you to please communicate on a continuing basis with us. We need your input and appreciate your endurance.

With that, I would like to call up our next panel, made up of representatives in the textile and agriculture industries, Julia Hughes is chairman of the board of the U.S. Association of Importers of Textiles and Apparel, Carlos Moore is executive vice president of the American Textile Manufacturers Institute, Richard Krajeck is vice president of the U.S. Feed Grains Council, and Dalton Yancey is executive vice president of the Florida Sugar Cane League and Washington representative of the Rio Grande Valley Sugar Growers, Inc.

Since it is appropriate for ladies to go first, Ms. Hughes, you are first to make your presentation.

STATEMENT OF JULIA K. HUGHES, CHAIRMAN, U.S. ASSOCIATION OF IMPORTERS OF TEXTILES AND APPAREL

Ms. HUGHES. Thank you very much, Mr. Chairman.

We appreciate the opportunity to share the views of the USAITA, U.S. Association of Importers of Textiles and Apparel. As you know, our association represents more than 165 members involved in the textile and apparel business. Member companies account for over $44 billion in U.S. sales annually and employ more than one million American workers.

These are good jobs in production, design, freight forwarding, distribution, sales, and other services. Our ability to respond appropriately to consumer demand and thereby maintain and increase our competitiveness in the world market is very much dependent upon U.S. textile and apparel trade policy.

The importance of textile and apparel trade both to importing industrialized countries like the United States and to the exporting countries is unquestionable. So, of course there is no question that trade in textile and apparel should have a place on the agenda at the Singapore Ministerial.

The Ministerial is an important opportunity for an assessment of what has been achieved to date as well as what must be done to ensure full implementation of the letter and spirit of the obligations of the Uruguay round agreements.

One basic issue for the Ministerial is to compel greater transparency regarding the decisions that affect the textile sector. Transparency in the WTO has been a priority for the administration and for the Congress, as well it should be, but it has not yet been applied to textile issues. By transparency, we are referring not only to open meetings but, more importantly, to the public issuance of written decisions and recommendations that articulate the factors and rules considered and the reasons for the findings and recommendations.

We want to make it very clear at this hearing that USAITA does not advocate reopening the agreement on textiles and clothing, nor do we believe that the exporting nations whose manufacturers supply many of our members advocate reopening the agreement. Rather, what we hope to see accomplished is an honest and straightforward assessment of the implementation of the ATC. We hope that the Ministerial will provide an opportunity for all trading partners to reaffirm their commitment to the 10-year transition.

However, our members are concerned that the legitimate desire for greater market access is being misused to criticize the textile-exporting nations. The United States implementation of the agreement highlights the hypocrisy of complaints that the developing countries have not yet opened their markets.

USAITA supports the elimination of barriers to trade and believes the Ministerial will be an important forum for ensuring that sufficient steps are taken to open the global marketplace. The Ministerial clearly should press members to meet their market access commitments, but this is a two-way street. No country, including the United States, has done any more than the minimum required by the WTO in the area of textiles. Unless the United States is ready to show leadership and a commitment to progressive liberalization, no other country will act differently. We want to guard against the temptation to postpone market opening until the end of the 10-year transition.

Textile liberalization is a litmus test for all industrialized countries. If the United States and the European Union and Canada show that we are ready to face down long-term protectionism, then we will have the moral high ground to press other countries to accelerate access to their markets in areas such as information technology and intellectual property rights.

We want to mention just a few of the shortcomings that we see in the U.S. implementation of the agreement. First, the integration plans put forward by the importing nations are a disappointment. Technically, the schedules meet the standards set forward in the ATC, but as a practical matter, not one product subject to a quota was integrated during the first stage, and fully 93 percent of the trade in textiles and apparel will remain restricted for the first 7 years of the 10-year transition.

Second, our members are concerned that at a time when the number of quotas is supposed to be declining because we are moving toward the elimination of the program, new quotas are sought. Under the terms of the ATC, new quotas should be initiated as sparingly as possible. However, since it went into effect 20 months ago, 30 quotas have been sought by the United States. And I beg to differ with Ambassador Barshefsky, but only six of those quotas are repeats of quotas with unfinished negotiations from 1994.

Our third concern is about the functioning of the Textiles Monitoring Body. It has not worked well to date, in part Because it has not been able to reach consensus and in part Because there is no transparency in terms of release of information from their decisions.

One last point is a concern about the misuse of rules of origin for protectionist purposes. There can be no question that the recent textile origin rule changes by the United States disrupted trade

under the agreement. Businesses are still trying to adapt, and despite a WTO legal obligation for any country initiating a change in the rules to hold negotiations, the United States has not granted compensation to affected countries, not even Europe.

This disruption of the trade is a concern because other countries look to the United States for leadership. We do not want our trading partners to take similar actions using rules of origin as a barrier against U.S. exports. At the very least, we hope the Ministerial will include a reiteration of the importance of avoiding disruption of trade through rules of origin and the need to make no new changes until the WTO and the WCO have finished their work program for international harmonization.

Again, we thank you for the opportunity to share our views today. We believe this is an important issue for the agenda and would be pleased to answer any questions.

[The prepared statement follows:]

TESTIMONY OF JULIA K. HUGHES
CHAIRMAN,
U.S. ASSOCIATION OF IMPORTERS OF TEXTILES AND APPAREL

Good morning. The U.S. Association of Importers of Textiles and Apparel, USA-ITA, appreciates this opportunity to express its views on the agenda for the Singapore Ministerial meeting on the World Trade Association. I am Julia K. Hughes, chairman of the Association.

USA-ITA is an eight-year old association with more than 165 members involved in the textile and apparel business. USA-ITA members source textile and apparel products both domestically and overseas. Our members include manufacturers, distributors, retailers, and related service providers, such as shipping lines and customs brokers. USA-ITA member companies account for over $44 billion in U.S. sales annually and employ more than one million American workers. These are good jobs -- in production, design, freight forwarding, distribution, sales and other services -- well paying, skilled jobs that Americans want to have. Our ability to respond appropriately to consumer demand, and thereby maintain and increase competitiveness in the world marketplace, and expand the number of good jobs in the United States, is very much dependent upon U.S. textile and apparel trade policy.

The importance of textile and apparel trade, both to importing, industrialized countries like the United States, and to exporting, developing countries is unquestionable. There also can be no question that trade in textiles and apparel must have a place on the agenda of the Singapore Ministerial. The only issue is what aspects of textiles and apparel trade should be included.

From the perspective of USA-ITA, clearly there is much to be considered by the members of the WTO. The Singapore Ministerial is an important opportunity for assessment of what has been achieved to date, what multilateral commitments have been met, and what can and should be done to ensure full implementation of the letter and spirit of the obligations undertaken as part of the Uruguay Round Agreements.

USA-ITA does not advocate re-opening the Agreement on Textiles and Clothing, the ATC, as part of the Singapore Ministerial. Nor do we believe that the exporting nations whose manufacturers supply many of our members advocate re-opening the ATC. Rather, what we want to see accomplished as part of the Singapore Ministerial is an honest and straight forward assessment of the implementation of the ATC in the almost two years since the ATC went into effect, an assessment that notes and takes into account both the shortfalls and accomplishments. We hope that the Ministerial will provide an opportunity for all trading partners to reaffirm their commitment to take appropriate and corrective actions to ensure that the ten-year transition is beneficial to all parties and that the ultimate objectives of the Agreement can and will be met within that time frame.

Specifically, USA-ITA sees the following short-comings in the implementation of the ATC:

Integration

First, the integration plans put forward by the importing nations leave much to be desired. Within the context of the ATC, integration means moving products from rules that permit unilateral safeguard actions to restrict trade on fairly traded goods, without requiring compensation to the restricted party, to normal GATT rules, which require compensation in those instances when a safeguard, or trade restriction, is imposed on fairly traded goods. Under the ATC, all textile and apparel products are supposed to be gradually integrated into normal GATT rules through a three stage process.

While technically it can be asserted that the schedule put forward by the United States for moving textile and apparel products out of the quota program and into normal GATT rules meets the minimum standards set forth in the ATC, as a practical matter, that schedule is a considerable disappointment.[1/] So, too, for that matter, are the initial schedules put forward by the European Union and Canada. However, only the United States has announced its schedule for all three stages over the full 10 year transition period; both the EU and Canada have deferred consideration of the second and third stages of integration until closer to the date of implementation of those stages.

Under the first stage of integration, which went into effect on January 1, 1995, not one product subject to a quota under the Multifiber Arrangement has been integrated into normal GATT rules. The U.S. was able to avoid integrating any quota products because the ATC expanded the scope of products subject to its terms. Thus, the first stage of integration, which ostensibly accounted for 16 percent of the trade covered by the ATC, included only products that had been outside the quota program and were never likely to have been considered sensitive or vulnerable to the imposition of quotas. The U.S. scheduled integration for stage two, which begins on January 1, 1998, which will cover another 17 percent of the trade within the scope of the ATC, will include only 6.8 percent of the products that have been subject to quotas under the MFA and have continued to be subject to quotas under the ATC. That means that during the first seven years of this 10 year transition, fully 93 percent of the trade in textiles and apparel will remain restricted.

In all, based upon the integration schedule for the U.S., which is now set in stone and cannot be altered except by an act of Congress, only 11 percent of the apparel subject to quotas on December 31, 1994 will be removed from the quota program before the end of the 10 year integration period. Fully 89 percent of the quotas on clothing will remain in place until January 1, 2005.

Clearly, this is not a gradual or progressive schedule. It is a schedule that appears intended to avoid the spirit of liberalization envisioned by the drafters of the ATC, and that could well undermine the ultimate success of the ATC. Thus, it is appropriate for the Singapore Ministerial to look closely and critically at this process, to consider what could be done to improve the integration process to ensure its faithful implementation, and to reiterate and reinforce the fact that the ultimate objective is an end to differentiated and discriminatory treatment of textile and apparel products at the completion of the 10 year transition program.

Abuse of the Transitional Safeguard Mechanism

Second, USA-ITA is concerned that at a time when the number of quotas is supposed to be declining because we are moving toward elimination of the textile restraint program, new quotas are being sought. Under the terms of the ATC, safeguard actions are supposed to be initiated "as sparingly as possible." Instead, in the United States at least, calls for consultations to establish quotas under the ATC have continued on a "business as usual" basis. In some ways, it seems as though the U.S. Government believes the MFA still lives. In the 20 months since the ATC went into effect, the U.S. has sought to establish 30 new quotas, of which 25 were aimed at the trade of WTO

[1/] USA-ITA notes that the United States chose to maintain all specific limits, or quotas, in place on December 31, 1994 when the Uruguay Round Agreements went into effect on January 1, 1995. Thus, some 1,000 quotas are in place today. In addition, as is discussed elsewhere in this testimony, the United States has sought to establish 30 more quotas since the ATC was implemented.

members. While more than half of these quotas ultimately were dropped by the United States, the process has been extremely disruptive to the trade, and clearly contrary to the spirit of the ATC. It is appropriate, therefore, that the Singapore Ministerial examine the use of the ATC safeguard mechanism and the impact the high level of reliance on safeguards has had on the liberalization process. Further, the Singapore Ministerial meeting should provide guidance on future use of such restraints in light of the objectives of the Agreement.

Functioning of the Textiles Monitoring Body

Third, and very much related to the question of whether the ATC's safeguard mechanism is being appropriately relied upon, is the functioning of the Textiles Monitoring Body, the TMB. This group of 10 persons is charged by the ATC with supervising the implementation of the Agreement, examining all measures taken under the Agreement to determine their conformity with the ATC, reviewing disputes between or among the Members, and making recommendations or findings. The TMB members are supposed to function on an ad personam basis, meaning that they should act in their personal capacities and not as representatives of their governments.[2/]

Unfortunately, the TMB process has not worked well to date. There have been numerous instances in which the TMB has not been able to reach consensus, and therefore has failed to provide guidance in situations in which disputes among the parties have arisen. Further, there are many matters that have been pending for a lengthy period of time without review by the TMB, thereby allowing non-conforming actions to stand. The purpose of the ATC's provision requiring automatic reviews by the TMB was to ensure that a formal challenge would not be necessary to have a non-conforming action identified and corrected. In addition, serious questions have been raised about whether the TMB members have been acting solely on an ad personam basis. That the question is asked at all undermines the credibility of the organization.

The result is that after almost two years of functioning, the TMB has many matters outstanding, and others that have had to be forwarded to the Dispute Settlement Body of the WTO. The very fact that three textiles matters have been brought to the DSB, with two textile matters still pending there, after the failure of the TMB to successfully resolve these disputes is testimony to problems within this body. This is an extremely important matter that deserves attention and action at the Singapore Ministerial. The Ministers should assess the functioning of the TMB and provide the TMB with instructions on improving its performance.

Transparency

One way in which the Singapore Ministerial could be most effective in improving the functioning of the TMB would be to compel transparency in the TMB. Transparency in the WTO has been a matter of high priority for the Clinton Administration, as well it should be. As the Acting U.S. Trade Representative, Ambassador Charlene Barshefsky, noted in July, when the WTO agreed to procedures allow most of its documents to be made public immediately, transparency within the WTO is a high priority objective for the U.S. Government because it means that we can "gain a better understanding of how the WTO works and the reasons underlying actions that Members take." This idealogy should incorporate textile trade.

[2/] The TMB seats are assigned by country. Each country or group of countries is then permitted to appoint the person who will serve as the TMB member.

The need for transparency is particularly great in the case of the TMB, and the Administration should extend its push for transparency to this WTO body. By transparency, we are referring not only to open meetings, but more importantly, to the public issuance of written decisions and recommendations that articulate the factors and rules considered and the reasons for the findings or recommendations. Cryptic two or three sentence conclusory statements do not provide interested persons with an understanding of why the particular conclusion was reached. Nor do they provide a useful precedent for future decisions. Rationales and precedents are especially necessary in the case of the TMB because the membership of the body will change on an annual basis. To educate future members of the TMB and to ensure continuity and consistency, a solid body of precedents is essential. A mandate for such transparency in the TMB would be an extremely significant accomplishment for the Singapore Ministerial meeting.

Bilateralism

The failure of the TMB to review all actions taken to date, and the lack of transparency in that body, leads USA-ITA to a fifth issue that must be considered and expressly addressed at the Singapore Ministerial: the continuation of bilateralism despite ATC provisions prohibiting bilateral arrangements. Let me provide an example. In March 1995, the United States issued a call for consultations on cotton and man-made fiber underwear from Turkey, among other countries. In the case of Turkey, an agreement was negotiated during the course of the TMB's review of whether the U.S. call was justified. However, that agreement was not limited to a quota on underwear. Instead, Turkey agreed to accept a quota on its underwear exports in exchange for an increase in its quotas on knit shirts and on dressing gowns.

While as importers, we certainly are not going to complain that two restrictive quotas were enlarged thereby increasing the available trade, the fact is that this is a blatant example of the type of bilateralism that was supposed to be eliminated upon implementation of the Uruguay Round. Whether the safeguard action is justified is supposed to be considered on its own, and not swept under the rug based upon a deal affecting unrelated products and quotas. In fact, USA-ITA would argue that this situation actually encourages bilateralism. It does so because it tells importing countries that they may issue a demand for a quota in one category, whether or not a quota is necessary, and get that quota implemented by cutting deals covering other categories of goods. Yet, a year and a half after the deal was reached between the U.S. and Turkey, the TMB has yet to consider its legitimacy under the ATC, thereby allowing bilateralism to continue unchecked. The Singapore Ministerial offers an excellent opportunity for the WTO members to be reminded of the rules against bilateralism.

Rules of Origin

The sixth issue we must raise and which we believe that the Singapore Ministerial meeting must address is the misuse of rules of origin for trade protectionist purposes. As you know, as part of the Uruguay Round Agreements Act, the Congress statutorily mandated a major re-writing of the rules and regulations for determining the origin of textile and apparel products. The new rules went into effect on July 1, 1996. This change in practice has been extremely vexing for both manufacturers and importers, because it has created confusion and uncertainty and because it has required a restructuring of production plans. At least two governments have been forced to completely re-write the rules for issuing export licenses under their Outward Processing Arrangements, in order to conform with the unilateral initiative by the United States. In many instances, particularly in the area of fabrics, accessories, and home furnishings, where the manufacture of the raw fabric occurs in one country but all additional processing occurs elsewhere, restructuring of production plans really is not possible.

There can be no question that this action by the United States has disrupted trade under the Agreement. It also violated what is effectively a "standstill" obligation under the Uruguay Round Agreement on Rules of Origin.

With regard to the ATC, USA-ITA is seriously concerned that the obligations undertaken under Article 4 of the ATC are not being correctly interpreted and acted upon. Under Article 4, there is an obligation for the country initiating a change in the rules to "initiate consultations with the affected Members . . . with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustment." However, the United States initiated no such consultations, despite the assurances by the Administration, in the Statement of Administrative Action that accompanied the Uruguay Round Agreements Act, that it would initiate consultations. Thus, in the SAA, the Administration asserted that it interpreted the ATC as "provid[ing] that any member that initiates an action that may [disrupt trade] must, whenever possible, initiate consultations with the WTO member affected with a view to reaching a mutually acceptable, appropriate and equitable adjustment. The Administration intends to undertake such consultations . . . by July 31, 1995 and to conclude them as expeditiously as possible."

Instead, the United States now asserts that, in its view, the burden is on an affected Member to seek consultations and to prove that there is an adverse impact, including the exact extent of that impact, even though much of the necessary information is in the hands of the United States. It is very likely that this interpretation, and what constitutes an appropriate and equitable adjustment will come before the TMB for consideration -- and if these questions are not resolved there, before a WTO Dispute Settlement Body panel.

Under these circumstances, it is incumbent upon the Singapore Ministerial meeting to recognize the existence of this situation and to provide some guidelines for the future. We must remember that other countries look to the United States for leadership in trade. We do not want them to take similar actions, using rules of origin as a barrier to trade against U.S. exports. At the very least, the Singapore Ministerial must include a reiteration of the importance of avoiding disruption of trade through changes in rules of origin, and of the need to make no new changes in rules of origin except in the context of the Uruguay Round's work program for international harmonization of such rules.

Market Access and Circumvention

USA-ITA understands that some in the United States believe that if textiles is to be included on the Singapore Ministerial agenda, the issues should be limited to an assessment of the extent to which market access obligations have been undertaken and the extent to which exporting nations have adopted effective measures to prevent circumvention. While certainly these are issues within the framework of the ATC, they are not and cannot be the sole textile issues considered at the Ministerial.

Let there be no question: USA-ITA supports the elimination of barriers to trade and believes that the biannual Ministerial meeting process will be an important forum for ensuring that sufficient steps are being taken to open the global marketplace, including the United States. Thus, clearly the Singapore Ministerial meeting should press members to meet their market access commitments. However, this is a two way street. Article 7 of the ATC states that "as part of the integration process . . . and the specific commitments undertaken by the Members as part of the Uruguay Round," all Members shall take actions to "achieve improved access to markets for textile and clothing products through such measures as tariff reductions and bindings [and] reduction or elimination of non-tariff barriers." The integration process is a gradual one, and so too will the opening of markets be a gradual process.

As USA-ITA noted earlier in this testimony, the United States already has set in stone that 89 percent of the integration of clothing will be postponed until the end of the 10 year transition period. Not a single quota product will have been integrated into normal GATT rules by December 1996. Therefore, the United States is hardly in a position to argue that market access by exporting nations should be completed by the Singapore Ministerial.[3/] The fact is, all of the Members of the WTO need to do more to meet the objective of opening markets, and the Singapore Ministerial meeting provides an important opportunity for all to be reminded.

The issue of circumvention of quotas also cannot be considered at the Singapore Ministerial in a vacuum of what the exporting nations are doing to prevent it. Three years ago, the United States announced a task force on transshipment that was going to issue recommendations for combatting the mislabeling of the origin of textile and apparel products. We're still waiting for that report. But in the meanwhile, the legitimate import community is facing increased barriers and costs to doing business, as U.S. Customs takes a broad brush approach in its search for evidence of illegally transshipped merchandise. It is USA-ITA's recommendation that the Singapore Ministerial meeting should remind Members that the prevention and detection of fraudulent trade is a legitimate objective, but that such efforts should be directed at individual actions, not all trade, and should be accomplished through maximum use of existing laws and not through a lowering of standards of evidence that allows mere allegations to justify unrelated trade restrictive actions. The obligation and standards for avoiding circumvention are clearly set forth in Article 5 of the ATC, and it is appropriate for the Singapore Ministerial meeting to remind Members of its existence and the importance of adherence to it.

Conclusion

Obviously, based on these remarks, there is much about the area of textiles and apparel that should be addressed during the course of the Singapore Ministerial meeting. In less than two years, many issues have arisen in this sector, and unless they addressed at this important point, many more problems will surely face the next ministerial meeting. Perhaps even more significantly, with a successful Singapore Ministerial meeting, one that takes on these matters and provides a basis for a smooth and multilaterally beneficial transition, we can assure a net increase in good jobs and benefits to U.S. consumers, and strengthen the U.S. economy.

USA-ITA thanks the Subcommittee for this opportunity to present its views and would be glad to answer any questions you have.

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[3/] To those would argue that the ATC's provision for "growth on growth" has already provided a means of liberalization that began with the implementation of the Uruguay Round, let us remind them that the United States, in anticipation of that obligation, studiously sought to negotiate bilateral agreements lowering the base growth rates upon which that "growth on growth" factor was to be applied (and in many cases succeeded).

Chairman CRANE. Thank you, Ms. Hughes.
Mr. Moore.

STATEMENT OF CARLOS MOORE, EXECUTIVE VICE PRESIDENT, AMERICAN TEXTILE MANUFACTURERS INSTITUTE

Mr. MOORE. Thank you, Mr. Chairman.

I am executive vice president of the American Textile Manufacturers Institute, which is the national trade association of the domestic textile industry. Our member companies operate in more than 30 States and account for approximately 80 percent of all the textile fibers consumed in this country.

On behalf of our members, I would like to share our views with the Subcommittee on the upcoming ministerial, beginning with a quote from WTO Director General Ruggiero on the subject, and I quote: "The full and prompt implementation of commitments is essential for the credibility of the WTO and for building confidence on which to explore the trade agenda that lies ahead."

We believe this is a very clear and insightful statement about what the objectives for the upcoming ministerial should be. It is clear that the first and foremost task should be to assess the implementation of the commitments that were so carefully negotiated over many years in the Uruguay round negotiations.

The one reason offered for this examination by the director general is to build confidence for the tasks that have to be faced ahead. We believe some other reasons exist which are equally important.

WTO members need to know the extent to which their trading partners are living up to their commitments. The WTO needs to confront those members who have fallen short, it needs to exercise the disciplines available to obtain compliance; and the United States needs to evaluate the extent and impact of countries not in compliance and then decide upon the effective responses which it might take.

All of these added reasons we believe are directly in the interest of the U.S. Government and its citizens. In fact, we would urge all WTO members to endorse their director general's words and focus the ministerial meeting on the implementation of the Uruguay round commitments.

As for future movement of WTO negotiations, we believe that a road map already exists and should require relatively little time to deal with in Singapore. That road map is the "built-in agenda" which was referred to earlier by other speakers. It contains items for future negotiations on which WTO members have already committed to begin negotiations—items such as various services negotiations, agriculture, investment, competition policy, and so on.

However, as we begin to move toward the date of the ministerial, we observe that some of our trading partners are trying to deflect and divert the focus of the ministerial, particularly in the area of textiles and clothing. A number of developing countries, encouraged by importers and retailers here in the United States and led by the ITCB, International Textiles and Clothing Bureau, a Geneva-based organization that assists the developing countries in negotiations and actually encourages them, we believe, to more radical proposals, are seeking to change the agenda.

Pakistan, for one, has taken the lead in trying to divert attention from an examination of the implementation of commitments by all WTO members, especially an examination of Pakistan's commitments, and instead, the ITCB countries, such as India, Indonesia, Korea and Pakistan very conveniently ignore the fact, as does Ms. Hughes, that the United States has lived up to its WTO commitments and instead claim that the United States has somehow failed to live up to the spirit of the WTO Agreement on Textiles and Clothing.

When you cut to the bottom line, it seems to us that these countries do not like the pace of the phaseout, and they do not want to submit their own trade regimes to very close scrutiny, so they hide behind the argument that somehow, the United States has not lived up to the spirit of the agreement.

Ms. Hughes talked about the two-way street that should exist in terms of market access. We agree with that. We think that India and Pakistan, to name two, as well as other members of the ITCB such as Indonesia and Korea, certainly do not want us to approach anything like a two-way street when it comes to market access.

For example, according to WTO data, in 1995, India and Pakistan each shipped about 6 billion dollars' worth of textiles and clothing to the world; they imported less than $100 million. In fact, they imported so little that the WTO does not even record how much they imported. Now, you might think that they are developing countries, and therefore they do not have much demand for imported goods. As a matter of fact, India has over 150 million middle-class citizens that we would love to be able to sell our products to, but we are prohibited. We have been prohibited by the existing high duties that they have had for many years, but to really pour salt in the wound, they have now added additional duties in the last 6 months that will clearly keep us out of their markets as long as those duties persist.

Congressman Spratt referred to a particular case that exists today where we had potential to sell significant amounts of floor covering in India, and as a matter of fact their duty now is 95 percent. We are shut out of that market.

So, we believe it is in the U.S. interest to reject the arguments that are without basis, without fact, raised by these members of the ITCB, and to point out that the United States has met every commitment that it negotiated and is supposed to meet in the Uruguay round negotiations and the ATC agreement that followed. And I am certain that the United States will continue to do so. In fact, Congress has mandated that as part of the Uruguay round implementing legislation.

So, we urge the government to seek the support of other WTO members and to reject these self-serving demands of Pakistan, India and others to make textiles a major issue in Singapore.

One final issue of very big importance to our industry relates to the accession of China to the WTO. We will be submitting a statement on this issue later when your Subcommittee has scheduled hearings on this issue, but while we believe that China should enter the WTO only if it has implemented major reforms in its import and export sectors, we recognize that at some point, China will

become a WTO member, and who knows when that will happen, but it will happen ultimately.

We would urge all of the authors of the radical proposals and the ITCB members to think about that fact because their demands for further liberalization of the ATC, the Agreement on Textiles and Clothing, are really going to profit China far greater than anyone else once China becomes a WTO member. They should not be blinded to this reality either by Hong Kong, who promotes China's interests on China's behalf, or by the U.S. importers who try to reap excessive profits at the expense of U.S. consumers or workers by trying to make sure that more and more goods are available from countries like China.

Thank you, Mr. Chairman.

[The prepared statement follows:]

TESTIMONY OF CARLOS MOORE
EXECUTIVE VICE PRESIDENT

AMERICAN TEXTILE MANUFACTURERS INSTITUTE

My name is Carlos Moore. I am Executive Vice President of the American Textile Manufacturers Institute (ATMI), the national trade association for the domestic textile industry. Our member companies operate in more than 30 states and account for approximately 80 percent of all textile fibers consumed by mills in the United States. The textile industry in this country employs 666,000 workers and contributes approximately $24.8 billion to our country's gross domestic product.

On behalf of ATMI's members, I would like to share our views with the Committee on the upcoming Ministerial Meeting of the World Trade Organization (WTO). An appropriate way to begin is to quote WTO Director General Ruggiero on this subject:

> "The full and prompt implementation of commitments is essential for the credibility of the WTO and for building confidence on which to explore the trade agenda that lies ahead."[1]

No one can say it clearer, with more insight, or with more conviction. The first and foremost task facing the WTO member countries is to examine and assess the level of implementation of the members' commitments made in the Uruguay Round agreement. This, we believe, should be the primary task of the Singapore Ministerial and should be the focus of the preparatory work for that meeting.

Director General Ruggiero has offered one important reason that a report on implementation take center stage in Singapore: namely to build confidence for the tasks that the WTO members will be facing.

Some other reasons exist, as well:

- WTO members need to know the extent to which their trading partners are living up to their commitments;
- The WTO needs to confront those members who have fallen short and it needs to exercise the disciplines available to obtain compliance;
- The U.S. needs to evaluate the extent and impact of countries not in compliance and then decide upon effective responses.

All of these added reasons are directly in the interests of the U.S. government and its citizens. In fact, all WTO members should unequivocally endorse the Director General's words and unanimously agree to make an assessment of member country implementation of Uruguay Round commitments the fundamental task of the Singapore Ministerial.

As for future movement WTO negotiations, a road map already exists and should require relatively little time to deal with in Singapore. That road map is the aptly-called "built-in agenda" of the Uruguay Round Agreement. It contains items for future negotiations on which WTO members have already committed to begin negotiations. Those agenda items include: agriculture, various services, investment and competition policy. Ministers in Singapore should reaffirm that commitment and schedule a firm date to begin negotiations.

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[1] "The Road Ahead: International Trade Policy in the Era of the WTO", delivered at the Fourth Annual Sylvia Ostry Lecture, Ottawa, Canada, May 1996

However, as the preparatory work moves ahead and the date for the Ministerial approaches, we observe a growing lack of interest by some of our trading partners in the type of Singapore agenda described above. A number of developing countries, spurred on by U.S. importers and retailers and led by the International Textiles and Clothing Bureau (ITCB), a WTO-financed Geneva-based front for radical proposals, are seeking to change the Ministerial agenda to the detriment of the U.S. and other developed countries.

Pakistan has taken the lead in trying to divert attention from an examination of the implementation of commitments by all WTO members, including and especially Pakistan. Instead, on behalf of countries not renowned for open trading systems or for keeping WTO commitments, such as India, Indonesia and Korea, Pakistan ignores the fact that the U.S. has lived up to its WTO commitment and, instead, claims that the U.S. has failed to live up to the "spirit" of the WTO Agreement on Textiles and Clothing (ATC). After cutting through the Geneva verbiage, the bottom line for these countries is simple:

> They do not like the pace of the Uruguay Round's phase out of textile and clothing quotas and they do not want to submit their own trade regimes to WTO scrutiny.

Hence, they attempt to divert attention from the examination of all WTO members' commitments, which would include their own. And one can understand why they would want to divert attention away from their trade regimes:

Using the WTO data, in 1995 millions of dollars:

	Exports of Textiles to		Imports of Textiles & Clothing from	
	World	U.S.	World	U.S.
Pakistan	5,563	768	N.R.	10
India	6,300	1,520	N.R.	21
Indonesia	5,704	1,170	1,170	20
Korea	16,346	2,448	4,032	153

N.R. -- Not reported; less than $100 million

Clearly, none of these countries is a shining example of open markets; nor have they taken any significant steps toward opening their market.

Perhaps the most blatant example of reneging on Uruguay Round commitments is India's recent introduction of new supplementary tariffs on top of its already high tariffs. These new tariffs, for which no justification can be made, push the Indian import tariff on floor coverings, for example, a product in which the United States is clearly competitive, to an outrageous 95 percent.

We believe it is in the U.S. interest to reject these spurious arguments. The U.S. has met every commitment in the ATC and I am certain will continue to do so throughout the transition period. In fact, the Congress has seen to it by mandating the implementation schedule as part of the Uruguay Round legislation.

We urge the U.S. government to seek the support of other WTO members who are likewise committed to implementing their WTO commitments and to reject the self-serving demands of Pakistan, India and others to make textiles an issue in Singapore.

Another motive for these countries could well be that they want an excuse to renege on their commitments to negotiate on the "built-in" agenda items. Or, at the very least they want to be "paid" for honoring a commitment they have already made, allegedly in good faith, to negotiate further. They may want that payment to be a renegotiation of the

ATC's provisions. Whatever their motives, their efforts need to be rejected by the U.S. out of hand.

One final WTO issue of paramount importance to our industry that is not likely to be on the Singapore agenda is the accession of China to the WTO. ATMI will be submitting a statement on this issue to the Committee at its hearing on this subject scheduled for September 17. However, one comment in the context of the efforts to subvert the Singapore agenda by the ITCB and its members is appropriate.

China should enter the WTO only after it has implemented, and we stress the word "implemented" rather than words like "agreed to" or "committed to", major reforms in its import and export sectors and in its trade practices. Nonetheless, at some point, China will probably become a WTO member and all of the ITCB members (except, perhaps Hong Kong) should weigh that event carefully against their demands for further liberalization of the ATC. China, once it is a WTO member, will benefit from the phaseout of quotas to a far greater extent than any other textile exporting country. ITCB members should not be blinded to this reality either by Hong Kong, which is promoting China's interests, or by U.S. importers who are trying to reap excessive profits at the expense of U.S. consumers and workers.

Thank you, Mr. Chairman.

Chairman CRANE. Thank you, Mr. Moore.
Mr. Krajeck.

STATEMENT OF RICHARD KRAJECK, VICE PRESIDENT, U.S. FEED GRAINS COUNCIL

Mr. KRAJECK. Thank you, Mr. Chairman, Congressman Rangel. I assure you it is only an accident that I am sitting between Ms. Hughes and Mr. Moore.

I am pleased to testify today on behalf of the U.S. Feed Grains Council on U.S. agricultural exports. The U.S. Feed Grains Council is a private, nonprofit organization that develops overseas markets for corn, sorghum, barley and their related products. Our mission is supported by U.S. producers of corn, sorghum and barley, as well as over 70 related agribusinesses. The Council has been building export markets since its founding in 1960.

Agriculture, like many industries is going through a period of rapid change. Much of that change has been generated by technological innovation. Some has been spurred on by governments backing away from intrusion into domestic farm policies, such as the recent U.S. farm bill and the EU's CAP reform.

First, let me address the change that benefits U.S. farmers and the U.S. economy, and that is the increasingly liberalized global market in which we operate. The World Trade Organization Agreement established in 1995 has truly benefited U.S. agriculture and will continue to benefit U.S. agriculture in the future as trade barriers are reduced and removed throughout the implementation period and more WTO members are gained. Our organization, with 11 overseas offices and projects in over 80 countries, has witnessed first-hand how many other countries have also benefited from increasingly liberalized trade. A rising tide does indeed lift all boats.

The international marketplace is the fastest growing arena for U.S. agricultural producers. Among the major U.S. industries, agriculture is the largest positive contributor to the U.S. merchandise balance of trade, reaching over $50 billion in fiscal year 1995 and generating a trade surplus of over $22 billion. That trade surplus is projected to grow to nearly $30 billion in fiscal year 1996.

The principle embodied by the WTO Agreement of predictable and growing access to markets is essential to every country's long-term economic success, as well as the success of U.S. agriculture in general.

World population is growing in absolute numbers and in income levels, creating increasing demand. Exports are where the market potential is. The WTO is definitely facilitating world trade to meet that demand.

We have the opportunity in Singapore to expand upon the successes of the WTO Agreement. The agreement on agriculture was designed to provide increased fairness in agricultural trade, and there can be no doubt that we are making progress and will continue to do so throughout the implementation period.

But there are areas of concern. The respective organizations of the U.S. Feed Grains Council request that the following issues be included on the ministerial agenda because of their impact on further trade liberalization: The enforcement of internationally accepted sanitary and phytosanitary standards; the trade-distorting capa-

bilities of the Trade-Related Investment Measures, or TRIMS, provisions of the WTO Agreement; the trade-distorting practices of state trading enterprises, and the need to schedule the beginning of further agricultural trade negotiations before the built-in agenda date of 1999.

I have elaborated on each of these issues in the written testimony.

The WTO has a scheduled agenda date of 1999 for agricultural negotiations to begin to discuss further tariff reductions and any impediments to fair and open agricultural trade. With the knowledge that the next round of negotiations may take many years to complete, we would like to see the ministerial discussions review implementation progress and obstacles and to develop an agenda for future agricultural negotiations to begin by 1998. We feel that the agricultural negotiations work program should be finalized at the Singapore Ministerial.

The WTO Agreement classifies countries as either developed, developing or least developed. These categories define each country's commitments for reductions in tariffs, export subsidies, and internal supports. The level of reduction in trade-distorting measures for developing countries is two-thirds of that of developed countries, and least developed countries are exempt from any further reduction commitments. The level at which a country enters the WTO should not be a negotiable point as it currently is. Nonsubjective economic indicators should be used to judge a country's level of development.

The United States has taken a leadership role in the creation of the WTO, and we would like to see that role continue as the 121-member WTO seeks other members. The accession of those other members, such as the People's Republic of China, should not be considered until the ability to monitor agreed-upon commitments can occur. The lack of transparency in state-operated trading systems can make it impossible to determine compliance with any agreements. Accession members should at the minimum be required to publish any laws, regulations and decrees, or any other administrative controls, that govern trade.

The largest benefit of the WTO for our organization is that agricultural trade is now subject to international rules. Adherence to these rules has begun the process of eliminating internal and external subsidies and prevented countries from shifting the costs of supporting domestic production onto the international market. Because the prices of agricultural commodities are less subject to manipulation by governments, both producers and consumers are benefiting.

We are experiencing the benefits of a world where tariff and non-tariff barriers are falling, and demand is rising due to the expansion of foreign economies which are also experiencing the benefits of free trade.

We are very supportive and appreciative of this Subcommittee's efforts to continue to expand the membership and goals of the WTO and appreciate the opportunity to appear before you today.

Thank you.

[The prepared statement follows:]

Statement of Richard Krajeck
Vice President
U.S. Feed Grains Council
before the Subcommittee on Trade,
House Committee on Ways and Means regarding
The World Trade Organization and Singapore Ministerial Meeting
September 11, 1996

Mr. Chairman, members of the Committee, I am pleased to testify today on behalf of the U.S. Feed Grains Council and U.S. agricultural exports.

The U.S. Feed Grains Council is a private, non-profit organization that develops overseas markets for corn, sorghum, barley, and their related products. This international market development mission is supported by U.S. producers of corn, sorghum, and barley, as well as over 70 related agribusinesses. The Council has been building export markets since its founding in 1960.

Agriculture, like many industries, is going through a period of rapid change. Much of that change has been generated by technological innovation. Some of that change has been spurred on by governments backing away from intrusion into domestic farm policies, such as the recent U.S. farm bill and the E.U.'s Common Agricultural Policy (CAP) reform.

Let me first address change that benefits the U.S. farmer and the U.S. economy. This is the increasingly liberalized global market in which we operate. The World Trade Organization (WTO) agreement established on January 1, 1995, has truly benefitted American agriculture and will continue benefitting U.S. agriculture in the future as trade barriers are removed throughout the implementation period and more WTO members are gained. As a market development organization with 11 overseas offices and projects in over 80 countries, we have witnessed firsthand how other countries have also benefitted from increasingly liberalized trade.

A rising tide does indeed lift all boats.

The international marketplace is the fastest growing arena for U.S. agricultural producers. Among the major U.S. industries, agriculture is the largest positive contributor to the U.S. merchandise balance of trade, reaching over $50 billion in fiscal year 1995. U.S. agriculture generated a trade surplus of over $22 billion in fiscal year 1995. That trade surplus is projected to grow to nearly $30 billion in fiscal year 1996. The principle embodied by the WTO agreement of predictable and growing access to markets is essential to every country's long term economic success, as well as the success of American agriculture in general.

Populations in international markets are growing in absolute numbers and in income levels, creating increasing demand. Exports are where the market potential is. The WTO is definitely facilitating world trade to meet that demand.

We have the opportunity in Singapore to expand upon the successes of the WTO agreement which went into effect on January 1, 1995. The WTO agreement on agriculture was designed for the first time to provide increased fairness in agricultural trade. There can be no doubt that we are making progress and will continue to do so throughout the implementation period.

But there are areas of concern. The WTO is not perfect.

The respective organizations of the U.S. Feed Grains Council request that the following issues be included on the ministerial agenda because of their impact on further trade liberalization: the enforcement of internationally accepted sanitary and phytosanitary standards; the trade distorting capabilities of the Trade Related Investment Measures (TRIMS) provision of the WTO agreement; the trade distorting practices of State Trading Enterprises (STE's); and the need to schedule the beginning of further agricultural trade negotiations before the built-in agenda date of 1999.

I would like to take a minute to explore these issues.

Sanitary and Phytosanitary Standards (SPS): The SPS agreement establishes a multilateral mechanism to protect exporters against the use of health-related measures which act as barriers to trade. We feel there needs to be improvement in the acceleration of the dispute settlement procedures of the agreement and prompt remediation for measures deemed to be unscientific and/or unjustifiable. We support the concept of equivalency and encourage steps designed to accomplish the goal of harmonization of international standards. We also encourage the acceleration of transparency obligations under the WTO.

Genetically engineered agricultural products will serve an important role in any worldwide effort to increase food production and quality. The Council encourages all countries to use the risk-focused, science-based provisions of the Sanitary and Phytosanitary agreement as the basis for their internal regulations and risk analysis processes.

Trade Related Investment Measures (TRIMS): The TRIMS provision is designed to ensure that governments do not apply measures to investments that create trade restrictions or distortions. This provision has actually created some distortions of its own as some developing countries are claiming preferential treatment for domestic industries by notifying under the TRIMS provision. As an example, government requirements for local industries to purchase domestic product before issuing import certificates for foreign product are clearly WTO illegal, but are being justified under the TRIMS provision. This provision should be re-examined for the trade distortions that are a by-product of its inclusion in the WTO agreement.

State Trading Enterprises (STE's): The Uruguay Round's focus on eliminating non-tariff trade barriers and reducing export subsidies served to focus attention on direct government actions and away from the potentially trade distortive marketing practices of the state trading enterprises (STE's) that are sanctioned and supported by governments. As WTO implementation continues and the WTO seeks to integrate formerly centralized, state-managed economies into the multilateral trading system, it is imperative that the WTO initiate a thorough examination of the trading practices of STE's, including: government guaranteed loans/payments, subsidies to domestic production and exports, levies on production and/or imports, and the lack of transparency in procurement and pricing practices.

Agricultural discussions: The WTO has a scheduled agenda date of 1999 for agricultural negotiations to begin to discuss further tariff reductions and any impediments to fair and open agricultural trade. With the knowledge that the next round of negotiations may take many years to complete, we would like to see the Ministerial discussions review implementation progress and obstacles, and to develop an agenda for future negotiations to begin by 1998. We feel the agricultural negotiations work program should be finalized in Singapore.

The WTO agreement classifies countries as either developed, developing, or least-developed. These categories define each country's commitments for reductions in tariffs, export subsidies, and internal supports. The level of the reduction in trade distorting measures for developing countries are two-thirds of that for developed countries. Least developed countries are exempt from any reduction commitments. The level at which a country enters the WTO should not be open for discussion prior to accession; in other words, it should not be a negotiable point. Non-subjective economic indicators can be used to judge a country's level of development, and should be.

The built-in agenda for the Ministerial includes the areas of: labor standards, environmental standards, government procurement rules, and investment and competition rules. All of the areas of concern in this letter fall within this agenda. SPS measures could be discussed under environmental standards; TRIMS could be discussed under investment rules; STE's could be discussed under government procurement rules; and the acceleration of agricultural negotiations is part of the built-in agenda itself.

The United States has taken a leadership role in the creation of the WTO, and we would like to see that role continue as the 121-member WTO seeks other members. The accession of other

members, such as the People's Republic of China, should not be considered until the ability to monitor agreed-upon commitments can occur. The lack of transparency in trading systems can make it impossible to determine compliance with any agreements. Accession members should at the minimum be required to publish any laws, regulations, and decrees (or any other administrative controls) that govern trade.

CONCLUSION

The largest benefit of the WTO for our organization is that agricultural trade is now subject to international rules. Adherence to these rules has begun the process of eliminating internal and external subsidies and prevented countries from shifting the costs of supporting domestic production onto the international market. Because the prices of agricultural commodities are less subject to manipulation by governments, both producers and consumers are benefitting.

We are experiencing the benefits of a world where tariff and non-tariff barriers are falling, and demand is rising due to the expansion of foreign economies which are also experiencing the benefits of free trade. We are very supportive and appreciative of this committee's efforts to continue to expand the membership and goals of the WTO, and appreciate the opportunity to appear before you today.

Chairman CRANE. Thank you, Mr. Krajeck.
Mr. Yancey.

STATEMENT OF DALTON YANCEY, EXECUTIVE VICE PRESIDENT, FLORIDA SUGAR CANE LEAGUE, AND WASHINGTON REPRESENTATIVE, RIO GRANDE VALLEY SUGAR GROWERS, INC.

Mr. YANCEY. Thank you, Mr. Chairman.

The United States sugar industry is committed to multilateral progress toward a global free market for sugar and sweeteners. Our producers are among the most efficient in the world, despite our high cost of labor and environmental protections. Our growers are ranked 25th-lowest of the 92 world sugar-producing nations, and our cost of production is well below the world average.

However, because of trade-distorting practices which exist, the so-called "world price" has averaged only about half the cost of production during the last 15 years. For this reason, efficient American sugar producers continue to require a domestic policy.

Because U.S. farmers are so efficient, we have supported achieving global free trade in sugar since the outset of the Uruguay round. Foreign sugar is not produced more efficiently, just with more government help.

The United States made some significant concessions on sugar in the Uruguay round, but multilateral movement toward free trade in sugar is minimal. The Uruguay round agreement on agriculture and sugar specifically did not level the playingfield for fair international competition among sugar producers; it did not address vastly differing standards for labor and environmental protections; it did not address the trade-distorting practices of state trading enterprises, and it did not make significant progress on the most distorting of all trade barriers—export subsidies. And, the Uruguay round did not require developing nations and non-GATT members to comply with the major disciplines.

While the Uruguay round provided a useful road map for coordinated, multilateral reduction of barriers to trade in the future, it did not address many of the crucial, distorting trade practices which we must yet negotiate.

As we look toward future negotiations, we believe that the U.S. unilateral reforms of the 1996 Farm Bill place our sugar farmers in danger. They will be vulnerable to the trade-distorting practices of foreign countries, and in addition, we will not be able to approach the next round of talks with significant leverage, and we will have virtually little with which to negotiate.

We would like to make this challenge. The U.S. sugar industry challenges foreign sugar producers to eliminate export subsidies and reduce their sugar policies to the minimal levels to which American sugar farmers are committed in the 1996 Farm Bill. If they exceed these GATT commitments, we are committed in the Farm Bill to match those reductions in the future.

We call for progress in the following areas. We would like to see a reduction of export subsidies around the world to the U.S. level of zero. For importing countries, we would like to see an increase in the minimum access to their markets, up to where our level is

as required by GATT and, for all countries with higher domestic supports, a reduction in support prices to the U.S. level.

As we issue this serious challenge for future multilateral trade barrier reductions, we would also voice a couple of major concerns.

We strongly urge that, as foreign producers reduce their barriers to trade, they also move toward matching U.S. standards for labor and environmental protections, and we strongly urge that marketing monopolies that were ignored in the Uruguay round be addressed aggressively in the future.

State trading enterprises, which are characterized by quasi-government, monopolistic buyer-seller systems for purchase and export of commodities, provide trade-distorting protections that were not addressed in the Uruguay round. The Round focused on the more obvious practices, such as export subsidies, price supports and import limitations. But state trading enterprise practices, while distorting, are actually less obvious.

The U.S. sugar industry has communicated these concerns to our administration, and I am pleased to report that they agree with our concern. We are concerned about the unilateral reductions that were made in the Farm Bill. We hope that other countries will match these reductions, and we challenge them to do so, and we urge that future reductions be made in a coordinated, multilateral fashion and that widely varying labor and environmental standards be taken into account and that the distorting practices of state trading enterprises be addressed in future negotiations.

Thank you.

[The prepared statement and attachments follow:]

House Ways & Means Committee Trade Subcommittee Hearing
On World Trade Organization Ministerial Hearing in Singapore
September 10, 1996

Testimony of Dalton Yancey,
Florida Sugar Cane League and Rio Grande Valley Sugar Growers,
On Behalf of U.S. Sugar Industry

Thank you, Mr. Chairman, for the opportunity to provide testimony for this important hearing. I am Dalton Yancey, Executive Vice President of the Florida Sugar Cane League and Washington Representative of the Rio Grande Valley Sugar Growers of Texas. I also have the privilege of serving on the Agricultural Policy Advisory Committee, where I am the only member representing sugar-producer interests. I am honored today to present to you the views of the entire U.S. sugar-producing industry.

I would like to provide information on four topics in my testimony: first, background on the U.S. sugar industry and its views on trade policy; second, the effect of the Uruguay Round on U.S. and foreign sugar policies; third, the effect of the recently completed 1996 Farm Bill on U.S. sugar policy; and, finally, U.S. sugar industry views and concerns on the next round of multilateral trade negotiations.

Background

The U.S. sugar industry believes the world's most efficient producers, abiding by high labor and environmental standards, should produce for the world marketplace. The U.S. sugar and corn sweetener-producing industry is large and efficient, abides by some of the world's highest standards for labor and the environment, and is committed to multilateral progress toward a global free market for sugar and sweeteners.

Sugarcane and sugarbeets are grown and processed in 17 states. The sugar and corn sweetener industries combined generate nearly 420,000 American jobs in 42 states and over $27 billion in annual economic activity.

U.S. producers are among the most efficient in the world, despite the high cost of our labor and and environmental protections. Our growers are ranked 25th lowest cost among the world's 92 sugar-producing nations, most of them developing countries. Our cost of production is *below* the world average.

Unfortunately, the so-called "world price" for sugar does *not* reflect the cost of producing sugar. Because so many countries encourage sugar production with high internal supports, and subsidize the dumping of their surplus production on the world market for whatever price it will bring, the "world price" has been extremely depressed for some time. Over the past 15 years, the "world price" has averaged *only about half* the world average cost of producing sugar.

For this reason, efficient American sugar growers *do* require a domestic sugar policy -- so that subsidized surplus supplies from the world dump market not displace American sugar. This foreign sugar is not produced more efficiently -- just with more government help.

Despite our efficiency, our's is an industry in some pain. Because of intense domestic competition, production is dropping in many areas, with wrenching consequences for local economies. Sugar production and acreage have dropped dramatically in recent years for sugarcane in Hawaii and for sugarbeets in California, Texas, Ohio, and Nebraska. Thirteen beet or cane processing plants have closed just since 1993.

Nonetheless, because we are efficient, we would welcome the opportunity to compete, head-to-head, against foreign producers. For this reason we have supported the goal of achieving global free trade in sugar since the outset of the Uruguay Round, in 1986. At that time, the U.S. administration announced its goal of achieving *total* elimination of barriers to world agricultural

trade. We were the first U.S. commodity group to endorse that goal, and we still do -- as long as the progress toward free trade is made on a rational, fair, and multilateral basis.

Uruguay Round Effects on Sugar

The United States made significant concessions on sugar in the Uruguay Round of the GATT, but multilateral movement toward free trade was minimal. The International Policy Council concurs with us on this point, concluding in a recent report: "...the sugar sector was left largely untouched by the final Uruguay Round Agreement."

In the Uruguay Round, the United States:

1. Tariffied its sugar import quota;

2. Bound its foreign sugar access commitment -- that is, we agreed to guarantee imports of no less than 1.26 million short tons per year;

3. Agreed to reduce the import quota's second-tier tariff rate by 15% over 6 years.

Unfortunately, foreign countries' commitments on sugar were negligible. There were a number of critical areas where the Uruguay Round accomplished little or nothing.

The Uruguay Round Agreement on Agriculture:

1. Did *not* level the playing field for fair international competition among producers;

2. Did *not* address vastly differing standards for labor and environmental protections;

3. Did *not* address the trade distorting practices of state trading enterprises (STE's).

4. Did *not* make significant progress on the most distorting of all trade barriers -- export subsidies. With respect to the European Union, for example, which destroys the world market by dumping some 4 - 5 million tons of heavily subsidized sugar each year: USDA predicts *no* significant reduction in the volume of subsidized EU exports over the course of the Uruguay Round.

5. Did *not* require developing countries and non-GATT members, which together account for about two-thirds of world sugar production, to comply with the major trade disciplines of the Round.

While it could be acknowledged the Uruguay Round provided a useful road map for coordinated, multilateral reduction of barriers to trade in the future, it did *not* address many of the crucial, unfair trade practices that must yet be dealt with . (A summary of Uruguay Round agriculture disciplines is attached, Attachment A.)

1996 Farm Bill Effect on Sugar

The purpose of U.S. sugar policy is to ensure reliable supplies of this essential food ingredient to American consumers at competitive prices, while providing some stability for American sugar farmers. The policy has been operated at no cost to the U.S. Treasury since 1985, and has been a revenue raiser since 1991; it will raise an estimated $288 million for federal budget deficit reduction over the next 7 years.

U.S. sugar policy is also a necessary response to the policies of foreign countries whose growers are not more efficient than American growers, but are simply more subsidized.

When the Congress approved the Uruguay Round in 1994, it did so with the promise that, in committing American farmers to the Uruguay Round reductions, it was committing to approve future reductions only on a fair, rational, multilateral basis. Instead, the Congress voted for precipitous, unilateral reform of U.S. sugar policy in the 1996 Farm Bill, as it did for all U.S. commodity policy.

To highlight the Farm Bill changes to U.S. sugar policy with implications for international trade:

1. Marketing allotments were eliminated -- in other words, there will be no limits on U.S. sugar production. The new domestic free market will intensify competition and cause the demise of some of the industry, sending American farm and factory jobs overseas.

2. Minimum producer prices are no longer guaranteed -- non-recourse loans will be available to growers only when imports are more than 20% above the Uruguay Round-mandated minimum. American growers will face enormously greater risk, after having had a minimum price guarantee since 1982.

3. The standby support price is effectively reduced by 5.6%, because of a penalty producers will be forced to pay to the U.S. Treasury if they forfeit their loans. This effective loss of about $150 million per year in producer revenues will put more farmers out of business.

4. The minimum import level is effectively increased by nearly 20%, to 1.5 million tons. This increase in minimum access commitments will benefit foreign producers, but will increase domestic competition for the remainder of the U.S. market and could shift more domestic production and jobs overseas.

Furthermore, an additional burden on U.S. sugar growers is the 25% hike in marketing assessments -- the special tax our farmers pay to the government on each pound of sugar produced. This tax will raise approximately $288 million for federal budget deficit reduction over the next 7 years. (A summary of the Farm Bill reforms is attached, Attachment B.)

The U.S. sugar industry is deeply concerned that the unilateral nature of these reforms could: a) Make all American farmers more vulnerable to the unfair trade practices of other producing countries -- policies that have been left untouched by the Uruguay Round; b) Reduce U.S. negotiators' leverage in future trade talks.

For this reason, we must approach the next round of multilateral trade negotiations with extreme caution.

Thoughts on the Singapore Ministerial

As we look toward the possibility of another multilateral round of trade negotiations, as will be discussed at the World Trade Organization's ministerial meeting in Singapore this December, we believe that U.S. unilateral reforms in the 1996 Farm Bill place American farmers in danger. Nonetheless, these reforms may also provide some opportunity.

The danger, as I mentioned earlier, is that American farmers, who will soon have virtually no domestic commodity policies, will be vulnerable to the unfair trade practices of foreign countries. This is true both for our export commodities, which compete for foreign markets, and for net-import commodities, such as sugar, which compete for our domestic market. In addition, we will not be able to approach the next round of talks with the leverage of significant domestic policies, and we will have virtually nothing to concede.

Some suggest the United States may be able to lead by example. Though our experience with many trading partners, particularly some of those in the Far East, has shown little success with this approach, we can only hope we will have more success in the future.

Challenge. Along these lines, we would like to take this opportunity publicly to make a challenge:

The U.S. sugar industry challenges foreign sugar producers to eliminate export subsidies and reduce their sugar policies to the minimal levels to which American sugar farmers are committed in the 1996 Farm Bill. To the extent that foreign producers exceed their Uruguay Round commitments on reductions in trade barriers such as export subsidies and price support, we are committed in the 1996 Farm Bill to matching those reductions.

Specifically, we call for foreign progress in the following areas:

1. For exporting countries -- a reduction of export subsidies to the U.S. level of *zero*;

2. For importing countries -- an increase in minimum access to the U.S. level, around 15% of domestic consumption;

3. For all countries with higher domestic supports -- a reduction in support prices to the U.S. level.

Concerns. As we issue this serious challenge for future multilateral trade barrier reductions, we must also voice two major concerns.

1. *We strongly urge that, as foreign producers reduce their barriers to trade, they also move toward matching U.S. standards for labor and environmental protection.*

We issue this caution for two reasons: a) That foreign workers and fragile ecologies not be exploited to replace the production of the industrialized nations where farmers are held to bear the cost of substantially higher standards. Our hope is that as a result of multilateral trade negotiations, conditions for foreign workers and the environment improve to U.S. standards. b) That efficient American farmers are not unfairly disadvantaged by farmers whose costs of production are ostensibly lower, but only because they need not adhere to the higher standards our government establishes for labor, food, and environmental safety.

2. *We strongly urge that marketing monopolies that were ignored in the Uruguay Round be addressed aggressively in the future.*

State trading enterprises (STE's), which are characterized by quasi-governmental, monopolistic buyer systems for purchase and export of commodities, provide trade distorting protections that were *not* addressed in Uruguay Round. The Uruguay Round focused on the more obvious practices, such as export subsidies, price supports, and import limitations. STE practices are no less distorting, but are simply less obvious.

Furthermore, STE's exist in some major sugar producing countries. In Australia, for example, the Queensland Sugar Corporation acts as the single buyer and exporter of the vast majority of that nation's sugar, providing important price protection for Australian producers. Attached, for your information, is an article from the *Financial Times* of London describing the trade distorting practices of Australia's sugar STE (Attachment C).

The importance of STE's in international trade was also recognized in a recent U.S. government study -- the General Accounting Office's "State Trading Enterprises: Compliance with the General Agreement on Tariffs and Trade."

The U S. sugar industry has communicated its concerns about STE's to the Administration, and I am pleased to report the Administration shares our concern. A copy of our letter to Secretary of Agriculture Glickman, and his response to us, is attached (Attachment D).

Conclusion

The U.S. sugar industry is efficient and committed to multilateral reduction of global barriers to sugar trade. We would welcome the opportunity to compete on a level playing field, where no farmers have the unfair advantage of government support. We applaud U.S. Government efforts to move toward global free trade, as long as this movement is made in a fair, rational, and multilateral fashion.

We are concerned, however, that the United States may have gotten too far out in front with precipitous, unilateral reductions U.S. farmers are committed to in the 1996 Farm Bill. But we hope that other countries will match our reductions, and we challenge them to do so.

We urge that future reductions be made in a coordinated, multilateral fashion, that widely varying labor, consumer, and environmental standards be taken into account, and that the distorting practices of state trading enterprises be addressed in future negotiations.

Thank you, Mr. Chairman, for the opportunity to participate in this important and timely hearing.

Attachment A

Uruguay Round:
Agreement on Agriculture

	Reduction	Effect on U.S. Sugar
Internal Supports	20% of average for all commodities, from 1986-88	None
Export Subsidies	21% volume; 36% value	None
Market Access		
Tariffs	36% average; 15% minimum	Second-tier tariff rises from current 16¢ to 17¢ at start of agreement; falls back to 16¢ after 1 year; then drops gradually to 14.45¢ over next 5 years.
Current or minimum access	Import restrictions reduced to ensure at least 3-5% of consumption from imports.	U.S. first-tier quota never to be less than 1.256 million short tons (well in excess of 3-5% minimum).

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Attachment B

1996 Farm Bill
Reforms of U.S. Sugar Policy

1990 Farm Bill	Reforms
Domestic marketing controls	GONE—Domestic free market
Guaranteed minimum price	GONE—No downside limit on producer prices (unless imports > 1.5 mst)
Loan rate	EFFECTIVELY REDUCED—1¢ penalty = producer revenue loss of $150 million/year
Deficit reduction tax (marketing assessment) paid by producers	INCREASED—By 25%, generating $288 million over 7 years
Foreign sugar imports	INCREASED—Effective 20% increase in minimum
No-cost provision	REMAINS—No cost since 1985; revenue raiser since 1991

April 1996

FINANCIAL TIMES THURSDAY DECEMBER 21 1995

Fear of a fudge over Australian sugar

Nikki Tait reports from Queensland on the implications of a competition initiative

Up on Queensland's lush coastal plain, the sugar cane fields look serene. Harvesting and processing of this year's crop, slightly delayed by wet weather, is underway. Despite lower world prices and some reduction in production from 1994-95's record levels, the forecasts are for a A$1.8bn harvest – only slightly short of last time's bumper A$1.94bn.

But beneath the tranquility, uncertainty looms. A commission, reporting to the federal and Queensland governments, is debating whether Australia's sugar industry should be thrown open to competitive forces. For a sector traditionally among the most heavily protected in Australian agriculture, this is potentially traumatic.

The commission was anticipated when Queensland, source of 95 per cent of Australia's raw sugar production, introduced new sugar industry legislation in 1991 and promised to review this after five years. But it has been given extra impetus by Australia's embrace of a "national competition policy" – a federal initiative to which all the state governments signed up this year.

The competition initiative has particular implications in the rural sector. The dominance of statutory support schemes cost Australian consumers and users about A$550m in 1988-89, estimated one Industry Commission report. Benefits to these groups from reform of the milk, sugar and egg industries alone could total about A$346m a year.

In an effort to erase such inefficiencies, the authorities have declared that agricultural sector legislation should not be allowed to restrict competition unless it can be shown that benefits of the anti-competitive practices outweigh the costs.

For most of this century, Australia has placed either an embargo or a tariff on sugar imports. Domestic production has been constrained by a "land assignment" system, specifying the acreage from which growers can harvest cane and sell to a mill.

Meanwhile, a centralised Sugar Board has controlled the purchase and marketing of sugar, contracting domestic refineries to process raw sugar on a "toll" basis, then sold on the industry's behalf.

The agricultural legislation is not to restrict competition unless the benefits of anti-competitive practices outweigh the costs

In 1991, some liberalisation was introduced. The Sugar Board was replaced by the Queensland Sugar Corporation. This is still a statutory body which buys and markets the state's sugar production, but it is funded by the 7,000 cane growers out of these sales.

The QSC remained responsible for an assignment system, but was to ensure that cane-growing acreage in Queensland expanded by at least 2.5 per cent each year. (In 1994, it grew by 3.6 per cent, allowing the QSC to claim that, for the first time, land available exceeded demand.) The import embargo, meanwhile, was replaced by a tariff on raw sugar imports, initially set at A$115 a tonne but now less than half that.

These partial reforms fall well short of the commission's brief – which includes a review of the tariff and an assessment of the phased removal of sugar industry regulatory arrangements by 2000. Privately, many industry players say they are fairly relaxed about further easing of assignments or even a loss of the tariff. But it is the role which QSC plays as a "single desk" seller, for both the export and domestic markets, which most see as critical and vulnerable.

"The industry is on notice that under the national competition policy single desks are deemed inappropriate," says Mr Michael Bosscher, deputy chief executive of the QSC.

The QSC argues that it helps to smooth the production chain and acts as an efficient – even necessary – salesman for Australian sugar overseas, given corruption in world markets. Because burnt cane has to be crushed fast, the relationship between growers and mills is extremely close. The QSC makes advance payments to the mill owners throughout the season, which in turn are shared on a formula basis with growers. Centralised management of bulk terminals and the like is justified on the grounds of more streamlined handling.

Expecting small farmers to start adapting to world market prices could also be a big task. "The average cane grower probably doesn't even know what the world price for sugar is," says Mr Bosscher.

Critics, however, say this ignorance is precisely the worry. Despite recent growth in the industry, there is no evidence that it is at an optimal size. Even with modified land assignment, there are lags between the desire of growers to expand with the market, and their ability to do so.

On the buying side, there is the distortion of the two different "pool" prices provided by the QSC. Nor is there any conclusive evidence that growers would be baffled by more entrepreneurial responsibility; parallels are drawn with cotton, where growers regularly utilise futures markets.

Although one of the largest raw sugar suppliers, Australia never developed refined sugar exports, mainly because of high regulation

There is also the question of whether Australia can, or should, move into the world market for refined sugar. Largely because of the industry's highly regulated history, Australia never developed refined sugar exports, although one of the largest international suppliers of raw sugar (accounting for about 15 per cent of its world trade in the early 1990s). Refineries, under the Sugar Board, were inevitably near domestic markets.

The more liberal regime has encouraged some initiatives. Last year, for example, Mackay Refined Sugars, a joint venture between Mackay Sugar Co-operative, a grower-owned organisation, and London-based ED&F Man, the commodities trading house, opened a A$96m refinery attached to the Racecourse Mill on the Capricorn Coast. This was to build an export-oriented refined sugar business on the back of a domestic operation.

MRS has not had an easy birth. The company claims that, even with modern bulk shipping, it is only feasible to develop an export-oriented refining business in tandem with a domestic presence. But a virulent price war has broken out locally, prompting legal action between MRS and CSR, the largest domestic refiner, and allegations of predatory pricing.

The cumbersome industry structure is much to blame. A Queensland mill must sell to QSC before the refinery can buy the sugar back at the import parity price. "Single desk selling belongs to a past era," says Athol Harley, MRS's chief executive.

Australia's wheat industry, meanwhile, has managed to retain a single desk system for export sales and the wool industry is still grappling with the centralised selldown of a large stockpile, built up under an earlier price guarantee scheme. Some worry that the sugar industry will suffer because of the political desire to make an example of it.

But perhaps the greater fear is a fudge. Geoff Mitchell, head of Tate & Lyle's Bundaberg Sugar, said: "The industry has to either continue down the competitive track or it has to revert to a sustainable regulated environment."

Attachment C

BACKING AMERICA'S BEET, CANE AND CORN FARMERS

Attachment D

May 15, 1996

The Honorable Dan Glickman
Secretary
U.S. Department of Agriculture
14th Street and Independence Avenue, SW
Washington, DC 20250

Dear Mr. Secretary:

The groups listed below, representing the U.S. sugar producing industry, are writing to recommend your attention to: 1) The distorting effect of state trading enterprises (STE's) on the world sugar market; 2) The lack of attention to STE practices in past multilateral trade negotiations; and, 3) The need to recognize and address these distortions in future negotiations.

1. **STE's play an important, but largely unrecognized, role in the world sugar market.**

   Sugar is generally regarded as the most volatile, and most distorted, of all the world's commodity markets. This is the direct result of the extraordinary amount of government involvement in the pricing, production, consumption, and trade of sugar. Over 100 countries produce sugar, and *all* have some level of government involvement in their individual markets.

   U.S. sugar farmers are efficient by world standards. But our efficiencies cannot compete with the distorting practices of foreign governments. U.S. sugar policy is, therefore, a necessary response to those practices and resulting distortions.

   Many countries control domestic pricing, imports, and/or exports of sugar through STE's. Australia and Brazil, two of the world largest sugar exporters, are prime examples.

   Australia has called for reform of U.S. sugar policy and argued that its sugar market is virtually "free." It ignores, however, the long standing practices of its Sugar Board (recently renamed the Queensland Sugar Corporation), which controls production through a "land assignment system" and "buys and markets the state's sugar production." This "single desk seller" functions as a monopoly, controlling both domestic and export market sales. In addition, Australia has a system of tariffs on sugar imports. (See the attached article from the *Financial Times*.)

   Brazil's sugar market, likewise, has long been controlled by its parastatal Sugar and Alcohol Institute.

2. **Compliance with GATT disciplines on STE's has been minimal.**

The General Agreement on Tariffs and Trade (GATT) recognized the trade distorting effects of STE's from its outset in 1947. The GATT has long required its member countries to report regularly on STE's, but compliance has been minimal.

In its 1995 report "State Trading Enterprises: Compliance with the General Agreement on Tariffs and Trade," the U.S. General Accounting Office points out that each year between 1980 and 1994 generally fewer than 10 percent of the member countries even bothered to file reports on whether any such STE's exist in their countries.

The GAO review revealed the existence of six sugar STE's, but many more no doubt exist among member countries. Brazil, for example, has never reported on the activities of its Sugar and Alcohol Institute.

The Uruguay Round established a Working Group to look more closely at STE practices. We hope this group will be active and aggressive.

3. **Future World Trade Organization (WTO) negotiations need to focus on STE's.**

The current WTO member countries must focus better on the trade distorting practices of STE's in future negotiations, most immediately in the ministerial meeting set for Singapore this December.

Furthermore, the WTO must be aware that a number of countries that have applied for GATT membership, such as China, Russia and the Ukraine, have major sugar industries controlled by STE's.

U.S. agricultural policy was seriously curtailed, far in excess of our Uruguay Round commitments, in the Federal Agriculture Improvement and Reform Act of 1996. Foreign countries are poised to take advantage of the unilateral reform and dismantlement of U.S. agricultural policy, and can further exploit their advantage through the trade distorting practices of STE's that have not been addressed.

For these reasons, we request your vigilance on this important subject, and we stand ready to assist you in any way we can.

Sincerely,

American Sugarbeet Growers Association
The United States Beet Sugar Association
American Sugar Cane League
Florida Sugar Cane League
Hawaii Agriculture Research Center
Rio Grande Valley Sugar Growers, Inc.
Sugar Cane Growers Cooperative of Florida

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

JUL 12 1996

Mr. Dalton Yancey
Executive Vice President
Florida Sugar Cane League
Washington Represenetative
Rio Grande Valley Sugar Grower, Inc.
1301 Pennsylvania Avenue, N.W.
Suite 401
Washington, D.C. 20004

Dear Mr. Yancey:

Thank you for your letter of May 15, 1996, cosigned by your industry colleagues, expressing the American Sugar Alliance's concerns about State Trading Enterprises (STEs) in world sugar trade.

Please be assured that the Administration shares your concerns about STEs and is continuing to take steps to address the role of STEs in the import and export of agricultural commodities, including sugar.

As you know, a working group is now in regular session within the World Trade Organization (WTO) to monitor the activities of STEs. This group has a limited charter under the current WTO regime because disciplines specifically dealing with STEs have not yet been formulated. This situation is likely to change in the relatively near future because of the pending accession to the WTO of many countries whose internal economic structures are very dependent on STEs in both importing and exporting. China and Russia are among the most significant of these countries.

The STE working group currently is establishing a framework for future work, including negotiations to establish rules intended to mitigate the most egregious trade distorting effects of STEs. This framework will become the basis for a first round of negotiations addressing STEs at the Ministerial-level talks scheduled to be held in December 1996 in Singapore. The United States intends to be in the forefront of these discussions.

Thank you for your support and for writing to us to express your thoughts on this important trade issue. An identical letter is being sent to each of your colleagues.

Sincerely,

DAN GLICKMAN
Secretary

Chairman CRANE. Thank you, Mr. Yancey.

Chairman CRANE. I have just one question for Ms. Hughes and Mr. Moore, and it is kind of a followup to the question I asked earlier and concerns textile trade with Sub-Saharan Africa.

There are concerns that the textile quota in the Uruguay round was divided in such a way as to leave these countries with a very small piece of the pie. Given that textile manufacturing is often a critical first step leading to economic and industrial development, how do you suggest we alleviate the problem—by doing nothing, or expanding the level of imports permitted into the United States, or giving Africa more quotas to the detriment of other trading partners? And do you expect the issue of trade with the least developing countries to come up at the Singapore meeting?

Ms. HUGHES. We strongly support the mechanism that is included in your bill with Congressman McDermott because we think it is a positive step to appeal to business to improve their trade in Africa. Because that mechanism merely states that there will be no new quotas placed on Africa until the Sub-Saharan African continent as a whole reaches a certain level of trade, it gives an opportunity for businesses to produce in Africa where they do not produce there now.

This is important because in the past, quotas have been placed on African countries, such as Kenya, at such low levels that U.S. companies left their investment behind rather than try to deal with the quota system. Africa only has the next 7 1/2 years to become competitive with the other textile exporting countries since most of them are WTO members and are part of the quota phase-out. So we feel it is important to have some kind of a mechanism to jump-start investment in Africa so they do not get left behind permanently, not just with the current transition.

Chairman CRANE. Mr. Moore.

Mr. MOORE. Mr. Chairman, it is a difficult question because there are WTO constraints on some of the things that we as a government can or cannot do to try to promote trade there. I hope that we are successful. Our industry hopes that we are successful in promoting the development of trade from Sub-Saharan Africa, because quite frankly, we are looking for markets around the world to sell yarns and fabrics. Our industry has embarked on a very strong export effort. That is one reason why we are very interested in market access in the context of the Uruguay round WTO commitments.

We think that if that trade develops, we would be able to export yarns and fabrics there and create jobs and additional production in the United States. The question is how do you do it without harming, say, levels of U.S. apparel production currently; how do you do it and be consistent with the rules, because you cannot take away quota from someone else, as much as one might think that is desirable. My view, on a reading of the WTO, is that you are not allowed to do that from one WTO member to the next.

I think Ms. Hughes hit upon something that is very interesting. She said that those countries only have 7 1/2 years left, implying that they cannot compete in a freely open trading system. I am not sure that that is in fact the case because apparel production, if the rules are properly enforced—if China has to play by the rules and

reform its system, then in fact China may not take over the bulk of apparel production, which a lot of people think they will once quotas disappear. I alluded to the fact that they might in my testimony, because if we do not insist on reforms of the Chinese system, they surely will, and neither Sub-Saharan Africa nor any other apparel producer will have much of a chance to compete.

So, what we really urge is proper enforcement of the WTO disciplines to make sure that trade takes place under the kinds of conditions of equitable competition that it should. That will tend to promote those kinds of growth industries in countries where there is no production now. We have seen it in other countries. Nepal, a very undeveloped country, has become a major producer of apparel. So, there may be ways to do that but it is not easy.

Chairman CRANE. I want to thank all of you for your testimony and urge you, as I have done previous panels, to keep the channels of communication open and keep the flow coming down here for us because we are in the position of having to make sometimes difficult and not as well-informed decisions as you people would make if you were in our shoes.

We appreciate your input today. Thank you so much.

With that, our final panel is composed of representatives from additional U.S. industries. Elizabeth Seiler is director of environmental affairs for the Grocery Manufacturers of America, and she is accompanied by Gary Horlick of O'Melveny & Myers. Bruce Aitken is executive director of the Pro Trade Group. Howard Samuel is executive director of the Labor/Industry Coalition for International Trade, and he is accompanied by Timothy Regan, vice president of Corning-Asahi Video Products.

Again, ladies go first, so Ms. Seiler, we will hear your testimony for openers.

STATEMENT OF ELIZABETH H.A. SEILER, DIRECTOR OF ENVIRONMENTAL AFFAIRS, GROCERY MANUFACTURERS OF AMERICA, INC., ACCOMPANIED BY GARY HORLICK, PARTNER, O'MELVENY & MYERS, WASHINGTON, DC

Ms. SEILER. Thank you, Mr. Chairman and Congressman Rangel. I am Elizabeth Seiler of the Grocery Manufacturers of America, and I am here today representing the Coalition for Truth in Environmental Marketing Information. The Coalition's members are American trade associations representing aluminum, forest and paper, chemical, plastic, electronic and food and consumer product companies.

With me today is Gary Horlick of O'Melveny & Myers.

The Coalition's members support the sharing of environmental information with consumers through eco-labeling, but are concerned that certain eco-labels, particularly those being developed in Europe, which provide misleading and incomplete information, could serve as a barrier to U.S. trade.

Our position is that the Singapore Ministerial should direct the Subcommittees on Trade and the Environment to develop principles on eco-labeling that will promote their environmental goals while reducing the chances that they will become the source of trade disputes.

The objectives of eco-labeling programs are to provide information to consumers and to encourage the development and use of products with reduced environmental burdens. We agree with these objectives, and they are broadly shared by government, industry and the environmental community.

A system modeled on the FTC guides for the use of environmental marketing claims is an excellent means of accomplishing this. The guides are based on the principles of truthfulness, scientific basis, verifiability and nondeceptiveness. The guides have been praised by environmental groups and businesses and have led to an increase in meaningful environmental labeling in the United States.

While the Coalition strongly supports eco-labeling based on the approach embodied in the FTC guides, it is deeply concerned over one form of eco-labeling known as eco-seals, which have become more common overseas, particularly in Europe. An eco-seal is a type of eco-label that is a symbol awarded by a centralized certification panel that purports to judge the environmental effects of products and packaging and to tell consumers, with a single seal, which products and packaging are "best" for the environment.

An example can be seen on the last page of my testimony.

Our member companies' 20 years of experience with eco-seals in Europe and elsewhere has shown that these programs have inherent unresolvable problems in both theory and practice. Specifically, the selection of criteria upon which an eco-seal is awarded is subjective rather than scientifically sound. They act as barriers to innovation both for environmental progress and product performance. They do not educate consumers about the environmental attributes or tradeoffs associated with the products they purchase, and they are barriers to trade because their criteria are frequently discriminatory and protectionist in nature.

I would like to go a little further into the issue of science because it is integral to the development of criteria for any credible eco-seal.

At this time, there is no objective way to scientifically determine which products and packaging are "best" for the environment. Products have different strengths and weaknesses from an environmental standpoint, even within the same category. For example, one product may have low energy consumption but generate relatively high solid waste. Another may have low solid waste but cause greater water pollution.

Even within a single environmental parameter, there are tradeoffs, and among different geographic areas, the relative priority of environmental issues varies. For example, detergents which use less water are more valuable in dry countries. As a result, the process of granting an eco-seal is inherently based on value judgments by the issuing organization.

Eco-seal panels typically consist of government officials, companies and experts from the country establishing the program. Faced with no objective means for trading off environmental attributes of products and sensitized to local concerns, the panels inevitably favor local products. We suspect that discrimination in favor of local products is often intentional.

Eco-seals have become sources of increasingly contentious trade disputes. Most recently, the European Union has issued eco-seal criteria for paper and pulp that threaten to shut U.S. producers out of European markets. We can expect trade disputes such as that brewing over paper to occur with increasing frequency as eco-seal programs expand. At the same time, we cannot permit U.S. products to be discriminated against in violation of WTO rules by protectionist measures disguised as environmental measures.

Mr. chairman, I also want to clarify what our Coalition does not oppose. Our Coalition has taken no position on labor labeling, which we believe is completely unrelated to the issues we raise. Moreover, we are not opposed to the use of symbols which clearly convey to consumers specific, verifiable information about the environmental attributes of products.

Mr. Chairman, we look forward to continuing to work with your Subcommittee and other interested Committees in Congress to develop a strategy that will protect U.S. exporters while promoting the laudable goals of eco-labeling.

Thank you.

[The prepared statement and attachment follow:]

TESTIMONY OF ELIZABETH H.A. SEILER
DIRECTOR OF ENVIRONMENTAL AFFAIRS
GROCERY MANUFACTURERS OF AMERICA, INC

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today. I'm Elizabeth Seiler, Director of Environmental Affairs for the Grocery Manufacturers of America, and I am here today representing the Coalition for Truth in Environmental Marketing Information. The Coalition's members are American trade associations representing aluminum, forest and paper, chemical, plastic, electronic and food and consumer product industries. The Coalition's 1,200 U.S.-based companies do over $900 billion dollars of business globally. With me today is Gary Horlick of O'Melveny & Myers, counsel to the Coalition.

The Coalition's members support the sharing of environmental information with consumers through eco-labeling, but are concerned that certain eco-labels, which provide misleading and incomplete information, could serve as a barrier to U.S. trade. The Coalition is speaking here today because the WTO Committee on Trade and the Environment has taken up the issue of eco-labeling, one form of which has increasingly become a trade barrier.

It is important that the Singapore Ministerial take action to ensure that rules concerning eco-labeling ensure progress towards the linked goals of environmental education and avoidance of barriers to U.S. trade.

The objectives of eco-labeling programs are to provide information to consumers and to encourage the development and use of products with reduced environmental burdens. We agree with these objectives, and they are broadly shared by government, industry, and the environmental community.

Providing scientifically sound, useful, environmental information is an important and constructive way to help consumers make informed choices about the products and packaging they purchase. A system modeled on the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims (the "Guides") is an excellent means of accomplishing this. The Guides are based on the principles of truthfulness, scientific basis, verifiability and non-deceptiveness. A market-oriented environmental information sharing system, such as the Guides, encourages competition and innovation, and empowers consumers to make informed choices based on objective, scientific information about the environmental effects of products and packaging. The Guides reflect the new generation of government environmental policy-making which encourages innovation and flexible decision-making by manufacturers and consumers. The Guides have been praised by environmental groups and businesses, and have led to an increase in meaningful environmental labeling in the United States.

While the Coalition strongly supports eco-labeling based on the approach embodied in the FTC Guides, it is deeply concerned over one form of eco-labeling, known as eco-seals, which have become more common overseas, in particular in Europe. For those on the Committee who are new to this issue, an eco-seal is a type of eco-label that is a symbol awarded by centralized certification panel that purports to judge the environmental effects of products and packaging and to tell consumers, with a single seal, which products and packaging are "best" for the environment. In other words, eco-seals connote environmental preferability. However, our member companies' twenty years of experience with eco-seals in Europe and elsewhere has shown that eco-seal programs have inherent, unresolvable problems in both theory and practice. They neither encourage environmental progress in consumer markets, nor provide consumers with useful information that empowers them to make informed purchasing decisions. The specific problems with eco-seals are:

- The selection of criteria upon which an eco-seal is awarded is subjective rather than scientifically sound.
- They act as barriers to innovation -- both for environmental progress and product performance.

- They do not educate consumers about the environmental attributes or tradeoffs associated with the products they purchase.
- They are barriers to trade, because their criteria are frequently discriminatory and protectionist in nature, whether by design or not.

I would like to go a little further into the issue of science because it is upon this issue that criteria for any credible eco-seal must rest.

At this time, there is no objective way to scientifically determine which products and packaging are "best" for the environment. Eco-seal authorities cannot objectively reconcile environmental tradeoffs between different products, social infrastructures, or regional/national priorities.

Products have different strengths and weaknesses from an environmental standpoint, even within the same category. For example, one product may have low energy consumption, but relatively high solid waste emissions. Another may have low solid waste, but cause greater water pollution. Even within a single environmental parameter there are tradeoffs. For example, products manufactured in most of Europe and the U.S. will use energy from natural gas or coal fired power plants, while those made in France use mostly nuclear power. Each of these power sources has different environmental characteristics that cannot be scientifically ranked by any "expert" panel. Finally, among different geographic areas, the relative priority of environmental issues varies. For example, in Spain, water is relatively scarce, and the laundry process in many areas is typically performed in normal temperature water. Thus, from a local standpoint, a detergent which reduces water use would be more environmentally meaningful than one that conserves energy. In Germany, where heated water is normally used, and water is relatively plentiful, the reverse is the case. The history of eco-seals is replete with failed efforts to paper over these unresolvable conflicts.

As a result, the process of granting an eco-seal inherently is based on value judgments by the issuing organization. In practice, eco-seal systems often favor local manufacturers over foreign competitors by virtue of the way criteria are determined. Eco-seal panels typically consist of government officials, companies and experts from the country establishing the program. Faced with no objective, scientific means for trading off environmental attributes of products and sensitized to local environmental concerns, the panels inevitably favor local products. Although harder to prove, we suspect that discrimination in favor of local products is often intentional.

Eco-seals have become sources of increasingly contentious trade disputes. Most recently, the European Union has issued eco-seal criteria for paper and pulp that threaten to shut U.S. producers out of European markets. Working with one of the Coalition's members, the American Forest & Paper Association, the U.S. Government has been trying heroically for over a year to try to moderate the most discriminatory aspects of the EU program. Thus far, this effort has failed. The EU disregarded the valid concerns raised both by the U.S. Government and U.S. industry (and their own European paper industry) and adopted controversial eco-seal criteria for copying paper in late July.

We can expect trade disputes such as that brewing over paper to occur with increasing frequency as eco-seal programs expand. These disputes and the way eco-seal programs operate and are administered could undermine the legitimacy of, and public confidence in, all eco-labeling programs, a result nobody wants. At the same time, we cannot permit U.S. products to be discriminated against in violation of WTO rules by protectionist measures disguised as environmental measures.

The WTO Committee on Trade and the Environment (CTE) was established by the WTO Ministers in Marrakech with the stated aim of "making international trade and environmental policies mutually supportive." From the start, eco-labeling has been on the agenda of the CTE. The Coalition views the work of the CTE as an opportunity to resolve problems with eco-seal programs so that eco-labeling can

continue to develop without becoming the source of trade disputes. Our position is that the CTE should have on the agenda of its post-Singapore work program the development of principles on eco-labeling that will promote the environmental goals of eco-labeling while reducing the chances that eco-labels will become the source of trade disputes.

Mr. Chairman, I have explained what the Coalition supports and opposes about eco-labeling. I also want to clarify what the Coalition does not oppose. Our Coalition has taken no position on labor labeling, which we believe is completely unrelated to the issues we raise. However, we do not perceive any conflict between our goals and means and those of proponents of labor labeling. Moreover, we are not opposed to the use of symbols which clearly convey to consumers specific, verifiable information about the environmental attributes of products. Likewise, our positions are not in conflict with the "dolphin-safe" label, which, again, conveys specific, objective information to consumers.

Mr. Chairman, we look forward to working with your Committee and other interested Committees in Congress to develop a strategy that will protect U.S. exporters while promoting the laudable goals of eco-labeling. Thank you again for providing us with the opportunity to come before you today to discuss our concerns.

ECO-LABELS

ECO-SEAL
(TYPE I)

ENVIRONMENTAL INFORMATION LABELS
(TYPE II)
(e.g. FTC Guidelines)

TIDE
PACKAGE AND PRODUCT INFORMATION

- The Solid Waste Association of North America supports product and packaging innovations that reduce solid waste.

- Refill designed to help reduce solid waste in the environment.
- Refill made from at least 25% post-consumer recycled plastic.
- Refill made from 80% less packaging than Tide cartons because it has no scoop, no handle and no cardboard.
- Use your Tide carton and scoop again and again.
- Cleaning agents are biodegradable.
- Safe for septic tanks.
- CONTAINS NO PHOSPHORUS.

Questions? 1-800-879-8433.

Chairman CRANE. Thank you, Ms. Seiler.
Mr. Aitken.

STATEMENT OF BRUCE AITKEN, EXECUTIVE DIRECTOR, PRO TRADE GROUP, INC.

Mr. AITKEN. Thank you, Mr. Chairman.

I am Bruce Aitken, a partner in the law firm of Aitken, Irvin, Lewin, Berlin, Vrooman & Cohen, and Pro Trade Group executive director. I have been asked to testify today by Ed Black, PTG chair and president of the Computer and Communications Industry Association.

We commend the Subcommittee on conducting this hearing, particularly in light of the fact that our understanding is that the operating Committees of the WTO will conclude their meetings to establish the agenda for the ministerial by the middle of next month.

We have three issues that I will briefly comment on today. We intend to discuss these and other issues more fully in a posthearing submission.

They are, first, the implications for the WTO of the harmonization of manufacturing standards; second, the need for a telecommunications agreement, and third, implementation of the Uruguay round issues.

As to the first issue, we believe that the goal of global harmonization of manufacturing standards should be addressed at the ministerial. We believe this issue could and should be addressed within the context of the WTO's Technical Barriers to Trade Committee and its Trade and Environment Subcommittees. We commend the administration for its support of the achievement of the goal of global harmonization of manufacturing standards through, among other things, mutual recognition agreements. This, after all, reduces the cost of manufacturing, which is what the WTO is all about, facilitating trade.

Over the last year, for example, this has been the focus of the Trans-Atlantic Business Dialog. If this serves as a model and precursor for truly global harmonization, then we support its goals.

However, we are concerned with its focus on the UN Economic Commission for Europe Working Group 29 as the vehicle for global harmonization. While this group has focused on related issues for nearly 30 years, it would need to broaden its global make-up, including membership by the United States, and outlook to fill the role needed to achieve the goal of global harmonization.

The recent proposals in hearings held in July by the U.S. Department of Transportation and the Environmental Protection Agency to reform Working Party 29 in the context of possible harmonization of automotive standards are such threat as to call into question the likelihood of such changes, at least in the near future.

By contrast, the WTO has the stature to coordinate these interests of concerned governments and to discuss global harmonization. In fact, it may indeed facilitate the reform of UN Working Party 29.

We have attached to our testimony a memorandum of law that describes the negotiating history of these Committees and the basis for raising these issues within the context of the WTO, and we ask that that be included as part of the record of the hearing.

The second issue that we wish to address briefly is that we believe that at the WTO Ministerial, the progress of negotiations on basic telecommunications services should be reviewed. As you know, the negotiations were originally scheduled to conclude on April 30, 1996 but have been extended until February 15, 1997. A number of our members were disappointed at the failure to conclude these talks last April, but remain hopeful that a final agreement will be reached. We urge an emphasis in Singapore on the importance of achieving a competitive global marketplace for telecommunications services and a call for all countries to submit offers that conform to WTO regulatory principles.

Third, we join with many others in calling for a focus on implementation of the Uruguay round agreements. As Members of the Subcommittee well know, the Uruguay round agreements include 175 notification requirements that the various agreements are being implemented. Yet WTO Director General Ruggiero has reported that for some of the agreements, notification of compliance has been poor, and he has noted concerns about the lack of completeness and comparability of the notifications.

Finally, in our post-hearing submission, we intend to address a number of other issues, including WTO dispute resolution.

Again, we commend the Subcommittee on the timeliness and importance of this hearing and thank you for the opportunity to appear.

[The prepared statement and attachments follow:]

TESTIMONY OF BRUCE AITKEN, EXECUTIVE DIRECTOR, PRO TRADE GROUP, ON THE DECEMBER, 1996 WTO MINISTERIAL MEETING

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to appear today. My name is Bruce Aitken, I am a partner in the Washington, D.C. law firm of Aitken Irvin Lewin Berlin Vrooman & Cohn and serve as Executive Director of the Pro Trade Group.

We understand that the operating committees of the World Trade Organization (WTO) will conclude their recommendations for discussion items for the agenda of the December, 1996 Ministerial meeting by mid-October. As such, we commend the Subcommittee on organizing this hearing and urge the Congress and the Administration to strongly express the concerns and views of U.S. industry as to legislative items for discussion at the Ministerial meeting.

The Pro Trade Group is a broad coalition of U.S.-based companies and organizations that represent U.S. exporters, importers and consumers, including manufacturing, agricultural, wholesaling, retailing, service and civic interests, which actively seek to develop competitive markets and promote trade. It was founded in 1986 and is committed to expanding, not restricting, trade and promoting policies which achieve that goal and resultant economic prosperity. We were actively involved in the development and passage of the Omnibus Trade and Competitiveness Act of 1988 and played an equally active role in the consideration and enactment of Uruguay Round (UR) implementing legislation. We are committed to helping develop and implement constructive, trade expanding policies, laws and regulations. The positions of the PTG represent a consensus view although PTG participants may have varying views on particular issues.

As the PTG is a coalition of diverse U.S. companies and associations, we intend to file a comprehensive submission to the Subcommittee later this month. Today, we wish to highlight just a few of the issues of concern to our members.

First, we believe that the goal of global harmonization of manufacturing standards should be discussed at the WTO Ministerial. This issue, we believe, could and should be raised by the United States within the context of the WTO's Technical Barriers to Trade Committee and the Trade and Environment Committee. We commend the Administration for its support for achievement of the goal of global harmonization of manufacturing standards through, among other things, mutual recognition agreements. Over the last year, e.g., this has been the focus of the TransAtlantic Business Dialogue. If this serves as a model and precursor for truly global harmonization, we support its goals. However, we are concerned with its focus on the UN Economic Commission for Europe Working Party 29 as the vehicle for global harmonization. While this group has focused on related issues for nearly 30 years, it would need to broaden its global makeup and outlook to fill the role needed to achieve the goal of global harmonization. The recent proposals of the U.S. Department of Transportation and the Environmental Protection Agency for reform of Working Party 29, in the context of possible harmonization of automotive manufacturing standards, are of such breadth as to call into question the likelihood of such changes, at least in the near future. Further, UN Working Party 29 would need to broaden its global make-up and outlook to fill the role needed to serve as a viable vehicle for negotiating global harmonization. By contrast, the WTO has the stature to coordinate the interests of concerned governments to discuss the goal of harmonization.

Enclosed as an Appendix is a Memorandum of Law which discusses the basis for raising harmonization issues -- by mid October -- within the WTO's

Technical Barriers to Trade Committee and its Trade and Environment Committee.

Second, we believe that at the WTO Ministerial, the progress of negotiations on basic telecommunications services should be reviewed. As you know, the WTO has sponsored negotiations with over 50 nations, including the United States, to achieve an agreement liberalizing trade in telecommunications services. The negotiations were originally scheduled to conclude on April 30, 1996, but have been extended until February 15, 1997. A number of our members were disappointed at the failure to conclude the talks on April 30, but remain hopeful that a final agreement will be reached. We urge an emphasis, in Singapore, on the importance of achieving a competitive global marketplace for telecommunications services and a call for all countries to submit offers that conform to the WTO regulatory principles.

Third, we join with many others in calling for a focus on implementation of the UR. As the members of the Subcommittee well know, the UR agreements include 175 notification requirements that the various agreements are being implemented. Yet WTO Director-General Renato Ruggiero has reported that, for some of the agreements, notification of compliance has been poor and he has noted concerns about the lack of completeness and comparability of the notifications and about the administrative burden of complying with the requirements.

Finally, in our post hearing submission, we intend to address a number of other issues, including the WTO dispute resolution process, among others. In that submission, we intend to offer a comparative analysis of the dispute resolution mechanisms of the U.S.-Israel and U.S.-Canada Free Trade Agreements, the NAFTA and the WTO, with some policy recommendations.

Thank you. We will look forward to working with the Subcommittee on this important subject.

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APPENDIX

September 11, 1996

MEMORANDUM TO THE FILES

FROM: Bruce Aitken and Martin J. Lewin

RE: HARMONIZATION OF MANUFACTURING STANDARDS -- BACKGROUND INFORMATION ON THE WTO'S COMMITTEES ON TECHNICAL BARRIERS TO TRADE AND ENVIRONMENT

I. OVERVIEW

The goal of global harmonization of manufacturing standards should be discussed at the December, 1996 World Trade Organization (WTO) Ministerial meeting in Singapore. This issue, we believe, could and should be raised by the United States within the context of the WTO's Technical Barriers to Trade Committee and its Trade and Environment Committee. The Administration has supported achievement of the goal of global harmonization of manufacturing standards through, among other things, mutual recognition agreements. Over the last year, e.g., this has been the focus of the Trans-Atlantic Business Dialogue (TABD). If this serves as a model and precursor for truly global harmonization, we support its goals. However, both the Administration and the TABD have focused on the UN Economic Commission for Europe Working Party 29 as the vehicle for global harmonization. While this group has focused on related issues for nearly 30 years, it would need to broaden its global makeup and outlook to fill the role needed to achieve the goal of global harmonization. The recent proposals of the U.S. Department of Transportation (DOT) and the Environmental Protection Agency (EPA) for reform of Working Party 29, in the context of possible harmonization of automotive manufacturing standards, are of such breadth as to call into question the likelihood of such changes, at least in the near future. Further, UN Working Party 29 would need to broaden its global make-up and outlook to fill the role needed to serve as a viable vehicle for negotiating global harmonization. The United States, e.g., is not a participant and the DOT/EPA proposals

for reforming this entity raise questions of whether it is a viable forum for this matter, at least in the near future. By contrast, the WTO has the stature to coordinate the interests of concerned governments to discuss the goal of harmonization

The following discusses the pertinent background of the Uruguay Round (UR) negotiations and the mandates of the WTO's Committees on Technical Barriers to Trade, and Trade and the Environment.

II. DISCUSSION

A. URUGUAY ROUND NEGOTIATIONS

1. The background of the negotiations is instructive as to the issue of the possible discussion of manufacturing standards harmonization at the WTO's December, 1996 Ministerial. The operative section of the UR, on its objectives, reflects the considerations set out in its preamble. Among other things, the negotiations were aimed at strengthening the role of the GATT system, including its responsiveness to the evolving consensus to improve environmental standards.

2. Nine "MTN Agreements and Arrangements" were negotiated in the Tokyo Round. The Punta del Este agreement called for them to be improved, clarified and expanded, "as appropriate". At the conclusion of the Tokyo Round, five codes, to a greater or lesser extent, were identified as the subject of future negotiations. They were the agreements on technical barriers to trade (referred to as the "standards code"), the government procurement code, customs valuation, import licensing, and dumping (the "antidumping code").

3. The WTO entered into force on January 1, 1995, pursuant to the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations of December 15, 1993, and the April 15, 1994 Marrakesh Agreement Establishing the WTO and adopted by Ministers representing 124 government and the European Communities.

4. The objectives of the TBT Committee are set forth in the UR preamble. While qualified to ensure that members countries are not prevented from taking measures necessary to ensure the quality of a country's exports, to protect health or the environment, or prevent deceptive practices, the preambles include the following elements, in pertinent part:

> *Recognizing* the important contribution that international standards and conformity assessment systems can make in this regard by improving efficiency of production and facilitating the conduct of international trade
>
> *Desiring* therefore to encourage the development of such international standards and conformity assessment systems:
>
> *Desiring* however to ensure that technical regulations and

> standards, including packaging, marking and labeling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade.
>
> * * * * *
>
> *Recognizing* the contribution which international standardization can make to the transfer of technology from developed to developing countries.
>
> *Recognizing* that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavors in this regard.

5. Both agreements call upon the member countries to work to harmonize technical regulations, that is, enforceable measures, as wide a basis as possible In this regard, Article 2 6 of Uruguay TBT provides:

> With a view to harmonizing technical regulations on as wide a basis as possible, members shall play a full part, within the limit of their resources, in the preparation by appropriate international standardizing bodies of international standards for products which they have adopted, or expect to adopt, technical regulations.

6. A significant addition under the Uruguay Round TBT is Article 6, Recognition of Conformity Assessment by Central Government Bodies. Article 6,1 provides in pertinent part:

> With respect to their central government bodies:
>
> 6.1 Without prejudice to the provisions of Article 6, paragraphs 3 and 4. Members shall ensure, whenever possible, that results of conformity assessment procedures in other Members are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures.

In addition, Article 6.3 provides:

> 6.3 Members are encouraged, at the request of other Members, to be willing to enter into negotiations for the conclusion of agreements for the mutual recognition of results of each other's conformity assessment procedures.

> Members may require that such agreements fulfil the criteria of Article 6, paragraph 1, and give mutual satisfaction regarding their potential for facilitating trade in the products concerned.

7. Read in conjunction with Article 2.6, these provisions provide an obvious basis for member countries to pursue the goal of for harmonization of manufacturing standards within the WTO. Also, in informal discussions with the WTO Secretariat staff responsible for TBT Agreement, we understand that the WTO is looking to member country interest in developing Article 6. This in turn, may depend on the position of manufacturers with their governments.

B. TECHNICAL BARRIERS TO TRADE COMMITTEE

1. As indicated in 4/15/96 letter to us, the WTO's Trade and Environment Division stated:

> "Harmonization is one of the main principles of the WTO Agreement on Technical Barriers to Trade. In order to improve economic efficiency and to minimize obstacles to trade that could be created by national differences in technical regulations, standards and procedures for conformity assessment, the TBT Agreement encourages harmonization through the use of international standards, the acceptance of the technical regulations of other Members as equivalent, and mutual recognition of conformity assessment procedures."

2. As the WTO's own history of the Uruguay Round negotiations stated, "the agreement on technical barriers to trade -- familiarly known as the "standards codes", or in the jargon of the officials concerned, "TBT" -- was perhaps the most successful of the Tokyo Round Agreements", which concluded in November, 1979.[1] The Tokyo Round standards code was designed to ensure that international trade would not be unnecessarily burdened by technical regulations and standards. In general, the Code had been concerned with rules that establish what characteristics a product must have, e.g., its performance, size or safety. In the UR, what some countries sought was further improvement, clarification and/or expansion of the agreement.

3. The 1979 Code focused on setting obligations that would apply between the central governments which signed it. It did not cover non-governmental bodies or "second-tier" government agencies (e.g., provincial governments). It only provided that signatory governments should take reasonable measures as may be available to them to comply with the code. In the UR negotiations, the European Community proposed a Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement as Technical Barriers to Trade. This was designed to attempt to translate the main obligations under the Code -- national and most-favored nation treatment, the use of international standards and transparency -- into operational guidelines that would be submitted to these bodies for acceptance.

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[1] See, Croome, John, Reshaping the World Trading System, (WTO 1985) at p. 5.

4. The WTO's Committee on Technical Barriers to Trade was established as part of the UR Agreement on Technical Barriers to Trade. Article 13 of that Agreement provides:

> "There shall be established under this Agreement:
>
> 13.1 A Committee on Technical Barriers to Trade composed of representatives from each of the Members (hereinafter referred to as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary, but no less than once a year for the purpose of affording members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Members."

5. In the negotiations, the United States finally was persuaded to accept the EC proposal for a Code of Good Practice. Among other things, it aims to "ensure that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade." Agreement on this code was helped by a proposal from the International Organization for Standardization (ISO) that it should cooperate in defining what represents good practices. The ISO's membership includes both governmental and non-governmental standards bodies. It has cooperated closely with the GATT on the operation of the Tokyo Round Code and its support for the Code of Good Practice made its possible for negotiators to reach an agreement which channeled reporting procedures through it.

6. Finally, a Ministerial decision was made "to recommend that the Secretariat of the World Trade Organization reach on understanding with the International Organization for Standardization (ISO)" to establish an information system.

7. Clearly, the Standards Code has evolved. It is in this context that we believe it appropriate for the WTO's TBT Committee to consider a possible formal encouragement to WTO members of harmonization of manufacturing standards as an important trade liberalizing goal.

C. TRADE AND ENVIRONMENT COMMITTEE

1. This Committee has none of the history of the TBT Committee. Until the end of the UR negotiations, environmental issues were addressed in the preamble to the UR Agreement but the decision to establish a standing environmental committee was left for a post-round work program. The preamble states, in part, that "relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living ... seeking both to protect and preserve the environment and enhance the means for doing so..." (Emphasis added).

2. At the April 12-15, 1994 Marrakesh meeting, the Ministers decided to direct the first meeting of the WTO's General Council to establish a Committee on Trade and Environment. The Ministerial decision directed the Committee to address several matters, including "the relationship between the provisions of the Ministerial trading system and ... (b) requirements for

environmental purposes relating to products, including standards and technical regulations ...." It also directed the Committee to report to the first Ministerial Conference, which is the December, 1996 meeting in Singapore.

3. The Committee was charged with the "aim of making international trade and environmental policies mutually supportive", including "requirements for environmental purposes relating to products ..." We believe that an appropriate goal for international manufacturing is to attempt to persuade the WTO's Trade and Environment Committee to consider including in its report to the Ministerial Conference recognition that truly global harmonization of international manufacturing standards is consistent with its mandate and goals and, further, that inconsistent standards represent an obstacle to open trade. This issue could be considered by the WTO Committee in terms of mutual recognition.

III. CONCLUSION

The focus of the Administration, and the TABD, on achieving progress towards global harmonization of manufacturing standards through UN Working Party 29 is problematic. An effort to reach a consensus at the WTO Ministerial to reaffirm the goal of a global harmonization of manufacturing standards would appear to be a worthwhile exercise in its own right and, further, may have the added benefit of creating an environment which facilitates reform of UN Working Party 29.

Chairman CRANE. Thank you, Mr. Aitken.
Mr. Samuel.

STATEMENT OF HOWARD SAMUEL, EXECUTIVE DIRECTOR, LABOR/INDUSTRY COALITION FOR INTERNATIONAL TRADE

Mr. SAMUEL. Thank you, Mr. Chairman.

I am here, along with my colleague Mr. Regan, on behalf of the LICIT, Labor/Industry Coalition for International Trade, which is a coalition of businesses and companies that work together in support of increased, balanced and equitable international trade. As is our custom when we testify at Committee hearings such as this, we are represented by someone from the labor movement—I spent a number of years in the labor movement before becoming associated with LICIT—and Mr. Regan is a division vice president of Corning, Inc.

The trade policy issues arising as U.S. officials prepare for Singapore are important to LICIT's company and union members. While LICIT has been active across a spectrum of WTO issues—and our full testimony touches on a number of those issues—today we will just focus on two. I will talk briefly about competition policy, and Mr. Regan will discuss the issues regarding dispute settlement.

Competition policy is a trade issue. LICIT and particularly its subsidiary, the Coalition for Open Trade, are deeply concerned about the problem of private anticompetitive practices abroad and government toleration of such practices. Inadequate and uneven discipline over anticompetitive practices harms U.S. trade interests and is one of the major trade policy problems the U.S. Government will have to tackle in the years ahead.

While perhaps primarily a concern with respect to Japan and Europe today, this problem will only magnify as other trading nations shed their formal, government-imposed trade barriers and private restraints take on added commercial significance.

Our members have first-hand experience in this area. The Coalition for Open Trade has led the way in documenting the problem and spurring debate on solutions, starting with our first report published in 1991. Among the many sectors where we have documented anticompetitive practices as a market access problem are paper, glass, steel, autos and auto parts, and heavy electrical equipment.

Our message concerning competition policy in the Singapore Ministerial is a simple one. We have two main points. First, focus on competition policy, not antidumping. While interested in multilateral progress on ACPs, anticompetive practices, we are quite alarmed by recent suggestions that this could be a way of reopening antidumping issues. The U.S. Government, we believe, must prevent this. Antidumping is a separate issue. The focus of multilateral competition policy discussions should be on the ways in which ACPs and support for or toleration of such practices by National Governments restrict the ability of foreign businesses to contest markets. We believe that such an inquiry will clearly show that ACPs and differential antitrust responses by National Governments affect competition within markets.

There is no reason why a competition policy initiative needs to involve any consideration of antidumping or other trade policy

measures. In addition, the WTO antidumping rules were just recently renegotiated. They should be allowed to work, and the new WTO Committee on Antidumping used for airing reform proposals.

Finally, "compromise" language in the ministerial communique should be avoided. Too often, international efforts to begin addressing competition policy have resulted in statements that focus on both antidumping and uneven antitrust enforcement, as if both were problems in need of correction. The United States should not sign on to any such statement at Singapore.

Our second goal we believe should be that we set a modest, achievable goal for the near future. Antitrust cooperation is not enough and probably not feasible. For a variety of reasons, cooperation among antitrust authorities is not an adequate substitute for market access efforts. There is no clear prospect for success in relying on traditional antitrust approaches to solve market access problems, and a limited track record at best to date, despite the best of intentions.

For now, multilateral efforts in this area should focus on fact-gathering rather than rulemaking. The goal should be to identify barriers to market access that are not adequately covered by international commitments and that may not be reachable under current rules and dispute settlement.

Meanwhile, the United States must continue to address bilaterally, through section 301, foreign government toleration of private restraints that block U.S. exports to, or investment in, foreign markets. As with intellectual property rights, such an approach will enhance our ability to bring this issue into the multilateral system with appropriate rules at a later date.

Thank you.

Chairman CRANE. Thank you, Mr. Samuel, and before you commence, Mr. Regan, our colleague, Amo Houghton, apologizes for his inability to be here; he had a conflict with another engagement. Please proceed.

STATEMENT OF TIMOTHY REGAN, VICE PRESIDENT, CORNING-ASAHI VIDEO PRODUCTS, INC., CORNING, NEW YORK

Mr. REGAN. Thank you, sir.

Mr. Chairman, Mr. Rangel, I am in the unenviable position of standing between you and the end of this hearing so you can go to dinner, so I am going to make it real quick.

My name is Tim Regan, and I am with Corning, Incorporated. We are a founding member of the organization, LICIT, which has been around for over a decade. We are proud of our participation because we are one of the few organizations where you really find some collaboration and cooperation between labor and business. We are proud of the association.

The dispute settlement process has been used aggressively by the United States. We have filed some 17 cases, and our government appears to be going after them aggressively. We do not know what the outcome of this effort is going to be because we have not gotten the results, but the will so far seems to be there.

I should also say that the agreement is going to be up for reconsideration in 4 years; there is a 4-year trial period in it. We think

this ministerial coming up is an opportunity to send a couple of signals to the rest of the world about dispute settlement.

The first signal is that it is not going to interfere and should not interfere with the things we have to do bilaterally. The dispute settlement is there to deal with problems that are currently within the system and can be dealt with in the system. As we all know, the agreement was not all-encompassing. There are certain practices and certain problems that remain outside the agreement. The United States should tell the rest of the world that, going forward, we are going to continue to pursue resolution of those problems using the normal U.S. tools for bilateral resolution, including section 301.

Number two, we have got to make it clear to the world that clearly—and I think Charlene Barshefsky did this today—the dispute settlement process does not violate any country's sovereignty. This is a very important point. There has been a lot of talk about sovereignty. The fact of the matter is that if you get a decision that is made against you in the dispute settlement process, you do not have to conform. You can compensate the other parties. You can face some form of retaliation, but they cannot change our laws, and we need to make that clear, and we need to reinforce that concept, both domestically and internationally.

Finally, there is lots that we can do to make this system more transparent. Now that it is becoming the primary method for resolving problems. We used to just go to USTR and they would work out a solution; whether it was the 301 solution or some other solution, they would take care of it. We knew whom we were dealing with. Not anymore. Now, we are going to go to USTR, and they are going to go into an international court, and there is going to be a lot of activity in that international court. As private interests that are affected by the outcome of this discussion, we want to be involved in that process, and we think USTR knows that, and they are trying to do it.

One thing we would like to have is the ability to get access to briefs that are submitted. Up until now, we have not been able to get anything. Just about 2 months ago, USTR was able to get the rest of the world to agree that they are going to start making panel decisions, at least, the final outcome, available; they are going to derestrict those decisions and make them available to public interests.

The second thing we would like to provide for is the possibility for public hearings. We would like to be able to participate—by "participate," I mean observe, at least—the hearings that are being undertaken on our behalf, except in instances where there is clearly confidential information being utilized.

Third, we would like to participate. Amicus briefs. We can do it in U.S. courts; why not do it in international courts?

And then, of course, we want to have some control on the WTO's use of outside experts; use such experts only when they are requested and approved by both parties to the dispute.

Those are some areas where we can make improvements, and I think that the USTR folks are interested in transparency. Here are some specific suggestions.

Now, in terms of domestically, what we need to do—that is, how do we need to reinforce the dispute settlement process in the United States—I will give you a couple of ideas.

One is to pass and to enact the so-called Dole bill, the WTO Review Commission bill, which has been introduced in the House as H.R. 1334.

Another way is to ensure that we have continued effective enforcement of our trade laws, the unfair trade laws, and we think that that is happening and ought to continue to happen.

A third way is to ensure that we have aggressive enforcement of the trade agreements. We are very pleased by what happened in the Commerce Department and USTR when they set up these offices of compliance because now we are going to make sure that folks really do live up to their international obligations.

I appreciate your patience. Thank you.

[The combined prepared statements follow:]

Statement of

The Labor-Industry Coalition for International Trade (LICIT)

on

The Singapore WTO Ministerial

Submitted to the Committee on Ways and Means Subcommittee on Trade

September 11, 1996

We appreciate the opportunity to testify on the Singapore WTO Ministerial. This statement sets out the views of the Labor-Industry Coalition for International Trade (LICIT). LICIT, along with its subsidiary, the Coalition for Open Trade, brings companies and unions together to advocate increased, balanced and equitable international trade. Companies and labor organizations that have joined in recent LICIT statements on trade policy are American Flint Glass Workers; Association for Manufacturing Technology; Bethlehem Steel; Chrysler Corporation; Cincinnati Milacron; Communications Workers of America; Corning Inc.; Industrial Union Department (AFL-CIO); Intel Corporation; International Brotherhood of Electrical Workers; International Union of Electronic Workers; Motorola Inc.; UNITE; United Rubber Workers; and United Steelworkers of America.

I. Introduction

The trade policy issues arising as U.S. officials prepare for the Singapore Ministerial are important to LICIT's company and union members. While LICIT has been active across the spectrum of WTO issues, our written statement focuses mainly on a few which we view as especially high priorities. It also contains some suggested internal measures to complement the external U.S. trade policy agenda.

One key issue, of course, is the candidacy of China and Taiwan for WTO membership. LICIT welcomes the Subcommittee's decision to consider that important issue in a separate hearing, and we plan to participate by submitting a short written statement of our views.

With regard to the other WTO issues, it is worth remembering that we have recently completed the biggest and most comprehensive trade negotiations in history. The results included more than fifty agreements, understandings and Ministerial decisions covering several hundred pages. We will not know for many years the full effects of these agreements, many of which are being phased in over an extended period.

WTO Members need a period to incorporate, understand and adjust to all of these new agreements. Accordingly, there should be reasonable and relatively modest expectations for the first WTO Ministerial. LICIT recommends a cautious approach, seeking incremental progress, in each of the three major areas: implementation, built-in agenda, and new issues.

II. Implementation

One important yet underemphasized goal of the Ministerial is to take stock of progress (and any problems) in Members' implementation of the Uruguay Round agreements. This does not mean simply adherence to tariff phaseout schedules but also includes, for example, notification of subsidies, of new trade laws, and of trade-related investment measures. Such notification mechanisms figure among the important achievements of the Uruguay Round and, properly utilized, will help to lay the groundwork for more beneficial agreements in the future. The U.S. Administration appears to be doing a good job in this area, both in implementing U.S. obligations and in tracking other countries' implementation of theirs.

III. Built-In/Automatic Agenda

This category comprehends a large number of issues. Those of greatest interest to LICIT's members are discussed below.

A. WTO Dispute Settlement

The new rules embodied in the WTO Dispute Settlement Understanding (DSU) are subject to review after an initial four-year trial period. It is not too soon to begin establishing parameters for this review at the Ministerial level. How can WTO dispute settlement -- the very heart of the system -- command U.S. industry's support?

- ***It must not interfere with bilateral market-opening initiatives.*** The WTO agreements do not address all the important barriers in the world. U.S. Government market-opening efforts must continue in areas where WTO disciplines do not apply, and the WTO agreements cannot be allowed to operate as an impediment. Our delegation at Singapore should reiterate that section 301 continues to be available in this context and will continue to be used. They should also make clear that extension of the new DSU rules is not a foregone conclusion, and that a key factor influencing the U.S. position on extension will be the degree to which those rules have impeded U.S. efforts to address trade barriers that cannot be effectively addressed under the WTO's substantive rules. (WTO Members should be in favor of market opening efforts that go beyond GATT and may build a foundation for future GATT efforts. As with regional free trade agreements, where these efforts are GATT-plus, they should be seen as strengthening the global trading system.)

- ***It must not violate Members' sovereignty.*** The intent of the DSU is to allow Members to adjudicate those practices which violate WTO rules or nullify or impair WTO benefits. Members retain the sovereign right to keep in effect measures found to violate WTO rules, and to compensate injured trading partners or, in the alternative, accept trade retaliation. A country can comply fully with its WTO obligations by negotiating a compensation package deemed acceptable by the complaining country. This flexibility is a cornerstone of the WTO system and must not be eroded in any way.

- ***It must operate transparently.*** The United States was only partially successful in its effort during the Uruguay Round to increase the transparency of the WTO/GATT dispute settlement system. LICIT supports continuation of the U.S. Government's effort and applauds the USTR's recent announcement of progress in this area.

  - **Public briefs:** DSU rules should make all briefs and arguments available to the public, except for those (rare) portions of a clearly business-proprietary nature. The renegotiated DSU should require parties to release non-confidential summaries of their briefs during the dispute settlement proceeding to which they relate.

  - **Public hearings:** Meetings of dispute settlement panels should generally be open to the public, subject to temporary closure only when material of a clearly business confidential nature is being reviewed.

  - **Public participation:** The United States should seek recognition, if any is necessary, that national delegations in the dispute settlement process may include representatives of private sector interests. The DSU should also be amended to permit the submission of amicus briefs by non-governmental parties generally supportive of their government's position and having a clear and direct interest in the outcome of a case.

  - **Controls on use of experts:** WTO panels should be permitted to consult outside experts only with the knowledge, and at the request, of the litigating governments.

B. Other "Built-In" Issues

- ***Expiring provisions.*** Many provisions of the WTO agreements expire by their own terms after a certain number of years unless extended. While actual decisions on extension may

be a few years away in some of these areas, as with the DSU review, it is not too soon to start establishing appropriate parameters. As an example, the WTO Agreement on Subsidies and Countervailing Measures contains a new category of non-actionable or "greenlighted" subsidies. This hole in the multilateral anti-subsidy rules only encourages the trade-distorting behavior of other governments. At Singapore and during the months that follow, our negotiators should make clear the United States will oppose extension of the greenlight category after the initial 5-year trial period absent an affirmative demonstration that the new rules have on balance strengthened, rather than weakened, subsidy discipline.

- ***Additional tariff negotiations/ITA.*** There may be some scope for additional/accelerated tariff liberalization, within the confines of existing tariff cutting authority. The proposal for an Information Technology Agreement (ITA) is an example of this, and is something LICIT supports. In determining the coverage of such an agreement, negotiators should focus on those IT sub-sectors that clearly have a net export potential. For some (a minority of) IT sub-sectors, inclusion in an ITA may not make sense from a U.S. trade policy perspective.

- ***Reciprocal opening of telecom services markets.*** LICIT supports the Administration's insistence on full market-opening commitments in the telecom sector. These negotiations affect a number of important manufacturing sectors. If acceptable commitments from a critical mass of trading partners do not materialize, the United States must be willing to take an MFN exemption as it did in the financial services sector to ensure adequate market-opening leverage going forward.

IV. New Issues

Given the enormity of what was recently negotiated, and the extent of unfinished WTO business already needing attention, the U.S. Government has wisely sought to be selective in admitting "new issues" for WTO consideration. New issues should not be ignored but certainly should not be the Ministerial's main focus. LICIT's views on the new issues are as follows:

A. Competition Policy as a Trade Issue

LICIT and particularly its subsidiary, COT, are deeply concerned about the problem of private anticompetitive practices (ACPs) abroad and government toleration of such practices. Inadequate and uneven discipline over ACPs harms U.S. trade interests and is one of the major trade policy problems the U.S. Government will have to tackle in the years ahead. While perhaps primarily a concern with respect to Japan and Europe today, this problem will only magnify as other trading nations shed their formal, government-imposed trade barriers and private restraints take on added commercial significance.

Our members have first-hand experience in this area. COT has led the way in documenting the problem and spurring debate on solutions, starting with our first report published in 1991. Among the many sectors where we have documented ACPs as a market access problem are paper, glass, steel, autos and auto parts, and heavy electrical equipment.

- ***Competition policy, not antidumping, is the issue.*** While interested in multilateral progress on ACPs, we are quite alarmed by recent suggestions that consideration of this issue could be misused as a way of reopening the Agreement on Antidumping. The U.S. Government must prevent any such reopening.

    - **The issues are separate:** The focus of multilateral competition policy discussions should be on the ways in which ACPs, and support for or toleration of ACPs by national governments, restrict the ability of foreign businesses to contest markets. We believe such an inquiry will clearly show that ACPs, and differential antitrust responses by national governments, affect competition within markets. Of course, trade policy measures also affect competition within markets. This is true of antidumping duties imposed under GATT Article VI, safeguard measures under Article XIX, tariffs under Article II, intellectual property border measures under

the TRIPs Agreement, etc. But each of these is expressly authorized under existing GATT rules, and has its own appropriate place in the WTO system. There is no reason why a competition policy initiative needs to involve any consideration of antidumping or other trade policy measures.

- **WTO antidumping rules were just recently renegotiated:** They should be allowed to work, and the new WTO Committee on Antidumping used for airing reform proposals.

- **Focusing narrowly on competition policy will satisfy our European allies:** The EU has positioned itself as the *demandeur* on this issue. The European Commission's recent "non-paper" recognizes that antidumping is a distinct issue from competition policy -- and a legitimate trade policy tool.

- **"Compromise" language in the Ministerial communique should be avoided:** Too often, international efforts to begin addressing the competition policy problem have resulted in statements that improperly focus on both antidumping and uneven antitrust enforcement, as if both were "problems" in need of correction. The United States should not sign on to any such statement at Singapore.

The focus should be on modest, achievable goals for the near term. The competition policy issue is important but, as discussed above, is new to the WTO and is fraught with some danger. What should the United States seek to do?

- **Antitrust cooperation is not enough:** For a variety of reasons, cooperation among antitrust authorities is not an adequate substitute for market access efforts. There is no clear prospect for success in relying on traditional antitrust approaches to solve market access problems, and a limited track record to date despite the best of intentions. Moreover, even assuming such efforts could at some point achieve their full potential, they would not address fundamental market access obstacles that go beyond narrow issues of antitrust adjudication.

- **Fact-gathering makes the most near-term sense:** For now, multilateral efforts in this area should focus on fact-gathering rather than rule-making. The goal should be to identify barriers to market access for goods, services and investment that are not adequately covered by international commitments, and that may not be reachable under current rules and dispute settlement. This is the proper focus for OECD discussions and for any near-term consideration of this issue within the WTO. It will focus much-needed attention on the problem and spur additional efforts to devise solutions.

- **Preparation and leverage for rule-oriented negotiations:** Rule-oriented negotiations will need to await further preparatory work by both the private sector and the U.S. Government. In the meanwhile, the United States must continue to address bilaterally (through section 301) foreign government toleration of private restraints that block U.S. exports to, or investment in, foreign markets. As with intellectual property rights, such an approach will enhance our government's ability to bring this important issue into the multilateral system **with appropriate rules** at a later date.

Other "New" Issues

Bribery/corruption. Bribery, and the differences in national regimes for addressing it, have adversely affected U.S. trade interests. LICIT supports U.S. efforts to place this important trade issue on the WTO agenda. It is appropriate to seek a multilateral approach to this problem.

Social and economic integration. The Administration should continue to design regional and multilateral trade initiatives, including negotiations, so that they promote social integration in tandem with economic integration.

- ***Investment.*** To avoid distortions of normal commercial decisions, LICIT endorses broadening and deepening of the current international rules governing cross-border investment. Market access can be illusory without the ability to invest in sales, distribution and other facilities in export markets. The proposed Multilateral Agreement on Investment (MAI) currently being negotiated in the OECD would be a useful step forward and, upon completion, can serve as a model for further multilateral efforts in this area.

V. Internal U.S. Steps

The best negotiating strategy is of little use without internal policies that assist U.S. firms and workers in taking the fullest possible advantage of the negotiated opportunities. We need flexibility under international rules to act in defense of legitimate U.S. trading interests -- but we also need internal mechanisms to ensure that future Administrations will be able and willing to do so. LICIT has several recommendations:

- ***Establishment of WTO Review Commission:*** The WTO Review Commission bill should be enacted promptly so that this new mechanism -- which is critical to the WTO's credibility in the United States -- can begin its important work immediately.

- ***Effective trade law enforcement:*** This includes strong antidumping and countervailing duty regulations and, as discussed above, use of section 301 where appropriate. Congress, for its part, should continue to reject trade law-weakening proposals, particularly the current effort to superimpose a "short supply" or "temporary duty suspension" mechanism on the existing antidumping and countervailing duty laws.

- ***Effective trade agreement enforcement:*** LICIT applauds the creation of enforcement units at the Office of the USTR and at the Commerce Department. The process by which these units identify and respond to trade agreement compliance problems should be as public and transparent as possible.

- ***Trade agency reform:*** Whether pursued directly or indirectly through funding decisions, trade agency reform should be approached with great caution. Enforcement functions should remain insulated from non-enforcement policy objectives, and should remain adequately funded no matter where they are ultimately lodged. The issue of reorganization should be examined systematically by a blue ribbon panel, whose explicit goal should be to determine means of improving: (1) the effectiveness of U.S. market opening efforts; (2) U.S. preparations for negotiations, including the analytical and informational base on which negotiations are conducted; and (3) staffing for U.S. participation in international dispute settlement proceedings.

- ***Work on anticompetitive practices:*** Careful work is needed to determine the appropriate position for the United States to take in multilateral fora with respect to private restraints which deny market access. The United States must continue to address bilaterally (through section 301 and other statutory tools) foreign government toleration of private restraints that block U.S. exports to, or investment in, foreign markets. This formula was used successfully in the area of intellectual property rights, which have now been brought within the multilateral system.

- ***Vigilance against currency manipulation:*** The U.S. Government should redouble efforts to ensure that exchange rates are not being manipulated by our trading partners' central banks, including Japan's, which may seek through currency devaluation to increase artificially the competitiveness of their goods and services to the detriment of U.S. workers and manufacturers.

Chairman CRANE. Well, we thank you all. We appreciate your patience and endurance because of the interruptions on the floor.

That concludes our hearings, but we want to extend to you also the invitation to please stay in communication with us. We need your insights, too. You are the sector that we are trying to represent in the best and most equitable way with our trade legislation.

Thank you for enduring, and with that, our hearing is adjourned.

[Whereupon, at 5:43 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

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

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to provide this statement for the record for your hearing on September 11, 1996. Based on our past and ongoing work, I have some observations about the implementation of the Uruguay Round agreements and the operations of the World Trade Organization (WTO) in the context of the upcoming Singapore ministerial meeting. WTO is a multilateral organization that, among other things, serves as a forum for international trade negotiations and oversees the administration of the Uruguay Round agreements. After providing a brief overview of some issues expected to be raised at Singapore, my statement will discuss in more detail the status of (1) general implementation issues, (2) issues related to WTO agreement on textiles and clothing, (3) implementation of the agriculture agreements, (4) ongoing negotiations involving trade in services and market access, (5) new issues that may be taken up by the WTO in Singapore, and (6) new member accessions to the WTO.

The first biannual WTO ministerial meeting will take place from December 9 to 13, 1996, in Singapore. The meeting is a forum for reviewing implementation of the Uruguay Round agreements and for discussing new issues. The U.S. Trade Representative (USTR) believes that this meeting will be an important test of the WTO's credibility as a forum for continuous consultation, negotiation, and liberalization. Some foreign government and WTO officials told us that they hope these regularly scheduled, more focused WTO ministerial meetings will replace the series of multiyear, exhaustive negotiating "rounds" of the past. However, other officials expressed doubt that much progress could be made toward future trade liberalization without the opportunities for trade-offs created by having a number of important issues under negotiation at one time.

OVERVIEW

The Uruguay Round agreements generally went into force on January 1, 1995. Implementation of these agreements is complex, and it will take years before the results can be fully assessed.[1] The ministerial level meeting in Singapore provides WTO member countries the first opportunity to "take stock" of how well they have implemented the Uruguay Round agreements so far. The many committees and working groups that constitute the organization will report to ministers through the WTO General Council about their activities and plans. Members may also debate how best to further expand trade liberalization. Our work highlights the following issues that are expected to be topics at Singapore:

-- -- In general, assessing the new and complex Uruguay Round agreements will create a challenge for the ministers. Numerous WTO bodies were formed to oversee implementation by the member governments. These committees and working groups, together with a Secretariat that facilitates the work of the members, experienced early difficulties with the information generated by numerous notification requirements, in part because of limitations in members' reporting and in the unevenness of information that was provided. WTO members have already invoked the new process for settling disputes 53 times on a wide range of issues, with the United States filing the most cases. The USTR has stated that it believes the dispute settlement process is an effective tool to open other nations' markets.

-- -- Implementation of the WTO Agreement on Textiles and Clothing has been a major area of contention between the exporting and importing countries, and it is expected to be the

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

subject of further debate at Singapore. Textile exporting countries allege that the United States and other importing countries have delayed lifting quotas and integrating textile trade into normal WTO/General Agreement on Tariffs and Trade 1994 (GATT) rules. The importing countries, in turn, have voiced concern about the lack of access to exporting countries' textile markets and the adequacy of measures they have adopted to prevent quota circumvention.

-- -- Since liberalizing agricultural trade was a key objective for the United States during the Uruguay Round, monitoring the implementation of commitments is essential to securing anticipated U.S. gains. In addition, U.S. officials have indicated that they would like to begin preparations for further agricultural reform negotiations starting in 1999. At Singapore, three separate WTO committees are expected to provide reports on progress in the reduction of agricultural subsidies; improvements in market access; the use of measures to protect human, plant, and animal health; and efforts to make state trading enterprise activities (STE) more transparent (open). The United States has implementation concerns in many of these areas and many reasonably expect a divergence of views among trading partners.

-- -- Whether the ongoing efforts to liberalize trade in the services sector will be successful is not yet clear. Individual negotiations have been conducted to progressively open trade and investment. Thus far, however, members have been unable to reach final agreements covering the financial, telecommunications, and maritime service sectors. Similarly, it is unclear whether WTO members will reach agreement to improve market access in those sectors where USTR has negotiating authority because of some countries' expected opposition to further tariff reductions.

-- -- At Singapore, proposals are expected for WTO members to begin work on the next generation of trade issues. However, because these issues include areas heretofore outside the scope of detailed trade negotiations--environmental protection, investment rules, competition policy, labor standards, and bribery and corruption--it is unlikely members will reach consensus on the WTO's role. Of these issues, only environment is on the WTO agenda already, but members have not decided how to reconcile environmental concerns with trade objectives. USTR strongly supports discussing labor standards as part of the WTO agenda. USTR may begin to address bribery and corruption issues indirectly as it seeks to expand participation in the Agreement on Government Procurement. However, many other members are just as strongly opposed to including these two issues. On the other hand, the United States is not yet prepared to agree to a negotiating program for competition policy and would prefer discussions on investment policy to take place primarily in the Organization for Economic Cooperation and Development (OECD).

GENERAL IMPLEMENTATION ISSUES

In earlier testimony[2] we noted that it will take time and resources to (1) completely build the WTO so that members can address all its new roles and responsibilities; (2) make members' national laws, regulations, and policies consistent with new commitments; (3) fulfill notification requirements and then analyze the new information; and (4) resolve differences about the meaning of the agreements and judge whether members have fulfilled their commitments. It is critical that USTR monitor implementation of the agreements to ensure that other WTO members are honoring their commitments and thus that the agreements' expected benefits are being realized. USTR and the Departments of Commerce and Agriculture have created specific units to try to monitor foreign government compliance with trade agreements, including those of the Uruguay Round.

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

The New Organization

In general, the ministers at Singapore will be reviewing the progress of the WTO in fulfilling its mandate. Some observers have been concerned about the creation of this international organization and its scope and size. The "new" WTO was based on a similar "provisional" GATT organizational structure that had evolved over decades. The Uruguay Round agreements created some new bodies; however, these bodies address new areas of coverage, for example, the Councils for Trade in Services and for Trade-Related Aspects of Intellectual Property Rights. Other bodies, such as the WTO Committee on Antidumping Practices, were "reconstituted" from previous GATT committees but were given new responsibilities by the Uruguay Round agreements and now have broader membership. The WTO Secretariat, headed by its Director General, facilitates the work of the members. The work of the bodies organized under the WTO structure is still undertaken by representatives of the approximately 123 member governments, rather than the Secretariat. Early meetings of some WTO committees were focused on establishing new working procedures and work agendas necessary to implement the Uruguay Round agreements.

Notifications

The ministers will be judging the progress of members in implementing numerous agreements to date, based on information collected from the many notification requirements placed upon member governments. These notifications are aimed at increasing transparency about members' actions and laws and therefore encourage accountability. Notifications take many forms. For example, one provision requires members to file copies of their national legislation and regulations pertaining to antidumping measures. WTO committees began reviewing the notifications they received from member governments in 1995. The information provided allows members to identify general problems with implementing the terms of the agreements, as well as monitor each others' specific activities and, therefore, to enforce the agreements.

Limitations in members' reporting may make it difficult for the ministers to assess progress in some areas. The WTO Director General noted some difficulties with members' fulfilling their notification requirements in his report in December 1995. Some foreign government and WTO Secretariat officials told us in 1995 that the notification requirements had placed a burden on them and that they had not foreseen the magnitude of information they would be obligated to provide. The WTO Secretariat estimated that the Uruguay Round agreements specified over 200 notification requirements. It also noted that many members were having problems understanding and fulfilling the requirements within the deadlines. While developing countries reportedly faced particular problems, even the United States missed some deadlines for filing information on subsidies and customs valuation laws.

To address concerns about notifications, WTO formed a working party in February 1995 to simplify, standardize, and consolidate the many notification obligations and procedures. This working party may make recommendations for changes for the ministers to consider.

Dispute Settlement

The WTO dispute settlement mechanism is intended to be a central element in providing security and predictability to this multilateral trading system. Through it, members have a system to resolve disputes that result from violations of WTO obligations or impairment of benefits from WTO agreements. The new dispute resolution mechanism incorporates several objectives that were particularly important to the United States--time limits for each step in the dispute settlement process and elimination of a country's ability to block the adoption of resolutions from dispute settlement panel reports. The new Dispute Settlement Understanding established time limits for each of the four stages of a dispute: consultation, panel review, appeal, and implementation. Also, unless there is unanimous opposition in the WTO Dispute Settlement Body, the panel or appellate report is to be adopted. Further, the recommendations and rulings of the Dispute Settlement Body can neither add to or diminish the rights and obligations provided in the Uruguay Round agreements nor directly force members to change their laws or regulations.

However, if members choose not to implement the recommendations and rulings, the Dispute Settlement Body may authorize trade retaliation.

From January 1, 1995, to August 30, 1996, formal WTO dispute settlement procedures have been invoked in 53 instances. Most of the cases are still in progress--35 are either in the consultation phase, under panel review, or on appeal. Of the 18 closed cases, 16 have been settled or abandoned, and 2 have been closed after a final appeal.

The United States has availed itself of the dispute settlement mechanism more than any other member. The United States has initiated 17 cases on a variety of issues including patent protection in India, Portugal, and Pakistan; meat import restrictions in South Korea and the European Union (EU); and restrictions on the importation of magazines into Canada. There are currently four pending cases against actions or measures taken by the United States--two involve import restraints concerning textile and apparel products, one relates to an antidumping investigation of tomatoes from Mexico, and the other concerns the Cuban Liberty and Democratic Solidarity Act of 1996.

As of the end of August 1996, dispute settlement panels have reached decisions involving five cases. The two closed cases, which were combined into a single panel, involved a challenge by Venezuela and Brazil to a U.S. Environmental Protection Agency regulation setting forth the methods by which importers of gasoline were to determine characteristics of gasoline imported and sold in the United States in 1990. The panel found that the regulation was inconsistent with a GATT 1994 provision concerning national treatment of imported products. On appeal, the dispute settlement Appellate Body modified the panel's report but upheld the panel's conclusion. The other three cases, also combined into one panel, were brought by the United States, Canada, and the EU against Japan's liquor tax. The panel found the Japanese tax to be inconsistent with GATT 1994, on national treatment grounds.[3] Japan has filed an appeal, which is currently pending.

It is unclear to what extent the ministers at the WTO Singapore meeting will analyze the implementation of the new dispute settlement process and what criteria they would use to do so. USTR officials view this process as a success, in part because complaints can be resolved even before a panel hears the case. In addition, USTR has recently testified that the new mechanism is proving to be a very effective market-opening tool. However, it may be difficult to objectively evaluate the results of a dispute settlement process. We observed in our previous work on 5 years of dispute settlement under the U.S.-Canada Free Trade Agreement (CFTA)[4] that it may take many years before a sufficiently large body of cases accrues to permit statistically significant observations about the process. In that report we focused on the possible effects of panelists' backgrounds, the types of U.S. agency decisions appealed, and the patterns of panel decision-making. We learned that any effort to evaluate the functioning of the dispute settlement process presents significant analytical challenges.

IMPLEMENTATION OF THE AGREEMENT ON TEXTILES AND CLOTHING

Implementation of the Agreement on Textiles and Clothing is likely to be the subject of debate at the Singapore ministerial meeting. In the Uruguay Round negotiations, the United States and other developed countries agreed to liberalize textile trade despite potential economic losses in exchange for commitments from certain developing countries to, for example, increase market access in key sectors and improve protection of intellectual property rights.[5]

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[3]National treatment is the act of treating a foreign product or supplier no less favorably than domestic products or suppliers.

[4]See U.S.-Canada Free Trade Agreement: Factors Contributing to Controversy in Appeals of Trade Remedy Cases to Binational Panels (GAO/GGD-95-175BR, June 16, 1995).

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

Under the Uruguay Round Agreement on Textiles and Clothing, textile quotas are to be phased out over a 10-year period beginning in January 1995. Because of the 10-year phase-out, the effects of the textiles agreement will not be fully realized until 2005, after which textile and apparel trade will be fully integrated into WTO and its disciplines (practices). Integration is to be accomplished by (1) completely eliminating quotas on selected products in four stages and (2) increasing quota growth rates on the remaining products at each of the first three stages. By 2005, all bilateral quotas maintained under the agreement on all WTO members are to be removed.

During the first stage of product integration (1995 through 1997), virtually no quotas were removed by the United States and other major importing countries. The United States is the only major importing country to have published a list of products to be removed from quota for all three stages; other countries, such as the EU and Canada, have only published their integration plan for the first phase. Under the U.S. integration schedule, 89 percent of all U.S. apparel products under quota in 1990 and 67 percent of textile and apparel products combined will not be integrated into normal WTO rules until 2005. Importer and retailer representatives have expressed concern about the delay in lifting the majority of textile and apparel quotas until the end of the phase-out period. However, U.S. officials have pointed out that the Statement of Administrative Action accompanying the U.S. bill to implement the Uruguay Round agreements provided that "integration of the most sensitive products will be deferred until the end of the 10-year period."

During the phase-out period, the safeguards provision of the textiles agreement permits a country to impose a new quota only when it determines that increased imports of a particular textile or apparel product are seriously damaging, or present an actual threat of serious damage to, its domestic industry. The agreement further provides that any quotas imposed during the phase-out period be reviewed by a newly created Textiles Monitoring Body (TMB) within WTO, which is to supervise the textile agreement's implementation. TMB consists of individuals from 10 countries, including the United States.

The United States and Brazil are the only WTO members thus far to have imposed new quotas on imports they found were harming their domestic industries under the agreement's safeguard procedures.[6] In 1995, the United States issued 28 requests for consultations (or "calls") to impose quotas and has issued 2 calls thus far in 1996 to a total of 19 countries (11 WTO members and 8 nonmembers).[7] Brazil has issued calls to four countries to date.

As of August 1996, TMB had reviewed the imposition of seven quotas (where no agreement was reached with the exporting country). All of these quotas had been imposed by the United States. TMB found that the threat of serious damage to domestic industry had been demonstrated in one case. In three cases, TMB found that the threat of serious damage had not been demonstrated, and the quotas were subsequently rescinded; in three other cases, TMB could not reach consensus. TMB has not published details about the reasons for its decisions. Three of the cases TMB reviewed were subsequently brought before the Dispute Settlement Body by the countries subject to the U.S. safeguard action. The United States rescinded one action, and the other two cases are currently pending.

WTO members will review implementation of the textiles agreement at the Singapore ministerial meeting. In July 1996, major exporting countries, led by Pakistan, asked the WTO's Committee on Trade in Goods to examine 10 items of concern to them regarding the agreement's implementation, including importing countries' delays in lifting quotas, the number of quotas imposed since the agreement took effect (with a clear concern regarding the number of U.S. quotas), and the need to improve transparency in TMB processes. Further, they asked the

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[6]We recently prepared a report reviewing how the United States is implementing the textiles agreement that should be released shortly. See Textile Trade: Operations of the Committee for the Implementation of Textile Agreements (GAO/NSIAD-96-186).

[7]Six of the 28 calls had originally been made in 1994 and were unresolved; they were reissued in 1995 under the new textiles agreement.

Committee to identify and assess the elements necessary for "faithful implementation of the agreement." The United States and the EU oppose the exporting countries' request and have asked the Committee to review two different issues--the ease of access to developing countries' textiles markets and the adequacy of measures adopted by these countries to prevent quota circumvention. (The agreement states that all member countries are to improve access to their textiles markets and to take measures to prevent quota circumvention.) The Committee on Trade in Goods is scheduled to report on the textile agreement's implementation to the WTO General Council in early November.

IMPLEMENTATION OF AGRICULTURAL COMMITMENTS

Liberalizing agricultural trade was a key U.S. objective during the Uruguay Round. The United States anticipated that better rules and disciplines on government policies in this area would foster a more market-oriented trading system and improve the competitive position of the U.S. agriculture sector. Therefore, monitoring other members' implementation of their Uruguay Round agricultural commitments is essential to securing anticipated U.S. gains.

Several important issues are likely to be discussed at the ministerial meeting, as the reports of two WTO committees and one WTO working party focus on, or relate to, agricultural trade. First, the WTO Committee on Agriculture will report on implementation of the agriculture agreement, including any aspects needing additional attention or review. This Committee's report is expected to address two other issues: (1) a decision to review the impact of the agreement on net food-importing countries and (2) preparations necessary to resume the agreement's required negotiations in 1999. Second, the WTO Committee on Sanitary and Phytosanitary (SPS) Measures will report on implementation of the SPS agreement. Third, the WTO Working Party on State Trading Enterprises will report on its efforts to better document and understand the role of STEs in WTO.

Committee on Agriculture

The Committee on Agriculture will address implementation of the agriculture agreement, which requires WTO members to reduce levels of support provided through export subsidies and domestic support and to begin opening their markets by converting import quotas to tariffs and reducing average tariff levels. The agreement provides a 6-year implementation period, meaning reductions in support and increase in market access are to be achieved gradually. To ensure members meet their commitments, they are required to provide periodic notifications to the Committee, which reviews progress toward implementation and provides a forum for members to debate their concerns. Discussions of how the agreement is being implemented in certain countries have already occurred within the Committee and will be reported on at the ministerial meeting. These include such issues as delays in starting the implementation process, inappropriate administration of market access commitments, and failure to meet export subsidy commitments. One implementation issue was discussed outside the Committee under the dispute settlement process, when the United States requested consultations with the EU to resolve its concerns about EU implementation of market access commitments for grain imports.

In addition to implementation issues, the Committee's report is expected to address its responsibility for monitoring WTO members' commitment to review levels of food aid available to net food-importing countries. This commitment recognized that least-developed and net food-importing developing countries might experience negative effects from Uruguay Round agricultural reform if it affected the availability of food supplies from external sources at reasonable terms and conditions.[8] WTO members agreed to establish appropriate mechanisms to ensure that agricultural reform does not have an adverse impact on the provision of sufficient levels of food aid. The recent rise in global commodity prices and the near-record lows in international grain reserves have increased the cost of food imports for some countries. Some least-developed and net food-importing countries have already indicated they are concerned about the impact of agricultural reform on their countries, but U.S. officials do not believe the limited

[8]See the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed Countries and Net Food-Importing Developing Countries.

reforms implemented so far are responsible for shortages or price increases. Still, net food-importing countries expect action to be taken within the Committee to review food aid levels and establish a sufficient level of aid to meet legitimate needs. The Committee is considering whether and how such a review should be conducted and hopes to resolve this issue before the ministerial meeting. However, if resolution is not achieved within the Committee, the issue is likely to be discussed at the World Food Summit in November 1996 and again in Singapore.

A third issue the Committee will likely address is the commitment that WTO members have made to begin negotiations for continued agricultural reform one year before the end of the implementation period (or in 1999). The Cairns Group countries seek a specific work program to prepare for the negotiations.[9] The EU, Japan, South Korea, and Switzerland are reluctant to begin discussing the next round of negotiations roughly 2 years after agreeing to their original Uruguay Round commitments. U.S. officials have indicated that, although their primary focus is on implementation of the agreement, preparing for negotiations to resume is also important.

Committee on SPS Measures

The second Committee report that will address agricultural issues is the Committee on SPS Measures. The SPS agreement recognizes that members have a right to adopt measures to protect human, animal, and plant life or health. However, it requires, among other things, that such measures be based on scientific principles and not act as disguised trade restrictions. The United States was a key supporter of this agreement, recognizing that the lack of sufficient disciplines on the use of SPS measures could undermine the intent of the agriculture agreement if members were allowed to replace tariffs and quotas with unscientific animal and plant health or food safety measures. The United States has signalled its intent to use WTO channels to challenge unscientific SPS measures. For example, through WTO consultations in 1995, the United States persuaded South Korea to modify its practice for determining product shelf-life, which was adversely affecting U.S. meat and other exports. Also, in May 1996, the United States requested a dispute settlement panel be convened to review the EU's long-standing ban on hormone-treated meat, which has substantially blocked U.S. beef imports since 1989.

Working Party on STEs

Finally, the Working Party on STEs will report on its efforts to better understand STEs, an undertaking which is relevant not only to agricultural trade but also to other sectors. In our work, we define STEs as governmental or nongovernmental enterprises that are authorized to engage in trade and are owned, sanctioned, or otherwise supported by the government.[10] For example, the Australian government has notified the WTO that the Australian Wheat Board meets the criteria for being considered an STE. While STEs are recognized in GATT as legitimate trading entities, their activities are subject to GATT disciplines. In order to provide some transparency over STE activities, members must report regularly about their STEs' structures and functions. However, as we noted in August 1995, compliance with this reporting requirement has been poor, and information about STE activities has been limited.[11] In our June 1996 report, we developed a framework by which one could assess an export STE's potential to distort trade.[12] This

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[9]The Cairns Group consists of 14 countries that are exporters of agricultural products: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay.

[10]STEs were defined in the Uruguay Round as "governmental and nongovernmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales, the level or direction of imports or exports."

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

[12]See Canada, Australia, and New Zealand: Potential Ability of Agricultural State Trading Enterprises (GAO/NSIAD-96-94, June 24, 1996).

framework helps clarify that being sanctioned by the government does not necessarily mean that an STE is distorting trade; rather, a key factor is the presence of direct or indirect subsidies that can give an STE a greater potential to distort trade. We reported that another factor in evaluating the trade-distorting effect of STEs (or private commercial firms) is share of the world market.

The working party on STEs is developing an illustrative list of STE attributes and practices in WTO and continues to study the questionnaire used to collect information about them. The United States is working within the forum to develop a modified questionnaire that would help make STE activities more transparent. U.S. government and agricultural industry officials hope to negotiate additional disciplines on STEs when agricultural negotiations resume in 1999.

ONGOING NEGOTIATIONS IN SERVICES AND MARKET ACCESS

Negotiations in several service sectors and on market access for certain goods were left unfinished at the end of the Uruguay Round and may be discussed by ministers at Singapore. USTR has pursued trade liberalization and market access in these areas since the Uruguay Round, but in many cases the outcome of these efforts remains uncertain. For example, within the framework of the General Agreement on Trade in Services (GATS), negotiations covering the financial, telecommunications, and maritime service sectors have not yet resulted in final agreements. In addition, USTR hopes to achieve further market access through new tariff reductions for a variety of goods but has testified that considerably more work remains to build "the necessary international consensus" for making such reductions.

The WTO financial services agreement covers the banking, securities, and insurance sectors, which are often subject to significant domestic regulation and therefore engender complex negotiations. In June 1995, the United States made commitments to guarantee foreign financial institutions currently operating in the United States the right to continue to do so. However, the United States took a "most-favored-nation exemption," that is, held back making guarantees about otherwise discriminating against foreign financial service providers. (Such exemptions are allowed under GATS.) Specifically, the United States did not guarantee nondiscriminatory treatment for new foreign firms to establish businesses or already established foreign firms wishing to expand services in the U.S. market. The U.S. exemption in financial services was taken because U.S. negotiators, in consultation with the private sector, concluded that other members' offers to open their markets to U.S. financial services firms, especially those of certain developing countries, were insufficient to justify broader U.S. commitments (with no most-favored-nation exemption or other limitations).[13] At the end of 1997, members, including the United States, will have an opportunity to modify or withdraw their commitments. Thus, the final outcome and impact of the financial services agreement are still uncertain. USTR has testified that negotiations for a financial services agreement are expected to resume in the first half of 1997, and the ministers may discuss this at Singapore.

WTO members were also not able to reach agreement on a basic telecommunications services agreement by the original deadline of April 30, 1996, and negotiations were subsequently extended to a new deadline of February 15, 1997. The United States has noted that while some members made offers that matched that of the U.S. offer in terms of openness, many others did not, thus the United States would not accept the agreement. In addition, the United States has said that in order for the extended negotiations to succeed, "more and better" offers must be made by members, including both developed and developing nations.

Similarly, negotiations for a multilateral maritime services agreement were unsuccessful and were suspended in June 1996 until the year 2000, when negotiations for all services sectors will be reopened. When suspending the negotiations, participating members agreed to refrain from applying new measures that would affect trade in this area during this time. The United States has said that other participating members to the negotiations did not offer "to remove restrictions so as to approach current U.S. openness in this area." The United States did not submit an offer

[13]However, the United States was generally satisfied with the offers made by the EU, Japan, and other developed countries and has concluded some bilateral agreements that go beyond the GATS commitments.

in maritime services because USTR believed that other countries were not serious about liberalization.

Efforts to improve market access in certain sectors through additional tariff reductions are also unresolved. USTR is seeking an agreement covering a variety of information technology products, such as multimedia personal computers, supercomputers, and semiconductors, that will reduce tariffs in this area to zero by the year 2000. However, USTR has indicated that support from EU member states for such an agreement is still uncertain. In addition, USTR plans to pursue further tariff reductions at Singapore for several products, including wood products, white distilled spirits, nonferrous metals, oilseeds and oil products, and certain chemical and pharmaceutical products, but expects opposition in some of these areas from several major trading partners.

EMERGING ISSUES

Members are debating what work should be done by WTO on new issues related to international trade at Singapore. As tariff and nontariff barriers to trade are reduced, other areas (traditionally seen as domestic) have drawn attention as potential international trade barriers. These include (1) environmental protection, (2) investment rules, (3) competition policy, (4) labor standards, and (5) bribery and corruption issues. Although these are not traditionally discussed as trade policy topics, they reflect a broader concept of what some WTO members believe are factors affecting market access opportunities in a global economy. For example, some WTO members believe that enforcing certain environmental and labor standards can be a disguise for protectionist policies. Also, activities such as price-fixing, market sharing, and noncompetitive procurement practices can lead to market distortions and reduce access for foreign competitors. The WTO has begun to address some of these issues, but no consensus has been reached on the extent to which they should be dealt with in the WTO. Some of these negotiations in new areas could be quite controversial, based on the previous experience with including areas like agriculture and services in the Uruguay Round negotiating agenda.

Trade and Environmental Protection

Of the emerging issues, environment has developed the furthest within the WTO. At Marrakesh in 1994, members decided to establish a Committee on Trade and Environment. Trade and environment issues overlap because some government measures to balance economic growth with environmental concerns are perceived as protectionist and may conflict with WTO obligations. At the same time, some trade policies may impede the development of sound environmental policies. In the past, GATT dispute panels have ruled against measures that conflicted with national treatment principles or that appeared to apply to areas outside a country's sovereign jurisdiction. The United States believes that free trade and environmental protection policies can be mutually supportive and plans to convey this message at the Singapore ministerial meeting, in keeping with the 1992 United Nations Declaration in Rio de Janeiro.[14]

The WTO Committee on Trade and Environment is to identify the relationship between trade and environmental measures and make appropriate recommendations within the context of open and equitable trade. The Committee is expected to present a report at Singapore, but it is unclear what the report will include because of the complex issues and divergent views. Members generally agree that promoting free trade and environmental protection is not inherently contradictory; however, they have not agreed on specific ways to address these issues. Several items are under discussion, including ecolabeling programs;[15] the relationship between multilateral environmental agreements and the WTO; and the effect of environmental measures on market access, particularly in relation to developing countries.

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[14]The United Nations Conference on Environment and Development hosted the "Earth Summit" in 1992 in Rio de Janeiro, Brazil.

[15]Ecolabeling programs, most of which are voluntary, allow businesses to obtain a label indicating a product is environmentally friendly or safe (e.g., U.S. tuna cans with a "dolphin safe" label).

Ecolabeling programs have received a great deal of attention by the Committee. Some members believe these programs act as trade barriers, and members have not reached an agreement about whether or not ecolabeling programs need greater transparency. USTR firmly believes that all forms of ecolabeling are subject to the WTO's Technical Barriers to Trade (TBT) Agreement, which requires transparency and public participation when applying product standards. Other members, however, have expressed doubts about whether all ecolabeling programs are covered by the TBT agreement. USTR anticipates the WTO Committee will need to discuss this and other issues after Singapore.

Trade and Investment Rules

Investment rules are another topic that could be discussed at Singapore. International investment has grown with the globalization of the world economy. Various multilateral and bilateral investment agreements exist to help promote an open international investment environment, for example the (North American Free Trade Agreement). Still, restrictions on foreign investment impede international trade in goods and services because investment and trade are interrelated. Therefore the Uruguay Round agreements also addressed investment issues. For example, the WTO's Agreement on Trade-Related Investment Measures (TRIMS) and GATS both have rules to facilitate market access. However, the United States achieved only some of its Uruguay Round objectives for investment issues. The TRIMS agreement is limited to a few selected measures that apply only to trade in goods. GATS covers investment practices only in a limited sense, through broad provisions concerning the ability to provide a service in a foreign market through a commercial presence. Further, GATS covers only specific service sectors, including business services and construction and engineering services.

Countries are debating in which forums to pursue further liberalization in investment. Therefore, any Singapore proposals to establish a work program for WTO on investment issues will have to take into account negotiations in other forums. Most notable is the OECD, whose members are working to establish a Multilateral Agreement on Investment in 1997 that would be open to both OECD and non-OECD members. Nevertheless, the EU and Canada favor discussing investment rules in the WTO because its membership is larger than the OECD. There is a wide divergence of views among other members; some lesser-developed members oppose negotiations in the WTO, according to USTR. On the other hand, the United States and other nations would like to continue focusing on the OECD negotiations rather than negotiating in the WTO, believing that (1) the OECD has the potential to achieve a higher standard of liberalization (that is, on a par with NAFTA and U.S. bilateral investment treaties) than the WTO could and (2) some WTO members are not ready for such an agreement. Still, the United States supports creating a modest work program to educate WTO members on these issues.

Trade and Competition Policy

National competition or antitrust policies of other countries can affect opportunities and benefits for U.S. exporters and consumers. For example, price-fixing, market sharing, and other monopolistic business practices have been recognized as potential trade barriers. By distorting market competition, these practices can diminish market access opportunities, consumer choices, and other intended benefits of liberalized trade. Anticompetitive practices can also lead to trade disputes. For example, the United States has initiated two WTO dispute settlement proceedings against Japan in cases involving photographic films and paper and distribution services.

The United States and its major trading partners have not reached a consensus on how competition policy and the enforcement of antitrust law should be handled within the WTO. One issue is whether any possible work program should focus on the practices of private firms or on government actions (or the lack thereof) that restrict competition, and/or on both. The EU and Japan have recently proposed that competition be added to the WTO program for future work at the Singapore ministerial meeting. USTR believes more work and study must occur within the U.S. government, including consultation with Congress and the private sector, before determining whether any sort of negotiating program in the WTO is appropriate. USTR has emphasized that the United States will not accept any initiative in the WTO that would threaten U.S. antitrust or

antidumping laws. The United States has participated in creating guidelines and in undertaking studies of competition policy issues at the OECD, along with Japan and EU member states.

Trade and Labor Standards

WTO members are currently considering the role of labor standards in the international trade regime. The desire to link international trade and labor issues is not new, but labor issues have been the province of the International Labor Organization (ILO), a specialized agency of the United Nations created in 1919. ILO, whose purpose is to improve working conditions and living standards for workers throughout the world, provides a forum for consideration of various labor issues including the establishment of core labor standards, which currently vary from country to country.

At the conclusion of the Uruguay Round negotiations, several members, most notably the United States and some members of the EU, proposed that labor issues be formally brought into the world trading system. However, other WTO member countries in both the developed and the developing world have been concerned that mandated international labor standards may either inhibit their economic development or act as protectionist barriers to their exports. The United States, based on a provision of the Uruguay Round Agreements Act, recommended that the WTO establish a working party to examine the relationship between trade and internationally recognized worker rights.[16] The U.S. proposal does not envision negotiations but seeks to begin discussions limited to how core labor standards and trade can be mutually supportive in promoting growth and development. Thus far, no consensus currently exists either on bringing labor issues into the WTO, or on developing potential linkages between the WTO and ILO, a possible first step.

Trade and Bribery and Corruption

The United States has proposed indirectly addressing bribery and corruption issues at Singapore by encouraging WTO members to enhance transparency in government procurement. Bribery and corruption increase the cost and risk of conducting business in foreign countries. The difference in the way that U.S. and foreign laws treat these activities can also reduce U.S. companies' access to foreign markets. For example, U.S. legislation passed in 1977 prohibits U.S. companies from engaging in bribery of foreign public officials.[17] In contrast, some other countries do not have criminal penalties for engaging in the bribery of foreign public officials, and in some countries businesses are allowed to take tax deductions for bribery expenses. Other multilateral organizations have already taken steps to address bribery and corruption, with U.S. encouragement. For example, OECD members have agreed to criminalize the acceptance and payment of bribes. Members of the Organization of American States have entered into a treaty that would make this conduct criminal. The OECD has also recommended that member countries eliminate tax deductions for the payment of bribes. The Association of Southeast Asian Nations foreign ministers in a recent forum on the WTO agenda rejected the U.S. proposal to include corruption and other "social clauses" that they did not consider trade related.

The United States is promoting efforts to reduce bribery by foreign companies and government officials by encouraging WTO members to sign the Agreement on Government Procurement. To date, only 22 industrialized countries, including the United States, have done so; and none of the least developed countries are signatories. The provisions of the new agreement, which went into effect in 20 countries on January 1, 1996, promote transparency in government procurement

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[16]Congress provided guidance for U.S. negotiators in the act by specific reference to 1984 amendments to the U.S. Generalized System of Preferences legislation. This legislation defined internationally recognized worker rights to include (1) the right of association, (2) the right to organize and bargain collectively, (3) a minimum age for the employment of children, (4) prohibition of forced labor, and (5) acceptable conditions of work. See Public Law 98-573, sec. 503, Oct. 30, 1984, 19 U.S.C. sec. 2462 (a) (4).

[17]See Foreign Corrupt Practices Act of 1977, Public Law 95-213, Dec. 19, 1977, 15 U.S.C. sec. 78dd-2.

procedures and require that countries not discriminate against foreign or foreign-owned suppliers or otherwise allow practices that would preclude competitive procurement.

ACCESSION OF NEW MEMBERS

The accession of new members to the WTO is an important part of the WTO's work agenda and an issue of great interest to the United States. Although existing WTO members account for about 90 percent of world trade, important U.S. trading partners, including China, Taiwan, Saudi Arabia, and Russia, are not WTO members. Nonmember states or separate customs territories may apply for admission to the WTO. A working party composed of WTO members negotiates with the applicant concerning its domestic laws and obligations to join the WTO, a process that can require considerable time. For example, China's and Bulgaria's requests for accession date from 1986. Separately, applicants may undertake bilateral negotiations with individual WTO members over tariff and market access commitments. After these negotiations are concluded, the working party submits a Protocol of Accession and a report to the Ministerial Conference for approval. Accession is approved by a two-thirds majority vote of WTO members.

The United States expects the Singapore ministerial meeting to address the broad range of accession applications--rather than single out any particular application for attention. USTR reports there are 31 countries whose applications for accession have been accepted; active negotiations are under way on about 20 of them. Four nations have completed accession negotiations since the WTO entered into force.[18]

The United States supports accession of countries capable of and willing to (1) undertake WTO obligations and (2) provide commercially viable market access commitments for goods and services to the WTO. The United States also uses the negotiations to address outstanding bilateral trade issues covered by the WTO. For example, USTR reports that Taiwan[19] has made significant concessions in its bilateral negotiations with the United States over market access, services, and government procurement. Nevertheless, significant issues remain outstanding.

The accession of China to the WTO is an issue of intense U.S. interest. China gained observer status to the GATT in 1982 and requested accession to the GATT in 1986. The United States and other nations have insisted that China's accession be approved on the basis of China's willingness to make commercially viable commitments that provide greatly expanded market access and ensure compliance with WTO obligations. U.S.-China bilateral negotiations are ongoing, and a WTO working party meeting on China's accession is scheduled for October 1996.

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This concludes my statement for the record. Thank you for permitting me to provide you with this information.

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[18]These are Ecuador, which was admitted as a member in January 1996; Mongolia, which has not yet been admitted but whose accession was approved in June; and Bulgaria and Panama, whose accession packages were completed in July.

[19]This WTO accession application is formally identified as either "Chinese Taipei" or "The Customs Territory of Taiwan, Penghu, Kinmen, and Matsu."

STATEMENT FOR THE RECORD
OF THE
AMERICAN APPAREL MANUFACTURERS ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON TRADE
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
REGARDING THE
SINGAPORE MINISTERIAL MEETING
OF THE
WORLD TRADE ORGANIZATION
SEPTEMBER 11, 1996

The American Apparel Manufacturers Association (AAMA) is strongly opposed to proposals offered by representatives of apparel and textile exporting countries that the World Trade Organization Ministerial Meeting in Singapore this December should modify the Agreement on Textiles and Apparel (ATC) by expediting the phase-out of quotas and the phased integration of products. We urge the United States to strongly oppose such a proposal. Instead, the United States should insist, if textiles and apparel are to be on the agenda for the Singapore Ministerial Meeting, it should be limited to an assessment of the performance of all countries in fulfilling their obligations under the ATC, specifically countries opening their markets to exports and preventing the type of fraud, circumvention and counterfeiting that is common in many countries.

AAMA is the national trade association of the U.S. apparel industry, representing more than 70 percent of U.S. apparel production. AAMA members make everything from socks to caps, from underwear to shirts and sweaters, to suits and overcoats. While the industry is large, most of the companies are relatively small. Most companies have sales under $20 million and many have sales under $10 million. There are approximately 850,000 apparel manufacturing jobs in the U.S. and almost every state has some apparel employment. Approximately 40% of the American apparel workers are minorities and 90% are women.

The United States textile and apparel industries still are denied effective market access to many countries throughout the world, especially countries exporting large quantities of apparel. Many of these countries are actively engaged in quota avoidance by illegally transshipping their products through third countries. In addition, many of these same countries are violating the intellectual property rights of our members by counterfeiting brand name products and designs. Also, many countries continue to subsidize their textile and apparel industries.

Representatives of the apparel and textile industries in the European Community and the United States recently met and issued a joint statement, outlining the lack of performance by many signatories of the ATC and calling for an assessment at the Singapore Ministerial of countries to determine if they are fulfilling their obligations under the ATC. A copy of the joint press release issued by the three industry groups is attached.

The United States is diligently complying with its obligations under the ATC and other aspects of the Uruguay Round Agreement. Our tariffs are being phased down according to schedule, the first round of apparel and textile integration was completed and the subsequent two phases were announced. We should demand nothing less from the other signatories of the ATC.

The ATC became effective only 19 months ago. It took more than seven years to negotiate the Uruguay Round Agreements. We do not believe now is the time to alter the basic framework of the ATC. We strongly believe, however, now is the time to assess countries' performance under the ATC and to insure they are fulfilling their obligations while they are enjoying the benefits.

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS

HEARING ON THE WORLD TRADE ORGANIZATION
SINGAPORE MINISTERIAL MEETING

STATEMENT OF THE DISTILLED SPIRITS COUNCIL
OF THE UNITED STATES

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (DISCUS) for inclusion in the printed record of the Subcommittee's hearing on the World Trade Organization (WTO) Singapore ministerial meeting. DISCUS is the national trade association which represents U.S. producers, marketers and exporters of distilled spirits.

I. INTRODUCTION

Over the past decade, the U.S. distilled spirits industry has become increasingly reliant upon exports for its economic well being. Faced with declining consumption of distilled spirits in the United States, U.S. companies have intensified their search for new commercial opportunities in foreign markets and have adopted global strategies for competing in these markets.

The U.S. distilled spirits industry has supported the efforts of the United States to lower global trade barriers and build a strong rules based system for the conduct of international trade. The Uruguay Round negotiations produced significant benefits for DISCUS members, including substantial reductions in foreign tariff barriers, stronger protection for trademarks, and recognition of geographical indications associated with distinctive American spirits. As a result, DISCUS actively worked for Congressional approval of the Uruguay Round Agreements and supported U.S. participation in the newly created World Trade Organization (WTO).

U.S. distilled spirits companies have a substantial interest in a fully functional World Trade Organization. A strong and effective WTO is needed to preserve the benefits already achieved and to provide a framework for securing additional trade liberalization in the future.

II. OBJECTIVES FOR THE SINGAPORE MINISTERIAL

In our view, the United States should have two principal objectives for the Ministerial conference in Singapore. First and foremost, the United States and the other member countries should utilize the meeting to take stock of the work which has been done to get the organization up and running since its inception in January 1995. While much already has been accomplished, the WTO must have a firm foundation. Ministers should pay particular attention to any problems which have arisen with respect to the operation of the WTO's institutions and should be prepared to take appropriate decisions in Singapore to resolve them.

The second principal objective of the Singapore conference should be to begin the process of building the organization for the future. The WTO must be capable of anticipating and addressing the emerging trade issues of tomorrow, while continuing to promote trade liberalization today. It is essential that the organization move forward with the work plan agreed to at the end of the Uruguay Round, while undertaking the preparatory work necessary to enable it to tackle new issues in the future.

More specifically,

A. Implementation of the Uruguay Round Agreements

The Ministers should devote considerable attention to reviewing the implementation of the various agreements and understandings reached during the Uruguay Round negotiations. Many of these agreements contain notification requirements, implementation schedules and transition periods, of all which must be respected if the full benefits of the Uruguay Round agreements are to be conveyed to U.S. exporters. In addition, many of the agreements provide

for ongoing work programs and periodic reviews of the results achieved. These also must be pursued and conducted, as agreed in the negotiations.

1. Tariffs

In no area is this more important for the U.S. distilled spirits industry than in the case of tariff concessions. In the Round, the Quad countries agreed to eliminate their tariffs on whisky and brandy over a period of ten years and to substantially reduce tariffs on other distilled spirits. Other participants also agreed to significant reductions, including the establishment of bound tariff levels by many developing countries. Ministers should agree to closely monitor these commitments, so that the liberalization achieved during the Round is actually put into practice and the anticipated benefits for distilled spirits exporters are realized.

2. Intellectual Property

The protection of intellectual property is another area of great importance to the U.S. distilled spirits industry. As purveyors of branded products, U.S. distillers rely heavily on trademarks to protect the substantial investments they make in developing markets for their products. The Agreement on Trade Related Intellectual Property (TRIPS) creates concrete obligations on the part of WTO members to provide strong and effective protection for trademarks and adequate and effective means for trademark owners to enforce their rights. It is essential for the distilled spirits industry that these obligations be strictly adhered to by all WTO member countries. This is particularly true with respect to the developing countries of Asia and Latin America which possess many of the fast growing export markets for U.S. distilled spirits. It also is equally important with regard to countries in the process of acceding to the WTO, such as Russia and China, where counterfeiting of foreign distilled spirits is rampant and effective means for enforcing trademarks do not exist.

The TRIPS agreement also provides protection for geographical indications for distilled spirits and wines. DISCUS strongly supported the inclusion of these provisions as a means of securing recognition and protection of uniquely American distilled spirits, such as Bourbon and Tennessee Whisky, in foreign markets. The inclusion of these provisions is an excellent beginning. However, more can be done within the framework of the agreement to enhance the protection provided for these distinctive American distilled spirits. The agreement specifically provides for further negotiations to strengthen the protection provided for geographical indications. With this in mind, we urge the United States to propose at Singapore that the signatories agree to launch negotiations toward establishing a register of distinctive distilled spirits entitled to protection under the agreement as soon as possible.

3. Dispute Settlement

Another important result of the Uruguay Round was the establishment of a stronger and more predictable dispute settlement mechanism. The new mechanism has already proven its value for the U.S. distilled spirits industry. One of the first complaints brought by the United States under the new system was directed at Japan's discriminatory system of liquor taxation. To our satisfaction, the dispute settlement panel ruled definitively against Japan's discriminatory system. Although presently under appeal, we have every expectation that the panel's ruling against Japan will be confirmed by the Appellate Body.

While the WTO's dispute settlement mechanism has produced several rulings in the short period of its functioning, the experience with implementing these rulings is just beginning. The commitment of member countries to abide by the results of the dispute settlement process is still untested. At Singapore, we recommend that WTO member countries renew their commitment to accept the rulings rendered and bring their practices into conformity within the time limits envisioned under the system.

B. Continued Work on the Built-in Agenda

A number of the of the Uruguay Round agreements provide for follow-on negotiations toward additional liberalization. Several are of particular importance to the distilled spirits industry. The agreement on agriculture, for example, provides for new negotiations on additional market access commitments beginning five years after implementation, *i.e.*, in 1999. Similarly, the General Agreement on Trade in Services calls for additional negotiations among signatories on new market access commitments within the same time frame. Ministers should draw attention to these provisions at Singapore and take the necessary steps to begin the preparations for these negotiations, with a view to launching them at the next Ministerial conference in 1998.

III. ADDITIONAL LIBERALIZATION

In the Uruguay Round negotiations, the U.S. distilled spirits industry strongly supported the reciprocal elimination of tariffs on trade in distilled spirits. U.S. negotiators were successful in persuading their Quad partners -- the European Union, Canada and Japan -- to eliminate tariffs on whisky and brandy. However, Japan refused to agree to elimination of tariffs on all other distilled spirits, including products of export interest to the United States such as vodka, rum, and liqueurs. It also insisted upon a period of ten years for phasing out its tariffs on whisky and brandy. In addition, despite the considerable efforts of the United States, other key WTO members countries chose not to fully eliminate their tariffs in the distilled spirits sector.

The Congress wisely included authority in the Uruguay Round Agreements Act for the United States Trade Representative (USTR) to use in pursuing the completion of tariff elimination in the various sectors identified during the Round. This authority covers the distilled spirits sector. We strongly support USTR's current efforts to use this authority to secure the elimination of tariffs on all other distilled spirits, such as "white spirits" and liqueurs, as part of the market access package under consideration for the Singapore Ministerial conference. The successful conclusion of such a package will send a strong signal that the WTO is capable of generating additional trade liberalization with resorting to the launch of another comprehensive, time consuming round of global trade negotiations.

In the run-up to the Singapore Ministerial, we urge USTR to make every effort to secure the completion of the Uruguay Round "zero for zero" agreement for distilled spirits. Specifically, we seek a commitment from other WTO members to eliminate tariffs on all other distilled spirits, such as "white spirits" and liqueurs, in addition to whisky and brandy; an agreement to a shorter period than ten years for the phase-out of tariffs on whisky and brandy and all other distilled spirits; and a commitment from WTO members not yet prepared to undertake tariff elimination to substantially reduce their tariffs on these products. The achievement of total tariff elimination in the distilled spirits sector will be of immense benefit to U.S. distilled spirits companies.

IV. ACCESSIONS

At present, some thirty countries have begun the process of acceding to the WTO. Among the applicants are such major trading countries as China, Russia and Taiwan. The entry of these countries into the WTO at the earliest possible date is both welcome and desirable. However, in certain important respects, these countries' trade regimes fall far short of meeting WTO standards. China, for example, imposes a tariff of 70 percent ad valorem on imported distilled spirits, while denying foreign suppliers the opportunity to import and distribute their own products with the Chinese market. In addition to assessing exorbitant tariffs, Russia has announced plans to impose strict quotas on imported spirits, limiting them to less than five percent of the domestic market. Taiwan continues to maintain a domestic monopoly on the production, distribution and market of alcohol beverages, although it has indicated its intention to significantly liberalize access for imported spirits upon entry into the WTO.

It is essential that each of these countries fully adhere to the various agreements reached in the Uruguay Round and that they provide market access concessions of equal value to those

made by WTO members during the Round. They must be required to bring their practices into conformity with the rules and obligations of the WTO, and any transition provisions agreed to for this purpose should be limited both in time and scope. Otherwise, the basic integrity of the WTO will be undermined, and major exporting countries like the United States will fail to receive the full benefit of liberalized access to these important markets.

V. CONCLUSION

The Ministerial Conference in Singapore provides the first opportunity for WTO members to review the work that has been done to date and to begin to outline the organization's agenda for the future. It also provides an important test of the members' commitment to the continued liberalization of world trade. By adopting a package of market access measures, including tariff elimination for distilled spirits, the WTO can send a strong signal to the international business community that is able to provide an effective framework for world trade, and a vehicle for achieving for progress toward trade liberalization in the future. DISCUS urges the United States to seek to achieve these important objectives in its preparations for and participation in the Ministerial Conference.

Thank you very.

Sincerely,

Fred A. Meister
President/CEO

NAM National Association of Manufacturers

NAM STATEMENT REGARDING THE WTO SINGAPORE MINISTERIAL

The National Association of Manufacturers strongly supported the Uruguay Round from inception to conclusion, and, under the assumption that continued market access talks would be pursued and successful, also urged Congressional approval of the Uruguay Round Agreements in 1994. It was, and still is, NAM's position that participation in the GATT/WTO advances the interests of American manufacturers, and is in the best interest of the overall global economy.

The NAM sees the Singapore Ministerial as an important stock-taking opportunity for the WTO. It appears, as the agenda is shaping up, that there are three main areas: implementation of the Agreements to date; progress on the WTO's "built-in agenda" (*i.e.*, negotiations in services, telecommunications and the like); and future issues. The latter two issues are significant in that they round out the scope of the WTO, offering a more comprehensive and transparent international trading system.

WTO Institution: As Director-General Renato Ruggiero stated last December, the WTO's first year represented an "encouraging start" in terms of implementation and administration of the various Uruguay Round agreements. It appears that institutionally, great attention was given to sorting out procedural matters and increasing transparency and efficiency within the organization. The speed and precise manner with which this has been done has fostered a smooth transition from the GATT system and lent credibility to the new institution. We encourage continued progress in this area.

Implementation: Assessing the success of implementation of the terms of the Agreements is tougher, in part because certain agreements have only been in effect since the first of this year, and in part because many Member countries have not yet complied with notification requirements. Recognizing that there are a large number of notification requirements (175) included in the Agreements, the NAM still cannot emphasize enough how important it is to ensure full and effective implementation of these Agreements. In fact, the NAM strongly encourages the General Council to concentrate on basic and full implementation of the Agreements, including the requisite notifications, to enforce a sound basis for the future viability of the WTO. Without operable and full Agreements compliance by all contracting parties, future negotiations, not to mention the Uruguay Round agreements themselves, risk being undermined, if not becoming unraveled.

Dispute Resolution: As demonstrated by the number of dispute settlement cases already being addressed within the WTO system, the Dispute Settlement Body ("DSB") is to be commended for the rapidity with which it became operational. The fact that, in the first year, twenty-two requests for consultations were notified to the DSB, and three of those cases were settled before they reached the panel stage, demonstrates the Member countries' acceptance of, and willingness to operate within, the new system.

Accession: The NAM supports and welcomes the accession of new Members to the WTO. Clearly, the fact that the WTO had 27 working groups examining new membership applications in its first year indicates the seriousness with which the WTO is being taken globally, and the U.S. should applaud the efforts and enthusiasm of those countries that have worked diligently to meet the criteria necessary for becoming Members of the WTO.

The NAM is also adamant, however, that new membership only be awarded when an applicant demonstrates a genuine capacity to accept and comply with all the responsibilities attendant to being a WTO Member. The framework that has been negotiated so painstakingly over the years is one that 120 countries have agreed to abide by, and its integrity must not be compromised. Any country that demonstrates an unflagging commitment to, and understanding of, its global responsibilities will be wholeheartedly welcomed into the WTO, by the international community, and certainly by U.S. manufacturers. The NAM would also strongly recommend that access negotiations include a commitment by the acceding country, not only to current zero for zero tariff commitments, but also to the negotiation of, if not an actual commitment to, new zero for zero tariff agreements.

Market Access: One of the most significant achievements of the Uruguay Round agreements for U.S. manufacturers was the substantial tariff reductions worldwide that were pledged, including reciprocal tariff eliminations by our major trading partners in a number of zero for zero sectors.

While substantial gains were realized, the NAM stated in 1994, and strongly reiterates today, that market access provisions must continue to be improved, with an eye specifically to tariff reduction acceleration. For example, in some zero for zero sectors, such as paper, tariffs are scheduled to be eliminated in 10 years, rather than five. The U.S. paper industry seeks accelerated elimination of tariffs on all wood and paper products within five years. The NAM also supports a successful conclusion of the current negotiations on the Information Technology Agreement ("ITA"), which will hopefully produce WTO-wide reciprocal tariff elimination for Information/Communications Technologies (ICT) product groups. Finally, the NAM strongly suggests that the WTO Ministerial commit to a standstill agreement such that current negotiated tariffs are not increased above 1996 applied rates pending the negotiation of new multilaterally-acceptable tariffs.

Trade and Investment: Unlike trade, there are relatively few multilateral rules or disciplines governing investment. This situation does not comport with the reality of increasingly global markets. A physical presence is often a pre-requisite for conducting business in many parts of the world. Manufacturers therefore need a state-of-the-art investment agreement addressing such issues as the right to establishment, performance requirements, and investment related transfers, among others.

The NAM strongly supports the completion of a Multilateral Agreement on Investment (MAI) in the OECD, followed in short order by comprehensive discussions in the WTO. The MAI should at all times remain open to non-member countries.

Trade and the Environment: The NAM believes that the pursuit of environmental objectives and international trade are mutually supportive. However, the NAM also subscribes to the principle that individual countries should not use unilateral trade measures or sanctions for environmental purposes, especially when such measures are used to address environmental problems outside the jurisdiction of the importing country.

Where environmental problems are of a transboundary/global nature, the NAM favors the negotiation of international environmental agreements (MEAs), which may under certain limited circumstances incorporate trade measures. Most importantly for manufacturers, the multilateral trade rules should not allow import restrictions or other trade measures based on the manner in which products are manufactured or produced. A criteria-based approach which would carve out an exception for MEAs under clearly defined circumstances should be a priority in Singapore.

Trade and Labor: The NAM firmly opposes a discussion of this issue at the WTO and any attempts to adopt a WTO "social clause." The International Labor Organization remains the most appropriate forum for international labor standards issues. At best, discussion of this issue in Singapore will prove extremely divisive and detract from the attainment of other more pressing U.S. objectives.

Competition Policy: The NAM recognizes the linkage between market access on trade and competition policy. That being said, considerable efforts need to be undertaken before this issue will be ripe for formal negotiations, given the divergence regarding competition policy among developed countries and its virtual non-existence in the developing world. The complexity of this area merits thorough examination both domestically and internationally before serious negotiations are pursued.

Bribery and Corruption: The corrosive effect of corruption and bribery in international transactions can no longer be ignored. The NAM supports a multi-faceted strategy to combat bribery and corruption, which should include the following measures: extending the plurilateral Government Procurement Agreement (GPA); upgrading the transparency provisions of the GPA; ensuring that the award of procurement contracts be made contingent upon commitments to refrain from bribery; implementing the OECD recommendation to eliminate tax deductibility for bribery payments; and ensuring that the OECD recommendations become part of both existing and planned regional trade initiatives. It is recognized that in most countries this strategy will likely require specific changes in domestic law regarding preventative and enforcement measures.

Regional Trade Agreements: The NAM supports the formation, in February, 1996, of the WTO Committee on Regional Trade Agreements. While NAM believes that the most effective and efficient basis upon which to conduct trading relations is through systems that enhance the role of free market forces, the NAM also supports examining the systematic implications of regional agreements to the multilateral system.

Regional agreements can, by their very nature, raise the level and detail of mutually acceptable trade parameters, which can establish strong precedents for future multilateral negotiations. However, inconsistency between a regional grouping and the WTO is potentially likely to detract from the overall WTO framework, and therefore all agreements should be consistent with the current WTO understanding.

NAM International Trade Policy Committee
June 5, 1996

STATEMENT OF POLAROID CORPORATION BEFORE THE TRADE SUBCOMMITTEE OF THE HOUSE COMMITTEE ON WAYS AND MEANS REGARDING THE WTO SINGAPORE MINISTERIAL

I. INTRODUCTION.

This statement is filed by Polaroid Corporation ("Polaroid"), headquartered in Cambridge, Massachusetts, in response to the August 13, 1996, House Ways and Means Committee invitation for public comments relating to Trade Subcommittee hearings on the World Trade Organization ("WTO") Singapore Ministerial meeting.

This statement underscores the company's priority in seeing that the WTO Ministerial reaches a market access liberalization agreement which includes the reciprocal elimination of tariffs (so-called "zero-for-zero") on camera and photographic parts and accessories (U.S. HTS 9006.91 and 9006.99).

II. ABOUT POLAROID CORPORATION.

Polaroid, based in Cambridge, Massachusetts, has annual sales of over $2 billion and invests over $150 million annually in research and development. Polaroid is the world's largest supplier of instant photographic equipment, including instant cameras and instant print film. Roughly 60 percent of Polaroid's sales are for industrial and business markets (e.g., ID systems, hospitals) while the remaining is for the retail consumer market. Polaroid's products are sold in over 150 countries through Polaroid's wholly-owned subsidiaries, independent distributors, and joint ventures in China, India and Russia. The company manufactures instant print film in Waltham, Massachusetts, as well as Mexico, the United Kingdom (Scotland), and the Netherlands. Polaroid produces instant cameras in Norwood, Massachusetts, the United Kingdom, China, India and Russia. All of the company's instant film produced abroad contains an average of 50 percent value of U.S. origin components. Thus, expanded operations abroad benefit both the home country and U.S. exports.

III. POLAROID'S WTO MINISTERIAL GOAL.

The Subcommittee hearings will address, inter alia, "further market liberalization in selected areas...." In this context, Polaroid is hopeful that the WTO Ministerial will result in a zero-for-zero agreement on camera and photographic parts and components (HTS Nos. 9006.91 and 9006.99).

IV. SUPPORTING REASONS.

First, Section 111 (b)(1)(B) of the URAA authorizes the President to proclaim accelerated reduction in U.S. tariffs on imported products "contained in a tariff category that was the subject of reciprocal duty elimination... during the Uruguay Round of multilateral trade negotiations..." Camera components and accessories fall within Chapter 90 of the Harmonized Tariff System, and thus are classified within a "tariff category" where a significant number of items (48 percent of Chapter 90 tariff headings) were subject to duty elimination in the Uruguay Round. Within the more narrow four-digit tariff heading that photographic components fall under (HTS 9006 -- "photographic cameras; photographic flashlight apparatus and flashbulbs..."), 15 out of 22 tariff product lines call for complete U.S. duty elimination.

Secondly, the Statement of Administrative Action ("SAA") implementing the Uruguay Round Agreement provides interpretive guidance relevant to the priority sectors governing "zero-for-zero" tariff elimination, including electronics. Cameras and photographic parts and accessories clearly fall within the definition of "electronics" since the overwhelming trade in these two categories includes such electronic products as

camera shutters and diaphragms, shutter releases and photographic flashlights and flashbulb apparatus.

Thirdly, a flexible interpretation of the President's Proclamation authority in this specific area is appropriate in view of the non-controversial nature of the request. The National Association of Photographic Manufacturers ("NAPM") supports Polaroid's "zero-for-zero" initiative "because of the significant benefits it would bring to the U.S. photographic industry". Moreover, both the EU and Japanese delegations support zero-for-zero on these items.

Lastly, in light of the Proclamation authority empowered by the Congress to the Executive Branch pursuant to Section 115 of the URAA, a 60-day consultation period with the House Committee on Ways and Means and Senate Committee on Finance will be initiated prior to the time the President exercises his Proclamation authority. This consultation is an important aspect of Congress's prerogative to review the tariff cuts and accelerated staging proposed by the President. In view of the U.S. industry support and plurilateral appeal of the proposal, there is no reason to believe the Trade Committees would oppose Polaroid's initiative in this area.

V. CAMERA AND PHOTOGRAPHIC PARTS AND ACCESSORIES.

A. Product Descriptions.

Covered under HTS 9006.91 ("parts and accessories, for cameras") are parts required for all photographic cameras and camera accessories -- i.e., camera bodies, bellows, tripods, ball and socket mounting heads, shutters and diaphragms, shutter (including delayed action) releases; magazines for plates or films; and lens hoods. Products covered under HTS 9006.99 ("parts and accessories, other") include parts and accessories for photographic flashlight and flashbulb apparatus.

Most goods falling under HTS 9006.91 and 9006.99 are not finished products but rather components and intermediate products with final end-use in the assembly of finished cameras. Though U.S. production of finished cameras is minimal, U.S. camera component production and exports are significant. In 1995, U.S. exports of photographic parts and accessories (classified under HTS 9006.91 and 9006.99) were valued at over $200 million, compared to $130 million in 1990. Demand for U.S.-sourced components is high, especially with shifting camera production to destinations such as Europe, East Asia and Southeast Asia. For example, Polaroid Corporation alone exports over $60 million annually of U.S.-origin components for finished cameras produced at its facility in Scotland.

B. U.S.-EU Tariffs and Uruguay Round Market Access Offers.

Current EU tariff rates on photographic components are 5.1 percent and 4.0 percent for HTS 9006.91 and 9006.99, respectively -- see table below. By comparison, U.S. rates are 5.8 percent and 3.9 percent for HTS 9006.91 and 9006.99, respectively. However, whereas U.S. duties will remain unchanged as a result of the Uruguay Round, EU duties will be reduced in equal annual installments to final rates of 3.7 percent and 3.2 percent by January 1, 1999.

U.S. and EU Tariff Rates and Final WTO Bindings for HTS 9006.91 and 9006.99

Country	HTS No.	Description	1996 Duty	Final WTO Binding
European Union	9006.91	Parts and Accessories for cameras	5.1	3.7
	9006.99	Other photographic parts and accessories	4	3.2
United States	9006.91	Parts and accessories for cameras	5.8	5.8
	9006.99	Other photographic parts and accessories	3.9	3.9

C. APEC Tariffs and Uruguay Round Market Access Offers.

Current APEC tariffs on parts and components falling under HTS 9006.91 and 9006.99 range from duty-free (e.g., Malaysia) to 30 percent (e.g., Indonesia). Parts and accessories tariffs are especially high in countries with growing camera assembly and manufacturing industries (e.g., Thailand and Indonesia). These markets have high-growth potential for U.S. components exports.

The results of the Uruguay Round of multilateral trade negotiations will not improve market access for U.S. parts and accessories exports to APEC markets. Current APEC tariffs are already at or below the final WTO bound rates effective in 1999 for all APEC members, including the U.S. Japan and Canada bound part or all of their tariff lines falling under HTS 9006.91 and 9006.99 at current duty-free levels, but these market access offers were the exception rather than the norm. China and Taiwan are not WTO members, though they are in the process of applying.

THE
PRO
TRADE
GROUP

September 24, 1996

Phillip D. Mosely
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Mosely:

This is a posthearing submission filed in connection with our appearance at the Subcommittee on Trade's September 11, 1996 hearing on the forthcoming World Trade Organization (WTO) Ministerial Meeting. We respectfully request that this post-hearing submission, which focuses on the WTO's dispute resolution mechanism, be included in the record of this hearing.

As requested, we enclose an original and six (6) copies of this submission.

Sincerely,

Bruce Aitken

DISPUTE RESOLUTION UNDER THE WTO -- ITS HISTORY, PROCEDURES AND FUTURE

OUTLINE

I. DIFFERENCES BETWEEN THE WTO AND EARLIER DISPUTE RESOLUTION REGIMES

1. Essential Orientation -- From Negotiated Solutions Toward an Adjudicative Approach
2. Scope and Timetables
3. Range of Remedies
4. Role of Private Parties
5. Differences Between GATT & WTO Procedures

II. ANTICIPATING THE FUTURE UNDER THE WTO SYSTEM

A. THE ROLES OF PRIVATE PARTIES IN DISPUTE RESOLUTION
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B. STANDARD OF REVIEW

C. COMPLIANCE WITH WTO DECISIONS
1. The Dole Amendment under U.S. Law
2. The Implications of the SOFTWOOD LUMBER Dispute
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D. IMPLICATIONS OF THE SINGAPORE MINISTERIAL

INTRODUCTION

The following discussion represents a preliminary draft of a paper being prepared for publication later this year in cooperation with James Holbein, the U.S. NAFTA Secretary. It's purpose is to provide an overview of the negotiating history of the World Trade Organization's Dispute Resolution provisions, to compare these provisions with earlier international dispute resolution regimes and, finally, to discuss issues which we anticipate may result from their implementation. This paper was presented by Mr. Aitken to the Inter-Pacific Bar Association at it May 4, 1996 Annual Meeting in Manilla.

I. DIFFERENCES BETWEEN THE WTO AND EARLIER DISPUTE RESOLTION REGIMES

1. Essential Orientation -- From Negotiated Solutions Toward an Adjudicative Approach

1. A fundamental difference exists between the WTO dispute resolution regime and its North American counterparts. This is in that the WTO aims at an adjudicative process rather than negotiated solutions. As Reisman and Weidman noted:

> "Compared to the automaticity and rigidity in the general DRM [dispute resolution mechanism] of the WTO, [the] CFTA and NAFTA have looser, swifter procedures, aimed at relatively rough-hewn solutions. Rejecting elaborate sequential procedures, these North American Agreements essentially assign the legal issue to a panel of five individuals. If the panel upholds the complaint, the agreements then a portion responsibility to resolve the conflict solely to the parties, themselves, without legalistic supervision of the resulting political interplay."[1]

2. Essentially, the WTO process attempts to move from the previous model of a mixture of legal and diplomatic methods to a system that is more institutionalized and judicialized. This reflects the need to render decisions for a far greater number of parties.

2. Scope and Timetables

1. The NAFTA and WTO regimes do not differ fundamentally in scope, but differ substantially in their timetables. A highly contested WTO dispute could take four times larger to resolve than a NAFTA dispute -- 31 or 32 months vs. 8 months.[2]

3. Range of Remedies

1. The WTO and NAFTA regimes offer comparable remedies for disputes involving alleged treaty violations. For other disputes, the WTO severely constrains the range of available remedies, and, further, creates obstacles to reaching a resolution. For example, if the WTO panel or the Appellate Body do not find an express violation, then the responding Party cannot be obliged to remove or remedy the action or measure complained of without its consent.[3] This limitation does not exist in the NAFTA system.

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[1] Reisman and Weidman, id. at 21.

[2] See Reisman and Weidman, id. at 22.

[3] See the Agreements dispute resolution provisions, footnote 14, par. 26.

4. Role of Private Parties

1. As discussed below, the WTO contrasts markedly with the NAFTA in that the NAFTA explicitly provides a role for private parties in certain disputes while the WTO does not. However, this issue is likely to evolve.

2. As indicated, both the CFTA and NAFTA dispute resolution regimes explicitly contemplated a role for private parties in disputes, e.g., arising from antidumping and subsidy cases. That is not the case under the WTO system. The possible evolution of this system towards one in which private parties is discussed below.

5. Differences Between GATT & WTO Procedures

1. The Uruguay Round Agreement under the GATT would alter the dispute resolution mechanism. Under the WTO, the procedure to resolve disputes among contracting parties would be changed in ways designed to make it easier to use, more expeditious, and more sure to arrive at an outcome.

2. Under GATT 94, dispute resolution is based on Articles XXII and XXIII. They establish a procedure for members to take complaints before a neutral panel with expertise on such matters and to receive a ruling on the dispute.

3. Art. 22 deals with consultations and Art. 23 deals with panel establishment. The understanding on Rules and Procedures Governing the Settlement of Disputes addresses certain problems in applying Articles XXII and XXIII. Under the WTO mechanism, dispute settlement proceeds in much the same fashion as under the GATT. Dispute procedures may be invoked where a member alleges that a measure violates a WTO agreement or that a non-violative measures, nullifies or impairs benefits under an agreement.

4. A number of differences exist between former procedures and the WTO. First, the scope of the disputes subject to the dispute settlement mechanism is widened to include services and intellectual property rights, in addition to goods. Plurilateral agreements under the WTO dealing with civil aircraft, government procurement, and bovine meat also would be covered, provided that parties to those agreements concur.

5. The second, and the most important difference is that consensus is no longer required to approve a panel decision. Under former GATT procedures all reports are adopted by a consensus. In the past, this meant that one country could block an adoption of the panel report. Under the WTO, all panel reports are adopted automatically unless the Dispute Resolution Body agrees not to. This automaticity in procedures can also be seen in establishment of panels. (Understanding 6.1)

6. Third, other differences in the dispute settlement mechanism include a time-controlled consultation process and expeditious forming of panels. If consultations fail to settle a dispute within 60 days, the complaining party may request a panel establishment.

7. Also, under the WTO, a final panel report would be provided to the parties no later than six months (three months in the case of an emergency) after the panel is composed. The report will then be issued to the members after which no action could be taken for 20 days. Within 60 days after the report was issued, the Dispute Settlement Body will adopt the report or decide by consensus not to adopt it.

8. Also, under the WTO, an appellate body is established. The appellate body consists of seven persons, three of whom will serve in any one case. Decisions are required within 60 to 90 days, depending on the case. Therefore, under the WTO, one case will not exceed 9 months from the establishment of a panel, and 12 months with an appeal. This is shorter than 15 months specified under the GATT.

9. The WTO dispute settlement procedure also tightens the implementation and compensation aspects of dispute settlement. The party which must inform the Dispute Settlement Body of its intention to implement the report within 30 days from the adoption of a report. If the reports recommendation or rulings are not implemented within a reasonable period of time, the responding party, if requested, must enter into negotiations over a mutually agreeable compensation scheme. If no compensation scheme can be devised, the complainant has the right to request authorization to retaliate. The retaliation, however, would have to be the same amount as the impact of the measure at issue. However, as noted above, a highly contested WTO dispute can take substantially longer than the timetables discussed here.

II. ANTICIPATING THE FUTURE UNDER THE WTO SYSTEM

A. THE ROLE OF PRIVATE PARTIES IN DISPUTE RESOLUTION

1. The Philosophical Background

1. With regard to illicit or unfair trade practices, individuals are generally excluded from international dispute-settlement procedures such as those which are used under GATT. The same is true for the various dispute settlement arrangements which the Community has agreed to in its bi- and multi-lateral agreements.[4]

2. Thus, with regard to foreign practices, individuals are limited to the classical remedy in essence, lobbying for diplomatic protection by their home states. Having exhausted all local remedies within the legal order of foreign states, individuals may ask their own government to intervene on their behalf in order to eliminate those practices.[5]

3. However, when governments and business firms desire greater predictability of national government economic actions in an increasingly interdependent world, and greater balance and equality in actual implementation of negotiated international rules on economic matters, these factors could lead governments to be willing to accept some sort of a mechanism by which individual citizens or firms could appeal directly to an international body like the GATT to determine whether a government obligated under the GATT or one of its codes has taken an action that is inconsistent with its international obligations.[6] Thus, it may be said that the effective participation of individuals would be at least a valuable tool in the hands of governments trying to counter any form of those non-transparent foreign administrative trade practices which have become a major problem in the international trading system.[7]

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4 Meinhard Hilf, International Trade Disputes and the Individual: Private Party Involvement in National and International Procedures Regarding Unfair Foreign Trade Practices, in, Protectionism and Structural Adjustment, at 281, citing Partsch, Individuals in International Law, in: Bernhardt (ed.), Encyclopedia of Public International Law (EPIL), Instalment 8 (1985), S. 316 et seq. and Matscher, Standing Before International Courts and Tribunals, in: Bernhardt (ed.), EPIL, Instalment 1 (1981), 191 et seq. and Hannum, Guide to International Human Rights Practice (1984) with a list of the various procedures open to individuals. For further details M. Hilf, Europaische Gemeinschaften und Internationale Streitbeilegung, in: Festschrift Mosler (1983), 387 et seq.

5 Hilf, 281.

6 John H. Jackson, Jean-Victor Louis & Mitsuo Matsushita, Implementing the Tokyo Round: National Constitutions and International Economic Rules 207-209 (1984).

7 Hilf, 281 (citing E.-U. Petersmann, International and European foreign Trade Law: GATT Dispute Settlement Proceedings Against the EEC, 22 CML Review. (1985), 441, 483).

4. Increased legalization of international trade, which would necessarily flow from private participation, is welcomed by a number of observers, whereas it is feared by others. In particular, there are no reliable estimates as to the long-term benefits of a more legalized system.[8] From a lawyer's perspective a rather positive attitude towards a more rule-oriented world trading system should prevail. Judicial activism of individuals will not necessarily influence or even dominate actual commercial policy and a more rule-oriented trade policy will only mean that individual interests are taken into account according to clearly pre-established administrative or judicial procedures.

2. The Possible Role of Private Parties in the WTO Dispute Resolution Process

1. During the Uruguay Round negotiations, Singapore proposed that private parties (persons and companies) be afforded rights through domestic law to have their interests considered in hearings, decisions and implementation of dispute resolution. However, the proposal did not progress far since many countries did not wish to broaden the GATT's essential character beyond that of agreement between states.[9]

2. In the Spring of 1995, certain U.S. industry groups proposed to U.S. government officials that private parties be afforded a role in the WTO dispute resolution process. It appears highly unlikely that a formal role could result from WTO implementation -- this concept was considered and passed over during the negotiations. Yet is conceivable that a formal advisory mechanism could be established, perhaps at the national level. A model for this exists in the United States, where so-called "Industry-Sector Advisory Committees" (ISACs) exist to afford private firms access to confidential governmental information and to obtain their comments. ISACS exist to aid the U.S. government regarding its trade negotiations.

3. Theoretically, private participation in trade policy procedures may serve to increase the effectiveness of government administration of those instruments. It also provides private parties affected by unfair trade practices a subjective right to complain and to participate in the decision-making procedures.[10] Thus, individual interests are but one element of the general public interests to be considered by the relevant authorities in foreign trade decision-making. Is there nevertheless any legal obligation for the government to provide for active private involvement in the decision-making process? Such an obligation may be derived from international law or from national legal systems.[11]

4. Under international law, one may well find some obligations of contracting states - as is stated in Art. X:(b) of the GATT to "maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, inter alia, of the promotion of review and correction of administrative action relating to customs matters". This article is related only to custom matters. Similar obligation can be found in Art. 2 of the Subsidies Code.[12]

5. Both U.S.-Canada Free Trade Agreement and the North American Free Trade Agreement contain a unique procedure for international dispute settlement on issues of antidumping and countervailing duties. The procedures essentially allow private parties in each contracting party nation to appeal national administrative determinations on these subjects to a bi-

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8 Id.

9 See Reshaping the World Trading System by John Croone, (WTO, 1995) at p. 265.

10 Hilf, 281.

11 Hilf, 282.

12 Hilf, 282.

national tribunal for determination, in lieu of appeal procedures in the national courts. The tribunals findings are supposed to be directly implemented in the jurisprudence of each nation.[13]

6. Under European Community and its national law, ex-post-protection is the general rule. Individuals are entitled to administrative or judicial relief if their interests are affected by public action. This protection is often insufficient, however, especially in foreign trade matters. Individuals may be moved to petition their own government to take protective measures on their behalf. In addition, they may have a legitimate interest to intervene or to participate somehow in the decision-making procedure before certain trade measures are taken. Such an interest seems to be predominant, if an ex-post-protection would be insufficient to remedy all the injury which might have been cause to private interests.[14]

7. Even in the absence of constitutional obligations, a close look at national and constitutional law shows a strong trend towards private involvement in foreign trade decision-making. Jackson[15] has listed fourteen major U.S. import trade regulations which provide for various degrees of procedural involvement. The more important ones are the procedures concerning escape-clauses, antidumping and countervailing duties, unfair practices in import trade and the procedure concerning unfair trade practices of foreign governments. Some observers think -- according to Jackson -- that these complex procedures reflect the state of the "litigious society" which the United States are considered to be.[16]

8. In the European Community - influenced by the American example -- some similar procedures have been adopted. The more important ones are the common rules for imports and exports and especially the antidumping/antisubsidy regulations and the regulations on the strengthening of the common commercial policy, particularly with regard to protection against illicit commercial practices (the "New Instrument"). The very title of the latter instrument indicates the main objective of this regulation to strengthen the common commercial policy, to serve the objective interests represented by the institutions involved in order to ensure the full exercise of the rights of the Community. It is not intended to serve individual interests in particular.[17]

9. However, the GATT rules for substantive and procedural "due process" in the administration of national trade laws do not appear to be based on a mutually consistent "legal policy."[18] A comparison of the various Tokyo Round agreements, for instance, reveals large differences among their various trade policy procedures. The Customs Valuation Codes grants comprehensive guarantees of procedural "due process" while other agreements are vague or have no provisions at all on individual rights of appeal and judicial review.

10. By contrast, the Subsidy Code and the Antidumping Code set out detailed rules on domestic antidumping and countervailing duty proceedings without making provision for rights of appeal and judicial review. This omission seems particularly unwarranted in view of the fact that the number of antidumping and countervailing duty proceedings has rapidly increased since the adoption of the 1979 GATT Antidumping Agreement (e.g., over 600 cases in the USA from 1980 through 1986) and judicial review of antidumping and countervailing

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13 NAFTA Article 1904 § 5,7.

14 Hilf, 282.

15 J.H. Jackson, Perspectives on the Jurisprudence of International Trade: Costs and Benefits of Legal Procedures in the United States, 82 Michigan Law Review (1984), 1570, 1584.

16 Id. 1570.

17 Hilf, 285.

18 Petersmann, 82.

duty determinations is now available in most OECD countries, albeit with important differences in major trading countries.[19]

11. Government regulation of transnational trade transactions has become the most regulated area of many national economies. The international and national foreign trade rules and procedures are ultimately designed to promote efficient decentralized economic decisions of individual economic agents and also increasingly recognize individual rights of private traders and producers. There is a rapidly rising number of court decisions on the protection of these individual rights in customs, licensing, antidumping, countervailing duty and other foreign trade proceedings in the European Community.[20]

12. However, in Practice, domestic foreign trade laws sometimes confer individual rights to import protection on domestic industries interested in import restrictions, but hardly even recognize individual rights to trade liberalization. And they tend to focus one-sidedly on "injury to domestic producers" without balancing these producer interests against the gains from trade to consumers. As a result of these various "protectionist biases" in national trade policy procedures, discretionary government powers risk to be captured by special interest groups (e.g., of politicians, bureaucrats and import-competing producers) and to be abused to advance protectionist group interests at the expense of the "public interest".[21]

13. But is it compatible with the obligation of governments to serve the "public interest" that the safeguard clauses of GATT as well as of domestic producers" (Article XIX) without a "public interest proviso" requiring a balancing of the protectionist self-interests of import-competing producers against the liberal interests of consumers, taxpayers, export industries and the public interest at large.[22]

14. Allowing private traders to institute legal proceedings against foreign governments before a GATT "supercourt" are hardly realistic means of extending the rule of law over foreign trade.[23] Jackson's proposal "to accept some sort of a mechanism by which individual citizens or firms could appeal directly to an international body like the GATT to determine whether it is a inconsistent with its international obligations"[24] has been criticized on several grounds. Tumir has voiced the fear that securing direct access of private persons to the international GATT dispute settlement procedures "would be destructive of international order, crippling diplomacy be bringing into a head-on conflict with the national judicial process, the effort should be directed to securing more perfect national justiciability of the personal rights

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19 Id. at 83, referring E.A. Vermulst, Antidumping Law and Practice in the United States and the European Communities, 1987; H.C. von Heydebrand und der Lasa, Der gerichtliche Rechtsschutz bei der Einfuhr gedumpter Handelsware in den USA und der EWG, 1986; Beseler/Williams, Antidumping and Antisubsidy law: The European Communities, 1986.

20 Petersmann, 84 (citing the 1983 FEDIOL judgement, E.C.R. 1983, 2913 and the 1984 Allied corporation judgment, E.C.R. 1984, 1005 which have opened up a comprehensive system of judicial review of antidumping determinations enabling complainants, foreign exporters and producers who have participated in the investigation, related importers, member states and E.C. institutions to challenge antidumping determinations by means of "direct actions" under Article 173 of the EEC Treaty).

21 Ernst-Ulrich Petersmann, Possibilities and Problems of Making GATT Rules Effective in Domestic Legal Systems.

22 Petersmann, at 84.

23 Petersmann, at 110.

24 Jackson/Lois/Matsushita, pp. 140.

which it is the ultimate function of international agreements to protect".[25] The issue before WTO remain the same.

15. Additionally, according to Trimble, "the future of effective international rule making lies in more extensive involvement of domestic political institutions, not in the impartial dispensations of an international court" because all law-making authority must be politically accountable to representative democratic control and must rest on the "consent of the governed."[26]

16. Furthermore, it is not clear that international litigation to enforce rules will even serve to promote and open trading system. In theory it may sound desirable. U.S. exporters could strike down Japanese Quotas maintained in violation of Article XI of the GATT. A German exporter of speciality steel could sue to force U.S. revocation of escape clause relief recently granted to the specialty steel industry. There is no problem for free trade as long as the suit is brought against an inefficient producer hiding behind an illegal practice.[27] On the other hand, suits by competitors to enforce rules against "unfair" actions (like subsides) are just as likely. Thus, the threatened U.S. steel industry could sue to halt illegal Brazilian subsidies. Such litigation may simply lead the defendant government to do whatever is necessary to stop the lawsuit, and not necessarily to change its practices to conform to the rules. Even if one believes the classic argument that subsidization (or dumping) is unfair, and therefore ought to be eliminated, the range of opinion among nations about subsidies and dumping is so wide, and the practices subject to attack so entrenched, that it seems extremely doubtful that litigation to resolve the differences of opinion would be tolerated. Therefore, domestic adjudication may offer a more acceptable means of clarifying the often vague GATT (WTO) provisions (e.g. on subsidies and countervailing duties) than an international "supercourt". The risk of differing national interpretations and uneven domestic implementation does not pose much of a problem from a liberal perspective which links the national gains from trade to a country's own trade liberalization and less to the reciprocal trade liberalization of foreign countries.[28] The result of domestic litigation by the steel industry has been the effective cartelization of world steel trade through "voluntary" restraint agreements. The likely result of establishing a supercourt would simply be more "voluntary" agreements, serving protectionist rather than free trade objectives. The "high degree of legalization" of this system has itself been seen by some observers as a non tariff barrier.[29]

3. The Role of Lawyers Vis-a-Vis the WTO

1. Irrespective of the foregoing, both governments participating in the WTO dispute resolution process, and firms potentially affected by these negotiations, are likely to rely on the expertise of outside counsel. This certainly has been the case in such cases as the EC challenge of the U.S. automotive tax regimes and in the current dispute over EC market access for imported bananas. Clearly, counsel with an understanding of the nuances of the dispute, and of WTO procedures, can add value to their clients who may be participating in, or affected, by these disputes.

B. STANDARD OF REVIEW

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25 J. Tumir, Conceptions of the International Economic and Legal Order, in The World Economy 1985, pp. 85, 87.

26 Philip R. Thimble, International Trade and the Rule of Law, 83 Mich.L.Rev. 1020 (1985) (book review of J. Jackson, J. Louis & M. Matsushita, Implementing the Tokyo Round: National Constitutions and International Economic Rules (1984). Reprinted by permission of the Michigan Law Review Association.

27 Id. at 1016, 1026.

28 Petersmann, at 110, FN121.

29 Id.

1. It probably is inevitable that dispute resolution panels will attempt to define their roles. In a series of CFTA and NAFTA panels, the issue of standard of review has been discussed, with varying results. Some panels may determine that the panel should afford great deference to governmental bodes by adopting a standard of review that only "patently unreasonable" governmental actions are properly reviewable. Other panels may adopt a standard of review that affords much less deference to the entity whose actions are under review.[30]

2. U.S. firms seek certainty and predictability from trade case decisions. If only in integrity of the decisions of the U.S. Department of Commerce and the U.S. International Trade Commission were at stake, then U.S. firms might seek a WTO standard of review that affords great deference to administrative tribunals. However, in countries such as Canada, there is not the tradition of legislative history which exists in the United States and which helps dispute resolution panelists to determine whether particular administrative decisions have been arbitrary. Therefore, in the interests of both transparency and predictability, we urge the Congress and the Administration to seek commitments as clearly as possible the legislative and regulatory intent of their trade laws. This, in turn, should result in more predictable WTO decisions.

C. COMPLIANCE WITH WTO DECISIONS

1. Perhaps the most serious issue that will emerge from the WTO dispute resolution process is the issue of member party compliance with adverse decisions.

1. The Dole Amendment under U.S. Law

1. During consideration of U.S. UR implementing legislation, a debate occurred over alleged or feared loss of sovereignty due to the automaticity of WTO procedures. As a result Sen. Robert Dole proposed, and the U.S. Congress accepted, language under which three (3) WTO decisions adverse to the United States could result in the appointment of a panel of retired judges to assess whether the United States should withdraw from the WTO.

2. The Implications of the Softwood Lumber Dispute

1. Perhaps nowhere will the temptations to fail to comply with adverse WTO decisions be taken more seriously than occurred with respect to the Softwood Lumber dispute. This resulted in a NAFTA panel decision which was the subject of an Extraordinary Challenge by the United States. In its challenge, the United States claimed that the panel "manifestly exceed its powers, authority and jurisdiction by ignoring the Chapter 19 standard of review, including substantive law and facts."[31] American softwood lumber producers, after losing at the international level, then filed a suit in the Court of Appeals for the D.C. Circuit, asserting that Chapter 19's cut-off of judicial review violated their rights due process under the U.S. Constitution. The suit was dropped after the governments of Canada and the United States agreed on the formation of a consultative body to mediate the dispute.[32]

3. Inherent Risks in the WTO Process

1. The implications of the Softwood Lumber dispute are obvious. Should economically more powerful nations find the greater automaticity of the WTO dispute resolution process too restrictive, and reject its results, then their actions could undermine the WTO's authority and damage the credibility of the process.

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30 See generally the NAFTA Panel Decisions on Cold Rolled Steel.

31 See U.S. request for an Extraordinarily Challenge Committee, April 6, 1994, at 29 Secretariat File No. EEC-94-1904-01 USA, 1994 Ftapd Lexis 11.

32 See 11 International Trade Reporter, 21 Dec. 1994, at 1981.

D. IMPLICATIONS OF THE SINGAPORE MINISTERIAL

1. In December, 1996, the First Ministerial meeting of the WTO will be held in Singapore. It coincides with the intended conclusion of the WTO implementation period and will result in action-oriented reports from a variety of WTO Committees.

2. Since the implementation of the WTO dispute resolution process is likely to be evolutionary, it may be appropriate for the Subcommittee to attempt to produce a document which highlights issues that may be of concern to U.S. companies. We would be pleased to assist the Subcommittee in that regard.

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This paper represents an adaption for this conference of a very preliminary draft of a law review article being prepared by the U.S. NAFTA Secretary, James Holbein, and this co-author. I wish to acknowledge the contributions of several members of our firm's staff: Curtis Knauss, Thiemo Roeher, Mimi Dai and David Park.

September 24, 1996

Mr. Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Moseley:

Re: Written Statement on World Trade Organization Singapore Ministerial Meeting (TR-30).

I am a lawyer in Washington whose practice is largely focused on international trade and customs issues. My law firm has actively monitored developments in the GATT and now the WTO for many years. Our firm has for nearly 40 years helped domestic companies and industries and their workers with international trade issues. I am the editor of several books on the World Trade Organization and the Uruguay Round negotiations, and have written many articles on international trade and the trading system over the years. This statement is submitted on my own behalf and does not necessarily reflect the views of my firm or any of our clients.

I. Overview

I have had the opportunity to review the prepared statements of the witnesses who appeared at the hearing on September 11th. I would agree with those who believe that the WTO has gotten off to a reasonable start during its first twenty-one months, although expectations for many U.S. industries were for greater accomplishments than those achieved to date.

The launch of the WTO was surrounded by substantial tension and controversy, as reflected in the seemingly regional breakdown of support in who should be the Director-General and who should be on the appellate body and by the long delay in the constitution of the Textile Monitoring Body. The extent of the notifications required by the Uruguay Round has been monumental, generally far outstripping the ability or willingness of countries to respond, with the result that the timeliness and completeness of responses has not always been what might have been hoped. At the same time, areas for continuing negotiations in services have to date not resulted in the type of liberalization commitments hoped for by the United States. Even in areas where there has been progress (e.g., transparency), the WTO has taken a very long time to develop agreement on the derestriction of documents. While agreement to derestrict most documents finally has been made, the documents are not yet available to the public keeping the mantle of secrecy that surrounds the WTO still largely intact.

Nonetheless, at this early point in the new organization:

- there is a functioning Secretariat and appellate body;
- the dispute settlement system seems to be functioning reasonably smoothly (though with less public participation/involvement than is desired by many in the U.S.);

- thousands of notifications of laws, regulations and existing practices have in fact been made to the various Committees;
- the Committees have at least gotten started on the difficult task of vetting legislation of member countries;
- tariff liberalization has commenced;
- substantial changes in national legislation for many countries have been undertaken;
- negotiations have been undertaken in various areas, including the technical work on the harmonization of rule-of-origin/ substantial transformation criteria and the various negotiations in the services area;
- global and U.S. trade are both increasing;
- there is some improvement in transparency of the WTO, including the dispute settlement process.

As the Singapore Ministerial approaches, it is important to consider what this first biannual event should be. In my own opinion, it is critical that the WTO secure its base before launching on an expansion of purpose or a revisiting of recently concluded agreements, most of which are just being implemented or are yet to be implemented by many members because of transition provisions. Thus, the Singapore Ministerial should largely be limited to (1) an intensive review of the state of implementation, (2) the work program needed to pursue the built-in agenda, and (3) investigation of whether additional resources may be needed and whether international cooperation can be expanded to help developing and least developed countries fulfill their obligations under the WTO and to help countries seeking admission to the WTO identify and implement the changes needed for an early accession. This does not mean that some expansion of the work program cannot be considered. I believe that Ambassador Barshefsky's articulation of objectives under the new work program during the September hearings is a reasonable one. But the new areas should not divert attention from the tremendous effort still needed to make the WTO function as envisioned and to assure that there are neither free riders nor agreements honored mainly in the breach.

While an agenda for Singapore limited to the areas identified above would not have the press appeal of the announcement of a new round or a very ambitious agenda of new areas for negotiation, it does hold out the hope for a more meaningful end product.

Let me turn now to just a few of the issues in greater detail.

II. Implementation as the focus

The Uruguay Round was not only the most ambitious trade agreement in history in terms of subject matter, but also in terms of participation by developing and least developed countries. Unlike prior agreements which countries could choose to adopt or not, the Uruguay Round was largely a single undertaking. The digestive problems of complying with the Uruguay Round obligations for large developed countries like the United States, the European Union, Japan and Canada are substantial. For some developing and many least developed countries, the problems border on the undoable. Many countries are having great difficulties getting their arms around the obligations undertaken and making the requisite notifications, let alone legal changes.

subscription or otherwise the detailed decisions in the rules area (customs valuation, rules of origin, safeguards, subsidies, antidumping, etc.) for public understanding. If the United States is serious about our trading partners implementing their obligations, we should insist that all information received by the WTO be made available to the public at nominal cost. This will let the private sector help identify possible problem areas in implementation or construction of rights/obligations.

Finally, there have been requests by many in the private sector for greater private party participation in the panel process and greater oversight. I generally concur with the views expressed in the LICIT paper on these topics.

Because transparency was a major issue in the Uruguay Round, consideration of the above issues should be folded into the area of implementation.

IV. Built-in agenda

The WTO has a very ambitious built-in agenda for continued negotiations. Some areas, such as the three-year program on harmonization of rules of origin for non-preferential purposes, seem to be proceeding apace (although with less public understanding of issues being considered than is desirable). Other areas where the U.S. has major interests in other-country liberalization have to date been disappointments. Ambassador Barshefsky's discussion of the service sector negotiations reviews the time extensions in each area which were taken when original deadlines did not produce offers deemed adequate by the U.S.

New rounds in agriculture liberalization and in services as well as review of the dark amber and green light subsidy provisions require some preparatory work, particularly in light of early experience/problems under the agreements in question. In agriculture, several countries have reduced their support programs for budgetary reasons including importantly, the U.S. Particularly in an area like agriculture, where certain countries maintain such extraordinary subsidy programs, and where budget pressures force cutbacks, it would be appropriate to seek an acceleration of liberalizations on the identical products from at least major trading partners to prevent a substantial skewing in competition flowing from unilateral disarmament. Whether viewed as part of the built-in agenda or as a new liberalization negotiation, the U.S. should pursue the issue as part of the Singapore Ministerial effort.

V. Further liberalizations

Part of the U.S. mandate is to continue to pursue improvements in the zero-for-zero sectoral initiatives started as part of the Uruguay Round package. Chemicals, wood products, and construction equipment are just a few of the sectors where major benefits could arise from significant expansion of the existing tariff reductions and participation. The Information Technology Agreement is a supplemental initiative which appears to have significant support not only within the United States but also within the other Quad countries. However, as with some of the problems in the enforcement of the TRIPS Agreement and the zero-for-zero coalition, agreement among the Quad countries only, is simply not sufficient in terms of the existing market dynamic. Broad participation in the ITA is critical to success for domestic producers.

While individual countries and the WTO generally have offered seminars and technical assistance, the task facing many countries will require consistent and focused attention if the WTO will in fact be a system that all countries can use and observe. The first ministerial would be a good point to review the state of implementation and the extent to which implementation can be improved through greater technical assistance and how such assistance can be mobilized.

In agreement after agreement, there are rumblings that countries have not brought themselves into conformity with WTO obligations, that barriers are not coming down to the extent committed, and in some cases that the facts are not really known. At the HWMC hearing earlier this month, U.S. producers identified possible problems in the compliance of our trading partners in the textiles and apparel area and the perceived inadequate implementation of TRIPs obligations. While trade in agriculture is up significantly in the last two years, there have been significant concerns about the implementation of agriculture obligations by a number of countries. In Safeguards, apparently all non-conforming measures have been eliminated by WTO countries -- a remarkable outcome if true, but is it? In Subsidies, constructions of terms have resulted in a much smaller number of notifications than anticipated. Discussions with a number of delegations over the last two years raise suspicions about the completeness of many notifications, footdragging on areas sensitive to particular countries, and an overwhelming amount of work with too few bodies to effectively review incoming information not only in Geneva but back at the capital. In many areas, large numbers of questions have been posed on such legislation as has been notified. The answers received may or may not resolve the underlying concern about compliance with new obligations.

While it is correct to characterize the state of play as likely anticipated and not inconsistent with forward progress, it is also correct to say that much work remains to assure full implementation of commitments. Hence, the primary focus of the Singapore Ministerial must be the progress in implementation, a discussion of what needs to be done, practical problems that have arisen, acceptable solutions for resolution and an aggressive work program to bring the WTO into full implementation.

III. Public access to information

The WTO has taken some steps to improve the transparency of its operations. Sensitive areas such as trade and environment have resulted in improved public availability of information. NGOs are also receiving at least modest recognition within the WTO (they are being offered the opportunity to register for certain events at the Singapore Ministerial as an example). In addition, the leadership position taken by the United States in making information about dispute panel proceedings available to the public and soliciting public views is at least a partial step forward in public awareness and opportunity to understand and comment on matters of potential significant public interest. The recent decision by the WTO to derestrict documents in a more timely manner and not to restrict certain documents at all is long overdue. The question now will be how quickly a program is actually put into place to release the documents to the public and how easy it will be for the public to obtain the documents. Moreover, the decision is limited to WTO documents. The United States should seek an extension of the decision to all GATT and WTO documents. Additionally, the U.S. should pursue making copies of all decisions and other documents forwarded to the WTO (excepting truly confidential information) available to the public. Many nations do not have public reading rooms or do not make available through

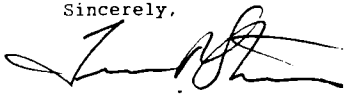
VI. New Agenda

There have been a number of issues floated as possible agenda items. I am in general agreement with the position taken by Ambassador Barshefsky. In addition to possible agenda items a proposal has been put forward to reopen the Rules, a proposition with which I strongly disagree. During the Uruguay Round negotiations the Rules were debated for close to eight years. Comprehensive agreements in several new areas were adopted. Those agreements are just starting to be implemented. Even in large developed countries like the United States, implementation is only in the early stages. In some cases the implementing regulations are not yet in place. Before an examination of the basis of the WTO takes place a reasonable amount of time must pass in order to see the effect the new structure will have on the new agreements. At this point it is premature and unnecessary to open the Rules; instead it is much better to wait and see how the WTO will operate under the current rules. Once a reasonable amount of time has passed and enough information is gathered on the performance of the WTO under the current Rules, then and only then can an appropriate inquiry be made into opening up the Rules to possible revision and replacement. Discussion of the Rules does not mean that certain issues should not be addressed, for example restrictive business practices. While addressed from time to time in GATT, Restrictive Business Practices, Arrangements for Consultations, June 2, 1960, GATT B.I.S.D. (9th Supp.) at 170 (1961), is an area of significant interest to U.S. businesses and yet there is no defined agreement in the WTO on the issue. In addition, an issue such as Competition Policy may warrant examination.

VII. Conclusion

The Singapore Ministerial Conference is the first opportunity the WTO has to benchmark its performance. It is appropriate for the Ministerial Conference to use this opportunity to focus on the fundamentals, namely implementation of the basic agreements and progress on the built-in agenda items. While other issues may warrant examination, they should not distract the organization from establishing a solid base and assuring full implementation of obligations and rights.

Sincerely,



Terence P. Stewart

Statement of

U.S. Integrated Carbon Steel Producers

on

The Singapore WTO Ministerial

Submitted to the Committee on Ways and Means
Subcommittee on Trade

September 24, 1996

This statement describes the views of the six major integrated U.S. producers of carbon steel products -- Bethlehem Steel Corp., U.S. Steel Group a Unit of USX Corp., LTV Steel Co., Inland Steel Industries, Inc., National Steel Corp. and AK Steel Co. -- on the Singapore WTO Ministerial. We appreciate the opportunity to submit this statement for inclusion in the record of the hearing held by the Subcommittee on Trade on September 11, 1996.

The U.S. agenda for the WTO, beginning with this year's Ministerial in Singapore, is a matter of great importance to the domestic flat-rolled steel industry. We supported the Uruguay Round, and the implementation of its results, but not without some serious concerns. The WTO agreements had the effect of making unfair trade remedies less reliable and, at the same time, costlier to use. In this and other areas, there were numerous provisions in the agreements that we considered unnecessary and inappropriate. Nevertheless, we concluded that launching the WTO was important from a broader trade policy perspective, and that the agreements (if properly implemented in U.S. law) held out the prospect of net benefits despite their flaws.

Future discussions within the WTO, however, concern us greatly. Any further erosion of existing remedies against unfair trade practices could turn support from our industry -- and probably many others -- into opposition.

Our comments here are confined to four Singapore topics of chief importance to our industry: antidumping, subsidies, competition policy, and dispute settlement.

I. The Antidumping Agreement

Our message on this issue is simple: the United States should neither permit reopening of the Antidumping Agreement, nor retreat from the commitment to strong trade law enforcement on which U.S. ratification of the WTO agreements was predicated.

Do not reopen: Hong Kong has proposed new talks on antidumping. This proposal should be definitively rejected. We commend the Administration for doing just that and urge continuation of this response.

WTO antidumping rules were just recently renegotiated. The new rules and the new Committee on Antidumping should be given a chance to work. Moreover, U.S. regulations implementing the new Agreement have not even been finally promulgated yet. Nor is there domestic consensus on how, if at all, the Agreement could be improved. The existing agreement reflects complex and difficult tradeoffs that ultimately proved manageable only in the context of a broad round like the Uruguay Round.

Do not disarm unilaterally: Flexibility under international rules to act in defense of legitimate U.S. trading interests is important, but it is not enough. We also need domestic measures to ensure that we take full advantage of the international agreements. This means, for example, that the Commerce Department's regulations implementing the Uruguay Round Agreements Act should be reinforced by an unflinching commitment to vigorous AD/CVD enforcement. Congress, for its part, should continue to reject trade law-weakening proposals, particularly the current effort to superimpose a "short supply" or "temporary duty suspension" mechanism on the existing antidumping and countervailing duty laws.

II. The Subsidies Agreement

Although the trade remedy rules should not be reopened as a general matter, there are some provisions that expire by their own terms after a certain number of years unless extended. Dealing with these provisions is part of the "built-in" WTO agenda. While actual decisions on extension may be a few years away, it is not too soon to start establishing appropriate parameters.

One example is the new category, which expires after five years unless extended, of non-actionable or "greenlighted" subsidies in the SCM Agreement. This hole in the multilateral anti-subsidy rules only encourages the trade-distorting behavior of other governments. The idea that ***admittedly*** trade-distortive subsidies should be exempt from remedy simply because they are designed for particular (favored) "uses" is an unsound one that the United States should never have accepted in the first place.

Greenlighting was added to the SCM Agreement in the Uruguay Round along with other new provisions, including new subsidy notification and "serious prejudice" rules. However, there is no sound policy reason why the latter aspects of the SCM Agreement, which improve subsidy discipline, should continue to be paired with greenlighting, which weakens it.

Accordingly, at Singapore and during the months that follow, our negotiators should make clear that the United States will not permit extension of the greenlight category after the initial 5-year trial period.

III. Competition Policy

The steel industry is concerned about the problem of private anticompetitive practices abroad, as well as government support for, and toleration of, such practices. Our industry has direct experience in this area. International cartel arrangements in the steel industry have been extensively documented. Restrictive agreements among foreign steel producers effectively minimize competition in their home markets and turn the U.S. market, where law and custom preclude such activities, into a dumping ground. Foreign steel cartels have proved, with narrow exceptions, impervious to government action.

We would certainly benefit from multilateral progress on anticompetitive practices. However, we see two major risks associated with pursuing this matter in the WTO, and these risks define our recommendations for the Singapore Ministerial. One risk is that a competition policy initiative could be misused as a way of reopening the Agreement on Antidumping. The second risk is that we might find ourselves immersed, prematurely, in a rule-oriented negotiation without sufficient empirical preparation or domestic industry consensus.

Focus on competition policy, not antidumping: Logically and conceptually, these are two distinct issues. This distinction should be maintained. There is no reason why competition policy discussions need to involve any consideration of antidumping or other trade policy measures. Moreover, "compromise" language in the Ministerial communique should be avoided. Too often, international efforts to begin addressing the competition policy problem have resulted in statements that improperly focus on both antidumping and anticompetitive practices, as if both were "problems" in need of correction. The United States should not sign on to any such statement at Singapore.

Pursue modest, achievable goals: For now, multilateral efforts in this area should focus on fact-gathering rather than rule-making. The goal should be to identify barriers to market access for goods, services and investment that are not adequately covered by international commitments, and that may not be reachable under current rules and dispute settlement. This is the proper focus for OECD discussions and for any near-term consideration of this issue within the WTO. Rule-oriented negotiations will need to await further preparatory work by both the private sector and the U.S. Government. In the meanwhile, the United States must continue to address bilaterally (through section 301) foreign government toleration of private restraints that block U.S. exports to, or investment in, foreign markets. As with intellectual property rights, such an approach will enhance our government's ability to bring this important issue into the multilateral system with appropriate rules at a later date.

IV. WTO Dispute Settlement

The new rules embodied in the WTO Dispute Settlement Understanding (DSU) are subject to review after an initial four-year trial period. Here again, it is not too soon to begin establishing parameters for this review at the Ministerial level. How can WTO dispute settlement -- the very heart of the system -- command U.S. industry's support?

Improve transparency: The United States was only partially successful in its effort during the Uruguay Round to increase the transparency of the WTO/GATT dispute settlement system. We support continuation of the U.S. Government's effort and applaud the USTR's recent announcement of progress in this area.

- DSU rules should make all briefs and arguments available to the public, except for those (rare) portions of a clearly business-proprietary nature. The renegotiated DSU should require parties to release non-confidential summaries of their briefs ***during*** the dispute settlement proceeding to which they relate.

- Meetings of dispute settlement panels should generally be open to the public, subject to temporary closure only when material of a clearly business confidential nature is being reviewed.

- The United States should seek recognition, if any is necessary, that national delegations in the dispute settlement process may include representatives of private sector interests. The DSU should also be amended to permit the submission of amicus briefs by non-governmental parties generally supportive of their government's position and having a clear and direct interest in the outcome of a case.

- WTO panels should be permitted to consult outside experts only with the knowledge, and at the request, of the litigating governments.

Protect sovereignty: The intent of the DSU is to allow Members to adjudicate which practices violate WTO rules or nullify or impair WTO benefits. Members retain the sovereign right to keep in effect measures found to violate WTO rules, and to compensate injured trading partners or accept trade retaliation. A country can comply fully with its WTO obligations by negotiating a compensation package deemed acceptable by the complaining country. This flexibility is a cornerstone of the WTO system and must not be eroded in any way.

Defend bilateralism: The WTO agreements do not address all the important barriers in the world. U.S. Government market-opening efforts must continue in areas where WTO disciplines do not apply, and the WTO agreements cannot be allowed to operate as an impediment. Our delegation at Singapore should reiterate that section 301 continues to be available in this context and ***will continue to be used***. They should also make clear that extension of the new DSU rules is not a foregone conclusion, and that a key factor influencing the U.S. position on extension will be the degree to which those rules have impeded U.S. efforts to address trade barriers that cannot be effectively addressed under the WTO's substantive rules.

Establish WTO Review Commission: There is also a domestic measure, fully consistent with WTO rules, that the United States can take to promote the proper functioning of the WTO dispute settlement system. Congress should promptly enact (and the President promptly sign) the WTO Review Commission bill so that this new body -- which is critical to the WTO's credibility in the United States -- can begin its important work immediately.

UNITE! A MERGER OF THE AMALGAMATED CLOTHING & TEXTILE WORKERS UNION & THE INTERNATIONAL LADIES' GA

September 24, 1996

To the Subcommittee on Trade
House Ways and Means Commitee

Comments Regarding the World Trade Organization
Singapore Ministerial Meeting

Chairman Crane and Members of the Subcommittee:

If the international trading system is to have a rules-based structure, which the WTO agreement sets out to do, then all aspects of competition must come under the system. The whole rational of the topics being addressed today, of the three areas where negotiators failed to reach agreement this year, of the additional new topics being proposed for discussion by the WTO, point to the overall purpose of why there is a world trade organization -- to set the fundamental ground rules necessary for private free markets to function effectively and efficiently.

Ignoring workers and the standards under which they produce products in the rules for this new globalized economy is simply incomprehensible. The economics I learned in school said that labor was one of the three fundamental factors of production, and I've seen nothing since to refute that principle. Thus, just as we set standards for intellectual property protection, or antidumping actions, or sanitary conditions in agricultural production, we must set basic limits to the exploitation of human beings to gain competitive advantage.

This is not new. The concept of products produced by forced labor, or child labor, or under inhumane physical conditions as being not fit for international commerce is what motivated the international community to set up the International Labor Organization (ILO) after World War I. Even though the ILO is a tripartite body of government, employers and workers, it has virtually no powers except moral suasion. In today's world we need something more.

In the U.S., the proposal to include worker rights in the GATT goes back to President Eisenhower. Every Congress going back to 1974 has mandated that worker rights or labor standards be one of our negotiating goals. They understood that failure to have minimal labor rights and core labor standards as part of international competition and global trading rules would undermine the basic consensus we have established in our country on this issue. If we are horrified by the factory slavery discovered in El Monty, Calif. last year, or the brutal exploitation or immigrant workers in underground sweatshops in New York this year, why aren't we equally horrified by their existence abroad?

Brutality and human suffering and rampant child labor are not necessary conditions of underdeveloped countries or the first stages of industrialization. They are merely government created attempts to attract investment and produce at artificially lower costs than their neighbors. That the WTO is silent on this matter is a glaring disgrace.

This is why both the Bush and Clinton Administrations sought to have a working party on labor rights established in the Uruguay Round negotiations. This is why the U.S. government continues to work very hard trying to get it on the Singapore Ministerial Agenda.

The Congress has been consistent in setting forth to the Executive Branch its important trade negotiating objectives. I would ask that the full Ways and Means Committee continue to stand behind the long standing position that the relationship of trade and labor standards must be addressed by the WTO, and that a forum for such discussion be established at the Singapore Ministerial meeting. The U. S. Proposal, which is attached, is a very modest proposal that deserves our endorsement.

Sincerely,

Jay Mazur
President

U.S. Paper on Trade and Labor

Decision on Trade and Core Labor Standards

Ministers

Meeting on the occasion of the first Ministerial Conference of the World Trade Organization at Singapore on 9-13 December 1996,

Recalling the preamble of the Agreement Establishing the World Trade Organization (WTO) which states that Members' "relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services,

Noting that, as Members of the WTO and the International Labor Organization (ILO), they consider that there exists a set of "Core Labor Standards" which are both human rights and preconditions for the achievement of better working conditions and that these Core Labor Standards are comprised of:

- freedom of association;
- the right to organize and bargain collectively;
- the prohibition of forced labor;
- the elimination of exploitative forms of child labor;
- non-discrimination in employment;

Noting that there is a positive, mutually re-inforcing relationship between trade liberalization and implementation of Core Labor Standards, and that observance of these standards could strengthen the economic performance of all countries,

Considering that furthering the observance of Core Labor Standards is consistent with and, indeed supports, the WTO goal of promoting an open, nondiscriminatory trading system,

Considering that it would be desirable for the WTO to cooperate with the ILO, the international organization having primary responsibility for the development and monitoring of Core Labor Standards, to find ways the two organizations can be mutually supportive in the promotion of Core Labor Standards, while reflecting the mandate and necessary autonomy in the decision-making of each institution,

Decide

To establish a Working Party on Trade and Core Labor Standards open to all Members of the WTO to report to the 1998 meeting of the Ministerial Conference and that this Working Party should:

(i) examine the relationship between the WTO trading system and the ILO system in order to promote the further observance of Core Labor Standards and improved standards of living in Member countries,

(ii) recommend ways in which WTO member governments might cooperate within the WTO and ILO frameworks to promote the further observance of Core Labor Standards to advance WTO members stated objective of raising standards of living through ongoing trade liberalization, and

(iii) make recommendations as to how the WTO could contribute to the promotion of Core Labor Standards, taking into account, in particular;

— the need to ensure the open, equitable, and non-discriminatory nature of the system, and

— the activities of the ILO and other mechanisms to promote adherence to core labor standards.