



THE WHITE HOUSE

WASHINGTON

April 30, 1998

260929

5-1-98

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN
SEAN MALONEY 

SUBJECT: WTO Strategy

New negotiations are being planned in the WTO. The attached Sperling/Berger memo concerns three issues: (1) our position on the structure and scope of future WTO negotiations; (2) whether to host the WTO's 1999 trade Ministerial; and (3) whether to attend the WTO's 50th anniversary celebration in Geneva on May 19 after the G-8. Your advisors agree on the first two decisions, but differ on the third.

Structure and Scope of WTO Negotiations. The "structure" issue is whether we should call for another round of WTO negotiations (i.e., the traditional approach, like the Uruguay Round, of bundling together a comprehensive set of negotiations as one agreement), or, instead, propose an alternative approach, a "new architecture," where negotiations would be structured to yield early agreements. The new approach would allow individual issues to be finalized sooner, when areas of agreement exist. The "scope" issue is whether to propose new areas for negotiation, such as electronic commerce, and making the WTO more accessible for labor/environmental groups. *NSC, State, NEC and your other economic advisers recommend the "new architecture" approach with an expanded scope. Only USDA supports the traditional approach.*

Approve New Approach ____ Disapprove ____ Discuss ____

The Ministerial. The issue is whether we should seek to host the fall 1999 WTO Ministerial, where new WTO negotiations will commence. Hosting this ministers-level meeting would put the U.S. in a strong position of leadership, but could raise the stakes on fast track and expose the talks to early U.S. presidential politics. *Your advisers recommend seeking to host the meeting.*

Seek to Host the Ministerial ____ Disapprove ____ Discuss ____

WTO 50th. The WTO has invited you to attend their 50th anniversary celebrations after the G-8. (We understand it's now unlikely you'll visit No. Ireland). PM's Blair, Hashimoto, and Chretien will participate. Proponents of attending believe the Geneva event offers you the best forum for articulating your vision for the world's trading system. Opponents feel your time could be better spent, and that a Geneva speech could backfire by highlighting your lack of fast track authority. An alternative would be to deliver a major trade speech to a domestic audience in the near future, and/or explore having the VP go to Geneva. *All of your economic advisers and Mack and Ira Magaziner think you should go. But Sandy, Erskine, and Sylvia do not support it. Erskine thinks the time would be better spent back home on the tobacco issue while Congress is in session. Sandy and Sylvia support a domestic speech.*

Attend WTO 50th ____ Do Not Attend ____ Discuss ____

THE WHITE HOUSE
WASHINGTON

April 27, 1998

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING
SAMUEL BERGER

SUBJECT: WTO Strategy

New global trade negotiations are now being planned in the WTO that will define much of the multilateral trade agenda in the coming years, making it imperative that we put our imprint on these negotiations as they take shape. The next set of negotiations are the historic successor to a series of three global trading "rounds" in the post-World War II period: the Kennedy Round (1960's); the Tokyo Round (1970's) and the Uruguay Round (1980-90's). Leaders, including Prime Ministers Blair, Hashimoto and Chretien and Presidents Menem and Cardoso will travel to the 50th Anniversary of the WTO in May to set forth their visions regarding the shape and structure of these negotiations. Their ideas and others will be debated over the next year, then the negotiations will be formally launched next year at a WTO ministerial, which the U.S. could offer to host.

This memorandum recommends a U.S. strategy for driving the future WTO agenda encompassing 1) the scope and structure of negotiations; 2) the U.S. role in next year's ministerial; and 3) U.S. participation in the 50th Anniversary of the WTO.

Strategy for the WTOa. Structure: a New "Round" or a New Architecture?

New Round: A major issue is whether or not the United States should call for a new "round" of trade negotiations, which would entail taking the traditional approach of bundling together a comprehensive set of negotiations as one single agreement. There are two sets of considerations in calling for a new round:

- Substantive: Critics contend comprehensive negotiations with uniform start and finish dates for all issues tend to hold up concrete progress on all issues until the most difficult ones are fully resolved. The Uruguay Round, originally slated to conclude in four years, ultimately took eight. In recent years, we have concluded important agreements in three separate sectors (information technology, financial services, telecommunications) outside a

round structure. Proponents counter that rounds are necessary to achieve requisite trade-offs between sectors (e.g., developing countries give intellectual property protection in return for developed country textile tariff cuts) and that without a round the most difficult issues may never be resolved. In particular, domestic farm groups -- a critical pro-trade constituency -- fear that other countries will not be able to justify lowering farm barriers unless it is done as part of a broad, compelling package.

- Domestic: A call for a new round could elicit a backlash from the Hill and important constituencies, in part because we did not include a new "round" in our fast track agenda last year (even though we did highlight the negotiations themselves). In addition, although several trade partners (EU, Japan and Canada) are leaning in this direction, many nations are skeptical and are finding Uruguay Round implementation difficult in itself.

New Architecture: Most agencies recommend instead that we pursue an alternative approach that goes some distance in addressing the above concerns. Instead of launching a traditional comprehensive round, we would instead propose a new architecture for global negotiations in the 21st century. Negotiations would be structured to keep pace with rapid technological change, yielding early agreements when possible. The idea would be to start with sufficient breadth to permit tradeoffs, but allow individual issues or groups of issues to be finalized and implemented on their own timetables, in order to produce results more rapidly. We would not allow agriculture or any other area of importance to the United States to be isolated for delay under any strategy.

This is not a smaller proposal than a round, but a new vision that fits the times. We cannot afford to wait a decade or more between rounds when product cycles are now measured in months. Domestically, this approach is less likely than a traditional round to elicit a negative reaction from Congressional trade opponents and trade partners who are not ready. Secondly, because it is a new approach, it would preserve considerable flexibility, permitting us to wait until after any possible fast track bid and the elections to specify the full scope of the negotiations. On the other hand, U.S. farm groups may criticize anything short of a traditional round because of the fear that our leverage will be inadequate to address the toughest agricultural barriers. Consultations will be required before we lock in an approach at the WTO Ministerial at the end of 1999.

b. Scope of Negotiations

The Uruguay Round went far to reduce important trade barriers, but left much undone. We want to develop an ambitious WTO negotiating agenda that addresses key American priorities and values, including opening sectors where American producers are strong, building the electronic infrastructure of the 21st century, and addressing the concerns of stakeholders, including labor and environmental groups, in a more forthright and transparent manner. At the conclusion of the Uruguay Round, WTO members committed to start new negotiations in 1999 to address unresolved issues in several priority U.S. areas, including agriculture, services, and procurement.

Over the next year, WTO members will decide the precise scope of negotiations, specifying, for instance, which services sectors should be covered and which agricultural policies should be slated for reduction or elimination, and the time frame for concluding each negotiation. In addition, U.S. negotiators will propose new areas for negotiation, such as reducing industrial tariffs; developing a work program on electronic commerce, and making the WTO more accessible by establishing a formal consultation mechanism for labor and environmental groups and by opening to the public the dispute settlement system.

WTO Ministerial

We recommend that the United States should seek to host the next WTO trade ministerial (in October or November of 1999), where the new negotiations would be launched. Launching negotiations in the United States would put you in a strong position to be the chief architect of the multilateral trade system going into the next century, which has the potential to become a key part of your trade legacy. In addition, it would give U.S. negotiators greater control in developing negotiating objectives, scope and time frames.

Hosting the ministerial would also hold some risks. Failure to secure fast track by then could subject us to charges the U.S. cannot lead. Sovereignists and others could use the ministerial to launch demonstrations, and it could be further politicized as presidential politics begin in late 1999. It would also cost several million dollars, but these costs could be defrayed by private sector contributions, as with APEC in Seattle and the G-7 in Denver. In addition, we are hosting the NATO Summit, a major undertaking with over 40 heads of state, next year.

USTR informs us that Hong Kong is now beginning to consult with other WTO members about hosting the 1999 ministerial.

50th Anniversary

Renato Ruggiero, the Director General of the WTO, has invited you to stop in Geneva on your way home from Europe on May 19th to speak at the WTO's 50th Anniversary celebration. This presents an important opportunity but holds some risk:

- Opportunity: As you will see in the attachments, all of your international economic advisers and Ira Magaziner support your attendance. This venue provides the best opportunity to articulate the vision outlined above. The WTO 50th celebration uniquely presents a world stage for you to lay out your views on the 21st century economy and present your blueprint for the architecture of the world trading system. Moreover, with Prime Ministers Blair, Hashimoto and Chretien planning to participate in the celebration, along with various other leaders, your absence could be interpreted as a sign we are in retreat. Some of your advisors feel it is critical to take strong actions that show, even without fast track, we are still playing a leadership role on trade.

There is a risk that Blair, in his EU capacity, may call for a traditional round. We will work with UK and EU officials to discourage this. However, there are pressures within the EU favoring a round. Sir Leon Brittan is an active advocate, seeing it as his legacy. Some EU countries favor it as a way to postpone agricultural liberalization far in the future, and others see it as favorable to developing country interests.

- Risks: Several of your advisers recommend against your attendance at the WTO 50th. Some are concerned that a speech by you at the WTO could backfire, serving to highlight the absence of fast track authority rather than strengthening domestic support. Others, including notably your Chief of Staff, feel strongly that the time would be better used back home on the tobacco issue, especially with Congress still in session.

Speech: A WTO speech would permit you to demonstrate leadership by calling for the bold new approach on the structure and content of global trade negotiations that is outlined above. It would set forth your vision for the global economy of the 21st Century - and the role of WTO in making it reality. You would outline an ambitious international agenda that enhances prosperity, protects the environment, promotes worker rights and protects U.S. sovereignty. You could call for the WTO to pursue an Open Agenda including:

- Open Process: Giving stakeholders a greater voice in the WTO system by creating a consultative forum with labor and environmental groups and by increasing the accountability and transparency of WTO proceedings.
- Open Books: Complementing our efforts elsewhere to combat bribery and corruption by adopting WTO rules on good governance.
- Open Communications: Providing the foundations for an electronic marketplace spanning the globe, starting with a pledge to keep the Internet free of tariffs.
- Open Markets: Continue WTO progress in key U.S. sectors such as agriculture, industrial tariffs and services.

Simply put, the 50th Anniversary marks the first step in new global trade negotiations with historic importance. Your presence in Geneva would put an American imprint on this effort at its inception - and help ensure American leadership in the years ahead.

Alternatives: If you were unable to give a speech in Geneva at the 50th anniversary celebration, we could seek to identify alternative opportunities for you to articulate your vision for the WTO to a domestic audience either directly proceeding or following the Europe trip. We could also explore the possibility of the Vice President attending the WTO 50th.

RECOMMENDATIONS

Strategy: State, Commerce, Treasury, USTR, Labor, CEA, NEC and NSC recommend that you call for a new architecture for global negotiations covering key U.S. priorities, as outlined above. USDA recommends that we instead support a new round.

_____ New architecture _____ New round _____ Let's discuss

Ministerial: State, Commerce, Treasury, USTR, Labor, CEA, Agriculture and NEC recommend that we should seek to host the 1999 WTO ministerial.

_____ Agree _____ Disagree

50th Anniversary: State, Commerce, Treasury, USTR, Labor, USDA, CEA, Mack McLarty, Ira Magaziner and NEC recommend that you give a speech laying out your vision for the world trading system at the WTO 50th. Your Chief of Staff strongly opposes your attendance, on the grounds that the time would be better used back home on the tobacco issue. NSC is not opposed, but is concerned with the risk that the substance of your speech would be overshadowed by continuing focus on the lack of fast track and with scheduling conflicts. NSC supports a domestic speech on your trade agenda.

_____ Explore possibility of attending _____ Decline to attend

April 30, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN
SEAN MALONEY

SUBJECT: WTO Strategy

Lael suggested
that you substitute
Magaziner's original
memo for the copy

Gene and Sandy have sent you a memo on issues related to the World Trade Organization (WTO). They ask you to make three decisions concerning: (1) the structure and scope of future WTO trade negotiations; (2) whether the U.S. should seek to host the WTO's next trade "Ministerial" in the fall of 1999; and (3) whether you should attend, while you are in Europe, the WTO's 50th anniversary celebration in Geneva on May 19. *(like the copy sent of the 80's & 90's)*

Structure and Scope of WTO Negotiations. The "structure" issue is whether the U.S. should call for another "round" of WTO negotiations (*i.e.*, the traditional approach of bundling together a comprehensive set of negotiations as one agreement); or, instead, propose an alternative approach -- a "new architecture" -- for global negotiations that would emphasize yielding early agreements whenever possible. Critics of the traditional, comprehensive negotiations say they hold up progress on all issues until the most difficult issues are fully resolved. Proponents of the traditional approach counter that "rounds" are essential to achieving the necessary trade-offs between economic sectors (*e.g.*, developing nations offer intellectual property protections in return for developed nations' textile tariff cuts). The alternative approach would start with sufficient breadth to permit tradeoffs, but allow individual issues or groups of issues to be finalized and implemented on their own timetables, in order to produce results more rapidly. Proponents of this new "architecture" argue that we cannot afford to wait a decade or more between WTO rounds when product cycles are now measured in months. Critics voice concerns that agricultural issues will be isolated and that our leverage will be inadequate to address the toughest agricultural barriers. The "scope" issue is simply whether to propose new areas for negotiation, such as: reducing industrial tariffs; developing a work program on electronic commerce; and making the WTO more accessible for labor and environmental groups. *All of your advisers, including State, Commerce, Treasury, USTR, Labor, CEA, NEC, and NSC recommend that you call for a "new architecture" for global negotiations with the expanded scope described above. USDA supports the traditional approach.*

Approve New Approach ____ Disapprove ____ Discuss ____

The 1999 WTO Ministerial. The issue is whether the U.S. should seek to host the October/November 1999 WTO Ministerial, where the new WTO negotiations will be launched. Hosting the meeting would put you and the U.S. in a strong position to lead the multilateral trade system. Possible downsides include: raising the stakes on securing fast track authority; risking

demonstrations by “sovereignists;” exposing the negotiations to early U.S. presidential politics; and bearing certain costs associated with the meeting. *NEC, CEA, State, Commerce, Treasury, USTR, Labor, and USDA recommend hosting the Ministerial. Stephanie Streett has concerns about doing hosting it at the White House in light of next year’s 40-state NATO Summit.*

Explore Hosting the Ministerial ____ Disapprove ____ Discuss ____

WTO 50th Anniversary. The WTO has invited you to attend their 50th anniversary celebrations in Geneva on May 19, while you are in Europe. (We understand it is now unlikely that you will be traveling to Northern Ireland on this trip). Prime Ministers Blair, Hashimoto, and Chretien will participate in the celebration. Proponents of a trip believe the Geneva event offers you the best forum for articulating your vision for the world’s trading system. Your speech would call for an “Open Agenda,” including: “Open Process” for stakeholders such as labor and environmental groups; “Open Books” to combat bribery and corruption; “Open Communications” emphasizing the electronic marketplace and a tariff-free Internet; and “Open Markets” in key U.S. sectors such as agriculture, industrial tariffs and services. Opponents feel a Geneva speech could backfire by highlighting your lack of fast track authority. An Alternative would be to deliver a major trade speech to a domestic audience in the near future. *All of your economic advisers support your attendance at the WTO 50th. But NSC, Erskine and Sylvia do not support such a trip. Erskine in particular thinks the time would be better spent back home on the tobacco issue while Congress is in session. Sylvia believes you should make a trade speech, but is unsure about the scope being proposed. Stephanie notes that a domestic speech may be difficult to schedule before June.*

Attend WTO 50th ____ Do Not Attend ____ Discuss ____

If you choose not to attend the WTO 50th, do you wish to schedule a major trade speech to a domestic audience?

Schedule Trade Speech ____ Do Not Schedule Speech ____ Discuss ____

THE WHITE HOUSE
WASHINGTON

April 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Ira C. Magaziner *JCM*

SUBJECT: Electronic Commerce And The WTO Meeting in Geneva

I would like to add my voice to those urging you to pay a short visit to the WTO 50th anniversary celebration in Geneva next month.

Since last July, we have been working to gain international agreement at the World Trade Organization to keep Internet commerce free of customs duties. This initiative will help ensure the growth of electronic commerce, has universal support among US constituencies and is an important symbol of the electronic commerce initiative you launched last July.

We are close to succeeding. WTO Director General-Ruggiero, Ambassador Barshefsky and our negotiators believe that your willingness to stop for a few hours at the WTO 50th anniversary celebration in Geneva on May 19 to announce the agreement could well ensure our success.

- A recent study released by Secretary Daley last week shows that information technology industries are already driving over one third of the real growth of our economy over the past three years and that electronic commerce is likely to exceed \$300 billion by 2002. Virtually every sector of the economy is being transformed.

As a result of your electronic commerce initiative, you are widely regarded as leading the world into this new digital economy. As the information age transforms society, I am convinced that your leadership in defining the commercial, legal and economic paradigms for the new age will be viewed as one of your major legacies.

Announcing an agreement to a worldwide audience in Geneva on one of the signature items of your electronic commerce strategy will help ensure that legacy.

cc. Erskine Bowles
John Podesta
Gene Sperling

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING *GS*
SAMUEL BERGER *S*

SUBJECT: WTO Strategy

New global trade negotiations are now being planned in the WTO that will define much of the multilateral trade agenda in the coming years, making it imperative that we put our imprint on these negotiations as they take shape. The next set of negotiations are the historic successor to a series of three global trading "rounds" in the post-World War II period: the Kennedy Round (1960's); the Tokyo Round (1970's) and the Uruguay Round (1980-90's). Leaders, including Prime Ministers Blair, Hashimoto and Chretien and Presidents Menem and Cardoso will travel to the 50th Anniversary of the WTO in May to set forth their visions regarding the shape and structure of these negotiations. Their ideas and others will be debated over the next year, then the negotiations will be formally launched next year at a WTO ministerial, which the U.S. could offer to host.

This memorandum recommends a U.S. strategy for driving the future WTO agenda encompassing 1) the scope and structure of negotiations; 2) the U.S. role in next year's ministerial; and 3) U.S. participation in the 50th Anniversary of the WTO.

Strategy for the WTO

a. Structure: a New "Round" or a New Architecture?

New Round: A major issue is whether or not the United States should call for a new "round" of trade negotiations, which would entail taking the traditional approach of bundling together a comprehensive set of negotiations as one single agreement. There are two sets of considerations in calling for a new round:

- Substantive: Critics contend comprehensive negotiations with uniform start and finish dates for all issues tend to hold up concrete progress on all issues until the most difficult ones are

cc: Vice President
Chief of Staff
Mr. McLarty

fully resolved. The Uruguay Round, originally slated to conclude in four years, ultimately took eight. In recent years, we have concluded important agreements in three separate sectors (information technology, financial services, telecommunications) outside a round structure. Proponents counter that rounds are necessary to achieve requisite trade-offs between sectors (e.g., developing countries give intellectual property protection in return for developed country textile tariff cuts) and that without a round the most difficult issues may never be resolved. In particular, domestic farm groups -- a critical pro-trade constituency -- fear that other countries will not be able to justify lowering farm barriers unless it is done as part of a broad, compelling package.

- Domestic: A call for a new round could elicit a backlash from the Hill and important constituencies, in part because we did not include a new "round" in our fast track agenda last year (even though we did highlight the negotiations themselves). In addition, although several trade partners (EU, Japan and Canada) are leaning in this direction, many nations are skeptical and are finding Uruguay Round implementation difficult in itself.

New Architecture: Most agencies recommend instead that we pursue an alternative approach that goes some distance in addressing the above concerns. Instead of launching a traditional comprehensive round, we would instead propose a new architecture for global negotiations in the 21st century. Negotiations would be structured to keep pace with rapid technological change, yielding early agreements when possible. The idea would be to start with sufficient breadth to permit tradeoffs, but allow individual issues or groups of issues to be finalized and implemented on their own timetables, in order to produce results more rapidly. We would not allow agriculture or any other area of importance to the United States to be isolated for delay under any strategy.

This is not a smaller proposal than a round, but a new vision that fits the times. We cannot afford to wait a decade or more between rounds when product cycles are now measured in months. Domestically, this approach is less likely than a traditional round to elicit a negative reaction from Congressional trade opponents and trade partners who are not ready. Secondly, because it is a new approach, it would preserve considerable flexibility, permitting us to wait until after any possible fast track bid and the elections to specify the full scope of the negotiations. On the other hand, U.S. farm groups may criticize anything short of a traditional round because of the fear that our leverage will be inadequate to address the toughest agricultural barriers. Consultations will be required before we lock in an approach at the WTO Ministerial at the end of 1999.

b. Scope of Negotiations

The Uruguay Round went far to reduce important trade barriers, but left much undone. We want to develop an ambitious WTO negotiating agenda that addresses key American priorities and values, including opening sectors where American producers are strong, building the electronic infrastructure of the 21st century, and addressing the concerns of stakeholders, including labor and environmental groups, in a more forthright and transparent manner. At the conclusion of the Uruguay Round, WTO members committed to start new negotiations in 1999 to address unresolved issues in several priority U.S. areas, including agriculture, services, and procurement.

Over the next year, WTO members will decide the precise scope of negotiations, specifying, for instance, which services sectors should be covered and which agricultural policies should be slated for reduction or elimination, and the time frame for concluding each negotiation. In addition, U.S. negotiators will propose new areas for negotiation, such as reducing industrial tariffs; developing a work program on electronic commerce, and making the WTO more accessible by establishing a formal consultation mechanism for labor and environmental groups and by opening to the public the dispute settlement system.

WTO Ministerial

We recommend that the United States should seek to host the next WTO trade ministerial (in October or November of 1999), where the new negotiations would be launched. Launching negotiations in the United States would put you in a strong position to be the chief architect of the multilateral trade system going into the next century, which has the potential to become a key part of your trade legacy. In addition, it would give U.S. negotiators greater control in developing negotiating objectives, scope and time frames.

Hosting the ministerial would also hold some risks. Failure to secure fast track by then could subject us to charges the U.S. cannot lead. Sovereignists and others could use the ministerial to launch demonstrations, and it could be further politicized as presidential politics begin in late 1999. It would also cost several million dollars, but these costs could be defrayed by private sector contributions, as with APEC in Seattle and the G-7 in Denver. In addition, we are hosting the NATO Summit, a major undertaking with over 40 heads of state, next year.

USTR informs us that Hong Kong is now beginning to consult with other WTO members about hosting the 1999 ministerial.

50th Anniversary

Renato Ruggiero, the Director General of the WTO, has invited you to stop in Geneva on your way home from Europe on May 19th or 20th to speak at the WTO's 50th Anniversary celebration. This presents an important opportunity but holds some risk:

- Opportunity: As you will see in the attachments, all of your international economic advisers and Ira Magaziner support your attendance. This venue provides the best opportunity to articulate the vision outlined above. The WTO 50th celebration uniquely presents a world stage for you to lay out your views on the 21st century economy and present your blueprint for the architecture of the world trading system. Moreover, with Prime Ministers Blair, Hashimoto and Chretien planning to participate in the celebration, along with various other leaders, your absence could be interpreted as a sign we are in retreat. Some of your advisors feel it is critical to take strong actions that show, even without fast track, we are still playing a leadership role on trade.

There is a risk that Blair, in his EU capacity, may call for a traditional round. We will work with UK and EU officials to discourage this. However, there are pressures within the EU

favoring a round. Sir Leon Brittan is an active advocate, seeing it as his legacy. Some EU countries favor it as a way to postpone agricultural liberalization far in the future, and others see it as favorable to developing country interests.

- Risks: Some are concerned that a speech by you at the WTO could backfire, serving to highlight the absence of fast track authority rather than strengthening domestic support.

Speech: A WTO speech would permit you to demonstrate leadership by calling for the bold new approach on the structure and content of global trade negotiations that is outlined above. It would set forth your vision for the global economy of the 21st Century - and the role of WTO in making it reality. You would outline an ambitious international agenda that enhances prosperity, protects the environment, promotes worker rights and protects U.S. sovereignty. You could call for the WTO to pursue an Open Agenda including:

- Open Process: Giving stakeholders a greater voice in the WTO system by creating a consultative forum with labor and environmental groups and by increasing the accountability and transparency of WTO proceedings.
- Open Books: Complementing our efforts elsewhere to combat bribery and corruption by adopting WTO rules on good governance.
- Open Communications: Providing the foundations for an electronic marketplace spanning the globe, starting with a pledge to keep the Internet free of tariffs.
- Open Markets: Continue WTO progress in key U.S. sectors such as agriculture, industrial tariffs and services.

Simply put, the 50th Anniversary marks the first step in new global trade negotiations with historic importance. Your presence in Geneva would put an American imprint on this effort at its inception - and help ensure American leadership in the years ahead.

Alternatives: If you were unable to give a speech in Geneva at the 50th anniversary celebration, we could seek to identify alternative opportunities for you to articulate your vision for the WTO to a domestic audience either directly proceeding or following the Europe trip. We could also explore the possibility of the Vice President attending the WTO 50th.

RECOMMENDATIONS

Strategy: State, Commerce, Treasury, USTR, Labor, CEA, NEC and NSC recommend that you call for a new architecture for global negotiations covering key U.S. priorities, as outlined above. USDA recommends that we instead support a new round.

_____ New architecture _____ New round _____ Let's discuss

1

Ministerial: State, Commerce, Treasury, USTR, Labor, CEA, Agriculture and NEC recommend that we should seek to host the 1999 WTO ministerial.

_____ Agree _____ Disagree

50th Anniversary: State, Commerce, Treasury, USTR, Labor, USDA, CEA, Mack McLarty, Ira Magaziner and NEC recommend that you give a speech laying out your vision for the world trading system at the WTO 50th. NSC is not opposed, but is concerned with the risk that the substance of your speech would be overshadowed by continuing focus on the lack of fast track and with scheduling conflicts. NSC supports a domestic speech on your trade agenda.

_____ Explore possibility of attending _____ Decline to attend

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY ALBRIGHT
SECRETARY RUBIN
AMBASSADOR BARSHEFSKY
SECRETARY DALEY
SECRETARY GLICKMAN
SECRETARY HERMAN
MACK McLARTY
GENE SPERLING
JANET YELLEN

SUBJECT: Your Attendance at the 50th Anniversary Celebration of the GATT/WTO

We recommend you briefly attend the gathering of heads of state and government at the 50th anniversary celebration in Geneva to deliver its keynote address. Your presence is a chance to lead the world trading system toward a 21st Century vision that reflects American values and goals: broadly shared prosperity, openness, rule of law, technological advance, accountability and environmental stewardship. You can set an ambitious agenda for the future, including specific, newsworthy proposals on electronic commerce, on a trading system more open and accountable to the public and more able to accommodate concerns about labor and the environment, and offer to host the next WTO ministerial in late 1999 to launch the next broad multilateral negotiations including at a minimum agriculture and services.

By contrast, your absence would come at a cost. Other major leaders will be there, including Prime Ministers Blair, Hashimoto and Chretien. Without your presence, the U.S. would lose a positive opportunity to shape the next decade of trade policy, and in a broader sense would send a negative message of American retreat on trade and economic leadership. The perception of retreat is already an acute one after the fast-track debate; your absence would tend to confirm this perception in other countries. Prime Minister Blair is scheduled to travel to Geneva on behalf of the EU and may call for a new comprehensive "Round" of negotiations. Announcing a Round at this juncture could provoke open opposition from important constituencies that might otherwise support a different approach toward negotiation. It will, therefore, be important for your address to provide an alternative vision which the American public will support and which ensures that future trade negotiations reflect U.S. interests, values and leadership.

cc: Vice President
Chief of Staff

THE WHITE HOUSE
WASHINGTON

April 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Ira C. Magaziner *JCM*

SUBJECT: Electronic Commerce And The WTO Meeting in Geneva

I would like to add my voice to those urging you to pay a short visit to the WTO 50th anniversary celebration in Geneva next month.

Since last July, we have been working to gain international agreement at the World Trade Organization to keep Internet commerce free of customs duties. This initiative will help ensure the growth of electronic commerce, has universal support among US constituencies and is an important symbol of the electronic commerce initiative you launched last July.

We are close to succeeding. WTO Director General Ruggiero, Ambassador Barshefsky and our negotiators believe that your willingness to stop for a few hours at the WTO 50th anniversary celebration in Geneva on May 19 to announce the agreement could well ensure our success.

- A recent study released by Secretary Daley last week shows that information technology industries are already driving over one third of the real growth of our economy over the past three years and that electronic commerce is likely to exceed \$300 billion by 2002. Virtually every sector of the economy is being transformed.

As a result of your electronic commerce initiative, you are widely regarded as leading the world into this new digital economy. As the information age transforms society, I am convinced that your leadership in defining the commercial, legal and economic paradigms for the new age will be viewed as one of your major legacies.

Announcing an agreement to a worldwide audience in Geneva on one of the signature items of your electronic commerce strategy will help ensure that legacy.

cc. Erskine Bowles
John Podesta
Gene Sperling

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING *GS*
SAMUEL BERGER *B*

SUBJECT: WTO Strategy

New global trade negotiations are now being planned in the WTO that will define much of the multilateral trade agenda in the coming years, making it imperative that we put our imprint on these negotiations as they take shape. The next set of negotiations are the historic successor to a series of three global trading "rounds" in the post-World War II period: the Kennedy Round (1960's); the Tokyo Round (1970's) and the Uruguay Round (1980-90's). Leaders, including Prime Ministers Blair, Hashimoto and Chretien and Presidents Menem and Cardoso will travel to the 50th Anniversary of the WTO in May to set forth their visions regarding the shape and structure of these negotiations. Their ideas and others will be debated over the next year, then the negotiations will be formally launched next year at a WTO ministerial, which the U.S. could offer to host.

This memorandum recommends a U.S. strategy for driving the future WTO agenda encompassing 1) the scope and structure of negotiations; 2) the U.S. role in next year's ministerial; and 3) U.S. participation in the 50th Anniversary of the WTO.

Strategy for the WTO

a. Structure: a New "Round" or a New Architecture?

New Round: A major issue is whether or not the United States should call for a new "round" of trade negotiations, which would entail taking the traditional approach of bundling together a comprehensive set of negotiations as one single agreement. There are two sets of considerations in calling for a new round:

- Substantive: Critics contend comprehensive negotiations with uniform start and finish dates for all issues tend to hold up concrete progress on all issues until the most difficult ones are

cc: Vice President
Chief of Staff
Mr. McLarty

fully resolved. The Uruguay Round, originally slated to conclude in four years, ultimately took eight. In recent years, we have concluded important agreements in three separate sectors (information technology, financial services, telecommunications) outside a round structure. Proponents counter that rounds are necessary to achieve requisite trade-offs between sectors (e.g., developing countries give intellectual property protection in return for developed country textile tariff cuts) and that without a round the most difficult issues may never be resolved. In particular, domestic farm groups -- a critical pro-trade constituency -- fear that other countries will not be able to justify lowering farm barriers unless it is done as part of a broad, compelling package.

- Domestic: A call for a new round could elicit a backlash from the Hill and important constituencies, in part because we did not include a new "round" in our fast track agenda last year (even though we did highlight the negotiations themselves). In addition, although several trade partners (EU, Japan and Canada) are leaning in this direction, many nations are skeptical and are finding Uruguay Round implementation difficult in itself.

New Architecture: Most agencies recommend instead that we pursue an alternative approach that goes some distance in addressing the above concerns. Instead of launching a traditional comprehensive round, we would instead propose a new architecture for global negotiations in the 21st century. Negotiations would be structured to keep pace with rapid technological change, yielding early agreements when possible. The idea would be to start with sufficient breadth to permit tradeoffs, but allow individual issues or groups of issues to be finalized and implemented on their own timetables, in order to produce results more rapidly. We would not allow agriculture or any other area of importance to the United States to be isolated for delay under any strategy.

This is not a smaller proposal than a round, but a new vision that fits the times. We cannot afford to wait a decade or more between rounds when product cycles are now measured in months. Domestically, this approach is less likely than a traditional round to elicit a negative reaction from Congressional trade opponents and trade partners who are not ready. Secondly, because it is a new approach, it would preserve considerable flexibility, permitting us to wait until after any possible fast track bid and the elections to specify the full scope of the negotiations. On the other hand, U.S. farm groups may criticize anything short of a traditional round because of the fear that our leverage will be inadequate to address the toughest agricultural barriers. Consultations will be required before we lock in an approach at the WTO Ministerial at the end of 1999.

b. Scope of Negotiations

The Uruguay Round went far to reduce important trade barriers, but left much undone. We want to develop an ambitious WTO negotiating agenda that addresses key American priorities and values, including opening sectors where American producers are strong, building the electronic infrastructure of the 21st century, and addressing the concerns of stakeholders, including labor and environmental groups, in a more forthright and transparent manner. At the conclusion of the Uruguay Round, WTO members committed to start new negotiations in 1999 to address unresolved issues in several priority U.S. areas, including agriculture, services, and procurement.

Over the next year, WTO members will decide the precise scope of negotiations, specifying, for instance, which services sectors should be covered and which agricultural policies should be slated for reduction or elimination, and the time frame for concluding each negotiation. In addition, U.S. negotiators will propose new areas for negotiation, such as reducing industrial tariffs; developing a work program on electronic commerce, and making the WTO more accessible by establishing a formal consultation mechanism for labor and environmental groups and by opening to the public the dispute settlement system.

WTO Ministerial

We recommend that the United States should seek to host the next WTO trade ministerial (in October or November of 1999), where the new negotiations would be launched. Launching negotiations in the United States would put you in a strong position to be the chief architect of the multilateral trade system going into the next century, which has the potential to become a key part of your trade legacy. In addition, it would give U.S. negotiators greater control in developing negotiating objectives, scope and time frames.

Hosting the ministerial would also hold some risks. Failure to secure fast track by then could subject us to charges the U.S. cannot lead. Sovereignists and others could use the ministerial to launch demonstrations, and it could be further politicized as presidential politics begin in late 1999. It would also cost several million dollars, but these costs could be defrayed by private sector contributions, as with APEC in Seattle and the G-7 in Denver. In addition, we are hosting the NATO Summit, a major undertaking with over 40 heads of state, next year.

USTR informs us that Hong Kong is now beginning to consult with other WTO members about hosting the 1999 ministerial.

50th Anniversary

Renato Ruggiero, the Director General of the WTO, has invited you to stop in Geneva on your way home from Europe on May 19th or 20th to speak at the WTO's 50th Anniversary celebration. This presents an important opportunity but holds some risk:

- **Opportunity:** As you will see in the attachments, all of your international economic advisers and Ira Magaziner support your attendance. This venue provides the best opportunity to articulate the vision outlined above. The WTO 50th celebration uniquely presents a world stage for you to lay out your views on the 21st century economy and present your blueprint for the architecture of the world trading system. Moreover, with Prime Ministers Blair, Hashimoto and Chretien planning to participate in the celebration, along with various other leaders, your absence could be interpreted as a sign we are in retreat. Some of your advisors feel it is critical to take strong actions that show, even without fast track, we are still playing a leadership role on trade.

There is a risk that Blair, in his EU capacity, may call for a traditional round. We will work with UK and EU officials to discourage this. However, there are pressures within the EU

favoring a round. Sir Leon Brittan is an active advocate, seeing it as his legacy. Some EU countries favor it as a way to postpone agricultural liberalization far in the future, and others see it as favorable to developing country interests.

- Risks: Some are concerned that a speech by you at the WTO could backfire, serving to highlight the absence of fast track authority rather than strengthening domestic support.

Speech: A WTO speech would permit you to demonstrate leadership by calling for the bold new approach on the structure and content of global trade negotiations that is outlined above. It would set forth your vision for the global economy of the 21st Century - and the role of WTO in making it reality. You would outline an ambitious international agenda that enhances prosperity, protects the environment, promotes worker rights and protects U.S. sovereignty. You could call for the WTO to pursue an Open Agenda including:

- Open Process: Giving stakeholders a greater voice in the WTO system by creating a consultative forum with labor and environmental groups and by increasing the accountability and transparency of WTO proceedings.
- Open Books: Complementing our efforts elsewhere to combat bribery and corruption by adopting WTO rules on good governance.
- Open Communications: Providing the foundations for an electronic marketplace spanning the globe, starting with a pledge to keep the Internet free of tariffs.
- Open Markets: Continue WTO progress in key U.S. sectors such as agriculture, industrial tariffs and services.

Simply put, the 50th Anniversary marks the first step in new global trade negotiations with historic importance. Your presence in Geneva would put an American imprint on this effort at its inception - and help ensure American leadership in the years ahead.

Alternatives: If you were unable to give a speech in Geneva at the 50th anniversary celebration, we could seek to identify alternative opportunities for you to articulate your vision for the WTO to a domestic audience either directly proceeding or following the Europe trip. We could also explore the possibility of the Vice President attending the WTO 50th.

RECOMMENDATIONS

Strategy: State, Commerce, Treasury, USTR, Labor, CEA, NEC and NSC recommend that you call for a new architecture for global negotiations covering key U.S. priorities, as outlined above. USDA recommends that we instead support a new round.

_____ New architecture _____ New round _____ Let's discuss

Ministerial: State, Commerce, Treasury, USTR, Labor, CEA, Agriculture and NEC recommend that we should seek to host the 1999 WTO ministerial.

_____ Agree _____ Disagree

50th Anniversary: State, Commerce, Treasury, USTR, Labor, USDA, CEA, Mack McLarty, Ira Magaziner and NEC recommend that you give a speech laying out your vision for the world trading system at the WTO 50th. NSC is not opposed, but is concerned with the risk that the substance of your speech would be overshadowed by continuing focus on the lack of fast track and with scheduling conflicts. NSC supports a domestic speech on your trade agenda.

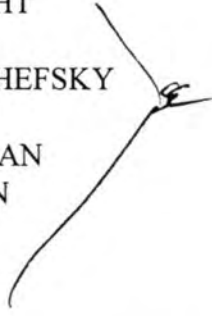
_____ Explore possibility of attending _____ Decline to attend

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY ALBRIGHT
SECRETARY RUBIN
AMBASSADOR BARSHEFSKY
SECRETARY DALEY
SECRETARY GLICKMAN
SECRETARY HERMAN
MACK McLARTY
GENE SPERLING
JANET YELLEN



SUBJECT: Your Attendance at the 50th Anniversary Celebration of the GATT/WTO

We recommend you briefly attend the gathering of heads of state and government at the 50th anniversary celebration in Geneva to deliver its keynote address. Your presence is a chance to lead the world trading system toward a 21st Century vision that reflects American values and goals: broadly shared prosperity, openness, rule of law, technological advance, accountability and environmental stewardship. You can set an ambitious agenda for the future, including specific, newsworthy proposals on electronic commerce, on a trading system more open and accountable to the public and more able to accommodate concerns about labor and the environment, and offer to host the next WTO ministerial in late 1999 to launch the next broad multilateral negotiations including at a minimum agriculture and services.

By contrast, your absence would come at a cost. Other major leaders will be there, including Prime Ministers Blair, Hashimoto and Chretien. Without your presence, the U.S. would lose a positive opportunity to shape the next decade of trade policy, and in a broader sense would send a negative message of American retreat on trade and economic leadership. The perception of retreat is already an acute one after the fast-track debate; your absence would tend to confirm this perception in other countries. Prime Minister Blair is scheduled to travel to Geneva on behalf of the EU and may call for a new comprehensive "Round" of negotiations. Announcing a Round at this juncture could provoke open opposition from important constituencies that might otherwise support a different approach toward negotiation. It will, therefore, be important for your address to provide an alternative vision which the American public will support and which ensures that future trade negotiations reflect U.S. interests, values and leadership.

cc: Vice President
Chief of Staff

THE WHITE HOUSE
WASHINGTON

April 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Ira C. Magaziner *JCM*

SUBJECT: Electronic Commerce And The WTO Meeting in Geneva

I would like to add my voice to those urging you to pay a short visit to the WTO 50th anniversary celebration in Geneva next month.

Since last July, we have been working to gain international agreement at the World Trade Organization to keep Internet commerce free of customs duties. This initiative will help ensure the growth of electronic commerce, has universal support among US constituencies and is an important symbol of the electronic commerce initiative you launched last July.

We are close to succeeding. WTO Director General-Ruggiero, Ambassador Barshefsky and our negotiators believe that your willingness to stop for a few hours at the WTO 50th anniversary celebration in Geneva on May 19 to announce the agreement could well ensure our success.

- A recent study released by Secretary Daley last week shows that information technology industries are already driving over one third of the real growth of our economy over the past three years and that electronic commerce is likely to exceed \$300 billion by 2002. Virtually every sector of the economy is being transformed.

As a result of your electronic commerce initiative, you are widely regarded as leading the world into this new digital economy. As the information age transforms society, I am convinced that your leadership in defining the commercial, legal and economic paradigms for the new age will be viewed as one of your major legacies.

Announcing an agreement to a worldwide audience in Geneva on one of the signature items of your electronic commerce strategy will help ensure that legacy.

cc. Erskine Bowles
John Podesta
Gene Sperling

'98 APR 22 PM 10:11

THE WHITE HOUSE
WASHINGTONACTION

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING *GS*
SAMUEL BERGER *SB*

SUBJECT: WTO Strategy

New global trade negotiations are now being planned in the WTO that will define much of the multilateral trade agenda in the coming years, making it imperative that we put our imprint on these negotiations as they take shape. The next set of negotiations are the historic successor to a series of three global trading "rounds" in the post-World War II period: the Kennedy Round (1960's); the Tokyo Round (1970's) and the Uruguay Round (1980-90's). Leaders, including Prime Ministers Blair, Hashimoto and Chretien and Presidents Menem and Cardoso will travel to the 50th Anniversary of the WTO in May to set forth their visions regarding the shape and structure of these negotiations. Their ideas and others will be debated over the next year, then the negotiations will be formally launched next year at a WTO ministerial, which the U.S. could offer to host.

This memorandum recommends a U.S. strategy for driving the future WTO agenda encompassing 1) the scope and structure of negotiations; 2) the U.S. role in next year's ministerial; and 3) U.S. participation in the 50th Anniversary of the WTO.

Strategy for the WTOa. Structure: a New "Round" or a New Architecture?

New Round: A major issue is whether or not the United States should call for a new "round" of trade negotiations, which would entail taking the traditional approach of bundling together a comprehensive set of negotiations as one single agreement. There are two sets of considerations in calling for a new round:

- Substantive: Critics contend comprehensive negotiations with uniform start and finish dates for all issues tend to hold up concrete progress on all issues until the most difficult ones are

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Chief of Staff
Mr. McLarty

fully resolved. The Uruguay Round, originally slated to conclude in four years, ultimately took eight. In recent years, we have concluded important agreements in three separate sectors (information technology, financial services, telecommunications) outside a round structure. Proponents counter that rounds are necessary to achieve requisite trade-offs between sectors (e.g., developing countries give intellectual property protection in return for developed country textile tariff cuts) and that without a round the most difficult issues may never be resolved. In particular, domestic farm groups -- a critical pro-trade constituency -- fear that other countries will not be able to justify lowering farm barriers unless it is done as part of a broad, compelling package.

- Domestic: A call for a new round could elicit a backlash from the Hill and important constituencies, in part because we did not include a new "round" in our fast track agenda last year (even though we did highlight the negotiations themselves). In addition, although several trade partners (EU, Japan and Canada) are leaning in this direction, many nations are skeptical and are finding Uruguay Round implementation difficult in itself.

New Architecture: Most agencies recommend instead that we pursue an alternative approach that goes some distance in addressing the above concerns. Instead of launching a traditional comprehensive round, we would instead propose a new architecture for global negotiations in the 21st century. Negotiations would be structured to keep pace with rapid technological change, yielding early agreements when possible. The idea would be to start with sufficient breadth to permit tradeoffs, but allow individual issues or groups of issues to be finalized and implemented on their own timetables, in order to produce results more rapidly. We would not allow agriculture or any other area of importance to the United States to be isolated for delay under any strategy.

This is not a smaller proposal than a round, but a new vision that fits the times. We cannot afford to wait a decade or more between rounds when product cycles are now measured in months. Domestically, this approach is less likely than a traditional round to elicit a negative reaction from Congressional trade opponents and trade partners who are not ready. Secondly, because it is a new approach, it would preserve considerable flexibility, permitting us to wait until after any possible fast track bid and the elections to specify the full scope of the negotiations. On the other hand, U.S. farm groups may criticize anything short of a traditional round because of the fear that our leverage will be inadequate to address the toughest agricultural barriers. Consultations will be required before we lock in an approach at the WTO Ministerial at the end of 1999.

b. Scope of Negotiations

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Over the next year, WTO members will decide the precise scope of negotiations, specifying, for instance, which services sectors should be covered and which agricultural policies should be slated for reduction or elimination, and the time frame for concluding each negotiation. In addition, U.S. negotiators will propose new areas for negotiation, such as reducing industrial tariffs; developing a work program on electronic commerce, and making the WTO more accessible by establishing a formal consultation mechanism for labor and environmental groups and by opening to the public the dispute settlement system.

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Hosting the ministerial would also hold some risks. Failure to secure fast track by then could subject us to charges the U.S. cannot lead. Sovereignists and others could use the ministerial to launch demonstrations, and it could be further politicized as presidential politics begin in late 1999. It would also cost several million dollars, but these costs could be defrayed by private sector contributions, as with APEC in Seattle and the G-7 in Denver. In addition, we are hosting the NATO Summit, a major undertaking with over 40 heads of state, next year.

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favoring a round. Sir Leon Brittan is an active advocate, seeing it as his legacy. Some EU countries favor it as a way to postpone agricultural liberalization far in the future, and others see it as favorable to developing country interests.

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- Open Process: Giving stakeholders a greater voice in the WTO system by creating a consultative forum with labor and environmental groups and by increasing the accountability and transparency of WTO proceedings.
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RECOMMENDATIONS

Strategy: State, Commerce, Treasury, USTR, Labor, CEA, NEC and NSC recommend that you call for a new architecture for global negotiations covering key U.S. priorities, as outlined above. USDA recommends that we instead support a new round.

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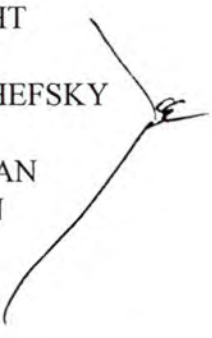
_____ Explore possibility of attending _____ Decline to attend

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY ALBRIGHT
SECRETARY RUBIN
AMBASSADOR BARSHEFSKY
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GENE SPERLING
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By contrast, your absence would come at a cost. Other major leaders will be there, including Prime Ministers Blair, Hashimoto and Chretien. Without your presence, the U.S. would lose a positive opportunity to shape the next decade of trade policy, and in a broader sense would send a negative message of American retreat on trade and economic leadership. The perception of retreat is already an acute one after the fast-track debate; your absence would tend to confirm this perception in other countries. Prime Minister Blair is scheduled to travel to Geneva on behalf of the EU and may call for a new comprehensive "Round" of negotiations. Announcing a Round at this juncture could provoke open opposition from important constituencies that might otherwise support a different approach toward negotiation. It will, therefore, be important for your address to provide an alternative vision which the American public will support and which ensures that future trade negotiations reflect U.S. interests, values and leadership.

cc: Vice President
Chief of Staff

THE WHITE HOUSE
WASHINGTON

April 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Ira C. Magaziner J.C.M.

SUBJECT: Electronic Commerce And The WTO Meeting in Geneva

I would like to add my voice to those urging you to pay a short visit to the WTO 50th anniversary celebration in Geneva next month.

Since last July, we have been working to gain international agreement at the World Trade Organization to keep Internet commerce free of customs duties. This initiative will help ensure the growth of electronic commerce, has universal support among US constituencies and is an important symbol of the electronic commerce initiative you launched last July.

We are close to succeeding. WTO Director General-Ruggiero, Ambassador Barshefsky and our negotiators believe that your willingness to stop for a few hours at the WTO 50th anniversary celebration in Geneva on May 19 to announce the agreement could well ensure our success.

- A recent study released by Secretary Daley last week shows that information technology industries are already driving over one third of the real growth of our economy over the past three years and that electronic commerce is likely to exceed \$300 billion by 2002. Virtually every sector of the economy is being transformed.

As a result of your electronic commerce initiative, you are widely regarded as leading the world into this new digital economy. As the information age transforms society, I am convinced that your leadership in defining the commercial, legal and economic paradigms for the new age will be viewed as one of your major legacies.

Announcing an agreement to a worldwide audience in Geneva on one of the signature items of your electronic commerce strategy will help ensure that legacy.

cc. Erskine Bowles
John Podesta
Gene Sperling

THE WHITE HOUSE
WASHINGTON

April 21, 1998

Electronic Commerce
and the WTO
Meeting in
Geneva]

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THE WHITE HOUSE
WASHINGTON

April 21, 1998

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April 21, 1998

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THE WHITE HOUSE

WASHINGTON

April 22, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *Phil*

SUBJECT: Northern Right Whale and Navigational Freedom

In order to protect the endangered northern right whale and adhere to the Endangered Species Act and the Marine Mammals Act, NOAA wishes to propose rules to the International Maritime Organization (IMO) to require ships entering two critical whale habitats (off Florida/Georgia and Cape Cod) to report to the Coast Guard. Ships would provide information on their itinerary and speed and be given information on avoiding collisions; no routing requirements or speed limits would be imposed. Collisions with ships are the leading cause of death for the whales; there have been eight confirmed deaths since 1991 and more are suspected; there is a high likelihood of extinction with such a death rate; only 300-350 whales remain. Defense disagrees with such mandatory reporting requirements. The attached memo from Jim Steinberg and Katie McGinty seeks a decision from you on what sort of requirements to impose. If NOAA submits proposed rules to the IMO by Friday, the IMO will act on the proposal this year.

Option 1 - Mandatory reporting. *Katie/CEQ, NOAA, Commerce, EPA and John Podesta* favor this option. Military and sovereign immune vessels would be exempt from it. Proponents argue it represents the strongest possible action to protect the whales, offers little risk under the two conservation statutes, is supported by the MA/ME Congressional delegations and commercial shipping interests (though commercial interests would not object to the other options).

Option 2 - Voluntary reporting. *Defense, the Navy and the Joint Chiefs* support this option. Proponents make several arguments: does not encumber the freedom of navigation, a long-established U.S. policy essential to national defense; could lead to other countries' requiring prior notification agreements for U.S. military vessels; NOAA has failed to show data that mandatory reporting will be more effective than voluntary reporting, which has not been tested; new technologies are available to ships to warn of the presence of whales; the IMO has never approved a mandatory requirement to protect a single species. This option would include official U.S. notices distributed to vessels urging them to contact U.S. authorities and would be backed up by State Department demarches and other diplomatic measures. This option will be opposed by congressional delegations and the environmental community.

Option 3 - Voluntary reporting now, mandatory reporting in a year if voluntary fails to adequately protect the whales. Compromise supported by *Jim Steinberg/NSC and Sylvia*. Under this option (which also includes the official notices and State support) the U.S. would propose voluntary reporting for a year, and then propose mandatory reporting unless (i) a substantial majority of ships have contacted U.S. authorities; or (ii) NSC and CEQ agree on alternative measures. NSC believes this one-year trial period is a reasonable balancing among agency concerns. Environmentalists and congressional delegations will not support this option. *State and Coast Guard* would support any of the options.

☐ Option 1 (Mandatory) ☐ Option 2 (Voluntary) ☐ Option 3 (Compromise) ☐ Discuss

THE WHITE HOUSE

WASHINGTON

April 22, 1998

ACTION

MEMORANDUM FOR THE PRESIDENT
THE VICE PRESIDENT

CC: ERSKINE B. BOWLES

FROM: KATHLEEN A. MCGINTY
JAMES B. STEINBERG

SUBJECT: PROTECTION OF NORTHERN RIGHT WHALES
AND NAVIGATIONAL FREEDOM

SPR for KAM

Purpose

To decide which type of ship reporting requirement the United States should propose to the International Maritime Organization (IMO) to protect the northern right whale.

Background

Northern right whales are the most endangered United States marine mammal, with only 300 - 350 remaining. Collisions with ships are the primary human threat to these animals, with eight confirmed deaths since 1991 and more suspected. Biologists believe the species cannot sustain mortality at this rate without a high likelihood of extinction.

To address this situation and satisfy the requirements of the Endangered Species Act and Marine Mammal Protection Act, the National Oceanic and Atmospheric Administration (NOAA) seeks to require most ships to report to the Coast Guard upon entering two critical habitats for the right whale (one off Cape Cod and the Boston Harbor, the other off Florida and Georgia) beginning in mid-1999. Ships would provide information about itinerary and speed, and receive data on the northern right whale along with advice on avoiding ship strikes. No routing requirements or speed limits would be imposed. Two types of ships would be exempt: military and other sovereign immune vessels, and vessels under 300 gross tons.

NOAA wishes to propose these measures to the IMO by Friday, April 24, to meet the deadline for consideration by the organization this year. Approval by the IMO is expected. In NOAA's view, measures short of mandatory ship reporting would not be sufficiently effective for whale protection.

Members of the Massachusetts and Maine Congressional delegations, environmental groups, and the Marine Mammal Commission support NOAA's proposal. Commercial shipping interests also support NOAA's proposal (but would not object to the other options set forth below).

The Department of Defense does not support the NOAA proposal, suggesting instead that the United States propose voluntary reporting measures to the IMO. The Defense Department argues that this mandatory ship reporting requirement presents a fundamental national security concern because it would threaten our ability to promote freedom of navigation globally. Strong support for navigational freedoms is a long-established U.S. policy, essential to our national defense. The Defense Department notes that India has recently required ships carrying dangerous cargo to report their position to shore-based authorities before entering the Indian exclusive economic zone. The Defense Department is concerned that this could lead to prior notification requirements for nuclear-powered vessels. In addition, Iran has indicated repeatedly over the past year that the waters of the Persian Gulf are becoming increasingly threatened by maritime traffic (including U.S. warships) and that greater controls are necessary. (NOAA notes that neither India nor Iran are seeking IMO approval for these actions, but are suggesting unilateral restrictions that we oppose categorically.)

The Defense Department notes that the IMO has never approved a mandatory shipping requirement to protect a single species and that this proposal would, in DoD's view, represent a significant expansion of the grounds for which reporting requirements are imposed by the IMO. (To date, the IMO has approved or is in the final stages of considering seven mandatory reporting requirements, all in congested or restricted waters for a combination of safety and environmental reasons. The United States has supported each of these requirements. One example is a reporting requirement designed to protect shipping and fragile habitat in the area of Australia's Great Barrier Reef.) The Defense Department asserts that, by proposing our own mandatory requirements for the coastal waters of the United States, we would damage our ability to contest future proposals from other countries.

In response to this concern, the State Department recommends language for the preamble to the proposed IMO rule, setting forth the unique circumstances of this case as rationale for the proposal. The Defense Department does not believe that such language would ameliorate its concern about precedent.

In addition, the Defense Department argues that NOAA has failed to bring forward data to suggest that mandatory reporting requirements will be more effective in protecting right whales than voluntary measures. The Defense Department notes that mariners do not wish to strike whales (which can damage ships); that right whales are difficult to see, even for mariners who are looking for them; that new technologies and techniques are available to warn ships about the presence of right whales, without mandatory reporting; and that voluntary reporting for right whales has yet to be tested.

The National Security Council supports an approach that combines elements of both the NOAA and Defense Department options. Under the NSC approach, the United States would propose voluntary

measures to the IMO this year. Next year, the United States would propose mandatory reporting to the IMO, unless (1) a substantial majority of ships entering the right whale habitat have established contact as requested by the Safety of Navigation Circular, or (2) CEQ and NSC agree on the desirability of proposing alternative measures. The NSC believes it would be preferable to rely on voluntary measures if those measures produce substantial compliance, and that a one-year trial would represent a reasonable balancing of different agencies' concerns. The NSC notes that confirmed right whale deaths from ship strikes average roughly one per year and it is not clear whether any reporting requirements will be effective in protecting right whales.

In response, NOAA argues that delay in imposing mandatory reporting requirements would pose unacceptable risks. NOAA believes that failure to take the first step of mandatory ship reporting could jeopardize progress toward broader recovery efforts and delay development of additional protective measures. NOAA also notes that, in its view, the current mandatory reporting proposal represents a compromise from its original position.

Three options are set forth below for your consideration: one supported by NOAA and CEQ; a second supported DoD and the Joint Chiefs of Staff; and a third supported by the NSC.

Options

- (1) Mandatory Ship Reporting. Propose mandatory ship reporting requirements to the International Maritime Organization immediately, for implementation in July 1999. Sovereign immune vessels would be exempt.

PROS:

- Represents strongest action currently under consideration to protect the northern right whales.
- Minimizes legal risk under Endangered Species Act and Marine Mammal Protection Act.
- Supported by Congressional delegations, shipping industry and environmental groups.
- By taking this first step, NOAA in better position to explore stronger protection measures.

CONS:

- Presents national security concerns about erosion of navigational freedoms and would make it more difficult to resist proliferation of other mandatory ship reporting requirements.

- Effectiveness is uncertain

This proposal is supported by the Council on Environmental Quality, NOAA, the Department of Commerce, the Environmental Protection Agency and the Marine Mammal Commission. State Department and the Coast Guard can support any of the options.

- (2) Voluntary Ship Reporting. Propose voluntary ship reporting to IMO, to be implemented with a Safety of Navigation Circular urging vessels to contact authorities before entering right whale critical habitats. The State Department will employ diplomatic measures, including demarches, to encourage international compliance with the Circular. Urge all ships entering right whale critical habitats voluntarily to undertake procedures already followed by the Navy, including slowing speed to the extent practicable and posting bow lookouts. After one year, agencies will revisit whether to propose mandatory ship reporting.

PROS:

- Will improve protection for right whales.
- Does not create national security concerns.

CONS:

- May provide less protection for right whales than Option 1
- Will be opposed by Congressional delegations and environmental community.
- Will present greater litigation risk than Option 1.

This proposal is supported by the Department of Defense, the Joint Chiefs of Staff and the Navy. The State Department and the Coast Guard can support any of the options.

- (3) Voluntary Ship Reporting Now; Mandatory Ship Reporting in One Year if Voluntary Reporting Fails. Propose voluntary ship reporting to IMO, to be implemented with a Safety of Navigation Circular urging vessels to contact authorities before entering right whale critical habitats. The State Department will employ diplomatic measures, including demarches, to encourage international compliance with the Circular.

Not later than two months prior to the 1999 deadline for submission to the IMO of a mandatory reporting proposal, agencies will assess the rate at which ships entering right whale critical habitats in fact contact authorities. Unless a substantial majority of those ships have established contact as requested by the Safety of Navigation Circular, or CEQ and NSC agree on the desirability of proposing alternative measures, the United States will propose

mandatory ship reporting to the IMO in 1999.

PROS:

- For this year, addresses Defense Department concerns with respect to navigational freedoms.
- For this year, provides some protection for right whales.
- Recognizes need to move toward mandatory system in one year if circumstances dictate.

CONS:

- Would delay mandatory reporting until July 2000 at the earliest.
- Could delay broader public dialog concerning measures beyond reporting that may be important to recovery of the species.
- Will not be supported by Congressional delegations and environmental community.

This proposal is supported by the National Security Council. The State Department and the Coast Guard can support any of the options.

Recommendation

That you choose one of the following:

____Option 1 ____Option 2 ____Option 3 ____Discuss

WHITE HOUSE STAFFING MEMORANDUM

Date: 4/22/98 ACTION / CONCURRENCE / COMMENT DUE BY: ASAP

Subject: Protection of Northern Right Whales + Navigational Freedom

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	REED	☐	☐
MATHEWS	☒	☐	RUFF	☐	☐
RAINES	☐	☐	SMITH	☐	☐
BEGALA	☐	☐	SOSNIK	☐	☐
BERGER	☐	☐	SPERLING	☐	☐
BLUMENTHAL	☐	☐	STEIN	☒	☐
ECHAVESTE	☐	☐	STERN	☐	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☐	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Please advise.

RESPONSE:

THE WHITE HOUSE
WASHINGTON

April 20, 1998

MR. PRESIDENT:

Attached for your approval is a memorandum, prepared by the VP's office, to the heads of all executive departments and agencies on streamlining the granting of internal agency rule waivers. These waivers permit Federal employees to deviate from existing internal agency policies and procedures to improve their operations. *If you approve, the VP will include an announcement of this directive in remarks he will make tomorrow.*

The memo directs the agencies, where appropriate, to adopt more broadly the rule waiver procedures developed in their "reinvention laboratories" over the last several years (e.g., acting on employees' waiver requests within 30 days; easing the granting of waivers while restricting the authority to deny them; and encouraging greater identification of waiver opportunities.) The memo directs the department and agency heads to report back to the Vice President by July 1st on the actions they've taken to implement your directives.

If you approve, we will execute the memorandum on your behalf.

Approve ____ Disapprove ____ Discuss ____

Sean Maloney 

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Streamlining the Granting of Waivers

Five years ago, the Vice President asked you to create reinvention laboratories in your departments and agencies and to streamline the granting of waivers of internal agency rules within them so the laboratories could more effectively promote innovation. These waivers -- delegations of authority to deviate from existing internal agency policies and procedures -- are often sought by front-line employees who are trying to make their operations work better, cost less, and get results that Americans care about. The Vice President and I emphasized such measures in the Blair House Papers last year, when we encouraged you to delegate more power to front-line employees to unlock the enormous potential of the Federal workforce.

Your departments and agencies have responded, and Federal employees have used waivers to facilitate innovation and provide excellent customer service. For example, the Coast Guard marine safety programs have increased managerial flexibility for field commanders to waive unnecessary requirements that had previously accounted for over one-half million work hours annually. The Department of Agriculture's Animal Plant Health Inspection Service's Tort Claims Adjudication Team used a waiver to reduce the processing time for tort claims of less than \$2,500 from 51 days to 8.

Based on these experiences, I am directing you, where you determine that it is appropriate, to adopt some of the best practices developed by agencies. These best practices include the following characteristics:

1. Waiver requests are acted upon within 30 days or less. After 30 days, the originating entity within the agency can assume approval and implement the requested waiver.

2. Those officials having authority to grant or change internal agency rules can approve waiver requests, but only the head of an agency can deny a waiver request.

3. Officials who have the authority to grant waivers are encouraged to identify potential waiver opportunities and extend waivers to their own agencies.

The Vice President's team at the National Partnership for Reinventing Government (NPR) is ready to assist you in developing a waiver process based upon lessons learned and best practices from agencies that have experience with waivers. Some of you already have this type of waiver process in place for reinvention laboratories. I direct you to take every opportunity to extend this process throughout your agency.

You should report to the Vice President on actions taken to implement this memorandum by July 1, 1998.

This memorandum does not apply to waiver requests by grant program recipients nor does it apply to the granting of waivers to statutory requirements or practices required by law. It applies to those internal agency rules not codified in the Code of Federal Regulations.

THE WHITE HOUSE
WASHINGTON

April 3, 1998

98 APR 3 PM 5:0

MEMORANDUM FOR THE PRESIDENT

THROUGH: JOHN PODESTA
SYLVIA MATHEWS

FROM: MICHAEL WALDMAN
STEPHANIE STREETT
ANN LEWIS
CRAIG SMITH
JENNIFER PALMIERI

SUBJECT: 1998 COMMENCEMENTS

4-6-98

At your request, we are forwarding to you proposed themes, locations and dates for the 1998 commencements. Commencement addresses provide a unique opportunity to highlight major new proposals, or discuss provocative subjects in depth. Each of the three recommended speeches would be independently newsworthy; taken together, they deal with America in the new century.

Where another commencement speaker has already been chosen, we have included that information.

I. AMERICA IN THE INFORMATION AGE

This would be a chance for you to talk in sweeping terms about our nation's response to the challenges of the Information Age -- the dynamic impact of new technologies, the new inequalities they can create, and their revolutionary, democratizing potential. This speech could announce a goal of a new national policy to put a computer in the home of every child -- and pledge to use regulatory, tax and other means to achieve that goal in years to come. It could also address issues ranging from computers in the classroom to antitrust to privacy. Finally, it could discuss new opportunities and threats beyond our borders as result of globalization and the spread of information technology.

Recommendation:

June 5, Massachusetts Institute of Technology; Student Population: 9,774
NIH scientist David Hsu, last year's *Time* man-of-the-year, is scheduled to speak at the commencement. (We would recommend that both of you speak.)

II. NATIONAL SECURITY IN THE 21ST CENTURY

This year, you will be speaking to the U.S. Naval Academy on May 22. You will have returned two days before from your trip to Europe for the Summit of the Eight and the USEU Summit. The NSC recommends either of the following topics:

Defense Policy for the 21st Century. This commencement address would focus on bringing America's military into a new era, able to deal not only with traditional threats but also the new threats as well.

Meeting New Threats to America's Security: This commencement address would discuss our strategy for combating a nexus of new threats: the spread of nuclear, chemical, and biological weapons; high tech challenges to our critical infrastructure; and increasingly interconnected rogue states, terrorists, international criminals and drug traffickers.

III. IMMIGRATION AND NEW CITIZENSHIP IN THE 21st CENTURY

This commencement address would be an excellent opportunity to talk about the immigration and the requirements of citizenship in an era of increasing diversity. The United States is undergoing the third great wave of immigration; this speech would unambiguously declare that this is a good thing for America, helping to revitalize our cities and enrich our culture in the 21st Century. The speech would challenge all Americans -- native, naturalized, and newly arrived -- to live up to the requirements of citizenship, the common values and shared duties that are at the core of our civil society and civic culture.

Recommendation:

June 13, Portland State University, student population 10,000 -- 10% Asian, 3% Hispanic, 3% African-American. 44% of students are 25 years or older. Secretary Shalala is currently scheduled to speak.

IV. POSSIBLE EDUCATION SPEECH AT A CHARTER SCHOOL

We are also looking into the possibility of your speaking at the graduation exercises of a charter school. This probably would not be covered as a commencement speech, per se. Rather, would be an opportunity to do a message event about your education agenda.

OTHER THEMES:

We selected these three topics from a longer list which included the following themes:

The new democracy for the 21st Century. This commencement address would propose new ways to revitalize elections and demand greater citizen participation for the 21st Century. This would seek to move the debate beyond campaign finance reform. Possible policy announcements could include: electoral reforms (e.g., 2 day voting, voting by mail, election day as a holiday, etc.); citizenship education in schools.

Race and service. In your State of the Union address, you said, "Americans have always found their common identity on the forge of common enterprise." This commencement address would discuss the many ways service can bring people together across racial lines -- one of the original ideas of AmeriCorps -- and challenge people to engage in community service. This option is worth doing only if we can organize the private sector, religious and civic organizations to create a "day of service" or some other mechanism.

Corporate accountability in the new economy. The new economy creates new challenges as we continue the effort, begun during the Progressive Era, to assure the accountability of economic power. The speech would declare that our vision of the economy is pro-business, seeing business as the engine of opportunity. But the rise of new industries creates new challenges: privacy protections, antitrust enforcement, globalization, and the need for protection of worker rights and the environment on an international scale, etc. No new policy would be needed.

The opportunity gap. The move toward new technologies, while creating new possibilities for the country, also creates new inequalities -- in skills, in access to technology, in education. This commencement would discuss the impact of new technologies, what our policies have been to improve the skills of the American people. Policy announcements might include new training proposals (this would require an NEC/DPC process).

Work and family. This would discuss the ways society must address the new pressures on work and family. It could unveil a new, annual study on the family.

THE WHITE HOUSE
WASHINGTON

April 8, 1998

98 APR 8 PM 3:56

RECOMMENDED TELEPHONE CALL

TO: Representative-Elect Mary Bono

DATE: As soon as possible

RECOMMENDED BY: Larry Stein

PURPOSE: To congratulate Mary Bono on winning the special election for the 44th Congressional District of California.

BACKGROUND: Mary Bono (R) defeated Ralph Waite (D) 64%-29% in yesterday's special election to fill the seat vacated by the death of her husband, Sonny Bono. Sonny Bono died in a skiing accident January 5, 1998.

TELEPHONE NUMBERS: Palm Springs Marquis Resort: 760-322-2121
Room# 322
Campaign Manager's Cellular Phone: 760-413-7470
Campaign Manager: Brian Nestande
Campaign Number: 760-323-8810

DATE OF SUBMISSION: April 8, 1998

'98 APR 8 PM 3:57

THE WHITE HOUSE
WASHINGTON

April 8, 1998

RECOMMENDED TELEPHONE CALL

TO: Representative-Elect Barbara Lee

DATE: As soon as possible

RECOMMENDED BY: Larry Stein

PURPOSE: To congratulate state Senator Barbara Lee on winning the special election for the 9th Congressional District of California.

BACKGROUND: Former Representative Ron Dellums (D) resigned February 6 from the 9th CD. He endorsed state Senator Barbara Lee (D), his former Chief of Staff, to replace him. Last night, Lee defeated Greg Harper (D), Randal Stewart (D) and Clay Sanders (R) in a special election capturing 67% of the vote.

TELEPHONE NUMBERS: Barbara Lee's Cellular Phone: 510-703-5659
Oakland Downtown Marriot: 510-451-4000 Rm 1711
Campaign Number: 510-595-2040
Campaign Manager: Lee Halterman

DATE OF SUBMISSION: April 8, 1998

THE WHITE HOUSE
WASHINGTON

April 6, 1998

98 APR 6 PM 9:50

RECOMMENDED TELEPHONE CALL FOR THE PRESIDENT

TO: Representative Carolyn McCarthy, (D-NY)

DATE: Call should be made as soon as possible.

RECOMMENDED BY: Larry Stein, Assistant to the President and Director for Legislative Affairs

PURPOSE: To discuss your recent ban on 58 types of imported assault style weapons with Rep. McCarthy and to address her concerns about HCFA.

BACKGROUND: Congresswoman McCarthy is one of the leading anti-gun proponents in Congress. In two different letters sent last fall, Congresswoman McCarthy urged you to ban the importation of all assault weapons that failed to meet the so-called "sporting purposes test." This test, which dates to the 1968 Gun Control Act, requires the Treasury Department to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes."

You announced in your November 15, 1997 radio address that the Treasury Department was temporarily suspending the importation of certain modified assault weapons to review whether these weapons should be allowed to come into the country under the sporting purposes test. After taking several months to review the weapons in question, the Treasury Department concluded that modified semiautomatic assault rifles that accept large capacity military magazines --or LCMM rifles --do not meet the sporting purposes test and are generally not importable. LCMMs are magazines that contain more than 10 rounds of ammunition; they were prohibited by the 1994 Crime Act.

Earlier today, in a Rose Garden ceremony, you endorsed Secretary Rubin's recommendation that most of the weapons studied be generally banned from importation. The more than 50 models of firearms affected by this recommendation are modified versions of military assault weapons that were banned by the Bush Administration in 1989 or by the Crime Act of 1994. Most of these models are based on the AK 47 assault rifle, but some are variants of the Uzi, FN-FAL, HK 91 and 93, and SIG SG550. In all 1.5 million firearms whose importation had been suspended during the review may be affected by this decision.

Your action today should be welcome news to Congresswoman McCarthy.

Also attached are both a letter from Rep. McCarthy and others concerning the HHS estimate on health care caps and talking points from HHS in response to that written inquiry.

CONTACT PERSON AND
PHONE NUMBER(S):

Representative Carolyn McCarthy
Office: 202-225-5516
Home: 516-747-4099

DATE OF SUBMISSION:

April 6, 1998

ACTION: _____

TALKING POINTS FOR REPRESENTATIVE CAROLYN McCARTHY:

- I understand your concern about the pending HHS decision regarding a wage-adjustment in its payment calculations for long-term care, rehabilitation, and psychiatric hospitals.
- HHS has informed us that if we take the wage-adjustment into account without increasing overall spending in the Medicare program, it would increase the payment to some hospitals, and reduce it for others. If we included a “hold harmless” provision, it would cost the Medicare program an additional \$96 million annually.
- I will make sure that Secretary Shalala and her staff stay in close touch with you and the other members of the delegation as they continue to analyze this issue.

BACKGROUND:

- Under the Balanced Budget Act of 1997 (BBA), the Secretary of Health and Human Services (HHS) is required to limit payment to certain classes of hospitals (i.e., long-term care, rehabilitation, and psychiatric).
- The BBA required many payment reductions for many types of Medicare providers, and in many instances, expressly told HCFA to adjust the payments by wage factors or indices so that providers in high wage areas receive more than those in lower wage areas. However, no wage adjustment language was included in statute for this group of hospitals.
- This adversely affects high wage areas such as the greater New York City region. A number of Members of Congress from this region have written to Secretary Shalala to express their concern about the lack of a wage adjustment in this calculation, claiming that the statutory language could be interpreted to allow for the inclusion of such an adjustment. However, the Office of the General Counsel at HHS is examining this issue to determine the best interpretation of the BBA provision.
- The Secretary has the general authority to make exceptions to payment calculations for atypical events that affect costs in a particular year. Making an exception based on a wage adjustment would create an entirely new basis for an exception, since the New York situation is on-going and not atypical.

Congress of the United States

Washington, DC 20515

December 23, 1997

The Honorable Donna Shalala
Secretary
Department of Health and Human Services
200 Independence Ave., S.W.
Washington, DC 20201

Dear Secretary Shalala:

We are writing to ask you to direct the Health Care Financing Administration (HCFA) to revise its estimated Medicare payment caps for rehabilitation, psychiatric, and long-term care hospitals and units starting January 1, 1998. Without this revision, hospitals in high wage regions like New York State will face cruel and excessive cuts.

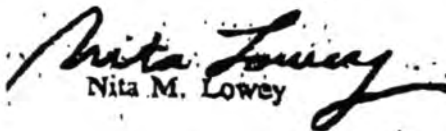
As you know, HCFA issued a payment cap estimate on August 29, 1997 in response to a provision of the Balanced Budget Act of 1997 (BBA) that simply requires the Secretary "to estimate" the 75th percentile costs for such hospitals and units. Unfortunately, HCFA failed to take into account legitimate regional wage differences in making these cap estimates.

This decision unfairly penalizes institutions in metropolitan areas throughout the country. Without a wage adjustment, these caps will reduce Medicare revenue by 30 to 40 percent for some of our hospitals, placing unacceptable pressure on them to lay off workers and cut services. The result will be deep and unnecessary cuts in vital psychiatric or rehabilitation treatment, including emergency burn treatment, for those living in New York and other high wage areas.

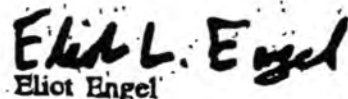
It has come to our attention that HCFA does not intend to compute and implement a wage-adjusted payment cap because the BBA did not provide explicit instructions to wage-adjust. However, it is our understanding that HCFA has the legal authority to wage adjust and revise its earlier estimates.

We believe that the intent of Congress was to limit payment for inefficient providers, not penalize hospitals in high wage regions. We further believe HCFA has the authority to compute and implement the new Medicare payment cap in the most appropriate fashion. It is our hope that you will act quickly to prevent painful cuts to those psychiatric, rehabilitation, and long-term care hospitals and units that provide care to those who are most in need.

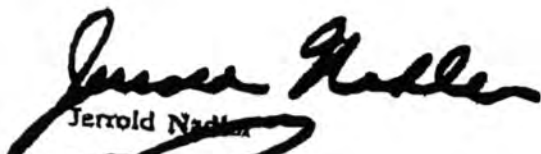
Sincerely,

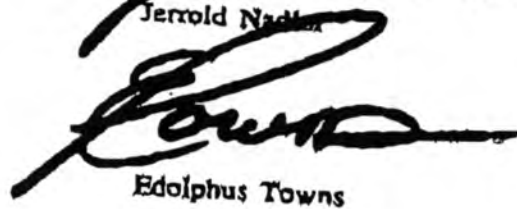

Nita M. Lowey


Charles Rangel


Eliot Engel


Carolyn B. Maloney

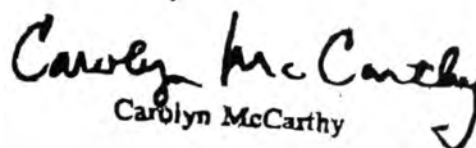

Terrold Nathan

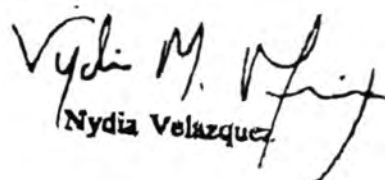

Edolphus Towns


Jose Serrano

cc: Nancy-Ann Min DeParle


Gary Ackerman


Carolyn McCarthy


Nydia Velazquez