ACTPN MEETING

SEPTEMBER 25, 1997

Todd Stern
The White House

The President's Advisory Committee on Trade Policy and Negotiations

United States Trade Representative
September 25, 1997

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AGENDA FOR THE

ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS (ACTPN)

September 25, 1997, 10:00am - 2:00pm

Sheraton Carlton Hotel, Chandelier Room

Washington, D.C.

10:00 - 10:15	**Welcome/Introductions/WTO Task Force** Mayor Susan Hammer, Chairperson
10:15 - 11:30	**Remarks/Discussion** Ambassador Charlene Barshefsky *--Fast Track* *--China WTO Accession* *--Candidates for Free Trade Agreements* *--APEC* *--USTR Strategic Plan*
11:30 - 12:00	**WTO/Europe/Discussion** Ambassador Jeff Lang *--Financial Services* *--ITA II* *--TransAtlantic Marketplace* *--Russia WTO Accession* *--India Balance of Payments*
12:00 - 12:15	**Global Climate Change Update** Todd Stern, The White House
12:15 - 12:30	**Global Electronic Commerce Update** Don Abelson, Chief Negotiator for Communications and Information
	WORKING LUNCH
12:45 - 1:10	**Agricultural Issues Update** Peter Scher, Special Trade Negotiator for Agriculture *--WTO Disputes & 1999 Agenda Preparations* *--Biotechnology*
1:10 - 1:30	**Japan Update** Wendy Cutler, Assistant USTR for Japan
	OPEN TO THE PUBLIC
1:30 - 2:00	**Update on Key WTO and NAFTA Disputes** Ambassador Charlene Barshefsky Jane Bradley, Assistant USTR for Monitoring and Enforcement

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William J. Hudson
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March 1997

As the CEO of the world's leading manufacturer of electrical and electronic connectors and interconnection systems, William J. Hudson is an outspoken proponent of global free trade.

Trade and investment are AMP's life blood. Well over half of the company's sales in 1995 – nearly 60 percent – were outside the United States. Through locations in 45 countries in Europe, Africa, Asia and the Americas, AMP invests worldwide to be closer to its customers. AMP investments are long-term – the company has never left a country where it located a facility, and its research, development and engineering activities take place around the globe.

Bill Hudson has a wealth of international business experience as well as expertise in the international public policy arena. He was recently named by President Bill Clinton to the U.S. Advisory Committee on Trade Policy and Negotiation. In addition, Bill Hudson chairs the National Association of Manufacturers' International Economic Policy Committee, the group responsible for developing the association's positions on U.S. trade and investment policy.

He is also a director of the Pacific Basin Economic Council (PBEC), the leading private-sector counterpart of Asia Pacific Economic Cooperation Forum (APEC), and in January 1997 assumed the chairmanship of PBEC-US.

Bill co-chaired the investment working group of the 1995 Transatlantic Business Dialogue in November 1995 in Seville, and the 1996 Transatlantic Business Dialogue in November 1996 in Chicago, sponsored by the U.S. Department of Commerce.

Bill Hudson is a member of the Global Business Policy Council, The Conference Board, and the Executive Committee and Board of the U.S. Council for International Business. The Business Roundtable, U.S. Chamber of Commerce, and American Trader Initiative Advisory Council of The Heritage Foundation. In addition, he is on the Executive Committee and a governor of the National Electrical Manufacturers Association, and a director of the National Association of Manufacturers. He serves on the boards of AMP Incorporated, Goodyear Tire and Rubber Company, and Carpenter Technology Corporation.

He earned a bachelor's degree and a master's certificate in electrical engineering at Cornell University. In addition, he holds 12 U.S. patents.

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Terry K. Watanabe
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Oriental Trading Company

Terry Watanabe, President and CEO of Oriental Trading Company, Inc., (OTC) has distinguished himself as a leader in the sale of value-priced items in the mail order catalog industry. Locally, as well as nationally, he is considered a successful businessman and civic activist.

An Omaha native, Terry Watanabe, 40, graduated from Burke High School in 1974. He attended Sophia University in Tokyo, Japan, and the University of Nebraska at Omaha.

Terry Watanabe succeeded his father Harry Watanabe, founder of OTC, as president of the company in 1977 at the age of 20. At that time, the company had 20 employees and annual revenues of approximately $2 million. Today OTC employs over 5,000 people and has sales of over $250 million annually through over 1.5 over million square feet of office and warehouse space. OTC capitalizes on its database of over 6 million customers by selling over 10,000 separate items through various segmented catalog titles serving large and small markets niches both domestic and international.

Terry Watanabe has a long standing commitment to public service on both a local and national basis. "My father taught me the importance of giving and the need to share good fortune with those who have less. I have never forgotten that lesson," Terry says. His leadership has made the Nebraska AIDS Project a nationally recognized care provider for victim of HIV/AIDS throughout Nebraska, southwest Iowa and Wyoming. "Although our business is international, I wanted to give to the community in which I grew up. So we decided to make the Nebraska AIDS Project an example to the nation."

Oriental Trading Company is an industry leader in the sale of value-priced toys, novelties, party goods and giftware through mail order catalogs and other distribution channels. Headquartered in Omaha, Nebraska, the company is also the leading provider of novelty merchandise to the amusement industry, food service industry and theme parks.

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Testimony of
U.S. Trade Representative Charlene Barshefsky
Renewal of Fast Track Authority
Senate Finance Committee
September 17, 1997

Mr. Chairman and Members of the Committee, I want to thank you for the opportunity to appear before you today to address an issue that is vital to the future of American farmers, businesses, and workers, as well as our position as a leader in the global economy: that is, approval of the Administration's proposal to renew fast track and the President's tariff proclamation authority under the "Export Expansion and Reciprocal Trade Agreements Act of 1997." Mr. Chairman, if enacted, the President's proposal would renew more than 60 years of cooperation between the Congress and the Executive Branch in the negotiation and implementation of market-opening trade agreements for the benefit of American workers and companies.

What is at stake in your consideration of this proposal is nothing less than whether the United States will continue to be at the forefront of nations seeking the reduction of trade barriers and the expansion of more open, equitable and reciprocal trading practices throughout the world. As the President said last week, the question before you is whether we are going to lead the way or follow. This is not the time to shrink from the future, but to seize the opportunities it holds.

The President is right. Today, this country is at the pinnacle of its influence. Our economy is the strongest in the world. In the last four and one half years, the United States has once again become the world's number one exporter, the world's largest manufacturer of automobiles, the world's premier agricultural exporter, and the world's leading producer of semiconductors. From the farms of the Midwest to the high-tech firms of California and Massachusetts, businesses are growing, unemployment is declining and inflation is under control. America leads the world in a very competitive global marketplace. Our economy is the envy of our trading partners.

Today, international trade is an increasingly vital component of our economic strength at home and leadership abroad. Exports are more important in our economy than ever. Since 1993, more than a third of our economic growth has come directly from exports, and the number of export-related jobs has increased by 1.7 million. A total of some 11.5 million U.S. jobs depend on exports, and these jobs pay an average of 15% more than non-trade-related jobs. Since 1985, U.S. exports have roughly tripled from about $300 billion to an expected $900 billion this year.

But, we cannot rest on our past accomplishments. We must find new markets for our goods and services in order to help our economy to maintain strong growth. To frame our economic challenge clearly: the United States represents four percent of the world's population, yet our share of global income is 20%. How are we going to maintain our enviable position? We must sell to the more than 96% of the consumers that live outside our borders, which requires that we further open foreign markets to our goods and services. We need fast track if our economy is to stay on the fast track.

The Importance of Fast Track

Fast track is critical to increase access to foreign markets and shift trade conditions in our favor. Fast track sends a strong signal to our trading partners. It tells them that when the President negotiates a trade agreement, he has the confidence of the Congress behind him. It also indicates that the United States is serious about reaching agreements that will reduce market barriers and trade distortions.

This proposal reactivates a partnership between the President and the Congress that dates back over six decades. Recognizing that the high protective U.S. tariff walls it established in 1930 had only served to deepen the Depression, Congress four years later enacted the first reciprocal trade agreements act. In that act, Congress gave the President authority to negotiate mutual tariff reductions with our trading partners. Congress renewed that authority repeatedly over the years, and successive Presidents used the authority to dramatically reduce tariff barriers around the world.

"Fast track" was first put in place under the Ford Administration in 1974. Under fast track the Congress and the President work together, ensuring that the United States can effectively negotiate away foreign tariff barriers as well as non-tariff barriers -- such as quotas, protectionist product standards, and subsidies -- which foreign governments have increasingly substituted for tariffs to exclude U.S. products. It worked well for 20 years, a period over which every President had fast track authority with bipartisan support. Fast track lapsed along with most of the President's tariff reduction authority three years ago.

With this legislation, we are seeking to reactivate the process by which certain trade agreements can come back to the Congress for an up or down vote without amendment. We are not seeking Congress' approval of a particular trade agreement. Congress retains the last word.

Dangers of Inaction

There are serious and immediate consequences if we do not renew fast track. Increasingly over the past few years, major trade agreements have been negotiated without our participation. Our competitors are determined, sophisticated, strategic and focused. In every region of the world, but particularly Latin America and Asia, the two fastest growing regions of the world, governments are pursuing strategic trade policies and, in some cases, preferential trade arrangements. They are forming relationships around us, rather than with us, and they are creating new exclusive trade alliances to the detriment of U.S. interests. I can assure you that our trading partners are not waiting for us to pass a bill.

A significant number of bilateral and regional trade agreements are already operating here in the Western Hemisphere. The United States is party to only one. In fact, most U.S. trading partners in the hemisphere have been actively forging closer ties with neighboring countries. In Latin America and Asia alone, over 20 such agreements have been negotiated since 1992 -- all without us.

Argentina, Brazil, Paraguay, and Uruguay have formed a common market, MERCOSUR, which has

a GDP of approximately $1 trillion and ambitions to expand to all of South America. MERCOSUR is the largest economy in Latin America and encompasses a population of 200 million. It has struck agreements with Chile and Bolivia, and is discussing agreements with a number of Andean countries (Colombia, Venezuela), as well as countries within the Caribbean Basin. There are recent reports that Canada is also in discussions with MERCOSUR. And, the EU and MERCOSUR already have plans to conclude a reciprocal trade agreement by 1999.

Furthermore, the nations of the Andean Community have started meeting with member nations of CARICOM and the Central American Common Market to discuss negotiation of free trade agreements.

And, Chile, with one of South America's leading economies, has signed trade agreements with Bolivia, Colombia, Ecuador, Mexico, Venezuela, Canada and the MERCOSUR states. Indeed, Chile has preferential trading relationships with every major trading country in our hemisphere but one -- the United States.

In South Asia, the seven members of the South Asian Association for Regional Cooperation (SARC) -- India, Pakistan, Bangladesh, Nepal, Bhutan, Sri Lanka, and the Maldives -- have set 2001 as the target for the creation of a free trade area. SARC now represents only about 1 percent of world trade, but it encompasses roughly 20 percent of the world's population. This will increasingly be an important market for U.S. goods and services

Access to markets in such developing nations is especially important to America's economic future, particularly those in Asia and Latin America which are projected to grow at rates as much as three times the U.S. growth rate. As noted, more than 96 percent of the world's consumers reside outside the United States. Of the more than 30 million people who join the world's middle class annually, an estimated three quarters are found in emerging markets and other low and middle- income countries. Latin America alone, if current trends continue, will exceed both Japan and Western Europe combined as an export market for U.S. goods by the year 2010. Already, Latin America is our fastest growing export market, even though the tariff barriers within the region average three to four times the average U.S. tariff. Similarly, the Asian Pacific Rim has been our second fastest growing export market in recent years, but its market access barriers are also generally higher than U.S. barriers. The elimination of these inequities is in America's fundamental interest, as we have the most competitive economy in the world.

Our lack of fast track procedures also disadvantages us in comparison with our industrialized competitors. As mentioned, Canada recently signed a new trade agreement with Chile, giving Canadian exporters substantial advantages over their U.S. counterparts. Perhaps even more disturbing, the EU, already the world's largest trading bloc, is poised for major expansion in the next few years. The EU has secured for its exporters significant advantages in the transition economies of Central and Eastern Europe. As noted, the EU also has begun a process aimed at reaching a free trade agreement with MERCOSUR and one with Mexico. It has also concluded a framework agreement with Chile which is expected to lead to a free trade agreement by 1999 based on recent

reports.

China has targeted Mexico, Argentina, Brazil, Chile and Venezuela as "strategic priorities" in Latin America. China wants to enhance commercial ties and ensure that key Latin countries are receptive to its broader global agenda as a rising power, both in the WTO and other fora. The Chinese leadership has undertaken an unprecedented number of trips to Latin America in the last two years, and Latin America is China's second fastest growing export market.

Japan has undertaken high level efforts throughout Asia and Latin America to enhance commercial ties through investment and financial initiatives. The Prime Minister of Japan recently visited Latin America seeking closer commercial ties and a greater Japanese commercial presence in all respects.

The consequences of agreements being reached without us are not just theoretical; they are quite real. Many U.S. firms are suffering from the competitive disadvantage caused by preferential agreements that do not include us. Our companies are losing export opportunities. Our past efforts to level the playing field will prove futile over the long-term if we begin to cede this ground to our competitors. Examples abound:

- U.S. fabric producer, Quaker Fabric, recently lost a $1.8 million a year sale in Chile to a Mexican competitor because of an 11% tariff preference favoring Mexican producers.

- U.S. apple producers are at risk in their Latin American markets due to Chile's preferential tariff free, or near tariff-free, access to MERCOSUR, Venezuela, Colombia, and other South American markets as a result of the FTAs it has been negotiated (six since 1991). U.S. producers have to absorb the non-preferential tariff cost to enter these growing markets.

- U.S. corn producers are facing competition in Chile from Argentinean producers who enjoy a 3.3% tariff preference, which will grow to 11% over time.

- Chilean fresh fruit pays a 2 percent duty when entering Venezuela (due to the Chile-Venezuela FTA), whereas U.S. producers pay a 15 percent tariff. The U.S. Embassy estimates that U.S. market share would grow from its current 39 percent to 67 percent if U.S. producers had equivalent access to the Venezuelan market.

MERCOSUR comprises the largest market in Latin America (200 million people and a GDP of approximately $1 trillion). In the context of negotiating this customs union, Argentina, Paraguay and Uruguay raised their tariff on imported computer products to accommodate Brazil's interests. The net result was that the common external tariff is significantly higher (from zero to 14 percent *ad valorem* in the case of Argentina, the second largest economy in South America) than the original tariff on these items in Argentina and others.

The United States can only redress these growing trade setbacks by concluding similar bilateral and regional agreements, as well as negotiating new multilateral agreements that level the trade playing

field. But no such agreements are likely as long as our trading partners believe that any agreement the President negotiates will also have to be separately negotiated with the Congress.

Fast track, however, is about more than economics. It is about American leadership. As the President said last week, fast track "is about whether other countries will continue to look to the United States to lead to a future of peace and freedom and prosperity; about whether the world will be growing together instead of coming apart; about whether our economic ties will lead to cultural ties and ties of partnership, or whether we will be viewed as somehow withdrawn from the world, not interested in leading it, and therefore, not nearly as influential as we might otherwise be for the causes in which we so deeply believe."

Sidelining ourselves at this critical juncture will have repercussions that will be far more than economic. Economic prosperity contributes to economic security, which in turn supports democracy and stability. We are at the pinnacle of our influence and we should use that influence to shape international economic rules and transmit our fundamental values.

The Uses of Fast Track

The absence of fast track does not only mean that we cannot match our competitors when they enter into preferential trade arrangements. It also prevents us from achieving our own goals. There are three major areas of pressing concern which require fast track now.

First, fast track would allow us to complete the built-in agenda of the World Trade Organization: that is, conclusion of the major trade negotiations that were deferred at the end of the Uruguay Round and participation in negotiations mandated by the Uruguay Round agreements in areas ranging from rules of origin to services. This year, we resume negotiations to expand and improve the government procurement agreement. Next year, we begin again the negotiations on intellectual property rights, followed by agriculture negotiations in 1999, and then services negotiations. We seek enhanced access to global markets in these areas, and the stakes are very high. The world's government procurement market will be a trillion-dollar market over the next decade and bringing more countries into the agreement will be critical. Agriculture and services represent another almost $2 trillion market, with agriculture representing $600 billion globally; and services $1.2 trillion. We must have fast track authority to enter these various talks or countries will not put meaningful offers on the table.

Second, fast track would enable us to pursue market-opening initiatives in sectors where the United States either leads the world or is a powerful competitor, and where there is extraordinary potential for growth. A good example of what can be achieved in this area is the recently concluded Information Technology Agreement (ITA), the United States and 43 other nations agreed to the reduction and eventual elimination of tariffs on information technology and electronic products, including semiconductors, computers, telecommunications equipment, faxes, phones, and integrated circuits. This is an extraordinarily favorable agreement for the United States, since we are a major exporter of these products and our applicable tariffs were already

quite low. Because other countries generally maintained substantially higher duties, this agreement provides what amounts to a $5 billion tax cut for the U.S., money that can be used for research and market development, creating new business opportunities and jobs for Americans.

In fact, the agreement has proven so successful that we already have a consensus among our trading partners to pursue an "ITA-II" -- in which we are seeking to expand the scope of products covered by the agreement, address non-tariff barriers in addition to tariff barriers, and increase access to the Information Superhighway.

We also are considering other sectors in which the United States is very competitive, but in which global barriers tend to be high. In particular, we are focusing on trade in chemicals, energy equipment and services, environmental technology and services, medical equipment and services, and wood and paper products. Within APEC, the United States and its Pacific Rim trading partners are working together to identify a number of areas that may be the subject of accelerated market opening discussions. Renewal of fast track would show APEC that the United States intends to fully take part in the negotiations and conclude key agreements.

Third, fast track is essential if we are to negotiate more comprehensive market access agreements with individual countries, as well as on a regional basis. This Administration, consistent with its predecessors, has identified Chile as a promising candidate for a comprehensive trade agreement. Chile appears in all respects to be prepared to enter into agreements with us that achieve our economic objectives, as well as our goals with respect to labor and the environment. Chile also symbolizes our commitment to proceed towards the conclusion of the Free Trade Agreement of the Americas (FTAA) by 2005.

Prior to the pursuit of other specific free-trade arrangements, the Administration would clearly define our negotiating objectives and consult closely with Congress.

The Fast Track Legislation

Fast Track is about forging an American consensus on trade and negotiating with our trading partners from a position of strength and unity. As many members of this Committee know, the Administration spent significant time consulting with members in both Houses and of both parties to try to develop a proposal that would reflect the views of the American people. The consultations were invaluable in shaping this proposal, and I thank the members of this Committee and their staffs for their significant contribution.

Let me now turn to the specifics of the President's proposal.

The proposal first sets out "overall" and "principal" trade negotiating objectives for the President. The "overall" objectives call on U.S. negotiators (1) to obtain more open, equitable, and reciprocal market access; (2) to obtain the reduction or elimination of barriers and other trade-distorting policies and practices that are directly related to trade and reduce market opportunities for U.S. exports or

distort U.S. trade; (3) to further strengthen the system of international trading disciplines and procedures; (4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy; and (5) to address those aspects of foreign government policies and practices regarding labor, the environment, and other matters which are directly related to trade and decrease market opportunities for United States exports or distort United States trade.

The "principal" objectives specify that U.S. negotiators should seek (1) to reduce or eliminate trade barriers, and foreign government policies and practices directly related to trade that decrease market access for U.S. exports or that distort U.S. trade; (2) to reduce foreign government barriers that discriminate against or impose unreasonable regulatory barriers on U.S. service providers; (3) to reduce unreasonable barriers to U.S. foreign investment; (4) to obtain adequate and effective protection for U.S. intellectual property rights and increased access to foreign markets for U.S. businesses that rely on intellectual property; (5) to make the proceedings of international trade bodies more open to public view; (6) to secure fairer and more open conditions of trade for U.S. agricultural products; and (7) to promote through multilateral institutions worker rights and sustainable development.

These objectives and guidance reflect the President's three primary concerns underlying the proposal. The President has made clear that his first consideration in proposing this legislation is the expansion of American trade opportunities abroad and the tearing down of barriers impeding U.S. access to foreign markets. However, the President also has made clear that we have an obligation to promote the rights of workers and the environment. Our commitment to worker rights and the environment reflects long-standing, fundamental values of the United States. The proposal's objectives properly balance the need to open markets with the attention these vital issues deserve.

The proposal next provides that the President may enter into certain agreements regarding tariffs and implement them by proclamation. For example, the proposal would re-establish the President's traditional proclamation authority, under which he can reduce U.S. duties up to 50 percent and eliminate duties of 5 percent *ad valorem* or less. This authority dates back to 1934. The proposal adds a new provision that would allow the President to harmonize or eliminate tariffs in connection with reciprocal tariff agreements in particular sectors, as we did in the ITA, as well as to carry out reciprocal tariff elimination agreements consistent with WTO rules.

In order for an agreement to qualify for fast-track treatment under the bill, the President must comply with extensive notice and consultation requirements. These provisions enable the Congress to set priorities, provide advice, and exercise oversight at all stages of the negotiations. They ensure that Congressional views will be reflected both in any final agreement and in the manner in which an agreement is carried out.

The bill expands upon the notice and consultation requirements included in earlier trade acts. For example, the President must provide notice to Congress before initiating negotiations, and he must consult with Congress prior to concluding an agreement. Members of Congress and their staff are

to be named as cleared advisers with respect to on-going negotiations. These Congressional advisers will be apprised of all critical phases of the negotiations, and they will have direct input into our strategy and offers. When negotiations near completion, the President must notify Congress of his intention to enter into an agreement and, once the agreement is signed, the President must describe to Congress how he intends to implement the agreement. Finally, the President and the Congress are to receive advice on any proposed agreement from the International Trade Commission.

To strengthen these provisions, we have added further consultation requirements. The bill mandates that, prior to entering into negotiations, the President must describe his specific negotiating objectives. The President is required to consult with Congress both before and after negotiations begin. In addition, the President is required to inform Congress of any other agreements he intends to conclude with the country or countries in question in addition to the trade agreement itself. The President must also state whether the fast track agreement will require additional implementing legislation that can be enacted only outside the fast track process.

Moreover, Congress must be satisfied that the President has met his consultation obligations. Under the proposal, if Congress finds that the President has not done so, an expedited procedure is available for Congress to withdraw fast track procedures.

The proposal also builds on existing provisions to ensure that the public is informed of trade negotiations and that a mechanism is available for ensuring that the public can make its views known to U.S. negotiators. In addition, the proposal calls for the President and Congress to receive advice from officially-designated advisory committees covering the full range of sectors and policy matters, including manufactured goods, agricultural products, services, intergovernmental matters, investment, intellectual property, labor, and environmental matters. These provisions demonstrate the Administration's hope that Americans will not only understand our trade agenda, but take an active part in formulating it.

Under well-established practice, the President collaborates with the Congress in drafting fast track implementing legislation. Such legislation is subject to informal public hearings and "mark-ups" by all Congressional committees of jurisdiction before its introduction. Under the President's proposal, provisions may be included in such legislation only if they are necessary or appropriate to implement an agreement and are related to trade. This language was designed to provide the President and Congress with sufficient flexibility to modify domestic law to achieve our trade objectives while ensuring that implementing bills will retain their focus on trade issues.

The President's proposal seeks this authority until his term is completed, with the possibility for an extension until 2005, subject to disapproval by Congress. This provides Congress and the next President the opportunity to ensure that the consensus that we hope can be achieved with this fast track proposal endures during the first term of the next President.

Conclusion

Mr. Chairman, if enacted, the President's proposal would renew more than 60 years of cooperation between the Congress and the Executive Branch in the negotiation and implementation of market-opening trade agreements for the benefit of American workers and companies. We have had a bipartisan consensus on the importance of expanding trade for the American economy and creating a trading system as a part of America's leadership for peace and freedom. It is now clearly more important than ever that we build a new consensus on the framework for the global economy of the 21st century. I am committed to working with the Congress to make sure that this legislation receives the full, bipartisan support it deserves and the American people expect.

As the President Clinton said last week: "Walking away from this opportunity will not create a single job. No one suggests we should throw up greater barriers in our own marketplace. Walking away from this opportunity will only leave inequalities in place -- inequalities that do not work to the advantage of either American businesses or American workers." The world is on a very fast track to the 21st century. America must lead in shaping our future.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release September 16, 1997

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit a legislative proposal entitled the "Export Expansion and Reciprocal Trade Agreements Act of 1997." Also transmitted is a section-by-section analysis.

This proposal would renew over 60 years of cooperation between the Congress and the executive branch in the negotiation and implementation of market-opening trade agreements for the benefit of American workers and companies.

The sustained, robust performance of our economy over the past 5 years is powerful proof that congressional-executive cooperation works. We have made great strides together. We have invested in education and in health care for the American people. We have achieved an historic balanced budget agreement. At the same time, we have put in place trade agreements that have lowered barriers to American products and services around the world.

Our companies, farms, and working people have responded. Our economy has produced more jobs, more growth, and greater economic stability than at any time in decades. It has also generated more exports than ever before. Indeed, America's remarkable economic performance over the past 5 years has been fueled in significant part by the strength of our dynamic export sector. Fully 96 percent of the world's consumers live outside the United States. Many of our greatest economic opportunities today lie beyond our borders. The future promises still greater opportunities.

Many foreign markets, especially in the developing world, are growing at tremendous rates. Latin American and Asian economies, for example, are expected to expand at three times the rate of the U.S. economy over the coming years. Consumers and industries in these countries prize American goods, farm products, services, and the many expressions of American inventiveness and culture. While America is the world's greatest exporting nation, we need to do more if we want to continue to expand our own economy and produce good, high-wage jobs.

We have made real progress in breaking down barriers to American products around the world. But many of the nations with the highest growth rates almost invariably impose far higher trade barriers than we do. We need to level the playing field with those countries. They are the nations whose markets hold the greatest potential for American workers, firms, and agricultural producers.

Today, the United States is the world's strongest competitor. The strength of the U.S. economy over the past several years is testimony to the creativity, productivity, and ingenuity of

American firms and workers. We cannot afford to squander our great advantages by retreating to the sidelines and watching other countries conclude preferential trade deals that shut out our goods and services. Over 20 such agreements have been concluded in Latin America and Asia alone since 1992. The United States must continue to shape and direct world trading rules that are in America's interest and that foster democracy and stability around the globe.

I have pledged my Administration to this task, but I cannot fully succeed without the Congress at my side. We must work in partnership, together with the American people, in securing our country's future. The United States must be united when we sit down at the negotiating table. Our trading partners will only negotiate with one America -- not first with an American President and next with an American Congress.

The proposal I am sending you today ensures that the Congress will be a full partner in setting negotiating objectives, establishing trade priorities, and in gaining the greatest possible benefits through our trade agreements. The proposal expands upon previous fast-track legislation to ensure that the Congress is fully apprised and actively consulted throughout the negotiating process. I am convinced that this collaboration will strengthen both America's effectiveness and leverage at the bargaining table.

Widening the scope of consultations will also help ensure that we will take all of America's vital interests into account. That is particularly important because today our trade agreements address a wider range of activities than they once did. As we move forward with our trade agenda, we must continue to honor and reinforce the other values that make America an example for the world. I count chief among these values America's longstanding concern for the rights of workers and for protection of the environment. The proposal I am transmitting to you recognizes the importance of those concerns. It makes clear that the agreements we conclude should complement and reinforce those values.

Ever since President Franklin Roosevelt proposed and the Congress enacted America's first reciprocal trade act in the depths of the Great Depression, the Congress and the President have been united, on a bipartisan basis, in supporting a fair and open trading system. Our predecessors learned from direct experience the path to America's prosperity. We owe much of our own prosperity to their wisdom. I urge the Congress to renew our longstanding partnership by approving the proposal I have transmitted today.

WILLIAM J. CLINTON

THE WHITE HOUSE
September 16, 1997

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release September 16, 1997

FACT SHEET

The Export Expansion and Reciprocal Trade Agreements Act of 1997

Today, President Clinton transmitted to the Congress the "Export Expansion and Reciprocal Trade Agreements Act of 1997." This proposal is designed to renew "fast-track" procedures for trade agreements requiring congressional approval and implementation as well as to renew the President',s authority to proclaim tariff reductions in return for tariff reduction commitments by U.S. trading partners.

Background

The proposal reactivates a partnership between the President and the Congress that dates back over 6 decades. Recognizing that the high protective U.S. tariff walls it established in 1930 had only served to deepen the Depression, the Congress 4 years later enacted the first reciprocal trade agreements act. In that act, the Congress gave the President authority to negotiate mutual tariff reductions with our trading partners. The Congress renewed that authority repeatedly over the years, and successive Presidents used the authority to dramatically reduce tariff barriers around the world.

"Fast track," first put in place under the Ford Administration, is a further expression of the partnership between the President and the Congress in bringing down barriers to U.S. exports. Under fast track the Congress and the President work together, ensuring that the United States can effectively negotiate away foreign tariff barriers to U.S. products as well as non-tariff barriers -- such as quotas, protectionist product standards, and subsidies -- which foreign governments have increasingly substituted for tariffs to exclude U.S. products. Fast track lapsed along with most of the President's tariff reduction authority 3 years ago.

The President's Proposal

The President's proposed legislation serves to reunite the Congress and the President in trade negotiations. The President',s proposal ensures that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation subject to fast-track procedures. Because the Congress and the President are united under the proposal, it tells U.S. trading partners that the United States speaks at the bargaining table with one voice and that the Congress will not seek to reopen trade agreements after they are negotiated.

The proposal also renews the President's longstanding tariff- cutting authority. The proposal adds a provision that will allow the President to implement new tariff harmonization or elimination agreements on a sectoral or regional basis, consistent with World Trade Organization rules.

The proposal calls for the President's tariff reduction authority and the new fast-track procedures to remain in effect until October 1, 2001. The President may request an extension of his tariff-cutting authority and "fast-track" procedures through September 30, 2005, subject to disapproval by either House of the Congress.

A summary of the key provisions of the proposal follows.

Negotiating Objectives

The proposal sets out "overall" and "principal" trade negotiating objectives for the President. The objectives call on U.S. negotiators to seek, for example:

-- To reduce trade barriers and trade distortions that limit market opportunities for U.S. exports, including those aspects of foreign government policies and practices directly related to trade.

-- To reduce foreign government barriers that discriminate or impose unreasonable regulatory barriers on U.S. service providers.

-- To reduce artificial or trade-distorting barriers to U.S. foreign investment.

-- To obtain adequate and effective protection for U.S. intellectual property rights and increased access to foreign markets for U.S. businesses that rely on intellectual property.

-- To make the proceedings of international trade bodies more open to public view.

-- To secure fairer and more open trading conditions for U.S. agricultural products.

-- To promote through the World Trade Organization internationally recognized worker rights and sustainable development.

Trade Agreements Covered by the President's Proposal

The President may negotiate and bring back to the Congress for fast-track congressional approval and implementation trade agreements addressing tariff barriers, nontariff barriers, or both.

-- Thus, fast track could be used to carry out agreements concluded under the trade negotiating agenda set out in the congressionally approved agreements administered by the World Trade Organization -- for example, to further reduce tariff and nontariff barriers to agricultural trade.

-- The President could use his renewed "proclamation authority" to carry out a sectoral agreement, similar to the recent "Information Technology Agreement", which is reducing tariffs that foreign governments impose on billions of dollars of U.S. computer, electronic, and semiconductor products sold around the world.

-- Finally, fast track could be used for bilateral or regional free-trade arrangements.

Making the Congress a Partner in Trade Negotiations

In order for an implementing bill to qualify for fast-track procedures, the President must comply with numerous notice and consultation provisions designed to ensure that the Congress is a full partner with the President in critical trade negotiations. These provisions enable the Congress to set priorities, provide advice, and exercise oversight at all stages of the negotiations and after the agreement is concluded. That ensures that congressional views will be fully reflected both in the final agreement and in the manner in which the agreement is carried out. Moreover, if the Congress concludes that the President has not adequately consulted the Congress regarding a proposed agreement, the proposal creates an expedited procedure for the Congress to refuse to apply fast-track procedures.

-- The President must provide written notice to the Congress before initiating negotiations and must spell out in writing his principal objectives for the negotiations.

-- The President must consult with the Congress as negotiations progress and again before an agreement is concluded. To enhance these consultations, the proposal calls on U.S. negotiators to keep official congressional advisors fully informed regarding the negotiations.

-- Before signing an agreement, the President must inform the Congress of any other agreements he has concluded or intends to conclude with the country or countries concerned. He must also state his plans for implementing the trade agreement and whether the agreement will require additional legislation beyond that subject to fast-track procedures.

-- The proposal requires the President to describe at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and administrative authority to carry out the agreement. He must also explain in writing how the agreement meets congressionally mandated negotiating objectives and serves U.S. economic interests.

-- Under well-established practice, the President collaborates with the Congress in drafting the implementing legislation and the legislation is subject to informal public hearings and "mark-ups" by all congressional committees of jurisdiction before its introduction.

Enhancing the Role of the Public and the Private Sector

The proposal adds to existing law by ensuring that the public is fully informed of the negotiations and that the President receives advice from both the private sector and the public concerning the negotiations.

-- The President must solicit views from the public, and the United States International Trade Commission, regarding any proposal to change U.S. tariffs. In addition, under the proposal, the President must notify the public of any agreement in advance of signing it.

-- The proposal adds to the existing requirement that the President must seek the views of congressionally authorized private sector advisory committees during the course of the negotiations. These groups include advisory committees on goods, services, agriculture, intellectual property, labor, U.S. foreign investment, intergovernmental affairs, and the environment. The proposal ensures that these committees will also examine and provide their views to the Congress and the President on any proposed agreement -- before it is signed.

Fast-Track Procedures

Provided the President observes each of the proposal's notice, consultation, and other procedures in connection with the negotiation of a trade agreement, the agreement and its implementing legislation are subject to fast-track consideration in the Congress. Fast-track rules call for the Congress to vote on qualifying trade agreements and implementing legislation without amendment within 60 "legislative days" -- typically a period of several months or more.

Under the President's proposal, new statutory provisions or other changes in U.S. law required to carry out a trade agreement may be included in fast-track implementing legislation only if the changes are both: (1) necessary or appropriate to implement the agreement; and (2) related to trade. These requirements prevent fast-track bills from being used to enact non-trade provisions.

Tariff-Cutting Authority

Under the renewed "proclamation authority," the President would be authorized to carry out agreements that reduce by up to 50 percent U.S. tariffs that currently exceed 5 percent ad valorem. The President would be able to eliminate duties of 5 percent or less. The proposal adds a provision that will allow the President to implement new tariff harmonization or elimination agreements on a sectoral or regional basis, consistent with World Trade Organization rules.

# # #

Section-by-Section Analysis

Section 1. Short Title.

Section 2. Negotiating Objectives.

Section 2 of the proposal sets out the "overall" and "principal" objectives that will guide the President in negotiating future trade agreements covered by the proposal. This format parallels that of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, which in turn was based on a similar structure in the Trade Act of 1974. These objectives address, among other subjects, trade barriers and distortions, including these aspects of foreign government policies and practices directly related to trade; trade in services; U.S. foreign investment; intellectual property; transparency; agriculture; and the protection of worker rights and the environment through specified multilateral institutions.

Section 2(c) calls on U.S. negotiators to take important domestic policy objectives, such as the protection of human health and the environment and national security, into account when negotiating fast-track trade agreements. Negotiators are also instructed to ensure that the United States will retain the ability to vigorously enforce U.S. trade laws. In addition to the other Congressional consultation requirements set out in the proposal, section 2(c) instructs U.S. negotiators to ensure that designated congressional advisors are kept fully informed during the course of trade negotiations.

Section 3. Proclamation Authority and Fast-Track Implementing Proposals.

Section 3(a) provides the President with authority to reduce U.S. tariff rates under specified circumstances -- without seeking further approval from the Congress -- in return for concessions from U.S. trading partners. Much of the language on this subject is derived from earlier versions of tariff proclamation authority, with antecedents dating back to the mid-1930s. The proposal adds a provision that will allow the President to implement reciprocal, tariff harmonization or elimination agreements on a sectoral or regional basis, consistent with World Trade Organization rules.

Section 3(b) provides that the President may negotiate and bring back to the Congress for approval and implementation under the fast-track procedures set out in section 151 of the Trade Act of 1974 certain trade agreements addressing tariff barriers, non-tariff barriers, or both. Those procedures call for the Congress

to vote on agreements and their implementing legislation without amendment and within a fixed time period. Changes in U.S. law required to carry out a trade agreement may be included in fast-track implementing legislation only if the changes are both necessary or appropriate to implement the agreement and are related to trade. For an implementing bill to be subject to fast-track Congressional review, the President must adhere to numerous notice and consultation requirements included in the proposal.

Under the proposal, the President's tariff proclamation authority, as well as fast-track procedures for implementing legislation, will be in effect until October 1, 2001. On request from the President, proclamation authority and fast-track procedures may be extended through September 30, 2005, subject to disapproval by either House of Congress.

Sections 4 and 5. Notice, Consultations, and Implementation.

Sections 4 and 5 contain a number of provisions requiring the President to notify and consult with the Congress before and during trade negotiations. These provisions ensure that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation. Section 5 establishes an expedited procedure for Congress to withdraw fast track if it finds that the Administration is not adequately consulting the Congress on trade negotiations.

Certain of the notice and consultation requirements included in sections 4 and 5 are drawn from equivalent provisions in the Omnibus Trade and Competitiveness Act of 1988. For example, the President must provide advance notice to the Congress before initiating a negotiation and must consult with the Congress before an agreement is concluded. The President must also describe in detail at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and administrative authority to carry out the agreement.

In addition, the proposal provides for Congress and the President to receive advice from the relevant private sector advisory committees concerning any agreement that the President has negotiated -- before it is signed. The advisory committees cover a broad range of sectors and policy matters, including manufactured goods, agricultural commodities, services, intellectual property, foreign investment, labor, and the environment. Under existing law, the President must also consult with these committees regarding his objectives and bargaining

positions in the negotiations. In addition, the President must solicit advice from the United States International Trade Commission, as well as views from the public, in connection with an agreement that would change U.S. tariff levels.

The proposal adds new consultation requirements to further enhance Congressional oversight of the negotiation process for fast-track trade agreements. For example, the President must spell out for the Congress before negotiations begin his specific negotiating objectives and is required to consult with the Congress over the course of the negotiations. The President also must inform the Congress of any other agreements -- in addition to the trade agreement -- he intends to conclude. The President must also state whether the trade agreement will need to be implemented in part by legislation that is not subject to fast-track procedures.

Section 6. On-going Negotiations.

The proposal waives the requirement for the President to provide advance notification to the Congress of certain negotiations initiated prior to enactment of the proposal. These include negotiations commenced in 1995 with the Government of Chile on a comprehensive trade agreement and certain negotiations under the World Trade Organization that are currently underway or that may be initiated before the President's proposal is enacted. The requirement for the President to provide notice to, and consult with, the Congress over the course of the negotiations will continue to apply to these negotiations.

Section 7. Conforming Amendments.

The proposal makes changes to other statutes necessary to ensure that earlier provisions of law applicable to fast track-trade agreements continue to apply. For example, these amendments ensure that the public and private sector views are solicited regarding any trade negotiations initiated under the proposal.

Clinton Presidential Records
Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **3**

People's Republic of China
Issues Summary

U.S. Exports (1996): $12.0 billion
U.S. Imports (1996): $51.5 billion
U.S. Stock of Direct Investment (1995): $2.0 billion
Real GDP Growth Rate (1996): 9.7%

General China is the world's tenth largest trading nation and the United State's fifth largest trading partner. Although U.S. exports to China have nearly quadrupled in the last decade, China's wide array of barriers to trade and shifts in our imports from other Asian nations have resulted in a trade deficit with China of over $39.5 billion, an increase of more than $5.7 billion from 1995. As our trade with China increases and China's economy expands, resolving our trade imbalance has become a major focus of our bilateral and multilateral negotiations with China.

WTO Negotiating the terms of China's accession to the World Trade Organization (WTO) is a major part of our effort to open China's market to U.S. goods and services and bring China into conformity with international trade rules. While negotiations for China's accession have been underway for nearly a decade, the U.S. has responded to renewed Chinese enthusiasm (signaled last fall) by entering into intensive rounds of bilateral and multilateral accession discussions.

WTO negotiations have focused on two main areas. First, members of the Working Party negotiate multilaterally to commit China to conform its current trade laws and practices to WTO principles and obligations, such as those governing national treatment, non-discrimination, transparency, balance-of payments, safeguards, subsidies, standards, customs valuation, state-trading and price controls. China's terms of accession are set forth in legally-binding documents called the protocol of accession and the working party report. After the Working Party reaches a consensus on the draft documents, they are transmitted to the General Council which must approve China's accession by a two-thirds vote of all WTO members. Recently, China agreed with Working Party members on resolution of some key protocol issues, including trading rights (the right of foreigners to import and export), nondiscrimination, uniformity of trade rules, the right of judicial appeal of administrative decisions related to trade, and the application of the Trade-Related Intellectual Property Rights (TRIPS) Agreement. Except for trading rights, which will be phased in progressively over a period of three years after accession, these commitments will take effect upon accession.

Under the second portion of the negotiations, members of the Working Party negotiate bilaterally to obtain market access commitments on tariff rates and elimination of non-tariff measures (such as quotas, tendering and licensing), and progressive liberalization for services (e.g. distribution, insurance, etc.) These commitments are reflected in schedules which will be applied on an MFN basis and will be part of the WTO Agreement for China. Acknowledging that some progress has been made on protocol issues, the United States and other delegations are seeking a comprehensive market access offer including an offer on services and complete and significant offers on tariffs and non-tariff measures.

Negotiators met most recently September 15-17 in Beijing to discuss market access issues including tariffs, non-tariff measures and services. Improvements were minor. As of yet, no new date has been set for further negotiations.

As always, the pace of China's accession will depend upon its willingness to undertake substantial reform of its trade regime. The United States will continue to work with China and other Working Party Members to negotiate a commercially meaningful package that provides effective market opening upon accession, future liberalization and a means to achieve a balance that is lacking in our trade relationship.

1992 Market Access MOU The United States and China signed a bilateral agreement on Market Access for Goods on October 10, 1992. This Agreement committed China to fundamental changes in its import regime over a five-year period, including increased transparency, elimination of many quotas and licenses, elimination of import substitution policies and measures, uniform application of trade rules, a guarantee that no trade law or regulation be enforced unless published, and adoption of sanitary and phytosanitary standards based on sound science. Since the Market Access MOU, China has taken important steps forward to open its markets to U.S. companies, such as eliminating import restrictions on more than 1000 tariff lines and lowering tariffs for some items and by opening its markets to many products, including computers, heavy machinery, pharmaceutical products and several agricultural commodities previously banned (see below). Since the signing of the MOU, U.S. exports to China have nearly doubled.

However, despite steps to implement the MOU, several areas still lack substantive progress. For example, China has promulgated a series of regulations and directives-- including registration requirements for electronic and machinery products, the auto industrial policy, and requirements for the procurement of medical equipment-- that feature a general policy of import substitution and are thus inconsistent with the MOU. In addition, while China has made advances in publishing trade-related laws and regulations, concern persists in this crucial area. Other outstanding MOU commitments fall in the category of agriculture, detailed below.

China is aware that its record in implementing the MOU will go far in demonstrating its ability to function as a full member of the WTO. As such, we expect marked progress on resolving outstanding MOU issues in the coming months, both in bilateral negotiations and concessions made in connection with China's WTO bid.

Agriculture The United States is aggressively pressing China to make more progress on its agricultural commitments under the 1992 MOU. Under the MOU, China agreed to improve access by removing scientifically unjustifiable sanitary and phytosanitary import restrictions.

- China has thus far opened up its market to U.S. live cattle; bovine embryos; cherries from Washington; apples from Washington; and most recently grapes from California.

- China continues to block U.S. exports of wheat from the Pacific Northwest, plums and tobacco on questionable scientific grounds. We are urging the Chinese to eliminate these

barriers.

- On citrus, China has also failed to provide market access because of continued phytosanitary restrictions. USTR has raised this issue repeatedly for over five years, most recently by USTR officials in Beijing during the week of September 15. Future meetings are planned for October.

As noted above, providing access for U.S. agriculture is an integral part of China's WTO accession negotiations. China's accession would improve market access for U.S. agriculture on a number of fronts by bringing China's import/export regime in line with WTO rules (particularly operation of its state trading enterprises which now control imports of wheat, corn, rice, vegetable oil, tobacco and cotton), reducing tariffs and committing to limits on trade-distorting domestic and export subsidies, and ensuring that China does business in an open and fair manner according to WTO standards.

IPR China has put in place a functioning system, based on the 1995 and 1996 agreements, to protect intellectual property. Each province now has an IPR Conference Committee that coordinates the activities of all agencies involved in IPR enforcement. Further, virtually all commercially developed cities have IPR committees and IPR strike force made up of police and other agencies. Enforcement of intellectual property rights has become part of China's nationwide anti-crime campaign; the Chinese police and court system have become actively involved in combating IPR piracy. Having said this, however, enforcement still remains uneven.

Recent industry estimates of software end-use piracy by official ministries run from 90 to 98 percent. Piracy rates of entertainment software (game CDs) are also extremely high. USTR, with input from other U.S. government agencies and the IP industry, has engaged the Chinese at numerous levels to stress our serious concern over end-user piracy. The U.S. Information Technology Office in Beijing in April 1997 begun to provide title verification services on behalf of the software industry in the PRC.

Although the Chinese committed to promulgate numerous regulations in the 1995 agreement, a number of trademark regulations on well-known marks and the administration of trademark registration are lacking in substance or are yet to be published. The United States has pressed the Chinese to amend existing regulations in conform with Bern Convention and WTO TRIPs provisions (which China committed to comply with upon accession to the WTO). Further, trademark violations involving U.S. companies appear to have increased in recent months.

On the positive side, Chinese authorities have shut down 42 CD/CD-ROM production lines (with the Chinese central government tally reflecting 39 of the 42). Nevertheless, the industry recently estimated that 30 illegal production lines are still producing along with 21 legal registered factories (predominantly CDROMS and VCDs. Plans to combine equipment from some of the shuttered plants with existing registered plants are being drawn up to create large-scale production consortia (mostly state-invested).

Some headway has been made on market access for IPR industries. For example, access for foreign sound recordings, stagnant at [the then applied quota level of] 120 three years ago,

reached approximately 1000 titles in 1996. More important from the industry's perspective, elimination of quotas should pave the way for Chinese record companies to sign exclusive licensing arrangements and capitalize on the companies' entire catalogues. Given that our IPR industries are among the most competitive in the world, we will continue to push for further market access openings in this important area.

Despite marked progress, IPR enforcement since signature of the June accord remains a serious concern for U.S. industry in China and elsewhere in Asia. Rampant software end-user piracy in government facilities is especially problematic. In an effort to keep up the pressure on China to expand its IPR enforcement regime and abide by the terms of our agreements, a USTR-led IPR delegation will raise software and end-user piracy concerns and continue discussions on trademarks the week of September 22.

Pharmaceuticals China is a major emerging market for U.S. pharmaceuticals. In the last decade, 12 U.S. pharmaceutical companies have established operations in China, accounting for approximately 14% of China's $6.1 billion drug market. Currently the pharmaceutical industry faces a number of barriers to market access in China. The industry is particularly concerned about China's failure to grant exclusive marketing rights (administrative protection) for some products. In addition, the Chinese State Planning Commission proposed a comprehensive new system of price controls in 1996 that appear to discriminate against imported pharmaceuticals and violate several WTO rules governing issues ranging from import substitution and subsidies to national treatment and transparency. USTR will continue to work closely with the industry to address these issues bilaterally and in the context of WTO accession negotiations.

Xinhua On April 16, 1996, reports surfaced that China planned to issue regulations giving the Xinhua state news agency regulatory control over foreign companies engaged in the financial information business in China. Under these regulations, Xinhua would gain access to U.S. business and technical knowledge, as well as control over market access and product price statistics

Industry complained that the April 16 regulations created a blatant conflict of interest since Xinhua would function as both a competitor and regulator. As a regulator, Xinhua would control customers, control contracts, and regulate prices. As a competitor Xinhua could use this information to damage or destroy this industry's business in China and elsewhere.

After withdrawing the regulations last winter amidst foreign opposition, China has again indicated plans to require U.S. financial information service providers to abide by April 16 regulations. This action, if undertaken, would be unacceptable and in violation of China's standstill commitment in its accession negotiations (a pledge to implement no WTO-inconsistent regulations during the course of the negotiations.)

USTR responded by coordinating with the Embassy in Beijing and industry representatives in China and Washington. On June 20, the U.S. Embassy sent a letter summarizing oral commitments from Xinhua that would resolve the issue. On July 18, in a meeting with Xinhua in Beijing, USTR negotiators urged settlement of this issue as soon as possible. During this meeting, Xinhua officials agreed with USTR to negotiate a response to the Embassy letter. Negotiations to resolve this issue continue. USTR negotiators discussed the topic with Chinese

counterparts in Beijing the week of September 15.

Insurance Foreign insurers access to the Chinese market is severely restricted. In principle, foreign companies must first establish a representative office for two years before they may apply for a license. If a license is obtained; numerous non-prudential restrictions apply, including restrictions on form of investment, scope of business lines, and geographic location. In practice, the U.S. insurance company AIG is one of only three foreign insurance companies operating in China as a wholly-owned subsidiary. Approximately 160 foreign representative offices have been established-- most for far longer than two years. Of these, none has been awarded a license. Representative offices are not permitted to operate as "profit-making enterprises," but are strongly encouraged to provide training, free trips abroad, and other "good will" gestures to curry favor with Chinese officials. Indeed, companies are required to report on these activities at least once a year to the People's Bank of China, the authorizing agency to which they must apply for licensing.

Consequently, competition among U.S. firms for obtaining licences is fierce. Aetna, Cigna, Lincoln National, John Hancock and others have requested U.S. government assistance in opening up the Chinese market in the WTO GATS accession negotiations; most recently, Aetna requested USTR and others to raise the matter with Chinese Chief Negotiator Long during his June visit to Washington. On June 16, Ambassador Barshefsky brought up the issue in discussions with MOFTEC Vice Minister Long Yongtu. USTR negotiators raised the issue again with Long Geneva on July 27 and in Beijing in mid-September and will continue to press for the formal announcement of insurance license approval at every available opportunity.

Note: this document is not intended to reflect a complete listing of all trade issues between the United States and China.

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Divider Title: **4**

RESULTS OF THIRD FTAA TRADE MINISTERIAL MEETING
BELO HORIZONTE, BRAZIL
MAY 16, 1997

The USG welcomes the concrete and clear recommendations agreed to by the Western Hemisphere Trade Ministers in their meeting in Belo Horizonte, Brazil, on May 16.

The Ministers agreed:

- o They WILL recommend that our leaders initiate negotiations of the Free Trade Area of the Americas (FTAA) at the Second Summit of the Americas to be held in Santiago, Chile in March 1998;

- o They WILL decide on objectives, approaches, structure and venue of the negotiations at the next FTAA Trade Ministers meeting in San Jose, Costa Rica, in February 1998.

- o They WILL determine how to reconfigure the Working Groups into negotiating groups;

- o They ESTABLISHED a Preparatory Committee (PrepCom) of the 34 Vice Ministers to make recommendations on how the negotiations will proceed--including objectives, approaches, structure and venue--for decision by the ministers at the San Jose meeting;

- o They instructed the Working Groups to recommend to the PrepCom technical alternatives on possible issues and negotiating approaches in their respective disciplines by October;

- o They will proceed on the basis of consensus in pursuit of a comprehensive single agreement, consistent with WTO Agreements, for conclusion by 2005, at the latest;

- o They requested the Tripartite Committee (composed of the Inter-American Development Bank, the Organization of American States and the Economic Commission on Latin America and the Caribbean) conduct a feasibility study on a temporary FTAA administrative secretariat which would support the FTAA negotiations--looking at alternative sites in the hemisphere and toward minimizing costs and bureaucracy;

- o They will make the FTAA process transparent by including input from all stakeholders in our civil societies, including labor and other groups;

- o They will continue to consider the environment and its relation to trade.

- o They created a new Working Group on Dispute Settlement, to be chaired by Uruguay;

The Ministers' Declaration presents a clear work plan for the Working Groups, PrepCom and Ministers in the coming year that will enable our Leaders to fulfill the promise of Miami at their Second Summit in Santiago.

We recognize that during the course of the negotiations, as in any, certain issues will be resolved quickly and others will take more time; nevertheless, we believe that initiation of all negotiations together in March 1998 will send an important signal to the world of our seriousness in meeting our deadline of concluding the FTAA negotiations by 2005, at the latest.

It was clear at the Belo Horizonte Ministerial that nearly all countries agree with this approach, rather than a staged approach to negotiations.

We recognize that bilateral and sub-regional agreements may coexist with the FTAA to the extent that the go deeper than the FTAA (e.g., a common external tariff, as in MERCOSUR) or cover areas not included in the FTAA (e.g. a monetary union).

The FTAA will promote hemispheric integration by providing comprehensive, unified trade disciplines throughout the hemisphere.

We recognize the wide differences in the level of development and size of economies in our hemisphere and will strive to give special attention to ensure full participation of the smaller economies in the FTAA process.

FINAL

Summit of the Americas

III Trade Ministerial Meeting

Belo Horizonte, Minas Gerais, Brazil

16 May 1997

JOINT MINISTERIAL DECLARATION OF BELO HORIZONTE

INTRODUCTION

1. We, the Ministers responsible for Trade, representing the 34 countries that participated in the Summit of the Americas in December 1994, met in Belo Horizonte for the Third Trade Ministerial Meeting, in pursuance of the mandate issued by our Heads of State and Government during the Summit of the Americas, held in Miami. We reviewed the results of the work program to which we unanimously agreed at our previous Ministerial Meetings in Denver and Cartagena, to prepare for negotiations on the Free Trade Area of the Americas (FTAA). We reiterate our commitment to conclude negotiations no later than 2005, and to make concrete progress towards the attainment of this objective by the end of this century .

2. We also reviewed the substantial progress that has been achieved in trade liberalization in the hemisphere since the Miami Summit of the Americas. We note that such progress is being reflected in the increasing widening and deepening of existing sub-regional and bilateral agreements; the implementation of our countries' obligations under the Uruguay Round; the negotiation of new bilateral and sub-regional free trade agreements in the hemisphere; the participation of some Western Hemisphere countries in the negotiation of sectoral trade liberalization agreements in the World Trade Organization

(WTO); and the autonomous trade liberalization measures adopted by individual countries. We reiterate our commitment to ensure that all our efforts to promote free trade in the hemisphere shall be consistent with our obligations in the WTO, in particular with Article XXIV of GATT 1994 and its Uruguay Round Understanding and Article V of the GATS. We also reiterate the principle previously adopted that the construction of the FTAA will not raise barriers to other countries. We will avoid adopting, to the greatest extent possible, policies that adversely affect trade in the hemisphere.

3. At the Second Summit of the Americas, to be held in Santiago, Chile, in March 1998, our Heads of State and Government will have the opportunity to review the implementation of the broad social and economic agenda contained in the Miami Declaration of Principles and Plan of Action, aiming at the prosperity of our peoples. We are aware that the FTAA should be negotiated taking into account those broad objectives. To this end, we recognize the wide differences in the level of development and size of economies existing in our hemisphere and we will remain cognizant of these differences as we work toward building the FTAA.

4. We reviewed the work undertaken by the Vice Ministers regarding the various approaches for the construction of the FTAA, building upon the existing sub-regional and bilateral agreements. We agree that the FTAA negotiations should be initiated at Santiago, in March 1998, and we will recommend to our Leaders that they do so at that time. To this end, at the Fourth Ministerial Meeting in San Jose, Costa Rica, in February 1998, we will formulate how the negotiations will proceed, including such features as their objectives, approaches, structure and venue. We instruct our Vice Ministers to maintain the practice of holding three meetings before the next Trade Ministerial Meeting and to make recommendations to us on those issues for our decision at the San Jose meeting.

AREAS OF COMMONALITY AND REMAINING ISSUES

5. Vice Ministers had, at our request, extensive discussions on the scope and timing of the negotiations. We welcome the specific proposals tabled by delegations and, after comprehensive discussions, we agree that there is a significant measure of convergence on key principles and issues:

a) Consensus constitutes the fundamental principle of decision making in the FTAA process, which seeks to preserve and promote the essential interests of our 34 countries in a balanced and comprehensive manner;

b) The outcome of the negotiations of the Free Trade Area of the Americas will constitute a comprehensive single undertaking which embodies the rights and obligations mutually agreed upon. The FTAA can co-exist with bilateral and sub-regional agreements, to the extent that the rights and obligations under these agreements are not covered by or go beyond the rights and obligations of the FTAA;

c) The FTAA will be consistent with the WTO agreements;

d) Countries may negotiate and join the FTAA individually or as members of a sub-regional integration group negotiating as a unit;

e) Special attention should be given to the needs, economic conditions and opportunities of the smaller economies to ensure their full participation in the FTAA process;

f) The need for establishing a temporary administrative Secretariat to support the negotiations;

g) The year 2005 as the date for concluding negotiations, at the latest;

6. We hereby establish a Preparatory Committee consisting of the 34 Vice Ministers responsible for trade. We instruct them to intensify their efforts to build consensus and to complete recommendations on the remaining issues which they will submit for our

decision at the San Jose meeting. We further instruct Vice Ministers to continue to direct, evaluate and coordinate the work of all Working Groups.

WORKING GROUPS

7. We thank the Chairpersons of the Working Groups for the work they have completed thus far. We direct our Vice Ministers at their next meeting to review the reports of the Working Groups and approve as appropriate their recommendations, work programs, areas for immediate attention and business facilitation measures. We also took note of the documents listed in Annex I which have been proposed by the Working Groups and approved by Vice Ministers for publication as official documents of the FTAA; as such, they are already available for the public and constitute a concrete result of the ongoing preparatory work for the FTAA negotiations. We instruct the Working Groups to continue their tasks according to their agreed terms of reference. We further instruct them to submit to Vice Ministers at the second meeting under Costa Rica's Chairmanship different technical alternatives on possible issues and negotiating approaches in their respective disciplines which should be considered by Vice Ministers as they prepare recommendations for our decision at the San Jose meeting.

8. In accordance with our agreement at Cartagena, we have set up the Working Group on Dispute Settlement, whose terms of reference are to be found in Annex II. The Working Group shall take into account the compilation of information prepared by the OAS, as requested at Cartagena, on the existing mechanisms for dispute settlement in the sub-regional and bilateral agreements in the hemisphere.

9. We approved the list of countries that will chair the twelve Working Groups, until our next meeting in Costa Rica (Annex III). They shall be responsible for the coordination and programming of the Working Groups' meetings, in consultation with the

representatives of participating countries, and ensure fulfillment of their respective terms of reference. We remind the Chairpersons of the Working Groups that consensus remains the operating principle of the FTAA process. After diligent efforts have been made to reach agreement on controversial issues, different positions should be remitted to Vice Ministers for their decision.

10. We are in receipt of the report of the Working Group on Smaller Economies and have taken note of the range of factors identified which could constrain the effective participation of the smaller economies in the FTAA. We have studied the recommended measures to facilitate their integration into the FTAA, including the need for appropriate internal policies, technical assistance and cooperation in order to facilitate the effective participation of these economies in the FTAA process. We encourage the Working Group on Smaller Economies to advance its ongoing work and urge it to make specific suggestions to the Vice Ministers as to measures that would allow their effective participation in the FTAA process. We call upon other Working Groups to take into account, in their deliberations, the findings and recommendations of the Working Group on Smaller Economies in order to realize the opportunities of those economies in the FTAA and to increase their level of development.

11. We ask Vice Ministers to recommend to us, by our next meeting, how the Working Groups could be reconfigured into negotiating groups, taking into account the need for efficiency and the complementarity of subject matters.

OTHER REPORTS AND CONTRIBUTIONS TO ECONOMIC INTEGRATION

12. We acknowledge and appreciate the technical and logistical support provided to the Working Groups by the Tripartite Committee, as well as the contribution received from regional, sub-regional and multilateral organizations. We request that the Tripartite

Committee continue to provide analytical support, technical assistance and related studies, as requested by the respective Working Groups. We also request the member institutions of the Tripartite Committee to provide assistance to individual member countries, on request, in accordance with the procedures of the respective institutions. We encourage further contributions in support of those tasks, within their areas of expertise, from relevant regional, sub-regional and multilateral institutions as may be requested by the Working Groups.

13. Moreover, we agreed to ask the Tripartite Committee to undertake a feasibility study on alternatives for establishing a temporary administrative secretariat to support the FTAA negotiations, based on the terms of reference in Annex IV, and to report their findings to Vice Ministers in time for them to issue recommendations for our decision at our meeting in Costa Rica.

14. We received with interest the contributions from the III Business Forum of the Americas relating to the preparatory process for the FTAA negotiations, which we consider may be relevant to our future deliberations. We acknowledge and appreciate the importance of the private sector's role and its participation in the FTAA process. We reiterate our commitment to transparency in the FTAA process. In this sense, we consider the inputs from stakeholders of our civil societies to be important to our deliberations, including those from the labor sectors, and we encourage all countries to take them into account through mechanisms of dialogue and consultation.

15. The issue of the environment and its relation to trade has been considered by our Vice Ministers since the Cartagena meeting and is the subject of ongoing discussions within the WTO and within the FTAA process. We will keep this issue under

consideration, in light of further developments in the work of the WTO Committee on Trade and Environment.

16. We take note of the "Declaration of the Tenth Inter-American Conference of Ministers of Labor, Presented at the Meeting of Ministers of Trade, Belo Horizonte (Brazil), May 1997". We reaffirm our commitment to the Miami Declaration and to paragraph 4 of the Singapore Ministerial Declaration of the WTO.

NEXT MINISTERIAL MEETINGS

17. We reiterate our decision, adopted at Cartagena, to hold the Fourth Ministerial Meeting and the Fourth Business Forum in Costa Rica, both of which are to be held in February 1998. We therefore accept with appreciation the offer extended by the government of Costa Rica to organize those two meetings. We request the host country of the 1998 Trade Ministerial Meeting to chair the Vice Ministerial Meetings to be held until then.

18. We wish to express our appreciation to the Government of Brazil for its significant contribution throughout the past year in organizing and chairing the four meetings of Vice Ministers in Florianópolis, Recife, Rio de Janeiro and Belo Horizonte, as well as this Ministerial Meeting, also held in Belo Horizonte.

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16 May 1997

Annex I to the Joint Ministerial Declaration

Official FTAA documents approved for publication

- "Investment Agreements in the Western Hemisphere: a Compendium" and " Inventory on Investment Agreements in the Americas," drawn up by the Working Group on Investments (WG-3);

- "National Practices on Standards, Technical Regulations and Conformity Assessment in the Western Hemisphere", drawn up by the Working Group on Standards and Technical Barriers to Trade (WG-4);

- "Compendium of Antidumping and Countervailing Duty Laws in the Western Hemisphere ", drawn up by the Working Group on Subsidies, Antidumping and Countervailing Duties (WG-6);

- "Government Procurement Rules in Integration Arrangements in the Americas", drawn up by the Working Group on Government Procurement (WG-8) ;

- "Provisions on Trade in Services in Trade and Integration Agreements in the Western Hemisphere" (Spanish version), drawn up by the Working Group on Services (WG-10).

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Annex II to the Joint Ministerial Declaration

Terms of Reference for the Working Group on
Dispute Settlement

1. Compile an inventory of dispute settlement procedures and mechanisms included in agreements, treaties and arrangements of integration existing in the hemisphere and those of the WTO, appending the legal texts.

2. On the basis of this inventory, identify areas of commonality and divergence among dispute settlement systems in the hemisphere, including with respect to the extent to which these systems have been employed.

3. Exchange views, following internal consultations with the private sector, regarding mechanisms to encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes.

4. Recommend methods to promote understanding of the procedures under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

5. In the light of the various subjects to be covered by the FTAA agreement and other relevant factors, exchange views on possible approaches to dispute settlement under the FTAA agreement, in line with the World Trade Organization understanding on Rules and Procedures Governing the Settlement of Disputes.

6. Make specific recommendations on how to proceed in the construction of the FTAA in this area.

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Annex III to the Joint Ministerial Declaration

Chairs of Working Groups

GROUP	COUNTRY
MARKET ACCESS	EL SALVADOR
CUSTOMS PROCEDURES AND RULES OF ORIGIN	BOLIVIA
INVESTMENT	COSTA RICA
STANDARDS AND TECHNICAL BARRIERS TO TRADE	CANADA
SANITARY AND PHYTOSANITARY MEASURES	MEXICO
SUBSIDIES, "ANTIDUMPING" AND COUNTERVAILING DUTIES	ARGENTINA
SMALLER ECONOMIES	JAMAICA
GOVERNMENT PROCUREMENT	UNITED STATES
INTELECTUAL PROPERTY RIGHTS	HONDURAS
SERVICES	CHILE
COMPETITION POLICY	PERU
DISPUTE SETTLEMENT	URUGUAY

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Annex IV to the Joint Ministerial Declaration

Terms of reference for a feasibility study on a FTAA Administrative Secretariat

1. Bearing in mind the need to minimize cost and bureaucracy, the study should identify the type of facilities, the size and capabilities of the staff and the range of costs of a temporary secretariat during the negotiating process. The Secretariat would undertake the following tasks in support of negotiations:

- provide logistical and administrative support for the negotiating groups;
- arrange for translation of documents and interpretation during deliberations;
- maintain official negotiation documents; and
- arrange for document distribution and publication.

2. The study should identify the costs of alternative sites for the Secretariat on the basis of criteria such as the following:

- easy accessibility (e.g. flight connections);
- meeting facilities (e.g. capacity for multiple simultaneous meetings);
- hotel accommodation;
- availability of multilingual workforce; and
- other considerations as appropriate.

The study should also identify the incremental costs associated with the option of locating the negotiations in a site different from the Secretariat, should that be the case.

3. The study should take into account the need to ensure that the provision of support to the negotiating groups is separate from any provision of technical advice to FTAA participants. It should evaluate the relative staffing costs of:

- direct hiring;
- contracting services;
- seconding personnel from the Tripartite Committee; and
- seconding personnel from the FTAA governments.

4. The study should identify the legal requirements for creating the Secretariat.

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List of cities to be considered in the feasibility study to be prepared by the Tripartite Committee as alternative sites for establishing a FTAA temporary administrative Secretariat.

1. Buenos Aires (Argentina)
2. Kingston (Jamaica)
3. Lima (Peru)
4. Mexico City (Mexico)
5. Miami (United States)
6. Panama City (Panama)
7. Rio de Janeiro (Brazil)
8. Santafé de Bogota (Colombia)
9. Washington (United States)

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Divider Title: **5**

APEC'S EARLY VOLUNTARY SECTORAL LIBERALIZATION

We are working to obtain, as a priority for APEC's November Ministerial, a commitment by APEC Leaders to select sectors of their economies in which they will liberalize trade. The United States has nominated the following sectors;

- Chemicals -- Based on expansion of the Chemicals Tariff Harmonization Agreement, the proposal promises early liberalization of the vast global market for chemicals (approaching $2 trillion in shipments), possibly including earlier liberalization in some sectors -- e.g. pharmaceuticals, fertilizer, film.

- Energy-related equipment and services -- This proposal suggests tariff elimination and addresses market access issues, recognizing the importance attributed to this sector by the APEC Energy Working Group.

- Medical equipment and services -- The proposal focuses on tariffs and market access issues in a market which is expanding rapidly in APEC economies, with growth rates of 30% in China and 19% in the rest of Asia.

- Oilseeds and oilseed products -- The proposal would eliminate tariffs and NTM's in this sector. APEC economies are both major producers (providing over 60% of global exports for oilseeds and vegetable oils) and major consumers (importing about 21 million metric tons of oilseeds last year and accounting for 30% of world imports for vegetable oil) of oilseeds and oilseed products.

- Automotive -- The proposed work program on autos would focus initially on trade facilitation issues in a vital sector for APEC economies, e.g. harmonization of standards. APEC supplied 60% of the over $400 billion in exports generated in 1995.

- Mutual Recognition Agreements for telecommunications and information technology equipment -- An MRA for telecommunications and information technology equipment has the potential to facilitate trade in a significant portion of the $741 billion in telecommunications and information equipment goods imported and exported by members of APEC.

- Environmental technology and services -- This broad-ranging proposal offers tariff elimination in one of the fastest growing industry sectors worldwide, with the global market estimated at $420 billion (65% of which is represented by APEC).

- Forest products (wood and paper) -- Tariff elimination in this sector would facilitate trade in the $287 billion dollar forest products market. In 1995, APEC accounted for 43% of world trade in pulp and paper and 67% of world trade in wood and wood products.

Other APEC members have submitted proposals in which the United States has an interest. These proposals include fish and fish products, non-ferrous metals, toys, distilled spirits, beer, civil aircraft, and steel. We are working with other APEC economies to consolidate nominations for which there is significant support in advance of APEC's November Ministerial meeting.

Over sixty sectors have been nominated in total. It is unclear at this time whether sectors other than those noted above will emerge as serious candidates for liberalization. A complete list of the nominations is attached.

ASIA-PACIFIC
ECONOMIC COOPERATION

COOPÉRATION ÉCONOMIQUE
DE L' ASIE-PACIFIQUE

CANADA 1997

97/SOM3/CTI/019
August 25, 1997 13:32

COMMITTEE ON TRADE AND INVESTMENT

VOLUNTARY SECTORAL LIBERALISATION

(REVISION 2)

Senior Officials Meeting
St. John's, August 20-31, 1997

25 August 1997

CTI CONTACTS

APEC: EARLY VOLUNTARY SECTORAL LIBERALISATION

I attach for your information the latest versions of the summary table and worksheet which I have forwarded to you, providing respectively nominations by economy and by sector. These includes details of (a) Australia's comprehensive food proposal; (b) Indonesia's proposals for fish and shrimps, sports footwear, and pulp and paper; and (c) Chinese Taipei's proposal for environmental technology. They also note the first indications of support for proposals which I have received.

Christopher Butler
Chair, APEC Committee on Trade and Investment

APEC VOLUNTARY LIBERALISATION
SUMMARY OF NOMINATIONS BY ECONOMY

As at 25 August 1997

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
Australia	(a) Energy (details to be defined, but comprehensive coverage intended. Tariff work to focus on HS 2612, HS 2701, HS 2709, HS 2711)	Tariffs	Prepare 1998/99, implement 2000/05**	(to be advised)	(to be advised)
		NTMs	1998 decision		
		Facilitation	1997-1999		
		Standards	1998-2000		
	(b) Non-ferrous metals, coverage to include HS 26 (excluding 2601, 2602, 2618 and 2619), HS 74-76, HS 2818, HS 78-81, including primary and secondary production and semi-fabricated products. Details to be defined.	Tariffs	4-years**	(to be advised)	US (1)
		NTMs, export restrictions	To be defined		
	(c) Food (comprehensive proposal)	Facilitation (Standards)	1997 onwards	(to be advised)	(to be advised)
		Ecotech	1997 onwards		
		Tariffs	1998 onwards ***		
		NTMs	1998 onwards		
		Investment	1998-99		
Brunei	(a) Fish and fish products (HS 0301-0307, HS 1604-1605)	Tariffs and NTMs	1998-2003	(to be advised)	US (1)
	(b) (Additional sectors to be advised)	(to be advised)	(to be advised)	(to be advised)	(to be advised)
Canada	(a) Civil aircraft and associated products	Tariffs and charges	1999-2000	(to be advised)	US (1)
	(b) Beer and barley malt (HS 22.03, HS 11.07)	Tariffs (beer)	1998-2002	(to be advised)	US (1)
		Tariffs and NTMs (malt)			
	(c) Brown distilled spirits (HS 2208.20, HS 2208.30, HS 2208.90)	Tariffs	1998-2000	(to be advised)	US (1)
	(d) Environmental goods and services (to be defined)	Definition, TILF, Ecotech	1997-1999	(to be advised)	US (1)
	(e) Fertiliser (HS 25.03, HS 2809.20, HS 2814.10 and HS 31)	Tariffs, standards, regulations	1999-2004	(to be advised)	US (1)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(f) Fish and fish products (HS 03.01-03.07, HS 15.04, HS 16.03-16.05, HS 2301.20)	Tariffs NTMs	1998-2003 1998-2005	(to be advised)	US (1)
	(g) Oilseeds and oilseeds products (HS 12.01, HS 12.03-1206, HS 1207.10, HS 1207.20, HS 1207.30, HS 1207.50, HS 1208.10, HS 1208.90, HS 1507.10, HS 1507.90, HS 1511.10, HS 1511.90, HS 1512.11, HS 1512.19, HS 1512.21, HS 1512.29, HS 1513.11, HS 1513.19, HS 1513.21, HS 1513.29, HS 1514.10, HS 1514.90, HS 1515.11, HS 1515.19, HS 1515.21, HS 1515.29, HS 1516.20, HS 1517.10, HS 1517.90, HS 1518, HS 23.04, HS 2306.10-HS 2306.60, HS 2306.90)	Tariffs and NTMs	1998-2004	(to be advised)	US (1)
	(h) Paper and paper products (HS Chapters 47, 48, 49)	Tariffs	1999-2004	(to be advised)	US (1)
	(i) Wood and wood products (HS Chapter 44)	Tariffs, standards	1999-2004	(to be advised)	US (1)
Chile	-	-	-	-	
China	(a) Toys (HS 95.01. HS 95.02, HS 95.03, HS 95.05)	Tariffs and NTMs	1998-2000/2005*	(to be advised)	US (1)
	(b) Bicycles (HS 8712.0020, HS 8712.0030, HS 8712.0041, HS 8712.0049, HS 8712.0081, HS 8712.0089, HS 8712.0090, HS 8714.9100, HS 8714.9200, HS 8714.9300, HS 8714.9400, HS 8714.9500, HS 8714.9600, HS 8714.9900)	Tariffs and NTMs	1998-2000/2005*	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(c) Accounting services (GATS CPC 862)	Transparency, market access	1998-2000/2003*	(to be advised)	(to be advised)
Hong Kong, China	(a) Toys (HS 9501-9503)	Tariffs	1998-2000**	(to be advised)	US (1)
	(b) All sectors	Nuisance tariffs (applied rate of less than 2%)	1998**	(to be advised)	NZ
Indonesia	(a) Sports Footwear (HS 6402.12, HS 6402.19, HS 6403.12, HS 6403.19.1, HS 6403.19.2, HS 6403.19.9)	Tariffs	By 2004	(to be advised)	(to be advised)
	(b) Fish and Shrimps Frozen (HS 030329, HS 30331, HS 30339, HS 30342-43, HS 30349, HS 30375, HS 30375-76, HS 303791, HS 303799, HS 303801-02, HS 03042, HS 304901, HS 304909, HS 030611-14, HS 0306191, HS 0306199)	Tariffs Facilitation (NTMs, SPS) Ecotech	By 2004 From 1999 To be defined	(to be advised)	US (1)
	(c) Pulp and Paper (HS 4701-4706, HS 4707.10.1, HS 4707.20.1, HS 4707.30.1, HS 4707.90.1, HS 4802.51, HS 4802.52.2, HS 4802.52.9, HS 4802.53, HS 4802.60, HS 4804.31.1, HS 4810.11.2, HS 4810.11.9, HS 4810.12, HS 4810.21, HS 4810.29, HS 4822.10, HS 4823.20.1, HS 4623.40.1, HS 4823.90.8)	Tariffs Facilitation (NTMs)	By 1999 Before 1999	(to be advised)	US (1)
Japan	(a) Investment	Identify free and open investment, undertake transparency exchange	1997-98	(to be advised)	(to be advised)
	(b) Environmental equipment (to be defined)	Tariffs	1998-2000**	(to be advised)	US (1)
	(c) Film (HS 37)	Tariffs	1998-2000**	(to be advised)	(to be advised)
	(d) Rubber and articles thereof (HS 40)	Tariffs	1998-2000**	(to be advised)	(to be advised)
	(e) Transport equipment (HS 86, 87)	Tariffs	1998-2000**	(to be advised)	(to be advised)
	(f) Scientific equipment (HS 9010-9017, HS 9023-9033)	Tariffs	1998-2000**	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(g) Fertiliser (HS 31)	Tariffs	1998-2000**	(to be advised)	US (1)
	(h) Musical instruments (HS 92)	Tariffs	1998-2000**	(to be advised)	(to be advised)
Korea	(a) Government procurement	Non-binding principles	1997-1999	(to be advised)	(to be advised)
	(b) Steel and steel products (HS 7204, HS 7206.10, HS 7207-7229, HS 7301, HS 7302 (excluding 7302.30), HS 7304-7306, HS 7307.22 (limited to stainless steel), HS 7307.92 (limited to steel), HS 7308.10, HS 7308.90, HS 7312-7314, HS 7317)	Tariffs, Ecotech	1998-2003/2008*	(to be advised)	US (1)
	(c) Petrochemicals (HS 2901-2903, HS 3901-3904, HS 2917)	Tariffs	1997-1999***	(to be advised)	US (1)
Malaysia	Oilseeds, vegetable fats and oils, oil cakes (HS Chapters 12, 15 and 23. Specific details to be defined)	Tariffs, NTMs, subsidies	To be defined, following ITA model****	(to be advised)	US (1)
Mexico	(a) Intellectual Property Rights	Enforcement of copyright etc Automation of procedures IPR protection for geographical indications for wines/spirits Well-known mark recognition	Two years Two years One year One year	(to be advised)	(to be advised)
	(b) Competition Policy	Technical assistance	(to be advised)	(to be advised)	(to be advised)
	(c) Government Procurement	Database establishment	Soon as possible	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(d) (Additional sectors to be advised)	(to be advised)	(to be advised)	(to be advised)	(to be advised)
New Zealand	(a) Wood and wood products (HS 4401-4421, HS 4501-4504, HS 4701-4707, HS 4801-4823, HS 4901-4911, HS 9401, HS 9403, HS 9406)	Tariffs, NTMs, subsidies, standards, Ecotech, SPS	1998-2003	(to be advised)	US (1)
	(b) Fish and fish products (HS 0301-0307, HS 0508-0509, HS 0511, HS 1504, HS 1603-1605, HS 2301, HS 2309)	Tariffs, NTMs, services, subsidies, Ecotech SPS	1998-2003 1999-2004	(to be advised)	US (1)
	(c) Fresh and processed fruit, vegetables and nuts (HS 0701-0714, HS 0801-0814, HS 1201-1203, HS 1507-1510, HS 2001-2009, HS 2103, HS 2204)	Tariffs, NTMs Domestic support standstill Subsidies SPS Ecotech	1998-2003 1998 1998-2003 By 2004 To be defined	(to be advised)	(to be advised)
Papua New Guinea	-	-	-	-	-
Philippines	-	-	-	-	-
Singapore	(a) Chemicals (HS 28-39 , except for 2905.43, HS 2905.44, HS 3301, HS 3501-3505, HS 3809.10, HS 3823.60)	Tariffs	1997-2004***	(to be advised)	US (1)
	(b) Consumer electronics (HS 8519, HS 8521, HS 8522, HS 8527, HS 8528, HS 8529, HS 8540)	Tariffs	1997-2000	(to be advised)	(to be advised)
	(c) Precision engineering and machinery (HS 8407-8421, HS 8456-8468, HS 9001- 9015, HS 853590, HS 8477, HS 8480)	Tariffs	1997-2002	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(d) Medical diagnostic and scientific equipment (HS 284440, HS 3507, HS 3822, HS 392350, HS 392690, HS 401511, HS 621010, HS 630790, HS 650610, HS 841920, HS 850590, HS 854380, HS 8713, HS 871420, HS 9018, HS 9019, HS 9022-9028, HS 9030-9032, HS 9402)	Tariffs	1997-2000	(to be advised)	US (2)
Chinese Taipei	Environmental technology and equipment (to include air pollution treatment equipment, wastewater treatment equipment, solid waste equipment, materials handling equipment, noise abatement and control equipment, remediation and hazardous waste equipment)	Tariffs	To be defined	(to be advised)	US (1)
Thailand	(a) Fish and fish products (HS 0302-0305, HS 03079-10011, HS 03079-90019, HS 1604, HS 1605)	NTMs, SPS, standards, Ecotech	(to be advised)	(to be advised)	US (1)
	(b) Canned and processed vegetables and fruit (HS 2001 (except 2001.900-106 and 2001.900-903), HS 2002-2005, HS 0812, HS 0813, HS 2006 (except 2006.000-148), HS 2007, HS 2008 (except 2008.110-004, 2008.190-014, 2008.910-004 and 2008.990-405), and HS 2009)	NTMs, SPS, standards	(to be advised)	(to be advised)	(to be advised)
	(c) Natural and synthetic rubber (HS 4001, HS 4002)	Ecotech	(to be advised)	(to be advised)	(to be advised)
	(d) Energy (HS 27)	Tariffs, NTMs	To be defined	(to be advised)	(to be advised)
	(e) Gems and jewellery (HS 7101-7116)	Tariffs, NTMs	(to be advised)	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(f) Rice and rice products (HS 1006, HS 1102.30, HS 1902.19, HS 1905.10, HS 1905.90)	NTMs	(to be advised)	(to be advised)	(to be advised)
	(g) Medical instruments and apparatus (HS 9018-9022)	R & D cooperation	(to be advised)	(to be advised)	US (1)
United States	(a) Chemicals (HS Chapters 28-39)	Tariffs, NTMs, facilitation, standards, investment	1997-2004***	(to be advised)	(to be advised)
	(b) Medical equipment and services (UR-plus definition)	Tariffs, NTMs, market access, technical assistance	Short term****	(to be advised)	(to be advised)
	(c) Automotive (HS 3819, HS 3820, HS 4009-4013, HS 4016, HS 6813, HS 7007, HS 7009, HS 7318, HS 7320, HS 8301, HS 8302, HS 8407-8409, HS 8413-8415, HS 8421, HS 8425, HS 8431, HS 8482, HS 8483, HS 8501, HS 8507, HS 8511, HS 8512, HS 8519, HS 8525, HS 8707, HS 8708, HS 8716, HS 9029, HS 9104, HS 9401, HS 9403, HS 9802)	Standards, identification of TILF measures, Ecotech	1997 onwards	(to be advised)	(to be advised)
	(d) Oilseeds except peanuts, oilseed meals except peanut meals, vegetable fats and oils except peanut oil and olive oil, lecithin and other phosphomainolipids, and protein isolates (HS 1201, HS 1203-1208, HS 1507, HS 1511-1515, HS 1516.20, HS 1517, HS 1518, HS 2302.50, HS 2306, HS 2923.20, HS 3504)	Tariffs, NTMs	Short term****	(to be advised)	(to be advised)
	e) Telecommunications and information technology	MRA	1997	(to be advised)	(to be advised)

ECONOMY	SECTOR	MEASURES	TIMEFRAME	CO-SPONSORS	SUPPORTERS
	(f) Energy-related equipment and services (to be defined, but including equipment and services related to mining, oil and natural gas, electricity, and renewable resources)	Tariffs and market access	Short term****	(to be advised)	(to be advised)
	(g) Environmental technology and services (to be defined, but broadly including air pollution and treatment, water and wastewater, hazardous and solid waste, noise abatement, instrumentation and monitoring, and related services : product landscape available)	Tariffs, NTMs, market access	Short term****	(to be advised)	(to be advised)
	(h) Wood and paper (HS Chapters 44, 47, 48 and 49)	Tariffs	1999-2000****	(to be advised)	(to be advised)

Notes

1. Tariffs, NTMs generally denotes progressive reduction and elimination.
2. (*) denotes differential timeframe for developing and industrialised APEC members.
3. (**) denotes consideration may be given to differentiated timeframes.
4. (***) denotes progressive process of harmonisation, leading to reduction and elimination.
5. (****) denotes that requests for extended staging would follow the ITA approach.
6. (1) denotes support in principle
7. (2) denotes provisional or partial support

APEC EARLY VOLUNTARY SECTORAL LIBERALISATION
CLASSIFICATION OF NOMINATIONS BY SECTOR

As at 25 August 1997

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Food	Comprehensive proposal	Australia	
	Fish/fish products	Brunei	US (1)
		Canada	US (1)
		Indonesia	US (1)
		New Zealand	US (1)
		Thailand	US (1)
	Rice	Thailand	
	Beer	Canada	US (1)
	Oilseeds and related products	Canada	US (1)
		Malaysia	US (1)
		United States	
	Canned/processed vegetables and fruit	Thailand	
	Fresh/processed vegetables and fruits	New Zealand	
	Brown distilled spirits	Canada	US (1)

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Energy	Energy products, technologies and services	Australia	
	Mineral fuels, mineral oils and products	Thailand	
	Energy-related equipment and services	United States	
Chemicals	Comprehensive proposal	United States	
	Comprehensive proposal	Singapore	US (1)
	Petrochemicals	Korea	US (1)
	Fertilisers	Canada	US (1)
		Japan	US (1)
	Film	Japan	

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Wood and Paper	Wood and paper	United States	
	Wood and products	New Zealand	US (1)
	Wood and products	Canada	US (1)
	Paper and products	Canada	US (1)
	Pulp and paper	Indonesia	US (1)
Minerals and Metals	Gems and jewellery	Thailand	
	Steel	Korea	US (1)
	Non-ferrous metals	Australia	US (1)

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Environment	Environmental goods and services	Canada	US (1)
	Environmental technology and services	United States	
	Environmental equipment	Japan	US (1)
	Environmental technology and equipment	Chinese Taipei	US (1)
Transport equipment	Transport equipment	Japan	
	Automotive products	United States	
	Bicycles	China	
	Civil Aircraft	Canada	US (1)

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Medical, scientific equipment and services	Medical, diagnostic and scientific equipment	Singapore	US (2)
	Medical equipment and apparatus	Thailand	US (1)
	Medical equipment and services	United States	
	Scientific equipment	Japan	
Rubber/products	Rubber/products	Japan	
		Thailand	
Toys	Toys	China	US (1)
		Hong Kong, China	US (1)
Other products and services	Sports footwear	Indonesia	
	Precision engineering and machinery	Singapore	
	Consumer electronics	Singapore	
	Telecommunications and information technology	United States	

GROUP	PROPOSAL	SPONSORS	SUPPORTERS
Other products and services cont'd	Musical instruments	Japan	
	Accounting services	China	
Cross-sectoral issues	Competition policy	Mexico	
	Government procurement	Korea Mexico	
	Intellectual property rights	Mexico	
	Investment	Japan	
	Nuisance tariffs	Hong Kong, China	NZ

Notes :
(1) denotes support in principle
(2) denotes provisional and/or partial support

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Divider Title: **6**

USTR'S STRATEGIC PLAN

ISSUE

The Government Performance and Results Act of 1993 (GPRA) mandates that all agencies with budgets in excess of $21 million develop five-year strategic plans and, based on those plans, annual performance plans for the agency. An early draft of USTR's five year plan was sent to ACTPN members for advice. Comments received from the ACTPN were very valuable to USTR in reformulating the plan. The new plan was sent to the ACTPN recently. It has been submitted to the Office of Management and Budget (OMB) for clearance and will be sent to the Congress on September 30.

The GPRA process has become critical to the battle for resources. The House and Senate Appropriations Committees take this exercise very seriously excoriating agencies that fail to deliver realistic plans. USTR's plan has been rated among the highest in government.

BACKGROUND

At USTR, the planning process has been onerous but rewarding. The document is the product of over forty drafters who worked under the supervision of an AUSTR Committee that met weekly.

The USTR plan contains the six components of plans required under the Government Performance and Results Act namely:

- a comprehensive mission statement;
- long term objectives for all major functions and operations;
- strategies for achieving the objectives and the resources needed,
- a clearly stated relationship between long-term objectives and annual goals;
- identification of the key external factors beyond the control of USTR that could significantly affect achievement of the strategic goals; and
- a description of how program evaluations were used to establish the goals, and a schedule for future program evaluations to revise/update the goals.

Among the most interesting new proposals are:

- formulation of a trade policy for the next five years that clearly states our priorities;
- creation of a "trade" track at the State Department;
- exploration of foundation fellows that would serve at the agency for 18 months;
- normalization of a detailee program from Commerce, International Trade Commission, Agriculture, and the Environmental Protection Agency;
- clarification of our statutory mandate with agencies such as State and Treasury;

- reinvigoration of the interagency process and greater acknowledgment of other agencies' contributions to our work;
- communication to the public through increasingly sophisticated electronic means, including gathering information for negotiations from the website; and
- increased interaction with regulatory agencies.

September, 1997

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Divider Title: 7

WTO FINANCIAL SERVICES - ACTPN

Among the most important issues on the WTO agenda for 1997 is reaching a financial services agreement, which covers banking, securities, and insurance. Earlier attempts to secure market-opening commitments in this important sector -- during the Uruguay Round, and in extended negotiations that concluded in July 1995 -- resulted in very limited offers from the key emerging market countries.

At Singapore, Trade Ministers called for resumption of these negotiations in April 1997 based on "significantly improved market access commitments with a broader level of participation." Since April, USG efforts have been aimed primarily at securing liberalizing commitments from the dynamic emerging markets in Asia, Latin America, and Eastern Europe -- countries that stand to benefit the most from opening their markets to competition but did not do so in the last rounds of negotiations. Substantial unilateral liberalization is underway in all three regions. Based on bilateral discussions through July, we expect many of the key markets to improve their offers. What remains to be seen is how open these countries will commit to make their markets in the near term.

In urging improved offers, USTR Ambassador Barshefsky and Treasury Secretary Rubin stated publicly that it would be difficult for the U.S. to consider improvements in its existing commitments without improved offers from important trading partners that provide substantially full market access and national treatment for financial services providers. U.S. negotiators are in Geneva again this week to urge the key countries to make improved offers that meet our requests. Our requests, submitted to each country in June, ask each country to remove the barriers to foreign access in the banking, securities, and insurance sectors.

Prospects for Success: Time is a critical factor in these negotiations. We only have three months left to reach an agreement. With the recent financial crisis in Southeast Asia, finance ministries around the world have been extremely reluctant to open their markets to foreign competition. That said, countries also realize that their economic growth and development depend on a vibrant, competitive financial services sector.

To date, we have 17 offers from a total of 31 countries. Most of these offers are from the developed countries in the OECD. Unfortunately, few of the key countries in Asia or Latin America have put forward offers yet. Deputy U.S. Trade Representative Ambassador Lang and Treasury Assistant Secretary-designate Tim Geithner traveled to Asia in August to convince countries that liberalization was part of the solution to their current financial difficulties and to urge them to make offers in the negotiations. World Bank and IMF meetings in Hong Kong will be another opportunity to press countries to make good commitments in the negotiations.

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Divider Title: **8**

TRANSATLANTIC BUSINESS DIALOGUE

Introduction

- The Transatlantic Business Dialogue (TABD) can be viewed as the private sector leg of the New Transatlantic Marketplace.

- President Clinton and European Union leaders at the U.S.-EU Summit held in Madrid in December 1995 sought to reaffirm the strong historic relationship between the United States and Europe, and to promote their vision of a post-Cold War Europe united around the principles of democracy and free markets.

NTA

- They embodied their commitment in an initiative called the New Transatlantic Agenda (NTA), the "Action Plan" of which is attached. This initiative seeks to deepen transatlantic relations by initiating specific joint U.S.-EU actions to address global economic, political, humanitarian, and environmental challenges more effectively.

- The NTA includes a commitment on the part of the United States and the EU to expand bilateral trade through an initiative called the New Transatlantic Marketplace.

- The economic agenda of the NTA includes both multilateral and bilateral economic efforts, many of which were launched during 1996 and continued in 1997.

- Actions aimed at strengthening the multilateral trade and investment system include: consolidating the newly-created WTO; exploring ways to reduce tariffs, which included an agreement to eliminate tariffs on information technology products (the "Information Technology Agreement"); starting work on new international rules for intellectual property rights and government procurement; and agreeing to work together at the OECD to conclude a Multilateral Agreement on Investment.

New Transatlantic Marketplace

- New Transatlantic Marketplace actions designed to enhance bilateral economic opportunities include an on-going joint study on remaining economic barriers and ways to reduce them (see attached executive summary); implementation of the Customs Cooperation Agreement; reinforcing efforts to resolve outstanding trade disputes as part of a confidence-building process; and implementation of Mutual Recognition Agreements (MRAs) to reduce regulatory burdens.

- Other ideas are to expand an ongoing Information Society Dialogue to spur innovation and ensure interconnectivity and interoperability; and establish a joint working group on employment and labor-related issues.

TABD

- An important companion to the New Transatlantic Marketplace initiative is the Transatlantic Business Dialogue (TABD), a forum in which top American and European business leaders can meet to discuss ways to reduce barriers to U.S.-European trade and investment.

- The TABD held its inaugural session in Seville, Spain, in November 1995, its second session in Chicago in November 1996, and plans to hold its third meeting in Rome on November 6-7, 1997.

- The major recommendations endorsed by the U.S. and European business communities included developing common standards, concluding MRAs, eliminating tariffs on information technology products, adding to or accelerating some Uruguay Round tariff cuts, and implementing anti-bribery and corruption statutes in Europe.

- Government officials have endorsed many of the TABD's recommendations.

- The TABD a list of "Priorities for the mid-year Summit," which was prepared for the May 27, 1997, U.S.-EU Summit in the Hague. A key objective was conclusion of the MRAs, which was completed shortly after the Hague Summit and largely because of strong pressure and effort by the TABD.

- The TABD will hold its next conference in Rome, November 6-7. Just as at the two previous TABD conferences, USTR will attend and participate actively.

- We believe that the TABD can continue to play an very important role in pressing for trade liberalization between the United States and the European Union.

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Divider Title: **9**

REMARKS BY THE PRESIDENT
IN ADDRESS TO THE UNITED NATIONS
SPECIAL SESSION ON ENVIRONMENT AND DEVELOPMENT

The United Nations
New York, New York

June 26, 1997

Thank you very much. Mr. President, Mr. Secretary General, ladies and gentlemen: Five years ago in Rio, the nations of the world joined together around a simple but revolutionary proposition, that today's progress must not come at tomorrow's expense.

In our era, the environment has moved to the top of the international agenda because how well a nation honors it will have an impact, for good or ill, not only on the people of that nation, but all across the globe. Preserving the resources we share is crucial not only for the quality of our individual environments and health, but also to maintain stability and peace within nations and among them. As the father of conservation in our nation, John Muir, said, "When we try to pick anything out by itself, we find it hitched to everything else in the universe."

In the years since Rio, there has been real progress in some areas. Nations have banned the dumping of radioactive wastes in the ocean and reduced marine pollution from sources on land. We're working to protect the precious coral reefs, to conserve threatened fish, to stop the advance of deserts. At the Cairo Conference on Population and Development, we reaffirmed the crucial importance of cooperative family planning efforts to long-term sustainable development.

Here in America, we have worked to clean up a record number of our toxic dumps and we intend to clean 500 more over the next four years. We passed new laws to better protect our water, created new national parks and monuments, and worked to harmonize our efforts for environmental protection, economic growth and social improvement, aided by a distinguished Council on Sustainable Development.

Yesterday, I announced the most far-reaching efforts to improve air quality in our nation in 20 years, cutting smog levels dramatically, and, for the first time ever, setting standards to lower the levels of the fine particles in the atmosphere that form soot. In America, the incidence of childhood asthma has been increasing rapidly. It is now the single biggest reason our children are hospitalized. These measures will help to change that, to improve health of people of all ages, and to prevent as many as 15,000 premature deaths a year.

Still, we here have much more to do, especially in reducing America's contribution to global climate change.

The science is clear and compelling: We humans are changing the global climate. Concentrations of greenhouse gases in the atmosphere are at their highest levels in more than 200,000 years, and climbing sharply. If the trend is not changed, scientists expect the seas to rise two feet or more over the next century. In America, that means 9,000 square miles of Florida, Louisiana, and other coastal areas will be flooded. In Asia, 17 percent of Bangladesh, land on which 6 million people now live, will be lost. Island chains such as the Maldives will disappear from the map, unless we reverse the predictions.

Climate changes will disrupt agriculture, cause severe droughts and floods and the spread of infectious diseases, which will be a big enough problem for us under the best of circumstances in the 21st century. There could be 50 million or more cases of malaria a year. We can expect more deaths from heat stress. Just two years ago, here in the United States in the city of Chicago, we saw the tragedy of more than 400 of our citizens dying during a severe heat wave.

No nation can escape this danger. None can evade its responsibility to confront it. And we must all do our part -- industrial nations that emit the largest quantities of greenhouse gases today, and developing nations whose green house gas emissions are growing rapidly. I applaud the European Union for its strong focus on this issue, and the World Bank for setting environmental standards for projects it will finance in the developing world.

Here in the United States, we must do better. With 4 percent of the world's population, we already produce more than 20 percent of its greenhouse gases. Frankly, our record since Rio is not sufficient. We have been blessed with high rates of growth and millions of new jobs over the last few years, but that has led to an increase in greenhouse gas emissions in spite of the adoption of new conservation practices. So we must do better, and we will.

The air quality action I took yesterday is a positive first step, but more must follow. In order to reduce greenhouse gases and grow the economy, we must invest more in the technologies of the future. I am directing my Cabinet to work to development them. Government, universities, business and labor must work together. All these efforts must be sustained over years, indeed, over decades. As Vice President Gore said Monday, "Sustainable development requires sustained commitment." With that commitment, we can succeed.

We must create new technologies and development new strategies like emissions trading that will both curtail pollution and support continued economic growth. We owe that in the developed world to ourselves and, equally, to those in the developing nations.

Many of the technologies that will help us to meet the new air quality standards can also help us to address climate change. This is a challenge we must undertake immediately and one in which I personally plan to play a critical role.

In the United States, in order to do our part, we have to first convince the American people and the Congress that the climate change problem is real and imminent. I will convene a White House Conference on Climate Change later this year to lay the scientific facts before our people, to understand that we must act, and to lay the economic facts there so that they understand the benefits and the costs. With the best ideas and strategies and new technologies and increased productivity and energy efficiency, we can turn the challenge to our advantage.

We will work with our people and we will bring to the Kyoto conference a strong American commitment to realistic and binding limits that will significantly reduce our emissions of greenhouse gases.

I want to mention three other initiatives briefly that we are taking to deal with climate change and to advance sustainable development here and beyond our borders.

First, to help developing nations reduce greenhouse gas emissions, the United States will provide $1 billion in assistance over the next five years to support energy efficiency, develop alternative energy sources and improve resource management to promote growth that does not have an adverse effect on the climate.

Second, we will do more to encourage private investment to meet environmental standards. The Overseas Private Investment Corporation will now require that its projects adhere to new and strengthened environmental guidelines, just as our Export-Import Bank already does and as I hope our allies and friends soon will. Common guidelines for responsible investment clearly would lead to more sustainable growth in developing nations.

Third, we must increase our use of new technologies even as we move to develop more new technologies. Already, we are working with our auto industry to produce cars by early in the next century that are three times as fuel-efficient as today's vehicles. Now we will work with businesses and communities to use the sun's energy to reduce our reliance on fossil fuels by

installing solar panels on 1 million more roofs around our nation by 2010. Capturing the sun's warmth can help us to turn down the Earth's temperature.

Distinguished leaders, in all of our cultures we have been taught from time immemorial that, as Scripture says, "One generation passes away and another comes, but the Earth abides forever." We must strengthen our stewardship of the environment to make that true and to ensure that when this generation passes, the young man who just spoke before me and all of those of his generation will inherit a rich and abundant Earth.

Thank you very much.

105TH CONGRESS
1ST SESSION

S. RES. 98

Expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1997

Mr. BYRD (for himself, Mr. HAGEL, Mr. HOLLINGS, Mr. CRAIG, Mr. INOUYE, Mr. WARNER, Mr. FORD, Mr. THOMAS, Mr. DORGAN, Mr. HELMS, Mr. LEVIN, Mr. ROBERTS, Mr. ABRAHAM, Mr. MCCONNELL, Mr. ASHCROFT, Mr. BROWNBACK, Mr. KEMPTHORNE, Mr. THURMOND, Mr. BURNS, Mr. CONRAD, Mr. GLENN, Mr. ENZI, Mr. INHOFE, Mr. BOND, Mr. COVERDELL, Mr. DEWINE, Mrs. HUTCHISON, Mr. GORTON, Mr. HATCH, Mr. BREAUX, Mr. CLELAND, Mr. DURBIN, Mr. HUTCHINSON, Mr. JOHNSON, Ms. LANDRIEU, Ms. MIKULSKI, Mr. NICKLES, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH of Oregon, Mr. BENNETT, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRASSLEY, Mr. ALLARD, Mr. MURKOWSKI, Mr. AKAKA, Mr. COATS, Mr. COCHRAN, Mr. DOMENICI, Mr. GRAMM, Mr. GRAMS, Mr. LOTT, Ms. MOSELEY-BRAUN, Mr. ROBB, Mr. ROCKEFELLER, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SPECTER, and Mr. STEVENS) submitted the following resolution; which was referred to the Committee on Foreign Relations

Reid, Bryan, Thompson, Lugar

RESOLUTION

Expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

★(Star Print)

Whereas the United Nations Framework Convention on Climate Change (in this resolution referred to as the "Convention"), adopted in May 1992, entered into force in 1994 and is not yet fully implemented;

Whereas the Convention, intended to address climate change on a global basis, identifies the former Soviet Union and the countries of Eastern Europe and the Organization For Economic Co-operation and Development (OECD), including the United States, as "Annex I Parties", and the remaining 129 countries, including China, Mexico, India, Brazil, and South Korea, as "Developing Country Parties";

Whereas in April 1995, the Convention's "Conference of the Parties" adopted the so-called "Berlin Mandate";

Whereas the "Berlin Mandate" calls for the adoption, as soon as December 1997, in Kyoto, Japan, of a protocol or another legal instrument that strengthens commitments to limit greenhouse gas emissions by Annex I Parties for the post-2000 period and establishes a negotiation process called the "Ad Hoc Group on the Berlin Mandate";

Whereas the "Berlin Mandate" specifically exempts all Developing Country Parties from any new commitments in such negotiation process for the post-2000 period;

Whereas although the Convention, approved by the United States Senate, called on all signatory parties to adopt policies and programs aimed at limiting their greenhouse gas (GHG) emissions, in July 1996 the Undersecretary of State for Global Affairs called for the first time for "legally binding" emission limitation targets and timetables for Annex I Parties, a position reiterated by the

Secretary of State in testimony before the Committee on Foreign Relations of the Senate on January 8, 1997;

Whereas greenhouse gas emissions of Developing Country Parties are rapidly increasing and are expected to surpass emissions of the United States and other OECD countries as early as 2015;

Whereas the Department of State has declared that it is critical for the Parties to the Convention to include Developing Country Parties in the next steps for global action and, therefore, has proposed that consideration of additional steps to include limitations on Developing Country Parties' greenhouse gas emissions would not begin until after a protocol or other legal instrument is adopted in Kyoto, Japan in December 1997;

Whereas the exemption for Developing Country Parties is inconsistent with the need for global action on climate change and is environmentally flawed;

Whereas the Senate strongly believes that the proposals under negotiation, because of the disparity of treatment between Annex I Parties and Developing Countries and the level of required emission reductions, could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs, or any combination thereof; and

Whereas it is desirable that a bipartisan group of Senators be appointed by the Majority and Minority Leaders of the Senate for the purpose of monitoring the status of negotiations on Global Climate Change and reporting periodically to the Senate on those negotiations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would—

(A) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or

(B) would result in serious harm to the economy of the United States; and

(2) any such protocol or other agreement which would require the advice and consent of the Senate to ratification should be accompanied by a detailed explanation of any legislation or regulatory actions that may be required to implement the protocol or other agreement and should also be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States which would be incurred by the implementation of the protocol or other agreement.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

○

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Divider Title: **10**

Global Electronic Commerce

On July 1, 1997, President Clinton released the "Framework on Global Electronic Commerce". The Framework sets forth five principles to guide the promotion of global electronic commerce; and, it identifies nine problems that need to be resolved.

Five Principles

The Framework articulates five principles to guide the successful encouragement of global electronic commerce. They are:

1. The private sector should lead.

> Government should encourage industry self regulation and support private sector efforts to develop technology and practices that fosters the internet's growth.

2. Government should avoid undue restrictions.

> Government should refrain from imposing new and unnecessary regulations, bureaucratic procedures or taxes/tariffs.

3. Where needed, government should support a predictable, minimalist, consistent and simple legal environment.

4. Government should recognize the unique qualities of the internet.

> The internet is decentralized and governed from the "bottom/up".

5. Electronic commerce should be facilitated on a global basis.

> The internet is emerging as a global marketplace and needs consistent legal principles across local, federal and international lines which lead to predictable results regardless of where the buyer or seller resides.

Nine Issues

The Framework identifies nine issues (in three categories) that need to be addressed in order to facilitate the growth of electronic commerce. The shaded lines are USTR's responsibility.

Category	Issue	Lead Agency	Goal	Time Frame
Financial				
	Taxes	Treasury	No new taxes	--
	Tariffs	USTR	duty-free cyberspace	1 year
	Electronic Payments	Treasury	flexible & nonprescriptive rules	--
Legal				
	Uniform Commercial Code	DOC with FTC	predictability minimalist	1 year
	IP: WIPO	DOC with USTR	ratification	1 year
	IP: Patents	DOC	updated system	--
	Privacy	DOC with FTC	code of conduct	1 year
	Security	OMB and DOC	encryption	--
Market Access				
	Telecom Infrastructure	USTR with DOC, AID & FCC	GBT implementation	--
	Content:	WH	Rating and Filtering Systems	1 year
	Content:	USTR	AV restrictions	--
	Standards	USTR with DOC & FCC	NTBs	--

Category One: Financial Issues

Taxes/Tariffs

Taxes: The Presidential Directive calls for domestic and international work to ensure that no new taxes are imposed on internet commerce, that inconsistent national taxes and double taxation are avoided and that tax systems treat similar transactions equally.

> **Implementation:** Treasury will lead implementation of this policy goal; the Administration supports the "Cox-Wyden Bill" which calls for a moratorium on state taxation of electronic commerce.

Tariffs: The Presidential Directive calls for agreement within the next 12 months that all products and services transmitted over the internet will not be subject to tariffs, and that all equipment from which the internet is built will not be subject to tariffs.

> **Implementation:** USTR will lead implementation of this policy goal; USTR will also seek to improve the Information Technology Agreement (ITA by July 1998.

Electronic Payment

The Presidential Directive calls for global cooperation on monitoring experiments in electronic payments systems and for the establishment of flexible and non-prescriptive rules. It also envisions working with private interests.

Implementation: Treasury will lead work in implementing this policy goal.

Category Two: Legal Issues

Uniform Commercial Code

The Presidential Directive calls for development of a uniform commercial legal framework and for domestic and international agreement within the next 12 months on common standards for electronic authentication (including for digital signatures).

Implementation: DOC will work with the Federal Trade Commission and the private sector in implementing this policy goal.

Intellectual Property

The Presidential Directive calls for domestic and international ratification within the next 12 months of the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty.

Implementation: DOC is in charge of discussions with the Congress about ratification of the Treaties, which is stalled over the issue of the liability of network and on-line service providers. After resolution of this domestic debate, **USTR** will work on IP-trade issues that arise in international ratification and enforcement of the Treaties.

The Directive also calls for and updated and more efficient systems for protecting patentable innovations.

Implementation: DOC will be in charge of implementing this policy goal.

Lastly, the Directive calls for a private systems to govern *domain names.*

Implementation: An interagency team works on domain issues.

Privacy

The Presidential Directive calls for development and adoption within the next 12 months of industry developed rules to protect privacy.

Implementation: DOC will be in charge of implementing this policy goal.

Security

The Presidential Directive calls for the promotion of efforts to make the internet a secure environment for commerce by protecting information, guaranteeing confidentiality and training users on how to protect their systems and data.

Implementation: A White House group--lead by OMB and DOC--is deeply involved in the "encryption" issue, which pits U.S. security and law enforcement agencies against developers and marketers of encryption technology.

Category Three: Market Access Issues

The Presidential Directive calls for enforcement of existing agreements and securing new agreements to make electronic commerce a seamless global market place.

Telecom Infrastructure & Info Technology

The Directive calls for enforcement of the WTO basic telecom agreement.

Implementation: USTR will coordinate implementation of the basic telecom deal by working closely with the Department of Commerce (i.e., NTIA), the Department of State (i.e., AID), the Federal Communications Commission (FCC), as well as private bodies (U.S. Telecom Training Institute) and the World Bank (i.e., InfoDev).

Content

The Directive calls for the development and adoption in the next 12 months of rating systems and filtering technologies that empower parents, schools and other users to screen out content they find objectionable.

Implementation: The White House (i.e., NEC) will encourage a public/private effort.

Technical Standards

The Directive calls for ensuring that product testing, certification and approval processes do not create "nontariff trade barriers" (NTBs).

> **Implementation:** USTR will lead interagency discussions aimed at reducing NTBs, through ITA/II, as well as discussions in APEC, Transatlantic Marketplace and FTAA.

The Directive also calls for support of private standards.

> **Implementation:** USTR will continue to advocate overseas the interests of U.S. standards developers, with support from DOC and the FCC.

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Divider Title: **11**

1999 NEGOTIATIONS ON AGRICULTURE

The Agreement on Agriculture calls for negotiations on the continuation of the reform process to begin a year prior to the end of the implementation period of the Agreement. This is generally interpreted as the end of 1999, or the first half of 2000. In preparation for the 1999 negotiations, the United States sees two complementary processes at work: continuation of the WTO Committee on Agriculture's oversight of the Agreement on Agriculture and the presentation of issue papers and proposals in the newly formed informal process of analysis and information exchange.

The WTO Committee on Agriculture oversees the implementation of the Agreement on Agriculture and provides an opportunity for members to consult on matters related to provisions of the Agreement. During the past two years, the Committee has been an effective forum for raising issues concerning agricultural trade policy. The United States has been able to join other countries in putting pressure on WTO members that have not yet implemented their commitments, or are not in compliance with provisions of the Agreement on Agriculture. The rate of compliance with notification obligations has been good, although there have been several instances where notifications have been incomplete or have not been submitted within the specified time frames. In addition, a number of implementation issues have surfaced during the notification review process. These include methods used to implement tariff quotas, cases where export subsidy limits have been exceeded, and delays in tariff quota implementation.

At its March meeting, as instructed by Ministers at Singapore, the WTO Committee on Agriculture (COA) agreed to establish an informal process of analysis and information exchange on issues related to the continuation of the reform in agriculture. The first, open ended meeting was held on May 27 and the group agreed to procedures (meetings scheduled on the margins of the formal Committee on Agriculture meetings, additional meetings as required, and discussion of issues driven by papers submitted by delegations). In this context, Australia submitted papers on the administration of TRQs and domestic subsidies and the United States submitted papers on export subsidies and consolidation of data gathering activities. The papers were further considered at the June meeting of the informal consulting group. We expect them to be reviewed again in September. At an appropriate time, we will want to begin discussing new issues, such as disciplines on state trading and methods for improving market access and reducing or eliminating and subsidies.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

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FOR IMMEDIATE RELEASE
Monday, August 18, 1997

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WTO HORMONES REPORT CONFIRMS U.S. WIN

The World Trade Organization (WTO) released to the public today the final dispute settlement panel report on the European Union's import ban on meat produced using growth-promoting hormones. The WTO panel's findings, which uphold the claims of the United States, were issued confidentially to the concerned governments on June 30, 1997. This was the first dispute involving the SPS agreement.

"This final report confirms the value of the new WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to U.S. exports," U.S. Trade Representative Charlene Barshefsky said. "I am pleased that the WTO agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. I am pleased that the panel affirmed the need for food safety measures to be based on science, as they are in the United States."

"The final report issued today by the WTO is welcome news for the U.S. beef industry," Agriculture Secretary Dan Glickman said. "The WTO dispute settlement panel has affirmed what we have known for over nine years: that European consumers are being denied a high quality and safe product due to an import regulation that cannot stand up to the test of good science. The panel drew on advice from eminent scientists from around the world to help it determine that the EU ban on U.S. beef was unjustified. I hope that the EU will now take steps to bring this import regulation into conformity with its WTO obligations and lift the ban on beef from the U.S., Canada and other affected countries. We are prepared to work with EU officials to accomplish this as soon as possible."

The WTO report finds that Europe's ban on the use of six hormones to promote the growth of cattle is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). In particular, the panel's report affirms that the EC's ban is not based on science. It was not based on a risk assessment or on the relevant international

standards, and the EC has arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade.

The United States expects the WTO report to lead to a new EU policy that is fully consistent with the EU's international trade obligations.

The hormones dispute is the fourth case brought successfully by the United States through the WTO panel process.

Note: The full text of all WTO panel reports is on the WTO's World Wide Web site at http://www.wto.org.

Background

On January 1, 1989, the EU imposed a ban on imports of animals and meat from animals treated with hormones to promote the animal's growth. The United States objected to this ban with respect to six specific hormones. These six hormones have been found to be safe for use for growth promotion purposes by all the countries that have reviewed them. Furthermore, the independent experts of the Codex Alimentarius Commission have also reviewed five of these hormones and found them to be safe (they have never been asked to review the sixth, which is not as widely used). In fact, the EU has twice commissioned a scientific study of these same five hormones, and both times those scientists have found them to be safe.

Three of the hormones at issue are naturally present in all meat and in all people. The hormone level in beef from animals to which these hormones have been administered to promote growth are well within the normal levels. In fact, the levels in beef are far less than, for example, the level of these hormones found in a single egg. (For example, an average adult would need to eat 169 pounds of beef from animals to which one of these hormones has been administered in order to equal the amount of that hormone in one egg.)

The U.S. challenge to the EU import ban was based primarily on arguments that the ban breaches provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). This was the first dispute involving the SPS Agreement. That agreement clearly preserves the right of governments to apply food safety measures to protect human life and health, but at the same time it requires that such measures must in fact be for that purpose and not for protectionist purposes.

The SPS Agreement establishes rules for determining whether import bans and other trade-restrictive actions that governments may characterize as food safety measures protect public health or provide a competitive advantage for domestic producers. In particular, the SPS Agreement relies on science to distinguish legitimate food safety measures from disguised protectionism. The SPS Agreement provides dispute settlement panels with clear guideposts for their review. It provides that measures must be based on scientific principles, must not be maintained without sufficient scientific evidence, must be based on a scientific assessment of whether there are any risks to human life or health, must not be more trade-restrictive than required to achieve the appropriate level of protection from such risks, and must be based on international standards, guidelines or recommendations, where they exist, except where a more stringent standard is deemed appropriate in order to achieve a different level of protection or where there is a scientific justification.

The SPS agreement also encourages dispute settlement panels to seek advice on scientific issues from experts chosen by the panel in consultation with the parties to the dispute. In making its findings in this dispute, the panel sought the advice of independent scientific experts, the first time a WTO panel has made use of this procedure. The panel report summarizes the advice received from the experts and includes the transcript of the panel's meeting with the experts.

In this case the EU's import ban ignores a vast body of scientific evidence -- including evidence produced by the EU's own reviews -- that it is safe to consume meat from animals to which these drugs have been administered in accordance with good animal husbandry practice.

During the WTO legal proceedings the EU claimed that its ban is based on health concerns. However, when it was first put in place, the EU acknowledged that the ban served the purpose of eliminating competition from imports of hormone-fed beef in EU markets and of leveling the competitive playing field in Europe where, prior to the EU ban, some countries allowed the use of growth hormones for farm animal production and others did not. The United States argued that U.S. meat treated with these six growth promoting hormones is safe and that the EU's attempt to protect domestic production from more competitive imports (and intra-EU competition) is trade protectionism, not protection of health and safety.

This dispute has a long history. The 1989 EU ban cut off U.S. beef exports to the Community valued then at approximately $100 million annually. The United States tried to challenge the EU measures under the dispute settlement procedures available at the time, but the EU refused to allow a technical experts group to review the case. In response to the EU's blockage of dispute settlement procedures, the United States increased duties on certain products of the EU, pursuant to section 301 of the Trade Act of 1974. The increased U.S. duties remained in effect until the United States succeeded in having a WTO panel established to examine the EU hormone ban.

After the World Trade Organization (WTO) was created, the United States invoked the new WTO dispute settlement procedures to challenge the EU ban. Under the new WTO procedures, the EU cannot block the process, as it was able to do under the prior procedures.

The United States requested consultations with the EU in late January 1996, and in May 1996 the WTO Dispute Settlement Body established a panel to hear the case. Canada later brought a parallel action to challenge the EU ban, and the same panelists were assigned to hear the Canadian case. The panel has issued its final report with similar findings with respect to the challenge by Canada.

The WTO provides for an appeal of final panel reports. The EU is widely reported in the press as intending to appeal this panel report. The United States expects that the WTO Appellate Body would support the panel's conclusions.

EU SPECIFIED RISK MATERIAL BAN/COSMETICS DIRECTIVE

ISSUE: The EU has adopted two pieces of legislation - the Cosmetics Directive (effective July 1, 1997) and the over-arching Specified Risk Material ban (effective January 1, 1998).
The EU's Cosmetics Directive prohibits the marketing of cosmetic products containing cattle, sheep, and goat tissues and fluids from the brain, spinal cord, eyes, or ingredients derived therefrom.

The Specified Risk Material ban prohibits the use of specified risk material (SRM) in food and feed, and medical, pharmaceutical, or cosmetic products. The SRM ban, which incorporates the provisions of the Cosmetics Directive, is a broader ranging piece of legislation, covering not only cosmetics, but food, feed, medical, and pharmaceutical products. Specified risk material is defined as (a) the skull, including the brain and eyes, tonsils and spinal cord of cattle aged over 12 months, and of sheep and goats aged over 12 months, and (b) the spleens of sheep and goats.

The SRM ban requires that exporters shipping products to the EU certify that the products do not contain, or are not derived from, SRMs. The United States does not require that SRMs be removed prior to rendering of animal byproducts into tallow, meat and bone meal. Such a practice would be very expensive and not justifiable because the United States does not have BSE.

These directives threaten U.S. exports to the EU of pharmaceutical and cosmetic products, tallow and its derivatives, petfood and many food and consumer products. U.S. exports of tallow to the EU are valued at $100 million annually; pharmaceutical exports, $4.5 billion; and cosmetics, $500 million. The impact on the availability of pharmaceuticals and other products could have serious adverse effects on consumers and public health. The EU justification for adopting such legislation is their concern over the transmission of bovine spongiform encephalopathy (BSE).

The United States is urging the Commission to provide a derogation from these directives for the United States and other third countries which have an aggressive and active surveillance program and meet the International Office of Epizootics (OIE) definition of BSE-free. We are also urging the Commission to exempt tallow derivatives from the Directives based on the opinion of the EU's Scientific Committee on Cosmetology on June 25 which stated that tallow derivatives obtained from certain processes are safe for use in cosmetic products.

We have pointed out that the specified risk material (SRM) ban could have serious adverse consequences for European public health because it could lead to shortages of a variety of medications containing gelatin and tallow. This adverse impact could outweigh any adverse impact from BSE.

-- U.S. exports of the following products might be affected by the SRM ban:

All hard and soft gelatin capsules and gelatin coatings;

All solid oral dosages because they use magnesium stearate (derived from tallow)

as a pharmaceutical lubricant in manufacturing; and

Biotechnology medicines to treat diseases such as anemia, cystic fibrosis, cancer, hemophilia, and multiple sclerosis because protein hydrolysates and detergents (derived from tallow) are essential for growing cells used in biotechnology research and manufacturing.

The United States and the EU agreed in the WTO Sanitary and Phytosanitary Agreement that the measures we take to protect public and animal health must be based on scientific evidence and risk assessment. However, aspects of the SRM directive disregard the scientific advice of European and other international experts, while imposing restrictions that unnecessarily disrupt international trade. In its current form, the directive is inconsistent with basic WTO commitments in this area.

The EU's Scientific Steering Committee (SSC) met on September 8 to consider the inconsistencies between the two Directives and the June 25 finding of the Scientific Committee on Cosmetology that tallow derivatives obtained from certain processes are safe. However, the opinion of the SSC, issued on September 8, is unclear and could represent a step backward in our attempts have the EU base decisions pertaining to BSE transmissibility on science rather than political motivation.

Canada Dairy

Canada's exports of butter and cheese in 1995/96 exceeded its Uruguay Round ceilings on the quantity of subsidized exports. Canada claims it is no longer using export subsidies on its dairy product exports as a result of the August 1, 1995, changes in its dairy programs. In addition, Canada has a tariff-rate quota on fluid milk which it maintains is filled by cross border purchases imported by Canadian consumers. On September 5, the U.S. dairy industry filed a 301 petition with USTR alleging both programs are inconsistent with Canada's WTO obligations.

The United States and New Zealand have raised questions about Canada's Special Milk Pooling Class System in the WTO Agriculture Committee, most recently at the June 25-26 meeting. Canada's defense that the new system is no longer an export subsidy is not compelling. We have also raised questions about the implementation of Canada's TRQ on fluid milk.

Prior to August 1, 1995, Canada had an acknowledged export subsidy program aimed at helping Canadian firms be more competitive in the face of the high cost of dairy products in Canada. The program was funded by a levy on domestic milk producers, which was collected by the Canadian Dairy Commission (CDC) and provided export subsidies on certain products, mainly cheese and butter. With the completion of the Uruguay Round, Canada knew its existing export programs, because they were funded from producer levies, were subject to the UR reduction disciplines on export subsidies.

On August 1, 1995, Canada introduced a new system which replaced the previous subsidy program. Essentially, the new system sets up a national "special class" of dairy products, which can be acquired by exporters at internationally competitive prices, i.e., lower than the normal Canadian price. To obtain special class dairy products exporters must apply for a permit from the CDC. Dairy processors, in turn can obtain lower priced milk from provincial marketing boards. Owing to the lower priced special class pool, producers receive a lower average market payment, but this is compensated for by the removal of the levies that producers no longer have to pay to the CDC.

The special pooling system represents a shuffle of the system that existed before August 1, 1995. It enables Canada to export (subsidized) products in excess of its UR commitments; and it sets a precedent for other countries to follow, most notably the EU.

Canada established an annual TRQ of 64,500 tons of fluid milk as part of its Uruguay Round minimum access commitments. Canada's WTO schedule states in the "terms and conditions for fulfilling its TRQ for fluid milk," that this quantity represents the estimated annual cross-border purchases imported by Canadian consumers. Based on Canada's own interpretation of its TRQ, Canada denies access to any commercial shipment of fluid milk. All commercial imports of fluid milk are subject to the high second tier tariff.

On September 5, the National Milk Producers Federation, the U.S. Dairy Export Council and the International Dairy Foods Association filed of a Section 301 petition with USTR asking that we initiate a WTO dispute settlement case on Canada's special milk class pooling system because it is

an export subsidy which circumvents Canada's Uruguay Round reduction commitments on subsidized exports of dairy products. The petition also asks USTR to bring a case against Canada for its failure to open its tariff-rate quota on fluid milk to commercial imports. USTR has 45 days in which to decide whether to initiate a WTO dispute settlement case.

Biotechnology in the EU -- *Summary of Developments since June 1997*

In June of this year EU amended its regulations (Directive 90-220 which governs the environmental release and commercialization of genetically modified seeds and animal feeds derived from GMOs) to require companies to indicate on a label or an accompanying document that a feed or seed product contains or may contain GMOs. In July, the Commission agreed on general labeling guidelines for agricultural biotechnology products. These guidelines will be used by Commission officials to develop regulations on labeling. We believe that the Commission will translate the guidelines into the following regulations applicable to all products in the food chain manufactured from GMO's: 1) a voluntary label stating that a product is GMO-free; 2) a mandatory label stating that a product does contain GMOs; and 3) a mandatory label stating that a product may contain GMOs. It appears that segregation is no longer being considered by the Commission. Equally important, the Commission has moved toward requiring uniform labeling requirements among member states. The decision on whether--and how--to label a product will be made at the Commission level, thereby eliminating the ability of member states to institute their own labeling requirements.

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Divider Title: **12**

U.S.-JAPAN TRADE

During the past four and a half years, the U.S. has made considerable progress in opening Japan's markets to U.S. competitive goods and services. U.S. exports to Japan rose 41 percent between 1993 and 1996 and last year, the trade deficit declined 20 percent over the previous year.

The 30 trade agreements we have reached with Japan since the beginning of this Administration have contributed significantly to these positive trends. Also key has been the growing competitiveness of U.S. companies and workers in a wide range of sectors.

Although recent trade developments are of growing concern to us, we are determined to ensure that the progress we have achieved over the past few years is sustained. To accomplish this, we will continue to focus on vigorous implementation of our existing agreements with Japan and the negotiation of new market access agreements. In addition, we plan to use the WTO and multilateral and regional fora, such as APEC, to advance our trade policy goals with Japan.

Our objectives are similar to those articulated by Prime Minister Hashimoto many times in the two years since he took office. Two of the top priorities on both of our agendas are deregulation and market opening, which will benefit both countries.

During the next several months, the U.S. and Japan will consult on a range of issues that will test Prime Minister's commitment to these objectives. Key among these will be reform of Japan's port practices, conclusion of a civil aviation agreement, the renewal and improvement of the NTT agreement, improved market access for U.S. autos and autos parts, and deregulation in telecommunications, housing, pharmaceuticals, and financial services.

Ports

Restrictive practices in Japanese ports, especially the "prior consultation" system, have caused difficulties for U.S. shipping companies for many years. This system compels shipping companies to obtain advance approval from the Japan Harbor Transportation Association for virtually all proposed changes in port operations. It also requires government licensing procedures that effectively prohibit new stevedoring companies from entering the market.

The U.S. has tried to address these issues for many years. Last April, the Japanese Government committed in consultations with the U.S. to improve the prior consultation system by July 31. It was largely based on this commitment that the Federal Maritime Commission, an independent regulatory issue with jurisdiction over this issue, suspended until September 4 sanctions that were originally scheduled to take effect April 14.

Despite the good faith efforts of both foreign and Japanese shipping companies, the Ministry of Transport was unable to achieve agreement on meaningful reform of the prior consultation system by the September 4 deadline. As a result, the FMC imposed sanctions of $100,000 per U.S. port visit on vessels owned or operated by Japanese companies.

Despite the sanctions, the parties are continuing discussions to resolve this issue. The U.S. hopes these discussions will address the longstanding market access problems that exist in this sector.

Civil Aviation

The U.S. and Japan hope to reach an agreement by September 30 on civil aviation. These negotiations aim to revise, for the first time in nearly half a century, the rules governing air transport between the U.S. and Japan. The agreement we reach will determine whether U.S. and Japanese airlines will be allowed to respond flexibly and freely to opportunities offered by intensively competitive global markets.

The U.S. is pursuing three objectives in these negotiations: (1) substantial and reciprocal new opportunities to carriers of both countries, (2) guarantees that carriers of both countries can take advantage of existing opportunities, especially opportunities to offer service beyond Japan, and (3) a fully liberalized bilateral aviation market or "open skies."

The U.S. and Japan are continuing negotiations on this issue, which will test Japan's commitment to deregulation and market opening. The two sides have mutually committed to seek agreement on this issue by September 30.

NTT

NTT is Japan's single largest purchaser of telecommunications equipment and accounts for nearly half of Japan's $30 billion telecommunications equipment market. The initial NTT agreement was reached in 1980, when NTT was wholly owned by the Japanese Government. Since then, the Japanese Government has taken steps to privatize NTT, but it still holds two-thirds of NTT's shares.

Although progress has been made under the arrangements to date, the foreign share of NTT telecommunications procurement still does not adequately reflect the global competitiveness of U.S. and other foreign firms. Extension and improvement of the arrangement is critical to ensure increased procurement opportunities for U.S. suppliers.

The U.S. and Japan are negotiating extension of the agreement and have jointly agreed to conclude a new agreement by September 30, the expiration date of the current agreement, so as to ensure no lapse in coverage of NTT telecommunications procurements. Any new agreement must address ongoing problems with NTT's procurement practices, including the need for increased transparency in procurement decisions and greater access for foreign firms

to NTT technical specifications.

Autos and Auto Parts

We are particularly concerned about the recent reversal of the positive trends we had witnessed over the past two years in this sector, especially given that autos and auto parts sector accounts for the equivalent of nearly two-thirds of our trade deficit with Japan. Sales of Big Three North American vehicles in Japan have fallen 17 percent so far this year after rising 34 percent last year. Meanwhile, Japanese exports of vehicles to the U.S. increased by 22 percent during the first half of the year, after having declined 11 percent last year.

U.S. manufacturers have added only 132 new dealerships since the signing of the 1995 auto agreement. Without adequate access to distribution channels in Japan, U.S. auto manufacturers will have little chance of increasing their sales in the Japanese market.

In the auto parts sector, the Japanese Government has taken important deregulatory steps. However, to maintain progress and ensure further opportunities for U.S. and other competitive foreign firms, the pace and scope of deregulation in this sector needs to be enhanced significantly.

Auto consultations with Japan will take place in early October. We are looking to Japan to take concrete actions to address our serious concerns about recent trends in this sector.

Enhanced Deregulation Initiative

President Clinton and Prime Minister Hashimoto agreed on the Enhanced Initiative on Deregulation and Competition Policy at the G-8 Summit in Denver on June 19. Prime Minister Hashimoto has repeatedly stated his commitment to undertaking fundamental deregulation in Japan, most recently in an address on September 12 laying out the goals for his second Administration. The Enhanced Deregulation Initiative tracks closely with his deregulation agenda, which is aimed at spurring stable economic growth and preparing Japan as he put it: "to enter the 21st century with dignity and confidence."

The U.S. is working to ensure that Japan's implementation of deregulatory measures and other reforms also result in increased market access for U.S. and other foreign goods and services. The new deregulation initiative commits Japan to implement concrete deregulatory measures in key sectoral and structural areas to increase market access. These include telecommunications, financial services, housing, and medical devices/pharmaceuticals, as well as structural issues including competition policy and distribution, and transparency of government procedures.

We have already begun implementing this initiative at the expert-level, and anticipate holding Deputy-level talks this fall. The success of this initiative will depend largely on whether Japan is truly committed to eliminating the significant regulatory barriers to its market.

WTO Initiatives

In addition to our bilateral agreements, we have had a strong record of success in using the WTO dispute settlement process to help eliminate market access barriers in Japan and intend to continue using this mechanism to address outstanding barriers. We have brought four WTO cases against Japan so far, two of which we won and the other two of which are pending.

We achieved successful resolution of our case against Japan regarding 50-year protection of copyrights for sound recordings. Japan settled this case, agreeing to change its copyright laws to bring them into compliance with WTO rules. We also won a decisive victory against Japan's discriminatory taxation of alcoholic beverages. We have held consultations with Japan on our case against its variety-by-variety testing of fruits. Finally, we brought the film case to the WTO, following a determination of unreasonable practices by the Government of Japan with respect to the sale and distribution of consumer photographic materials in Japan. Our GATT case described in detail the extensive array of measures put in place by the Government of Japan over the past 30 years to offset the effects of tariff, import, and foreign investment liberalization and to limit the sale of imported consumer photographic film and paper in the Japanese market. A panel ruling on this case is due before the end of the year.

New Multilateral Initiatives

We also are pursuing multilateral initiative in multilateral and regional fora, which will increase access to the Japanese market as well as to other countries. In this regard, the WTO agreements on the ITA and basic telecommunications are key accomplishments that will bring important new opportunities for U.S. companies in Japan. We also are continuing to pursue other WTO agreements in such areas as financial services and electronic commerce. We also will be pursuing sectoral initiatives in the APEC context.

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Divider Title: **13**

Update: Developments in U.S. International Trade Dispute Settlement

September 9, 1997

SUMMARY:

- ***WTO proceedings in which U.S. is a plaintiff:*** **27** cases in total, of which **6** are before panels, **2** recently completed appellate proceedings, **2** recently completed panel proceedings, **14** are in consultations, and **3** are in the implementation or settlement phase.

- ***WTO proceedings in which U.S. is a defendant:*** **11** cases in total, of which **1** is before a panel, **7** are in consultations, and **3** are in the implementation or settlement phase.

- ***WTO proceedings in which U.S. is a third-party participant (amicus):*** **11** cases in total, of which **3** are before panels, **7** are in consultations and **1** recently completed panel proceedings.

- ***NAFTA Chapter 20 proceedings in which the U.S. is a plaintiff:*** **2** cases, both of which are in consultations.

- ***NAFTA Chapter 20 proceedings in which the U.S. is a defendant:*** **5** cases in total, of which **1** is before a panel, **3** are in consultations and **1** has been settled.

EVENTS SINCE THE LAST UPDATE:

Highlights: Since the last Update, the United States has prevailed in three more WTO proceedings: the WTO appellate proceedings on the EC banana regime, and panel proceedings on the EC's ban on growth hormones and India's failure to provide intellectual property rights protection. The WTO Dispute Settlement Body (DSB) has adopted the panel and Appellate Body reports on Canada's measures on split-run magazines, and Canada has announced it will comply with the recommendations in the reports. Four other cases were successfully settled.

- On September 9, the WTO Appellate Body circulated its report in the dispute on the EU's import regime for bananas. The report broadly upheld the arguments made by Ecuador, Guatemala, Honduras, Mexico and the United States, and rejected almost all of the arguments of the EU; see page 15 below for details.

- On September 9, the panel in the NAFTA Chapter 20 challenge by Mexico to a U.S. safeguard action on broom corn brooms held its hearing in Washington.

- On September 5, the panel report was circulated in the dispute concerning India's failure to provide a "mailbox" system for future patenting of agricultural and pharmaceutical

chemicals. The panel report completely upheld U.S. arguments and found that India has failed to comply with its obligations.

- On September 4, the United States requested WTO consultations with Mexico concerning Mexico's antidumping investigation, preliminary determination and provisional duties on high-fructose corn syrup from the United States.

- On September 2, the United States and Canada announced that they had successfully settled a NAFTA dispute and Canada had withdrawn its complaint concerning the U.S. re-export program for sugar-containing products. On September 8, the two governments announced that they had finalized the terms of a settlement agreement.

- On August 29, Canada notified the DSB that it is Canada's intention to meet its obligations under the WTO with regard to the recommendations in the panel and Appellate Body reports on Canada's discriminatory measures against "split-run" magazines. These reports had been adopted by the DSB on July 30. The reports, a win for the United States, rejected Canada's argument that the excise tax is a services trade measure; found that Canada's tax on split-run magazines discriminates against imports contrary to GATT Article III:2, and found that Canada's "funded" postal rates for Canadian magazines discriminate against imported magazines.

- On August 20, the United States informed the DSB that USEPA Administrator Carol Browner had signed a final rule on reformulated and conventional gasoline. This rule completes the implementation process in the WTO dispute concerning this matter. The rule was developed in compliance with all requirements of the Uruguay Round Agreements Act. With completion of USEPA's rulemaking process on conventional and reformulated gasoline, the United States now has no implementation issues outstanding.

- On August 18, the WTO released the final panel report in the dispute brought by the United States against the EU's hormone ban. The report upheld the claims of the United States, finding that the EU has no scientific basis for blocking the sale of American beef in Europe.

- On August 18, 1997, the EU requested consultations with the United States concerning a ban on imports of EU poultry and poultry products, imposed on May 5, 1997 by the Food Safety Inspection Service of the U.S. Department of Agriculture until the United States is able to obtain additional assurances of adequate product safety.

- On August 15, Korea requested consultations with the United States concerning the Commerce Department's antidumping review on DRAMs from Korea.

- On August 7, Korea consulted with the United States concerning the Commerce Department's administrative review of the antidumping order on color television receivers from Korea.

- On August 5, Chile requested consultations concerning the Department of Commerce's initiation of a countervailing duty investigation of salmon from Chile.

- On July 30, the DSB established a panel in the U.S. complaint against Indonesia's national car program. The panel has been consolidated with the panels established on June 12 in the disputes brought by Japan and the EU on the same matter.

- At the July 30 DSB meeting, Australia, Argentina, New Zealand and the United States jointly notified the DSB of a mutually agreeable solution reached between them and Hungary settling a dispute concerning Hungary's export subsidies on agricultural products.

- Also on July 30, the DSB established a panel concerning a complaint by Brazil against EU tariff quotas on poultry, and the United States reserved the right to present views as an interested third party.

- On July 23, the second panel meeting with the parties took place in the WTO dispute concerning Argentina's specific duties on footwear, textiles and apparel, and three percent ad valorem statistical tax.

- On July 22, the United States, the EU and Japan held consultations under the Agreement on Government Procurement concerning the Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar) enacted by Massachusetts on June 25, 1996.

- On July 21-22, the Appellate Body held its oral hearing in the appeal of the panel report on the EU import regime for bananas. The parties had filed their appellee submissions on July 9.

- On July 17, the United States and Turkey notified the DSB of the successful settlement of the U.S. complaint against Turkey's discriminatory film taxes.

- On July 17, the United States consulted with Mexico under NAFTA Chapter 20 concerning an internal notice of the U.S. Customs Service clarifying the tariff classification of Persian limes. The United States also consulted under NAFTA Chapter 20 concerning Mexico's request for designation of the Mexicali valley as free from karnal bunt disease for purposes of wheat exports.

- On July 16, the United States requested consultations with India under the GATT and the Agreement on Import Licensing concerning the import quotas maintained by India on over 2700 product categories. Consultations on the same measures were also requested on July 16 by Australia, Canada and New Zealand, on July 18 by Switzerland, and on July 21 by the EU.

- On July 15, the EU and United States agreed to commit themselves to achieving a satisfactory resolution of their differences concerning rules of origin for textiles, in the context of the 1997-98 WTO negotiations on harmonization of rules of origin for textiles.

- On July 10, the second panel meeting with the parties took place in the WTO disputes concerning EU, Irish and U.K. impairment of tariff concessions on LAN equipment and PCs with multimedia capability. Arguments have now closed in this case.

- On July 10, Korea requested consultations concerning the Commerce Department's antidumping administrative review determination on television receivers from Korea.

The next DSB meeting is scheduled to take place on September 25, 1997.

NOTE: All circulated WTO panel and appellate body reports are now available on the Internet from the WTO's World Wide Web site, at http://www.wto.org/wto/dispute/distab.htm. Current WTO dispute settlement documents are available, as of the day after circulation in Geneva, from the WTO Document Dissemination Facility (http://www.wto.org/wto/ddf/daily/public.html). For convenience this paper indicates the WTO document series numbers for each dispute listed.

I. WTO

A. Proceedings in which the United States is a plaintiff (26)

1. Mexico—Antidumping investigation of high fructose corn syrup from the United States (U.S. v. Mexico)

New case: On September 4, the United States requested consultations with Mexico under Article 17.3 of the Agreement on Implementation of Article VI (the Antidumping Agreement) concerning Mexico's antidumping investigation of high fructose corn syrup (HFCS) from the United States (WT/DS101/1). The antidumping investigation was initiated on the basis of a petition from the Mexican sugar industry. Problems cited include failure to determine whether there was sufficient evidence that the original petition was made by or on behalf of the domestic industry, failure to provide proper notification to the United States and failure to provide the U.S. industry timely access to the relevant information needed in the presentation of its case. The two parties are discussing a date for consultations.

2. *India—Import quotas on agricultural, textile and industrial products (U.S. v. India)*

New case: On July 16, the United States requested consultations under Article XXII of GATT 1994 and the Agreement on Import Licensing concerning import quotas on over 2700 product categories maintained by India (WT/DS90/1). India was formerly entitled to maintain such quotas under the balance-of-payments (BOP) exceptions of GATT, but its BOP justification ended earlier this year. Consultations on the same measures were also requested on July 16 by Australia, Canada and New Zealand, on July 18 by Switzerland, and on July 21 by the EU. Consultations between the United States and India will be held on September 17.

3. *Sweden—Measures affecting the enforcement of intellectual property rights (U.S. v. Sweden)*

The Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") requires in Articles 50, 63, and 65 that all WTO Members provide provisional relief in civil enforcement proceedings. Courts must be granted the ability to order unannounced raids to determine whether infringement is taking place, and to either seize allegedly infringing products as evidence or to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. The availability of provisional relief in the context of civil proceedings is of great importance to certain industries dependent upon intellectual property protection. Sweden has not implemented this obligation. On May 27, the United States requested consultations with Sweden under the TRIPS Agreement (WT/DS/85/1). Initiation of this complaint was announced by Ambassador Barshefsky on April 30 as part of the Special 301 Annual Review for 1997. Consultations were held on June 27.

4. *Korea—Taxes on alcoholic beverages (U.S. v. Korea)*

Korea taxes whisky and other Western-type distilled spirits at rates far less than the rates applicable to soju, a Korean distilled spirit. On May 23, the United States requested consultations under GATT Article XXII concerning Korea's taxes on distilled spirits (WT/DS84/1). Consultations were held on June 24. The United States participated on May 29 in consultations on the same matter held at the request of the EU (see page 24 below).

5. *Denmark—Measures affecting the enforcement of intellectual property rights (U.S. v. Denmark)*

The Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") requires in Articles 50, 63, and 65 that all WTO Members provide provisional relief in civil enforcement proceedings. Denmark has not implemented this obligation. On May 14, the United States requested consultations with Denmark under the TRIPS Agreement (WT/DS/83/1). Initiation of this complaint was announced by Ambassador Barshefsky on April 30 as part of the Special 301 Annual Review for 1997. Consultations took place on June 10. A second round of consultations will take place on September 19.

6. *Ireland—Measures affecting the grant of copyright and neighboring rights (U.S. v. Ireland)*

Ireland has not yet amended its copyright law to provide copyright and neighboring rights consistent with Articles 9-14, 63, and 65 of the TRIPS Agreement. Examples of TRIPS inconsistencies include absence of a rental right for sound recordings, no "anti-bootlegging" provision, and very low criminal penalties which fail to deter piracy. On May 14, the United States requested consultations with Ireland under the TRIPS Agreement (WT/DS82/1). Initiation of this complaint was announced by Ambassador Barshefsky on April 30 as part of the Special 301 Annual Review for 1997. Consultations took place on May 30.

7. *Belgium—Measures affecting commercial telephone directory services (U.S. v. Belgium)*

On May 2, the United States requested consultations with Belgium under the General Agreement on Trade in Services (GATS) concerning Belgian government measures which appear to discriminate against ITT Promedia, N.V., a U.S. supplier of commercial telephone directory services. The Belgian measures include imposition of conditions for obtaining a license to publish commercial directories, and Belgian measures governing the acts, policies and practices of Belgacom B.V. with respect to telephone directory services. The consultation request (WT/DS80/1) cited possible denial of national treatment and most-favored-nation treatment by Belgium, as well as possible violation of obligations under GATS Articles VI and VIII and nullification or impairment of benefits under specific GATS commitments made by the EC on behalf of Belgium. Consultations took place on June 20.

8. *Japan—Measures affecting imports of agricultural products (U.S. v. Japan)*

On April 7, 1997, the United States requested consultations with Japan regarding the prohibition by Japan on imports of agricultural products. Specifically, for those agricultural products for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety, even though the treatment has proven effective with respect to other varieties of the same product. The consultation request (WT/DS76/1) notes that these measures appear to be inconsistent with provisions of several WTO agreements, including Articles 2, 4, 5 and 8 of the Agreement on the Application of Sanitary and Phytosanitary Measures; Article XI of GATT 1994; and Article 4 of the Agreement on Agriculture. The consultations took place on June 5.

9. *Philippines—Measures affecting pork and poultry (U.S. v. Philippines)*

On April 1, 1997, the United States requested consultations with the Philippines regarding the implementation by the Philippines of its tariff-rate quotas for pork and poultry. The consultation request (WT/DS74/1) notes that implementation of these tariff-rate quotas (in particular the delays in permitting access for the in-quota quantities and the licensing system used to administer

access to the in-quota quantities) appear to be inconsistent with provisions of several WTO agreements, including Articles III, X and XI of GATT 1994; Article 4 of the Agreement on Agriculture; Articles 1 and 3 of the Agreement on Import Licensing Procedures; and Articles 2 and 5 of the Agreement on Trade Related Investment Measures (TRIMs Agreement). The consultations were held on April 30, with the participation as well of the EU and Canada. The United States is now evaluating changes made by the Philippines in implementation of the tariff-rate quotas.

10. *Ireland—Reclassification of LAN equipment (U.S. v. Ireland)*

Since 1995, customs authorities in Ireland have been applying tariffs to imports of local area network (LAN) equipment in excess of those provided for in the applicable schedule of tariff concessions under the GATT 1994. These increases have resulted from the reclassification of various types of LAN equipment from HS 8471, automatic data processing equipment, to the HS 8517, telecommunications apparatus, which has a higher duty rate. The United States has argued that the treatment of these products contravenes Ireland's obligations under Article II of the GATT 1994. The United States first raised this matter with the EC, which asserted that certain actions were taken independently by Irish customs authorities. In light of the EC assertions, on February 14, 1997, the United States requested consultations with the Government of Ireland (WT/DS68/1). On February 24, the EC, responding on behalf of Ireland, officially rejected the U.S. request for consultations. On March 7, the United States requested establishment of a panel. As agreed between the United States and the EC, the DSB, at its meeting on March 20, modified the terms of reference of the panel previously established to consider the U.S. complaint against the EC (*see* item 12 below) so as to include the matters raised in the U.S. v. Ireland complaint. The first U.S. brief was submitted on May 14. The first panel meeting with the parties took place on June 12.

Recent developments: The second panel meeting took place on July 10. Arguments have now closed. The panel report is scheduled to be circulated in late November 1997.

11. *United Kingdom—Reclassification of LAN equipment and multimedia PCs (U.S. v. UK)*

Since the Uruguay Round, customs authorities in the United Kingdom have been applying tariffs to imports of local area network (LAN) equipment and multimedia personal computers (PCs) in excess of those provided for in the applicable schedule under the GATT 1994. These increases have resulted from the reclassification of these products from the automatic data processing category to categories with higher duty rates. The United States has argued that the treatment of these products contravenes the United Kingdom's obligations under Article II of the GATT 1994. The United States first raised this matter with the EC, which asserted that certain actions were taken independently by British customs authorities. In light of the EC assertions, on February 14, 1997, the United States requested consultations with the Government of the United Kingdom (WT/DS67/1). On February 24, the EC, responding on behalf of the United Kingdom, officially

rejected the U.S. request for consultations. On March 7, the United States requested establishment of a panel. As agreed between the United States and the EC, the DSB, at its meeting on March 20, modified the terms of reference of the panel previously established to consider the U.S. complaint against the EC (*see* item 12 below) so as to include the matters raised in the U.S. v. U.K. complaint. The first U.S. brief was submitted on May 14. The first panel meeting with the parties took place on June 12.

Recent developments: The second panel meeting took place on July 10. Arguments have now closed. The panel report is scheduled to be circulated in late November 1997.

12. *EC—Reclassification of LAN equipment and multimedia PCs (U.S. v. EU)*

In June 1995, the EC issued a regulation reclassifying certain local area network (LAN) adapter cards from the tariff category for automatic data processing (ADP) equipment to the telecommunications apparatus category, resulting in increases in the tariffs on these products to a level above the rate provided for in the EC's schedules under the GATT 1994. In addition, since the Uruguay Round, customs authorities in certain EC member States have taken action to reclassify local area network (LAN) adapter cards and multimedia-equipped personal computers (PCS) from "automatic data processing equipment" to other tariff categories. The reclassification has the effect of raising duty rates to levels above the bound rate for ADP equipment, thereby impairing EC tariff concessions in contravention of Article II of the GATT 1994. After technical talks in 1996 failed to achieve progress on this issue, on November 8, 1996, the United States requested consultations with the EC under Article XXII of the GATT 1994 (WT/DS62/1). Consultations took place on January 23, 1997. On February 11, the United States requested the establishment of a panel. At its February 25 meeting, the DSB established a panel with respect to the complaint against the EC. Japan, Singapore, Korea and India indicated third party interest. At its meeting on March 20, the DSB modified the terms of reference of the panel so as to include the matters raised in the related U.S. complaints against Ireland and the United Kingdom (*see* items 4 and 5, above). The parties then agreed on the following panelists: Crawford Falconer, chair (New Zealand), Ernesto de la Guardia (Argentina), and Carlos Antonio da Rocha Paranhos (Brazil). The first U.S. brief was submitted on May 14. The first panel meeting with the parties took place on June 12.

Recent developments: The second panel meeting took place on July 10. Arguments have now closed. The panel report is scheduled to be circulated in late November 1997.

13. *Indonesia—National car program (EU v. Indonesia, Japan v. Indonesia, U.S. v. Indonesia)*

Since 1993, Indonesia has granted tax and tariff benefits to producers of automobiles based on the percentage of local content of the finished automobile. In 1996, the Indonesian Government established the "National Car Program," which grants "pioneer" companies luxury tax- and tariff-free treatment if they meet gradually-increasing local content requirements. Pioneer companies

must be Indonesian-owned, produce the automobile in Indonesia, and use a unique, Indonesian-owned trademark on the automobile. Pioneer companies also may be granted the right, over a one-year period, to import finished automobiles from outside Indonesia and still receive the exemption from the luxury tax and tariffs on the imported autos; in this case, the foreign company manufacturing the "national car" outside of Indonesia must enter a countertrade arrangement. One company, PT Timor Putra Nasional, has been granted pioneer status, has been given the right to import 45,000 finished cars in a one-year period, and has begun to do so from its Korean partner, Kia Motor Corporation.

On October 3, 1996, the EU requested consultations with Indonesia concerning Indonesia's national car program (WT/DS54/1). On October 4, Japan requested consultations concerning the same matter (WT/DS55/1). On October 8, the United States also requested consultations (WT/DS59/1) concerning the National Car Program and tying of tax and tariff benefits to local content; the U.S. cited GATT Articles I:1, III:2, III:4, III:5 and III:7; TRIMs Article 2; Subsidies Agreement Articles 3, 6 and 28.2; and TRIPS Articles 3, 20 and 65.5. The U.S. consultation request was made as part of a Section 301 investigation of this matter, initiated on October 8. The United States, Japan and the EU consulted with Indonesia on November 4, 5 and 6 respectively. On November 29, Japan requested consultations (WT/DS64/1) with regard to the the Subsidies Agreement. A followup round of U.S.-Indonesia consultations was held on December 4. Informal consultations have continued since that time.

On April 17, 1997, Japan requested establishment of a panel to examine its complaints against Indonesia. On May 12, 1997, the EU too filed a panel request; in addition, the EU alleged that the Indonesian measures displace or impede imports of EU motor vehicles and thus constitute specific subsidies causing serious prejudice under Article 6 of the SCM Agreement, and the EU requested that the DSB initiate a special procedure under Annex V of the SCM Agreement to develop evidence of serious prejudice. On June 12, panels were established in response to the Japanese and EU requests; the two disputes were consolidated into one proceeding. The report in the Annex V procedure is due in mid-August. The United States has reserved its rights as a third party with respect to that panel. On June 12, the United States requested a panel in order to preserve its rights, while stating that we continue to pursue consultations aimed at achieving a market-opening settlement; the United States too has invoked Annex V.

Recent developments: On July 29, in response to a request by Japan and the EU, the WTO Director-General composed the panel in the EU/Japan v. Indonesia dispute as follows: Mohamed Maamoun Abdel Fattah, chairman (Egypt), Ole Lundby (Norway) and David Walker (New Zealand). On July 30, a panel was established in response to the U.S. request. The U.S.-Indonesia dispute has been consolidated with the EU/Japan v. Indonesia dispute in one panel proceeding. The Annex V procedure invoked by the United States has been initiated; Stuart Harbinson (Hong Kong) was appointed as the DSB's representative to facilitate the information gathering process.

14. *Australia—Prohibited export subsidies on leather (U.S. v. Australia)*

On October 7, 1996, the United States requested consultations with Australia concerning subsidies available to leather under the Textile, Clothing and Footwear Import Credit Scheme (TCF scheme) and any other subsidies to leather granted or maintained in Australia which are prohibited under Article 3 of the Subsidies Agreement (WT/DS57/1). Under the TCF scheme, exporters of eligible products earn import credits which are calculated as a percentage of the domestic value added content of their exports, and which enable the holder of the credits to reduce the amount of customs duty paid on eligible imported goods by an amount up to the value of the credits held. The request cited only Article 3 of the Subsidies Agreement, and was made under Article 30 of that agreement (to the extent that it incorporates by reference GATT Article XXIII). The U.S. consultation request was made as part of a Section 301 investigation of this matter, initiated on October 3. Consultations were held on October 31.

On November 25, Ambassador Barshefsky and Australian Deputy Prime Minister Fisher announced successful settlement of the complaint, with an agreement by Australia to excise automotive leather from eligibility under the Import Credit Scheme and the Export Facilitation Scheme by April 1, 1997. Subsequently, Australia announced a new package of subsidies (grants and preferential loans) to the sole Australian exporter of automotive leather. The United States is considering options for possible action against these new subsidies.

15. *Argentina—Specific duties on footwear, textiles and apparel and 3 percent ad valorem statistical tax (U.S. v. Argentina)*

On October 4, 1996, the United States requested consultations with Argentina concerning specific duties imposed on various footwear, textile and apparel items in excess of Argentina's tariff commitments; a statistical tax of 3 percent *ad valorem;* and measures requiring that imports of footwear, textiles and apparel be labeled with the number of a corresponding affidavit of product components filed with the Argentine government (WT/DS56/1). The consultation request noted possible violation of Argentina's obligations under GATT Articles II, VII, VIII and X; Articles 1 through 8 of the Agreement on Implementation of Article VII (Customs Valuation Agreement); Article 2 of the Agreement on Technical Barriers to Trade; and Article 7 of the Agreement on Textiles and Clothing, and was made under GATT Article XXII and the corresponding provisions of these other agreements. The U.S. consultation request was made as part of a Section 301 investigation of this matter, initiated on October 4. The United States and Argentina consulted on November 12, with the EU and Hungary participating as interested third parties. During the consultations, Argentina represented that it had revised its labeling requirements in a manner that satisfied U.S. concerns. However, there was no resolution regarding U.S. objections to Argentina's specific duties and the 3 percent *ad valorem* statistical tax. On January 9, 1997, the United States requested establishment of a panel to examine the specific duties and statistical tax. At its February 25 meeting, the DSB established a panel, with the EU, Hungary and India indicating third-party interest. On April 4, the United States and Argentina agreed on the following panelists: Peter Palečka (Chair; Czech Republic); Peter May (Australia); and Heather

Forton (Canada). The first panel meeting took place on June 17-18. The EU has also asked for consultations; see page 24 below.

Recent developments: The second and final panel meeting took place on July 23. Arguments have now closed. The panel report is expected at the end of November 1997.

16. ***Brazil—Local content regime for automotive investment (Japan v. Brazil, U.S. v. Brazil, EU v. Brazil)***

On July 30, 1996, Japan requested consultations under GATT Article XXII, the Agreement on Trade-Related Investment Measures (TRIMs Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), concerning Brazil's local content regime for automotive investment introduced in December 1995 (WT/DS51/1). On August 8, the United States requested to be joined in Japan's consultations. On August 9, the United States requested consultations on the Brazilian auto regime in its own right under Article XXII, the TRIMs Agreement and the Subsidies Agreement (WT/DS52/1). Both sets of consultations were held jointly in Geneva on August 13. Also participating in one or both sets of consultations were the EU, Korea and Canada.

On October 1, USTR announced that the United States and Brazil agreed to enter into intensive talks with the goal of removing the discriminatory impact of Brazil's practices on U.S. exports. In the meantime, on October 11, USTR initiated a Section 301 investigation of this matter.

On January 10, 1997, the United States requested formal consultations with Brazil concerning its new auto incentive programs (WT/DS65/1). These new programs provide (1) benefits to certain companies located in Japan, the Republic of Korea and the EC in the form of reduced tariffs on a specified number of vehicles; (2) benefits to companies investing in automotive manufacturing facilities in the North, Northeast and West Central regions of Brazil; and (3) benefits to manufacturers of motor vehicles and parts, in the form of a reduction in duties on imports of certain products, conditional on compliance with average domestic content requirements, trade-balancing and local content requirements with regard to inputs, and other criteria that may be imposed by the Ministry of Trade. The United States noted possible violations of the Brazil's obligations under GATT Articles I, II, III and XIII, as well as the TRIMS Agreement and the Subsidies Agreement. Consultations concerning the new programs took place in Geneva on February 20-21.

On May 7, 1997, the EU requested consultations with Brazil concerning its auto regime (DS81/1). The request contends that these measures violate GATT Articles I:1 and III:4, Articles 3, 5 and 27.4 of the Subsidies Agreement, and Article 2 of the TRIMs Agreement.

17. *India—Implementation of "mailbox" and exclusive marketing rights provisions in the TRIPS Agreement (U.S. v. India)*

India does not now provide product patent protection for pharmaceutical or agricultural chemical products. Article 70.8 of the TRIPS Agreement requires countries that did not provide patent protection for such products as of January 1, 1995, to establish a "mailbox" mechanism through which persons may file patent applications for these products, which applications will be examined based on their filing date when patent protection is ultimately provided. Nor has India complied with Article 70.9 of the TRIPS Agreement, which requires the grant of exclusive marketing rights to products that are subject to mailbox applications under certain circumstances. On July 2, 1996, the United States requested consultations with India regarding its lack of compliance with these provisions (WT/DS50/1). At the consultations on July 27, India agreed that it is legally obligated to establish mailbox and exclusive marketing rights systems. In light of India's continuing inaction, the United States requested a panel on November 10, and at its meeting of November 20, the DSB established a panel to examine the U.S. complaint. The following panelists were chosen to hear the dispute: Thomas Cottier (Chair; Switzerland), Yanyong Phuangrach (Thailand), and Doug Chester (Australia). On April 28, the EC requested consultations concerning the same matter (see page 24 below).

Recent developments: On September 5, 1997, the panel report was circulated to the WTO and made public. The report is a victory on all counts for the United States. The panel agreed with U.S. arguments that India must establish a TRIPS-consistent mailbox system and that India has not yet done so. The panel rejected India's claim that receipt of mailbox applications through an unpublished administrative system qualified as compliance, found that the transparency obligations of TRIPS Article 63 now apply to measures in compliance with the LDC transitional provisions in Article 70.8, and found that if the administrative system were a means of such compliance India would be in violation of Article 63. The message is clear: for developing countries benefiting from phase-in of TRIPS obligations, the phase-in period will not be a free ride.

18. *Japan—Measures affecting distribution services (U.S. v. Japan)*

On June 13, 1996, the United States requested consultations with Japan under Article XXIII of the General Agreement on Trade in Services, concerning measures affecting distribution services, applied by the Government of Japan pursuant to or in connection with the Large Scale Retail Stores Law (WT/DS45/1). These measures appear to violate GATS Articles III, VI, XVI and XVII, and to nullify or impair benefits accruing to the United States directly or indirectly under the GATS. Consultations took place on July 10. On September 20, the United States requested broader consultations with Japan concerning additional laws, regulations and administrative guidance, and additional legal claims. The consultations took place November 7-8. During the week of December 9, Japan responded to U.S. requests for additional information, and the United States is now reviewing the Japanese response.

19. *Japan—Measures concerning imported consumer photographic film and paper (U.S. v. Japan)*

On June 13, 1996, the United States requested consultations with Japan under Article XXIII of the GATT 1994 regarding various laws, regulations and requirements of the Government of Japan affecting the distribution, offering for sale and internal sale of imported consumer photographic film and paper (WT/DS44/1). The measures include a number of laws, regulations and administrative actions, originating in Japan's strategy of liberalization countermeasures in this sector, and inhibiting sales of imported film and paper. These measures appear to violate GATT Articles III and X, and to nullify or impair benefits accruing to the United States directly or indirectly under the GATT. Consultations took place on July 11. On September 20, the United States requested a panel, and the DSB established the panel on October 16. The WTO Director General composed the panel on December 17. The panelists are William Rossier (Chair; Switzerland), Adrien Macey (New Zealand) and Victor do Prado (Brazil). The United States made its first submission on February 20, 1997. After two panel meetings, arguments have now closed. The panel report is due in December 1997.

20. *Turkey—Discriminatory tax on film receipts (U.S. v. Turkey)*

Turkey imposes a discriminatory tax on box office receipts from exhibition of foreign films, which is not imposed on receipts from exhibition of Turkish films. On June 12, 1996, the United States requested consultations with Turkey under Article XXII of the GATT (WT/DS43/1). At the consultations held on July 25, Turkey agreed to eliminate the tax discrimination. Because Turkey failed to act on this issue, the United States requested a panel on January 9, 1997, and the panel was established at the February 25 meeting of the DSB, with Canada indicating third-party interest.

Recent developments: On July 17, the United States and Turkey jointly notified the DSB of the settlement reached between them, in which Turkey agreed to eliminate the tax discrimination.

21. *Hungary—Compliance with UR agricultural export subsidy commitments (Argentina, Australia, New Zealand and U.S. v. Hungary)*

Hungary consulted on May 3, 1996, under the consultation provisions of the WTO Agreement on Agriculture, in response to a March 27 request by the United States, Argentina, Australia, Canada, New Zealand and Thailand, concerning Hungary's lack of compliance with its schedule commitments on export subsidies (WT/DS35/1). Japan also joined in the consultations. Follow-up consultations took place on May 24, July 24, September 19 and November 8. On January 9, 1997, the United States requested a panel, as did Argentina, Australia, and New Zealand. These panel requests were considered for the first time at the January 22 meeting of the DSB. A single panel was established at the February 25 meeting of the DSB to consider the separate complaints, with Canada, Uruguay, Thailand and Japan indicating third-party interest.

Recent developments: At the July 30 meeting of the DSB, Australia, acting on behalf of the four parties that had requested a panel, notified the DSB of a mutually agreeable solution reached between the four and Hungary. Hungary will apply for a temporary waiver to the Council on Trade in Goods, which will specify a program to bring Hungary into compliance with its commitments. The four parties will withdraw their panel request when a satisfactory waiver has been approved.

22. *Canada—Discrimination against split-run magazines (U.S. v. Canada)*

This dispute concerns Canada's measures against "split-run" and other imported magazines, including a ban on imports of magazines with advertising directed at Canadians, a special excise tax on split-run magazines, and discriminatory postal rates on imported magazines (WT/DS31). The United States brought this complaint as part of an investigation under Section 301 of the Trade Act of 1974. The panel was established on June 19, 1996. The first U.S. submission in this case was filed on September 5, Canada's first submission was filed on September 26, the first panel meeting took place on October 11, the second U.S. submission was filed on November 1, and the second panel meeting took place on November 14-15.

On March 14, 1997, the panel circulated its report to WTO Members. The panel found that Canada's import ban violates GATT Article XI, and is not justified as an exception under Article XX. In addition, the panel found that Canada's 80 percent excise tax violates Canada's national treatment obligations under GATT Article III:2. The panel concluded that the tax drew an artificial distinction between split-run and non-split-run magazines, which are "like products," and that it applied only to split-runs. Finally, the panel found that Canada's discriminatory postal rates for magazines mailed in Canada accord less favorable treatment to imported magazines than to like Canadian magazines, in violation of GATT Article III:4. However, the Panel found that this violation was excused in the case of Canada's so-called "funded" postal rates, because these rates qualify as a subsidy within the meaning of GATT Article III:8(b).

On April 29, Canada filed a notice of appeal. Canada appealed the panel's rejection of Canada's argument that the excise tax was governed by the GATS instead of the GATT, as well as the panel's findings under Article III:2; the United States then cross-appealed the panel's finding that Canada could provide discriminatory "funded" postal rates under GATT Article III:8(b). The appeal was heard by AB members Mitsuo Matsushita (Japan, presiding member); Claus-Dieter Ehlermann (Germany) and Julio Lacarte-Muró (Uruguay).

On June 30, the Appellate Body circulated its report, which rejected Canada's argument that the excise tax is a services trade measure; found that imported split-run magazines and domestic non-split-run magazines are "directly competitive or substitutable" under GATT Article III:2, second sentence; and agreed with the U.S. argument that Canada's "funded" postal rates for Canadian magazines violate GATT Article III.

Recent developments: On July 30, the DSB adopted the Appellate Body report, and the panel report to the extent not modified by the AB report; under the DSU, Canada must unconditionally accept the Appellate Body report. On August 29, Canada notified the DSB that it is Canada's intention to meet its obligations under the WTO with regard to this matter and Canada will require a reasonable period to do so. The notification also stated that it is Canada's intention to continue to pursue its cultural policy objectives, consistent with Canada's rights and obligations as a WTO Member.

23. *EU—Regime for the importation, sale and distribution of bananas (U.S., Ecuador, Guatemala, Honduras and Mexico v. EU)*

On May 8, 1996, the DSB established a panel in response to the April 11 panel request filed jointly and severally by Ecuador, Guatemala, Honduras, Mexico and the United States (WT/DS27). The panel examined the EU banana regime under the GATT 1994, the Agreement on Import Licensing Procedures, the Agreement on Trade-Related Investment Measures, the Agreement on Agriculture, and the General Agreement on Trade in Services (GATS). The first panel meeting took place on September 10-12 and the second panel meeting took place on October 16-17, 1996.

The final panel report was circulated on May 22, 1997. It found that the WTO's banana regime violates WTO rules on sixteen counts. On June 11, the EU filed a notice of appeal citing 19 points appealed. The Appellate Body Division for this appeal was: James Bacchus (U.S., Presiding Member), Christopher Beeby (New Zealand), and Said El-Naggar (Egypt). On June 23, the EU filed its appellant brief. On June 26, the five complaining parties filed their cross-appeal submission, appealing three of the panel findings.

Recent developments: The Appellate Body hearing took place on July 21-22, with the participation of the parties and the third parties (including Caribbean banana exporting countries). On September 9, the Appellate Body issued its report to the WTO and made it public. The Appellate Body report rejected almost all of the EU arguments advanced on appeal and accepted almost all of the arguments advanced by the five complaining parties. The panel's and Appellate Body's findings confirm the broad scope of the coverage of the GATS and will be particularly important in eliminating barriers to U.S. exports in distribution and other service sectors. The case also sets important precedents for agriculture trade in the areas of tariff quotas and import licensing.

EU measures found to be inconsistent with WTO rules include: (1) the EU's assignment of import licenses for Latin American bananas to French and British companies (whose previous business had been limited to the distribution of European, Caribbean and African bananas), taking away a major part of the banana distribution business U.S. companies had developed over this century; (2) the EU's assignment of import licenses for Latin American bananas to European banana ripening firms (which had not historically imported bananas), further taking away U.S. company business; (3) the EU's actions imposing more burdensome licensing requirements for imports

from the Latin American co-complainants than for other countries' bananas; and (4) the EU's discriminatory and trade-distorting allocation of access to its market for bananas, which departed from the fair-share standard of the WTO which focuses on past levels of trade. .

The panel and the Appellate Body also affirmed that the tariff preferences over Latin American bananas which the EU currently provides to Caribbean banana exporting countries are consistent with the terms of a special WTO waiver the EU obtained for certain trade preferences for its former colonies. The United States did not challenge, and the WTO reports do not address, the zero-tariff preference for traditional Caribbean banana imports pre-dating the 1993 European regime.

The panel and AB reports will be adopted at the September 25, 1997 meeting of the DSB. At a DSB meeting within 30 days thereafter, the EU must state its intentions in respect of implementation of the recommendations and rulings in the reports.

24. *EU—Hormone ban (U.S. v. EU)*

In this dispute, the United States challenged the EU ban on imports of animals and meat from animals to which have been administered any of six hormones for growth promotion purposes (WT/DS27/1). The first U.S. submission in this case was filed on August 28, 1996, the first panel meeting took place on October 10, the second U.S. submission was filed October 28, and the second panel meeting took place on November 11. The panel decided to seek the advice of scientific experts, and on February 17, 1997, the panel held a meeting with the parties and the scientific experts, with Canada observing.

Recent developments: On August 18, the final panel report was circulated to the WTO and released to the public. The report upheld the claims of the United States, finding that the EU ban on the use of six hormones to promote the growth of cattle is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). In particular, the panel's report affirms that the EC's ban is not based on science. It was not based on a risk assessment or on the relevant international standards, and the EC has arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade. The panel report will be proposed for adoption at the September 25, 1997 meeting of the DSB.

25. *Australia—Ban on imports of salmon (U.S. v. Australia)*

Australia bans imports of untreated fresh, chilled or frozen salmon from Canada and the United States, allegedly to protect fish health, even though a draft risk assessment found in 1995 that there is no risk of fish disease transmission from imports of eviscerated fish. In 1995, the United States requested consultations with Australia (WT/DS21/1). At the end of December 1996, Australia issued a risk assessment supporting the continuation of the import ban. On March 7, 1997, Canada requested a panel in a similar complaint concerning Australia's ban on imports of

salmon; see page 25 below. The DSB established the panel at its meeting of April 10. The United States has reserved its right to appear as a third party in that proceeding.

26. *Japan—Taxes on distilled spirits (EU, Canada and U.S. v. Japan)*

The complaint in this case concerned Japan's tax rates on various types of distilled spirits, which favor the Japanese distilled spirit shochu by imposing high taxes on whiskey and vodka. The final panel decision was circulated to WTO Members on July 11, 1996. The panel found that Japan's tax rates on distilled spirits are inconsistent with Article III:2 of the GATT 1994, because the tax rate on vodka is higher than the tax rate on shochu, and because shochu and whisky, brandy, rum, gin, genever and liqueurs are not taxed similarly. The panel recommended that Japan change its liquor tax law, which up to now has provided a substantial excise tax advantage for shochu.

Japan then appealed the panel report on August 8. The appeal was heard by the following division of three members of the Appellate Body: Julio Lacarte (Uruguay, presiding member), James Bacchus (United States), and Said El Naggar (Egypt). On October 4, the Appellate Body issued its decision, affirming the panel's finding that Japan's tax rates are inconsistent with GATT Article III:2. However, the Appellate Body widened the product scope of the findings to call for similar taxation of all distilled spirits in HS 2208.

At a meeting of the DSB held on October 29 and November 1, the DSB adopted the Appellate Body report, and also adopted the panel report to the extent its findings had not been modified by the Appellate Body report. At the DSB meeting of November 20, Japan announced its intention to implement the recommendations in the reports. Due to a lack of agreement as to what would constitute a "reasonable period of time" for Japan's implementation of the recommendations, on December 24, the United States requested the appointment of an arbitrator to decide what would be a "reasonable period of time." Because the parties could not agree on an arbitrator, the United States requested that the WTO Director-General appoint an arbitrator, and on January 17, 1997, the WTO Director-General appointed Julio Lacarte (Uruguay - chairman of the Appellate Body). On February 14, 1997, Mr. Lacarte issued his decision in which he (1) rejected Japan's request for a 5-year implementation period, and (2) found that a reasonable period of time for implementation would be 15 months from the date of adoption of the Appellate Body and panel reports, or by February 1, 1998.

The U.S. Government is continuing to seek compliance by Japan within the 15-month deadline. Before each DSB meeting after August 1997, Japan must submit written status reports concerning its progress in implementation and Japan's implementation will be on the DSB's agenda for discussion. Japan's first status report is due on September 10, 1997.

27. *Korea—Requirements for importation of perishable products (U.S. v. Korea)*

In Korea, import clearance for agricultural products typically takes two to four weeks, compared to three to four days elsewhere in Asia. The United States has raised at least five problem areas with respect to imports of agricultural products into Korea: (1) Korea's requirement that 100 percent of imported products be inspected and tested rather than subjecting them to a random sampling regime; (2) the requirement that imported fruit be subjected to expensive and time consuming fumigation requirements for insects already found and not controlled in Korea (so-called "cosmopolitan pests"); (3) the requirement that every shipment of imported fresh produce be unpacked, sorted and repacked to remove any spoiled product; (4) the requirement for incubation testing of certain products, particularly those from pest-free areas; and (5) the replacement regime for the system of self-specification, which requires all new products to meet "common standards" which are not based on scientific risk assessment.

Shortly after the United States requested Article XXII consultations under WTO dispute settlement procedures in April 1995 (WT/DS3/1), Korea revised its inspection procedures to allow fresh fruit and vegetables to clear customs within five to eighteen days while awaiting test results. Further consultations were held in Geneva in May and June 1995. Korea agreed to reform its food inspection and sanitation system by March, 1996. Technical talks were held in the fall of 1995 with USDA. Consultations in April 1996 to review Korea's promised reforms showed that Korea had not implemented most reforms and had not addressed the basic import barriers.

On May 24, 1996, the United States again asked for consultations under the GATT, the Agreement on the Application of Sanitary and Phytosanitary Measures, the Agreement on Technical Barriers to Trade, and the Agreement on Agriculture regarding Korea's requirements for importation of agricultural products (WT/DS41/1). Consultations were held on June 20. Further consultations took place on January 30-31, 1997.

B. Proceedings in which the United States is a defendant (11)

1. United States—Import ban on EU poultry products (EU v. U.S.)

New case: On August 18, 1997, the EU requested consultations with the United States concerning a ban on imports of EU poultry and poultry products, imposed on May 5, 1997 by the Food Safety Inspection Service of the U.S. Department of Agriculture until the United States is able to obtain additional assurances of adequate product safety. The EU cites various provisions of the GATT, the Agreement on Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. The parties are discussing a date for consultations.

2. United States—Antidumping measures on DRAMs from Korea (Korea v. U.S.)

New case: On August 15, the United States received a request by Korea for consultations concerning the Commerce Department's antidumping review of dynamic random access memory (DRAM) semiconductors from Korea. Korea alleges that Commerce's decision not to revoke the antidumping order was inconsistent with provisions of the WTO Antidumping Agreement. Consultations will be held on October 10.

3. United States—Countervailing duty investigation of salmon from Chile (Chile v. U.S.)

New case: On August 5, Chile requested consultations concerning the Department of Commerce's initiation of a countervailing duty investigation of salmon from Chile. Chile alleges that the decision to initiate was inconsistent with the Agreement on Subsidies and Countervailing Measures and that the petitioners did not represent the domestic salmon industry. Consultations will be held on September 26.

4. United States—Antidumping measures on televisions from Korea (Korea v. U.S.)

New case: On July 10, Korea requested consultations concerning a U.S. antidumping order on color television receivers (CTVs) from Korea (WT/DS89/1). Korea alleges that no CTVs have been exported to the United States since 1991 and from 1985 to 1991, there were *de minimis* dumping margins on CTVs from Korea; a Commerce Department revocation review is underway but the result of this review awaits the result of circumvention proceedings initiated in 1996 at the request of labor unions. Consultations were held on August 7. A second round of consultations will be held on October 9.

5. United States—Massachusetts Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar) (EU v. U.S., Japan v. U.S.)

On June 20, the EU requested consultations under the Agreement on Government Procurement concerning the Act Regulating State Contracts with Companies doing Business with or in Burma

(Myanmar) enacted by the Commonwealth of Massachusetts on June 25, 1996 (Chapter 130 of the Acts of 1996). This statute applies a pricing penalty on state procurements from companies that do business in Burma. The EU alleges that the Massachusetts law violates Articles VIII(b), Article X and Article XIII of the GPA. On July 18, Japan also requested consultations concerning the same matter. USTR is coordinating with Massachusetts government officials as provided in section 102(b)(1)(C) of the Uruguay Round Agreements Act.

Recent developments: The consultations were held on July 22 with both the EU and Japan. A further round of consultations will be held next month.

6. *United States—Rule of origin for textiles and apparel (EU v. U.S.)*

On May 23, the United States received an EU request for consultations under GATT Article XXII, the Agreement on Textiles and Clothing (ATC) , the Agreement on Rules of Origin, and the Agreement on Technical Barriers to Trade (TBT) concerning U.S. rules of origin for textile and apparel products (WT/DS85/1). The EU request states that these rules adversely affect exports of EU fabrics, scarves and other flat products to the United States; it cites possible incompatibility with ATC Articles 2.4, 4.2 and 4.4, Article 2 of the Agreement on Rules of Origin, GATT Article III and Article 2 of the TBT Agreement.

Recent developments: On July 15, the EU and United States agreed to commit themselves to achieving a satisfactory resolution in this case, in the context of the 1997-98 WTO negotiations on harmonization of rules of origin for textiles; the United States also agreed to propose legislative changes to the U.S. marking statute with respect to silk scarves and silk fabric, and to other measures. In light of this agreement, the consultations were not held.

7. *United States—Safeguard measure on imports of broom corn brooms (Colombia v. U.S.)*

On April 28, Colombia asked for consultations under GATT Article XXII and the Agreement on Safeguards concerning Presidential Proclamation 6961 of November 28, 1996, adopting a safeguard measure on imports of broom corn brooms under Section 201 of the Trade Act of 1974 (WT/DS78/1). The Colombian request cited possible inconsistency with Articles 2, 4, 5, 9 and 12 of the Agreement on Safeguards and Articles II, XI, XIII and XIX of the GATT 1994. Consultations were held on May 30.

8. *United States—Anti-dumping measures on imports of solid urea from the former German Democratic Republic (EU v. U.S.)*

On December 9, 1996, the EU requested consultations concerning an outstanding U.S. antidumping order on solid urea from Germany (WT/DS63/1). The Department of Commerce had issued the order in 1987 against imports of urea from the former German Democratic Republic (GDR). In its request, the EU claimed that by maintaining the order against the five

States of the former GDR, Commerce had ignored the *de jure* and *de facto* integration of the new States into the reunified Federal Republic of Germany, and thus the economic integration of the companies in the new States into the German market economy. According to the EU, the alleged failure to take into account the conversion of a territory from a nonmarket economy into a market economy and the full privatization of the exporter enterprises constituted a violation of Article 11 of the WTO Antidumping Agreement. In addition, the EU claimed that Article 9.2 of the Antidumping Agreement precluded the imposition of duties on imports from only a region or part of a country. Finally, the EU cited the continued suspension of liquidation of entries of urea from exporters situated in the territory of the former Federal Republic of Germany, and requested an explanation of the legal basis for the suspension. Consultations were held on December 18, 1996.

9. *United States—Measures relating to the importation of shrimp and shrimp products (India, Malaysia, Pakistan, Thailand v. U.S.)*

On October 8, 1996, India, Malaysia, Pakistan, and Thailand requested consultations under GATT Article XXII concerning the requirements imposed on importation of shrimp and shrimp products from these countries by the United States under §609 of P.L. 101-162 (codified at 16 U.S.C. §1537 note) and guidelines issued thereunder on April 19, 1996. The consultation request alleged that these measures violate provisions including GATT Articles I, XI and XIII and that these violations are not justified by the exceptions in GATT Article XX (WT/DS58/1). On October 25, the Philippines also requested consultations under GATT Article XXII concerning the same U.S. law, and also alleged that the measure violates Article 2 of the Agreement on Technical Barriers to Trade (WT/DS61/1). On November 19, consultations were held between the United States, India, Malaysia, Pakistan, Thailand and the Philippines. Australia, Colombia, Hong Kong, the EU and Japan participated as interested third parties. On January 9, 1997, Thailand and Malaysia requested a panel. The panel request was considered for the first time at the January 22 DSB meeting. On February 7, Pakistan requested the establishment of a panel. A single panel was established at the February 25 meeting of the DSB to hear the complaints of Malaysia, Thailand and Pakistan. On February 26, India requested that it be added as a co-complainant. At its April 10 meeting, the DSB established a panel with respect to India's request, and consolidated this panel with the panel established on February 25. Australia, Colombia, Costa Rica, Ecuador, El Salvador, the European Communities, Guatemala, Hong Kong, Japan, Mexico, Nigeria, the Philippines, Senegal, Singapore, Sri Lanka and Venezuela Venezuela have reserved third-party rights to participate in the panel proceedings. On April 15, the parties agreed on the following panelists: Michael Cartland (Hong Kong, chair), Carlos Cozendey (Brazil), and Kilian Delbrück (Germany). The first U.S. submission was filed on June 9. The panel held its first meeting with the parties on June 17-18.

Recent developments: The rebuttal submissions of the parties were submitted on July 28.

10. ***United States—Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (EU v. U.S.)***

On May 3, 1996, the EU asked for WTO consultations concerning the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the Helms-Burton Act) and three pre-existing provisions of our Cuban boycott legislation, regarding their consistency with the GATT and the GATS (WT/DS38/1). Consultations were held on June 4 in Geneva, and a follow-up round was held on July 2 in Geneva. The EU requested the establishment of a panel on October 3. On November 20, the DSB established a panel in response to the EU's request. On February 3, 1997, the EU asked WTO Director-General Ruggiero to appoint panelists. On February 20, the Director-General appointed the following panelists: Arthur Dunkel (chair, Switzerland); Tommy Koh (Singapore); and Edward Woodfield (New Zealand). In response to the appointment of the panel, USTR and the Department of Commerce announced that unless the dispute with the EU was resolved promptly, the United States would issue a formal statement to the effect that the panel is not competent to decide the matter inasmuch as the challenged measures reflect longstanding U.S. foreign policy and national security concerns regarding Cuba.

On April 11, 1997, the EC tentatively announced it would suspend its WTO case while it pursues with the United States an agreement establishing disciplines governing the acquisition of, and dealings in, investments expropriated in violation of international law. The Administration will consult with the Congress regarding a possible amendment to Title IV of the Helms-Burton Act providing the President with the authority to waive application of that Title to EC companies once the disciplines have been agreed and provided there is adherence to such disciplines. The EC reserved the right to reinstitute its WTO case if the United States takes action under the Act, or the Iran-Libya Sanctions Act, adversely affecting European interests. On April 25, the panel chairman gave notice that the EC had formally requested the panel to suspend the panel proceedings.

11. ***United States—EPA regulations on reformulated and conventional gasoline (Venezuela and Brazil v. U.S.)***

On May 20, 1996, the DSB adopted the Appellate Body report in this case, and also adopted the panel report which preceded it, to the extent that the panel report was not modified by the Appellate Body report. At the DSB meeting of June 19, 1996, the United States informed the DSB of its intention to implement the recommendations in the reports. At the DSB meeting of December 3, 1996, Venezuela and the United States advised the DSB that they had agreed that the "reasonable period" for implementation of the recommendations in this case would be 15 months. On January 9, 1997, under Article 21.6 of the DSU, the United States submitted to the DSB its first status report regarding implementation of the recommendations. The report was considered at the January 22 meeting of the DSB, and further status reports have been considered at each DSB meeting since then.

Recent developments: On August 20, the United States informed the DSB that USEPA Administrator Carol Browner had signed a final rule on reformulated and conventional gasoline. This rule completes the implementation process in this proceeding. The rule was published in the Federal Register on August 28 (62 FR 45533-45568) and appears online at http://www.epa.gov/OMSWWW/rfg.htm. The rule was developed through rulemaking procedures in compliance with the Administrative Procedures Act and the Uruguay Round Agreements Act.

C. Proceedings in which the U.S. is a third-party (amicus) participant (8)

1. EU—Tariff rate quota on poultry meat products (Brazil v. EU)

New case: On July 30, the DSB established a panel to examine Brazil's complaint against the EU's administration of its tariff rate quota on poultry meat products. Brazil asserts that the EU has failed to comply with an agreement reached between Brazil and the EU in 1993 in connection with the EU's attempt to renegotiate its tariff concessions on oilseeds; in return for accepting changes by the EU, Brazil was promised a preferential allocation of rights in the EU's tariff-rate quota (TRQ) on chicken parts. However, the EU had later allocated its TRQ on the basis of historical market share, diminishing Brazil's share. Brazil also alleges that the EU is maintaining special safeguard provisions that do not meet the requirements of Articles 4 and 5 of the Agreement on Agriculture, and that both the TRQ and the safeguard are maintained in a non-transparent manner. The United States reserved the right to present views as an interested third party. The panelists will be Wilhelm Meier (Switzerland), chair, Peter May (Australia) and Magda Shahin (Egypt). (WT/DS100)

2. India—Import quotas on agricultural, textile and industrial products (Australia, Canada, EU, New Zealand and Switzerland v. India)

New case: On July 16, Australia, Canada, New Zealand and the United States requested consultations under Article XXII of GATT 1994 and the Agreement on Import Licensing concerning import quotas on over 2700 product categories maintained by India. India was formerly entitled to maintain such quotas under the balance-of-payments (BOP) exceptions of GATT, but its BOP justification ended earlier this year. Consultations on the same measures were also requested on July 18 by Switzerland, and on July 21 by the EU. The United States and the other parties have each requested to be joined in each other's Article XXII consultations and to have all the consultations held at once, but India has refused the requests. (WT/DS91, 92, 93, 94, 96)

3. Chile—Taxes on alcoholic beverages (EU v. Chile)

On June 4, 1997, the EU requested consultations with Chile under GATT Article XXII concerning Chile's Special Sales Tax on distilled spirits, which imposes a higher tax on imported

spirits than on pisco, a local spirit (WT/DS87/1). On June 23, the United States requested to be joined in these consultations on the basis of its substantial trade interest.

Recent developments: The consultations were held on July 3.

4. *Indonesia—National car program (EU and Japan v. Indonesia)*

On June 12, 1997, panels were established in response to requests by EU and Japan; the panel proceedings were consolidated.

Recent developments: On June 30, a panel was established in response to a request by the United States in the same matter; see description beginning on page 8. The U.S.-Indonesia panel has been consolidated with the other two panels.

5. *India—Mailbox and exclusive marketing rights (EU v. India)*

On April 28, 1997, the EU requested plurilateral consultations with India concerning India's failure to provide a "mailbox" mechanism and exclusive marketing rights for pharmaceutical and agricultural chemical inventions under Articles 70.8 and 70.9 of the TRIPS Agreement (WT/DS79/1). The United States participated in these consultations. A panel has considered the United States' complaint against India concerning the same failure to implement the TRIPS Agreement and the panel report in that case was released on September 5 (see page 12 above).

6. *Argentina—Measures affecting textiles, clothing and footwear (EU v. Argentina)*

On April 23, 1997, the EU requested plurilateral consultations with Argentina (WT/DS77/1) concerning Argentina's application of specific duties to footwear, textiles and apparel (citing possible violations of Articles II and XXVIII of GATT 1994) and Argentine legislation requiring inclusion in labels on these products of the name of the importers and the number of the affidavit submitted by the importer to the Government of Argentina (citing possible violation of Article 2 of the Agreement on Technical Barriers to Trade). In addition the EU cited possible violation of Article 7 of the Agreement on Textiles and Clothing. The United States attended the EU-Argentina consultations held on June 12. A panel is now considering the United States' complaint concerning Argentina's specific duties (see page 10 above). The EU submitted views as an interested third party in the U.S.-Argentina case.

7. *Korea—Taxes on alcoholic beverages (EU v. Korea)*

On April 4, 1997, the EU requested plurilateral consultations with Korea concerning Korea's taxes on distilled spirits under the Liquor Tax Law and the Education Tax Law (WT/DS75/1). Korea taxes whisky and other Western-type distilled spirits at rates far less than the rates applicable to soju, a Korean distilled spirit. On May 23, the United States also requested

consultations with Korea in its own right concerning the same measures (see page 5 above). On May 29, the United States and Canada attended the EU-Korea consultations.

8. Japan—Procurement of a navigation satellite (EU v. Japan)

Japan's Ministry of Transportation procured a satellite navigation system for air traffic management in 1996. The request for proposal required that the system be interoperable with a U.S. air traffic navigation system. On March 26, 1997, the EU requested plurilateral consultations, alleging that the procurement violated Articles III, VI(2) and XII(2)(g) of the Agreement on Government Procurement (WT/DS73/1). The consultations were held on April 25, with the United States present as an interested party. On July 31, the EU notified the DSB of a bilateral settlement of the dispute.

9. Australia—Measures affecting imports of fresh, chilled or frozen salmon (Canada v. Australia)

Australia bans imports of untreated fresh, chilled or frozen salmon from Canada and the United States, allegedly to protect fish health, even though a draft risk assessment found in 1995 that there is no risk of fish disease transmission from imports of eviscerated fish. After a 1995 consultation request (WT/DS18/1), Canada consulted with Australia on these restrictions with the United States participating. At the end of December 1996, Australia issued a risk assessment supporting the continuation of the import ban. On March 7, 1997, Canada requested the establishment of a panel, and a panel was established at the April 10 meeting of the DSB, with the EU, India, Norway and the United States reserving the right to appear as interested third parties. The panel was announced on May 28 and consists of Michael Cartland (Hong Kong, chair), Kari Bergholm (Sweden) and Claudia Orozco (Colombia).

10. Guatemala—Anti-dumping investigation regarding portland cement from Mexico (Mexico v. Guatemala)

On February 4, 1997, Mexico requested the establishment of a panel to examine the Guatemalan anti-dumping investigation on portland cement from Mexico (WT/DS60). At its meeting on March 20, the DSB established a panel. Canada, El Salvador, Honduras and the United States have reserved their rights as third parties. After failure to reach agreement on panelists, on April 21 Mexico requested the WTO Director-General to compose the panel. The panel was constituted on May 1 and consists of Klaus Kautzor-Schröder (Germany, retired GATT Secretariat, chair), Christopher Norall (Canada), and Gerardo Teodoro Thielen Graterol (Venezuela). Mr. Norall resigned as panelist and was replaced by Antonio Buencamino (Philippines). The United States submitted its views as an interested third party on June 25.

11. *EU—Hormone ban (Canada v. EU)*

On July 25, 1996, the EU held consultations with Canada under GATT Article XXII and analogous provisions concerning the EU hormone ban. Canada then requested a panel, and establishment of that panel was approved at the October 16 meeting of the DSB. The United States, Australia, New Zealand and Norway reserved rights to appear as interested third parties in this case. The panelists for this panel are the same as the panelists in the U.S. challenge to the EU hormone ban. Canada filed its first submission on December 3. On February 18, 1997, the panel held a meeting with the parties and the scientific experts appointed by the panel, with the United States observing. The panel report was circulated to the WTO on September 5, and broadly upheld the claims of Canada. The panel report will be proposed for adoption at the September 25, 1997 meeting of the DSB.

II. NAFTA - CHAPTER 20

A. Proceedings in which the United States is a plaintiff (2)

1. *Mexico—Retaliatory action in response to U.S. safeguard action on broomcorn brooms*

On March 11, 1997, the United States requested consultations with Mexico concerning Mexico's increase in tariffs on certain products in response to the U.S. safeguard action on broomcorn brooms. The tariff increases appear to exceed those permitted by the NAFTA. Consultations were held on April 8.

2. *Mexico—Small parcel delivery (UPS) (U.S. v. Mexico)*

Mexico discriminates against U.S. trucking firms wishing to deliver small packages in Mexico. Consultations with Mexico and discussions of this issue at a NAFTA Commission meeting were held in 1995. Discussions continue between the governments.

B. Proceedings in which the United States is a defendant (5)

1. *United States—Tariff classification of limes*

New case: On July 4, 1997, the United States received a request from Mexico for consultations under NAFTA Chapter 20 concerning an internal notice of the U.S. Customs Service clarifying the tariff classification of Persian limes. The consultations were held on July 17.

2. *United States—Designation of Mexicali valley as disease-free area*

On April 9, 1997, Mexico asked for consultations under NAFTA Chapter 20 concerning a request for designation of the Mexicali valley as free from karnal bunt disease for purposes of wheat exports.

Recent developments: Consultations were held on July 17.

3. *United States—Sugar Containing Products Re-export Program*

On October 23, 1996, Canada requested consultations under NAFTA Chapter 20 with respect to the U.S. Sugar Containing Products Re-export Program, claiming that the program is inconsistent with U.S. NAFTA obligations or is causing nullification or impairment of benefits to Canada under NAFTA. Consultations were held on November 20, 1996.

Recent developments: On September 8, the two governments finalized the terms of a settlement agreement in this dispute. Canada has agreed not to pursue dispute settlement proceedings with respect to this program. Beginning in the 1997-98 quota period, the United States will allocate to Canada a share of the in-quota quantity of the U.S. TRQ for refined sugar for sugar that is a product of Canada, and a share of the in-quota quantity of the U.S. TRQ for sugar-containing products for sugar-containing products that are the product of Canada. Canada will also be permitted to compete for any quantity of the refined sugar TRQ that is not allocated among supplying countries and is not reserved for specialty sugar, without regard to whether the share allocated to Canada for that period has been filled. The settlement agreement also allows the United States to transfer any unused quantity of Canada's sugar-containing products allocation to the portion of that TRQ that is not allocated among supplying countries, if Canada informs the United States that it cannot fill its share.

3. *United States—USITC serious injury determination on broomcorn brooms (Mexico v. U.S.)*

On August 21, 1996, Mexico requested consultations under NAFTA Chapter 20 concerning the USITC determinations of serious injury transmitted to the President on August 1, in the USITC's investigations of imports of broomcorn brooms conducted under Section 201 of the Trade Act of 1974 as amended and the special safeguard provisions of NAFTA. The specific issue was the USITC's finding that the product "like or directly competitive with" these imports was broomcorn brooms, and did not include plastic brooms. On September 6, the United States and Mexico consulted under Chapter 20. On December 2, the President announced his decision to provide tariff relief and adjustment assistance to the domestic industry. On January 14, 1997, Mexico filed a request for the establishment of a panel under NAFTA Chapter 20. The panel was established on January 14, 1997; its chairman is Paul O'Connor (Australia) and its members are John Barton and Robert Hudec (United States) and Raymundo Enriquez and Dionisio Kaye (Mexico).

Recent developments: Mexico's brief was submitted on July 31 and the U.S. brief was submitted on August 25. The panel hearing will take place on September 9.

4. *United States—Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Canada and Mexico v. U.S.)*

On April 20, 1996, the United States consulted with Canada and Mexico under NAFTA Chapter 20 on Titles III and IV of the Helms-Burton Act. Further consultations were held on May 28. On June 17, Canada and Mexico requested a meeting of the NAFTA Commission under NAFTA Article 2007 to consider Canadian and Mexican concerns regarding Titles III and IV. On June 28, 1996 the NAFTA Commission convened.

5. *United States—Implementation of NAFTA provisions on trucking (Mexico v. U.S.)*

On January 19, 1996, the United States consulted with Mexico at Mexico's request concerning U.S. implementation of its NAFTA commitments on trucking.

III. NAFTA and USCFTA - CHAPTER 19
(Binational Review of Domestic AD/CVD Determinations)

In almost four years since NAFTA entered into force, Chapter 19 panels have completed twelve appeals (six concerning U.S. determinations, two concerning Mexican determinations and four concerning Canadian determinations). Chapter 19 panels are currently considering five appeals, including one involving a U.S. determination, one involving a Canadian determination, and three involving Mexican determinations. All Chapter 19 cases have involved U.S. determinations or U.S. exporters, except for two cases begun in 1996 involving appeals of Mexican antidumping determinations on Canadian steel. All CFTA Chapter 19 appeals have been completed. A current list of all Chapter 19 proceedings is available from the U.S. National Section of the NAFTA Secretariat at (202) 482-5438.

IV. NAFTA - CHAPTER 11
(Investor-State Claims Arbitration)

1. Desechos Solidos de Naucalpan "DESONA" v. Mexico

Desona was awarded a 15-year concession by the county of Naucalpan for management of solid waste in 1993. The county council nullified the agreement shortly after a contract was signed. According to counsel, on December 9, 1996, DESONA notified the Government of Mexico of its intent to file a claim through the Additional Facility Rules of the International Center for the Settlement of Investment Disputes ("ICSID"), and filed a notice of claim in March 1997. ICSID has accepted and registered the claim. The parties are now establishing an arbitral tribunal.

2. *Metalclad Corporation v. Mexico*

On January 3, 1997 the Metalclad Corporation notified the Government of Mexico of its intent to file a claim through the ICSID Additional Facility Rules. Metalclad's claim charges that Mexico, primarily through the state government of San Luis Potosí, has unlawfully expropriated its hazardous waste landfill in the community of Guadalcazar; and, in further violation of the NAFTA, has failed to accord Metalclad fair and equitable treatment and treatment in accordance with international law as well as due process. Metalclad claims damages equal to the project's fair market value, estimated to be in excess of $50 million. The three-member arbitral tribunal met initially in Washington, D.C. on July 15, 1997. Metalclad will have 90 days to file its memorial in the case, Mexico will have a further 90 days to file its counter-memorial, and then Metalclad and the tribunal will decide whether to have another round of submissions and whether an oral hearing will be necessary. Any further meetings of the tribunal will take place in Vancouver.

3. *Ethyl Corporation v. Canada*

On April 14, 1997, Ethyl Corporation notified the Government of Canada of its intent to seek referral of a dispute to arbitration under the UNCITRAL Rules. The request concerns Canadian Bill C-29, legislation to ban importation and interprovincial trade in (but not production or use of) a fuel additive sold by Ethyl, methylcyclopentadienyl manganese tricarbonyl (MMT). MMT is produced in the United States and processed by a Canadian subsidiary of Ethyl. Ethyl alleges that the legislation denies national treatment and constitutes an expropriation of Ethyl Canada, a domestic content requirement and a requirement to purchase domestic goods. Ethyl seeks an award of US$250 million damages plus costs.

WTO - DISPUTES BROUGHT BY THE UNITED STATES
Status as of September 18, 1997

	Complainant	Foreign Government Practice	Date of Request	Status
1.	US	Korea - testing/inspection of agricultural imports	4/4/95	Last round of consultations held 1/97; USTR seeking advisory committee advice on improvements Korean Government has made to import regime.
2.	US	Korea - shelf-life standards for agricultural products	5/3/95	Settled 7/96.
3.	US	Japan - taxes on distilled spirits	7/7/95	US prevailed. Appellate Body report affirming findings against Japan adopted 11/1/96; Japan must implement by 2/1/98. Japan progress report due 9/10/97.
4.	US	EU - tariffs on grains	7/19/95	Settled 12/95. EU failure to implement settlement as of 12/96 resulted in renewed request for a panel, but EU finally implemented settlement on 4/18/97.
5.	US, Guatemala, Honduras, Mexico, Ecuador	EU - banana import regime	9/28/95	Panel established 5/8/96; final panel report issued 5/22/97; US prevailed. EU appealed 6/11/97; AB report, circulated 9/9/97, is a win for US and other complaining parties. Report to be adopted 9/25/97. EU must then declare implementation intentions by 10/25/97.
6.	US	Australia - import ban on salmon	11/17/95	Consulted in 12/95; Australia issued risk assessment in 12/96, which is being reviewed by US scientific experts. Canada v. Australia case on Australian import ban now under panel consideration (US is third party)
7.	US	EU - hormone ban	1/26/96	Panel established 5/20/96; final panel report issued 8/18/97; US prevailed. Panel report will be adopted 9/25/97 unless EU appeals.
8.	US	Japan - sound recordings	2/9/96	Settled. Japan passed legislation in 12/96 to grant 50 years protection for sound recordings; settlement notified to WTO 1/24/97.
9.	US	Canada - import ban and tax measures on split-run magazines	3/11/96	US prevailed. Panel report finding against Canada issued 3/97; Appellate Body affirmed 6/30/97. Reports adopted 7/30/97. Canada announced 8/29/97 it will comply.
10.	US, Argentina, NZ, Australia, Canada	Hungary - agricultural export subsidies	3/27/96	Panel established 2/25/97; settlement agreement announced 7/30/97. Hungary to seek temporary waiver and bring itself into compliance.
11.	US	Portugal - patent term	4/30/96	Settled. Portugal has changed its practice; settlement notified to WTO 10/3/96
12.	US	Pakistan - implementation of patent "mailbox" provision	4/30/96	Settled. Pakistan has amended its law; settlement notified to WTO 2/28/97.

13.	US	Turkey - taxation of foreign films	6/12/96	Settlement notified to WTO 7/17/97. Panel established 2/25/97, but did not proceed because Turkey agreed to elimiante the discrimination.
14.	US	Japan - film import barriers	6/13/96	Panel established 10/16/96; arguments have closed. Panel report expected 12/97.
15.	US	Japan - Large Scale Retail Store Law; services market access	6/13/96	Consultations held 7/10/96; broader consultations requested 9/20/96 and held 11/8-11/9/96.
16.	US	India - implementation of patent "mailbox" provision	7/2/96	Panel established 11/20/96; panel report, circulated 9/5/97, upheld U.S.
17.	US	Brazil - auto regime	8/9/96	Consultations held 8/13/96 jointly with Japan, the EC, Korea and Canada; bilateral consultations on new measures held 2/97. Panel not yet requested.
18.	US	Argentina - textiles and footwear	10/4/96	Panel established 2/25/97. Panel report expected 11/97.
19.	US	Australia - leather	10/7/96	Consultations held 10/31/96; settlement reached 11/25/96; currently reviewing Australian replacement measures
20.	US, EU, Japan	Indonesia - autos and auto-parts	10/8/96	Consultations held 11/96 and 12/96. Panel established 7/30/97, consolidated with EU/Japan v. Indonesia panel.
21.	US	EU - customs classification of certain computer equipment	11/8/96	Panel established 2/97; case consolidated with items 22 and 23 below. Panel report expected 11/97.
22.	US	Ireland - customs classification of certain computer equipment	2/14/97	On 3/20/97 this case was consolidated with items 21 and 23. Panel report expected 11/97.
23.	US	United Kingdom - customs classification of certain computer equipment	2/14/97	On 3/20/97 this case was consolidated with items 21 and 22 above. Panel report expected 11/97.
24.	US	Philippines - tariff-rate quotas for pork and poultry	4/1/97	Consultations held 4/30/97.
25.	US	Japan - measures affecting imports of agricultural products	4/7/97	Consultations held 6/5/97.
26.	US	Belgium - commercial telephone directory services	5/2/97	Consultations held 6/20/97.
27.	US	Denmark - civil procedures for IPR enforcement	5/14/97	Consultations held 6/9/97.
28.	US	Ireland - copyright and neighboring rights	5/14/97	Consultations held 5/30/97.
29.	US	Korea - taxes on distilled spirits	5/23/97	Consultations held 6/24/97.
30.	US	Sweden - civil procedures for IPR enforcement	5/28/97	Consultations held 6/27/97.
31.	US	India - import restrictions on industrial, textile and agricultural products	7/16/97	Consultations to be held 9/17/97.

32.	US	Mexico - Antidumping investigation of high-fructose corn syrup.	8/4/97	Consultations to be scheduled.

WTO - DISPUTES BROUGHT AGAINST THE UNITED STATES

	Complainant	U.S. Practice	Date of Request	Status
1.	Venezuela, Brazil	Gasoline imports	1/20/95	Venezuela & Brazil prevailed. Appellate Body report adopted on 5/20/96; US implemented panel recommendation 8/19/97.
2.	Costa Rica	Underwear import restraint	12/22/95	Costa Rica prevailed. Appellate Body report and panel report (as modified by Appellate Body report) adopted 2/25/97. U.S. restraint expired after 2 years on 3/28/97 and was not extended.
3.	India	Wool coat import restraint	3/14/96	Settled.
4.	India	Wool shirt & blouse import restraint	3/14/96	India prevailed. Panel report issued 1/6/97, after US had already withdrawn restraint due to steady decline in imports. India nevertheless appealed certain issues, but did not prevail on appeal. Appellate Body report issued 4/25/97 and adopted 5/23/97.
5.	EU	Section 301 retaliation (beef hormones)	4/17/96	Settled. Consultations held 5/22/96; EU requested panel 6/19/96; panel request withdrawn from agenda 7/16/96 after U.S. tariffs were reduced.
6.	EU	Helms-Burton Act	5/3/96	Case suspended. Panel established 11/20/96, but never met; EC suspended panel proceedings 4/18/97.
7.	Mexico	Antidumping investigation on tomatoes	7/1/96	Consultations held 8/21/96.
8.	India, Malaysia, Pakistan, Thailand, Philippines	Ban on shrimp imports to protect turtles	10/8/96	Panel established 2/25/97 in response to requests from Malaysia, Thailand and Pakistan, and India's complaint consolidated with other cases 4/10/97. Panel report expected 12/97.
9.	EU	Antidumping duties on urea	11/26/96	Consultations held 12/18/96.
10.	Colombia	Section 201 action on broom corn brooms	4/28/97	Consultations held 5/30/97.
11.	EU	Rules of origin for textile and apparel products	5/23/97	Settled on 7/15/97. Exchange of letters with EU still pending.
12.	EU, Japan	Massachusetts government procurement from companies doing business in Burma	6/20/97, 7/18/97	Joint consultations held 7/23/97. Second round of consultations to be held 10/2/97.
13.	Korea	Antidumping duties on color televisions	7/10/97	Consultations held 8/7/97; second round to be held 10/9/97.
14.	Chile	Countervailing duty investigation on salmon	8/6/97	Consultations to be held 9/26/97.
15.	Korea	Antidumping duties on DRAMs	8/15/97	Consultations to be held 10/10/97
16.	EU	USDA ban on imports of EU-origin poultry and poultry products	8/18/97	Consultations to be scheduled.

NAFTA (Chapter 20) - DISPUTES BROUGHT BY THE UNITED STATES
Status as of September 18, 1997

	Complainant	Foreign Government Practice	Date of Request	Status
1.	US	Canada - tariff-rate quotas on dairy, poultry, eggs, barley, & margarine	2/2/95	Canada prevailed. Panel report issued 12/3/96
2.	US	Mexico - small parcel delivery	4/25/95	Consultations held 5/24/95; NAFTA Commission met 6/17/95
3	US	Mexico - broomcorn brooms retaliation	3/10/97	Consulted 4/8/97; may move soon to request panel.

NAFTA (Chapter 20) - DISPUTES BROUGHT AGAINST THE UNITED STATES

	Complainant	U.S. Practice	Date of Request	Status
1.	Canada	Tariff-rate quotas on sugar-containing products	2/95	Consulted 3/16/95; settlement 9/8/97on sugar-containing products re-export program provided Canada access to SCP TRQ
2.	Mexico	Government procurement legislation	7/10/95	Consulted 9/19/95
3.	Mexico	Proposed rulemaking on tariff-rate quota on tomatoes	12/18/95	Consulted 1/18/96
4.	Mexico	Trucking regulations	12/18/95	Consulted 1/19/96
5.	Canada, Mexico	Helms-Burton Act	3/12/95, 3/13/95	Consulted 4/20/96 and 5/28/96; on 6/17/96 Canada & Mexico requested meeting of NAFTA Commission; NAFTA Commission discussed issue 6/28/96
6.	Mexico	Section 201 action on broom corn brooms	8/21/96	Consulted 9/6/96; panel composed 7/18/97; panel hearing held 9/9/97.
7.	Canada	Re-export program for sugar-containing products	10/23/96	Settled. Consultations held 11/20/96; settlement finalized 9/8/97.
8.	Mexico	USDA designation of disease-free area for wheat	4/9/97	Consultations held 7/17/97; USDA considering designation issue.
9.	Mexico	Tariff classification of limes	7/4/97	Consultations held 7/17/97

NAFTA (Chapter 20) - DISPUTES BROUGHT BY THE UNITED STATES
Status as of September 22, 1997

	Complainant	Foreign Government Practice	Date of Request	Status
1.	US	Canada - tariff-rate quotas on dairy, poultry, eggs, barley, & margarine	2/2/95	Canada prevailed. Panel report issued 12/3/96
2.	US	Mexico - small parcel delivery	4/25/95	Consultations held 5/24/95; NAFTA Commission met 6/17/95
3	US	Mexico - broomcorn brooms retaliation	3/10/97	Consulted 4/8/97; may move soon to request panel.

NAFTA (Chapter 20) - DISPUTES BROUGHT AGAINST THE UNITED STATES

	Complainant	U.S. Practice	Date of Request	Status
1.	Canada	Tariff-rate quotas on sugar-containing products	2/95	Consulted 3/16/95; settlement 9/8/97on sugar-containing products re-export program provided Canada access to SCP TRQ
2.	Mexico	Government procurement legislation	7/10/95	Consulted 9/19/95
3.	Mexico	Proposed rulemaking on tariff-rate quota on tomatoes	12/18/95	Consulted 1/18/96
4.	Mexico	Trucking regulations	12/18/95	Consulted 1/19/96
5.	Canada, Mexico	Helms-Burton Act	3/12/95, 3/13/95	Consulted 4/20/96 and 5/28/96; on 6/17/96 Canada & Mexico requested meeting of NAFTA Commission; NAFTA Commission discussed issue 6/28/96
6.	Mexico	Section 201 action on broom corn brooms	8/21/96	Consulted 9/6/96; Mexico requested establishment of a panel on 1/14/97; panel composition agreed 7/18/97; panel hearing held 9/9/97.
7.	Canada	Re-export program for sugar-containing products	10/23/96	Consultations held 11/20/96; settlement finalized 9/8/97
8.	Mexico	USDA designation of disease-free area for wheat	4/9/97	Consultations held 7/17/97; USDA considering designation issue.
9.	Mexico	Tariff classification of limes	7/4/97	Consultations held 7/17/97