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1991 Trade Policy Agenda

and

1990 Annual Report

of the President of the United States
on the Trade Agreements Program



1991 Trade Policy Agenda and

1990 Annual Report

of the President of the United States
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LIST OF FREQUENTLY USED ACRONYMS

ASEAN	Association of Southeast Asian Nations
BIT	Bilateral Investment Treaty
CBI	Caribbean Basin Initiative
CP	Contracting Party
CVD	Countervailing Duty
EC	European Community
EFTA	European Free Trade Association
Eximbank	Export-Import Bank
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GNP	Gross National Product
GSP	Generalized System of Preferences
MFA	Multifiber Arrangement
MFN	Most Favored Nation
MTN	Multilateral Trade Negotiations
NME	Nonmarket Economy
OECD	Organization for Economic Cooperation and Development
SII	Structural Impediments Initiative
TAA	Trade Adjustment Assistance
USDA	U.S. Department of Agriculture
USITC	U.S. International Trade Commission
USTR	United States Trade Representative

INTRODUCTION



Ambassador Carla A. Hills
United States Trade Representative

As 1991 begins, international trade is more important than ever to the United States.

Our economy has enjoyed six years of record expansion. The engine of this expansion was U.S. exports.

Over the past several years, exports contributed 40 percent of the growth of our Gross National Product (GNP). And while exports expanded almost 75 percent since 1986, imports grew only a third as fast. At the same time, 3.5 million new jobs related to exports were created.

The U.S. economy now has entered a temporary period of slower growth. But the vitality of U.S. trade has not been interrupted. As the President said in his State of the Union Address, "...our exports are running solid and strong."

This is because of the open global trading system and the strong demand for U.S. goods around the world, particularly in Europe and Asia.

Access to foreign markets must be maintained and expanded lest exports -- our vital engine of growth -- sputter or stall. More than ever, we need the billions of dollars a year of economic stimulus that greater access to foreign markets could provide.

Beyond trade's economic importance, it is also of considerable geopolitical significance.

Opening markets and expanding trade also will enhance the economic growth, and hence the political stability, of poorer nations, including the emerging democracies of Eastern Europe and Latin America.

Without the impetus of a more open trading system, these nations will be drained by the massive costs of protections now imposed on them -- costs that now total two-and-a-half times all the aid they receive from the United States and other developed nations.

The Bush Administration's trade policy seeks to put an end to this waste and to achieve the blessings of abundance and peace possible only through a truly open world economy.

In this quest, this administration has for the past two years deployed a three-pronged trade strategy:

First, to achieve a successful conclusion of the Uruguay Round of global trade talks.

Second, to launch market-opening negotiations with our key trading partners.

And, finally, to use the strength of our domestic market to open foreign markets and to expand trade.

This basic strategy remains the same in 1991.

The Uruguay Round remains the Administration's top trade priority. We believe

the benefits from overhauling and modernizing the current world trading system under the auspices of the General Agreement on Tariffs and Trade (GATT) is the best way to spread the benefits of expanded trade throughout the world and assure maximum opportunities to U.S. interests.

After four years of negotiations, the Uruguay Round came to a halt last December in Brussels when several key participants were unable to commit to a framework for fundamental agricultural reform. Lacking such a commitment, agricultural exporting nations saw little point to making commitments in other key areas of the negotiations, such as services, market access, and intellectual property protection.

The Administration's strong preference is to conclude the Uruguay Round with comprehensive agreements in all areas. However, should the Uruguay Round not succeed, the Administration's trade policy will not collapse and the current system of multilateral rules will still exist. We will continue to press for open markets and fair trade in every forum available to us.

The United States is engaged simultaneously in negotiations throughout the world with our trading partners both individually and regionally. The system of rules in place is key to these and future multilateral and bilateral negotiations.

We expect these discussions to lead to market opening agreements that will create new and improved opportunities for U.S. exports.

In the pages that follow, the Administration discusses in greater detail its 1991 trade agenda, including its three-pronged strategy for achieving open markets and expanded trade; reviews the progress made in 1990; and offers a detailed analysis of its trade agreements program. But here are a few of the most important and promising efforts we are undertaking:

- Addressing those elements of the European Community's Single Market Program (EC-1992) that affect U.S. commercial interests to ensure that American firms enjoy the benefits of the unified European market.
 - The President's Enterprise for the Americas initiative, which has the long-term goal of creating an hemispheric free trade zone extending from Alaska to Tierra del Fuego.
 - The Structural Impediments Initiative and expansion of market opportunities for all U.S. businesses in Japan.
 - Better integration of Central and Eastern Europe into the world trading system.
- The growth and expansion of the world trading system in 1991 hinges on progress in three areas:
- First and foremost, a successful conclusion of the Uruguay Round.
- Second, negotiation of complementary liberalizing bilateral trade agreements which open markets to all entrepreneurs.
- And finally, accelerated acceptance of the doctrine that open markets produce greater prosperity and economic growth.
- The Administration intends to persevere to achieve the first, is enthusiastic about the second, and is concerned about the third. Ironically, liberal trade is gaining acceptance in parts of the world where it was once ignored, at the very same time it is under assault in the very nations that it propelled to prosperity.
- There are those who think that the solution to their problems lies in building barriers to trade. They are wrong.
- "Protection," says Nobel laureate Milton Friedman, "is a really good label for a bad cause." Protection hurts people. It stifles innovation, insulates them from the marketplace, and robs them of opportunities and choices.
- An historic initiative to create a North American free trade area with two of our largest and best trading partners, Mexico and Canada.

That is why it is this Administration's policy to work vigorously to open markets and expand trade. An increasingly open world trading system propelled our economy to record rates of growth over the past four decades. It created new opportunities for U.S. entrepreneurs to apply their special genius. That creativity created millions of jobs. And, those jobs allowed Americans to enjoy a standard of living and economic and political security unparalleled in the history of the world.

As we look toward the 21st century, it is more important than ever that the United States recognize the importance of international trade to its future and that of the world.

Carla A. Hills

The Trade Policy Agenda

I. The 1991 Agenda

In 1990 world trade provided tremendous opportunities for the United States economy and was a major engine of economic growth.

The rate of growth of U.S. exports was twice as fast in 1990 as the rise in imports and generated nearly half of our total growth in GNP.

Expanding these opportunities by aggressively working to increase U.S. access to foreign markets comprises the Administration's trade policy agenda for 1991. To do that, we have set ourselves three broad objectives for the year ahead:

First, to strengthen and expand the international trading system through the conclusion of an ambitious Uruguay Round agreement with 107 nations under the GATT.

Second, to complement Uruguay Round goals and agreements by undertaking regional and bilateral market-opening and market-expanding initiatives such as the historic North American Free Trade Agreement with Mexico and Canada, and the President's Enterprise for the Americas Initiative.

Third, to enforce and implement U.S. trade laws in ways that best advance the goals of open markets and expanded trade.

In order to achieve these goals, however, we must first accomplish a fourth and crucial objective:

The extension of fast-track negotiating authority from Congress for another two years.

Fast track authority provides two guarantees essential to successful negotiation of trade

agreements: a vote on implementing legislation within a fixed period of time, and no amendments to that legislation.

Fast track authority expires on May 31 unless the President requests a two-year extension by March 1. Without fast track, the President cannot assure our negotiating partners that the agreement they reach is the agreement that will be voted on by Congress. Without that assurance, foreign governments are reluctant even to negotiate with the United States and will not make the tough concessions necessary to reach agreements the United States would be willing to sign.

Maintaining the fast track will preserve our ability to continue our efforts to liberalize trade and open markets through the GATT, through multilateral agreements, and through bilateral agreements.

1. Successful Completion of the Uruguay Round

The United States remains convinced that the Uruguay Round is the best means of strengthening the multilateral trading system. In the Uruguay Round the United States seeks to:

- Lower tariff and nontariff barriers worldwide and to eliminate these barriers completely in key sectors;
- Establish international rules of fair play in the new areas of services and investment, and to protect intellectual property;
- Fundamentally reform world agricultural trade by opening global markets and reining in costly trade-distorting agricultural subsidies;

- Integrate developing countries into our global trading system; and
- Strengthen international rules on dispute settlement, subsidies, antidumping and import safeguards, to expand access to foreign markets and ensure fair trade in the U.S. market.

If we can bring these negotiations to a successful conclusion, it could add more than \$4 trillion to our global economy over the next decade. The U.S. share of this new wealth would be more than \$1 trillion in output over the next ten years.

2. Regional and Bilateral Initiatives

This year the United States is undertaking two sweeping regional trade initiatives in this hemisphere:

- Negotiation of a North American Free Trade Agreement (NAFTA) with Mexico and Canada; and
- Advancing the President's Enterprise for the Americas Initiative (EAI) which envisions an hemispheric zone of free trade stretching from Alaska to Tierra del Fuego.

NAFTA: On February 5, 1991 the President announced his intention to negotiate a North American Free Trade Agreement with Mexico and Canada. This announcement followed on from the earlier decision by the United States and Mexico to initiate negotiations of a comprehensive bilateral FTA.

The United States is Mexico's principal trading partner and Mexico is our third largest customer. We already have an FTA with Canada. Linking our complementary economies through free trade will work to strengthen these economic bonds, increase regional political stability, and create new opportunities for U.S. exporters.

Ultimately, a NAFTA will create one of the world's largest and richest markets, with 360 million consumers and \$6 trillion in annual output. A progressive lowering of obstacles to the

flow of goods, services, and investment, and heightened protection of intellectual property, will provide the three nations with the opportunities they need to grow and succeed in an increasingly competitive global trading system.

A NAFTA also will support our broader aim of open markets and expanded trade globally by giving other countries greater incentive to seek open markets with us.

EAI: On June 27, 1990 the President proposed an historic initiative to join all the nations of the Americas in a new, open economic relationship, which he called the Enterprise for the Americas Initiative. This bold initiative has three elements: trade, investment, and debt reduction. EAI's trade aspects include working together to bring the Uruguay Round to a successful conclusion, a complementary effort to reduce trade barriers in our hemisphere, and ultimately the creation of a zone of free trade extending from Alaska to Tierra del Fuego.

As part of the EAI, the United States is negotiating framework agreements on trade and investment with a number of our Latin American partners. In this context we are pursuing improvements in the protection of intellectual property rights, more open investment regimes, reductions in export subsidy practices, and improvements in market access for goods and services.

Caribbean Basin Initiative (CBI): We are also working to ensure effective implementation of the CBI, including administrative measures that would allow further development of the region's tourism industry.

Andean Trade Initiative: As part of the President's effort to help the Andean nations find economic alternatives to the drug trade, the Administration is working to gain passage in Congress of Andean trade preference legislation. This would result in duty-free imports of a broader variety of goods from the region.

The Administration continues to press ahead with efforts to open key foreign markets through a

number of bilateral initiatives. We are seeking implementation of modern patent laws in the major South American countries and negotiating bilateral investment treaties.

Pacific Rim

Japan: Expanding access to the world's second largest market economy remains a top Administration priority. In pursuing this goal, the Administration is employing a comprehensive four-part plan of action: using the Uruguay Round to negotiate strong and enforceable multilateral rules; lowering structural barriers through our Structural Impediments Initiative, or SII, talks; eliminating barriers in specific sectors using our trade laws and through other means; and, building constituencies in Japan that will support market-opening measures.

In 1991 the Administration will continue to press Japan on commitments made last June under SII to remove an array of structural barriers, to amend laws, change policies, and spend money in ways that will further open the Japanese market.

The Administration also will closely monitor progress achieved under past market-opening agreements with Japan, including satellites, supercomputers, wood products, telecommunications, and amorphous metals.

Finally, we will vigorously pursue ongoing negotiations in areas such as construction, semiconductors, and legal services to ensure that Japan continues to open its markets in key areas of U.S. interest.

Korea: The United States will continue intensive bilateral negotiations with Korea to ensure that its growing market is accompanied by expanded access for imports. The Administration will pay particular attention to any Korean attempts to discourage imports.

Association of Southeast Asian Nations (ASEAN): In December 1990 the United States signed a memorandum of understanding with the six ASEAN governments (Malaysia, Thailand, Indonesia, Philippines, Singapore, and Brunei) to facilitate trade and investment. In 1991 the

Administration will regularly consult at both the ministerial and senior staff level with the ASEAN nations to set up mechanisms for enhancing trade and investment relations.

Europe and the Mediterranean

EC 1992: The United States is carefully following the European Community's progress toward a unified market next year. We will continue to intervene with the EC in cases where the process of EC economic integration jeopardizes U.S. interests through restrictive discriminatory practices. Among the areas we are monitoring with special interest are: telecommunications, government procurement, financial services, and testing and certification.

Eastern Europe and the Soviet Union: The Administration seeks to integrate the emerging market economies of Eastern Europe into the open global trading system, in order to foster both political stability and economic growth. As these economies develop and open to world trade, new markets will be created for U.S. exporters. This year the United States will be working to implement trade and investment agreements negotiated last year, to complete ongoing negotiations, and to undertake new discussions.

Sectoral Efforts

Textiles and Apparel: The Administration seeks to negotiate an international arrangement in the context of the Uruguay Round that will replace the Multifiber Arrangement (MFA), allow for the orderly integration of this sector into the GATT, and provide enhanced export opportunities for the industry. The combination of these efforts will ultimately help the textile and apparel industries to adjust to an open trading system. The MFA is due to expire on July 31, 1991. The MFA will need to be extended until a Uruguay Round agreement is implemented; should the Round fail, the MFA will need to be renegotiated.

Steel: In 1989 the President established the Steel Trade Liberalization Program. Its goal has been to ensure that market forces, not

governments, determine the patterns of trade, and the price and quantity of steel produced. This has been done through the negotiation of bilateral agreements to eliminate unfair practices and the phase out of Voluntary Restraint Agreements. The Administration now is working to incorporate these commitments into a multilateral agreement within the GATT through the Uruguay Round.

Shipbuilding: The Administration is working through the Organization for Economic Cooperation and Development (OECD) to reach an agreement eliminating subsidies and other forms of trade distorting government assistance to shipbuilders. It is expected that this agreement will be successfully concluded this year.

3. Implementation of U.S. Trade Laws

The Administration will use U.S. trade laws to complement its multilateral and bilateral objectives of free markets and fair trade. This includes implementing 1988 Trade Act provisions including initiatives involving intellectual property protection, telecommunications, and government procurement in ways which further U.S. multilateral goals.

The United States also will closely monitor market-opening agreements negotiated under section 301 in the past year, and will continue negotiations on matters that are the subject of current section 301 investigations.

In addition, the Administration's trade agenda supports internationally recognized worker rights around the world.

Lastly, the antidumping and countervailing duty statutes, the Generalized System of Preferences, and trade law provisions designed to safeguard U.S. national security, will all be faithfully implemented.

II. Review of the 1990 Agenda

1990 AGENDA

The President's Trade Policy Agenda last year identified three principal objectives of the Administration's trade policy:

1. Strengthen and expand the international trading system by successfully negotiating an ambitious package of results in the Uruguay Round.
2. Complement Uruguay Round goals by conducting bilateral and regional market-opening and market-expanding initiatives.
3. Enforce and implement U.S. trade laws in the way that best advances the goals of open markets and fair trade.

The Administration worked to fulfill these trade policy objectives both by advancing existing policy initiatives and, where needed, developing and implementing new measures for achieving trade policy goals. As a result:

- Macroeconomic adjustments continued to bolster U.S. exports, creating jobs, without resort to protectionist trade measures.
- Substantial progress was reported to Congress on the state of the Uruguay Round to warrant extension of fast track authority in order to conclude these far-reaching agreements.
- Bold, new market-opening trade initiatives have been undertaken with our key trading partners.
- New opportunities for U.S. business were created by the successful enforcement of our trade laws.

TRADE POLICY ACCOMPLISHMENTS

I. Reducing the U.S. Trade Deficit

The U.S. trade deficit continued to fall, although not as rapidly as in the past two years. The reasons for the slower decline were the sudden and sharp rise in the price of petroleum imports resulting from Iraq's invasion of Kuwait, and a slightly slower growth of U.S. exports at a still respectable rate of 8.6 percent.

In 1990 the deficit declined by \$8.4 billion to \$101.0 billion. Exports grew \$30.2 billion to a record \$394 billion. Higher exports are estimated to have created in excess of 600,000 additional export-related jobs.

II. The Uruguay Round and the GATT

The Uruguay Round

In 1990 the United States worked to advance the Uruguay Round of global trade talks. In each of the negotiating areas, the Administration sought to expand access and/or improve the operation and effectiveness of GATT rules. Progress in achieving a successful conclusion to the Uruguay Round was hindered due to a lack of progress in key areas of the negotiation, particularly agricultural reforms. This impasse resulted in delays in other areas and ultimately led to the December 1990 Brussels Ministerial meeting ending without result.

Market access: In 1990 the United States continued its efforts to achieve substantial liberalization of tariffs and nontariff measures. Along with other trading partners, the United States proposed a 40 percent reduction in the average U.S. trade-weighted tariff. In certain areas, the United States proposed "zero-for-zero"

initiatives that would eliminate duties entirely (if other countries did the same) in certain sectors including nonferrous metals, steel, wood, paper, pharmaceuticals, construction equipment, computers, semiconductors, electronic medical equipment, fish, and beer.

Agriculture: The United States tabled a comprehensive proposal in the agriculture negotiating group in October. It put forward reduction commitments in each of the three areas of barriers to market access, internal supports that distort trade, and export subsidies, following the framework laid down by the committee's chairman.

Services: The United States worked with the other countries participating in these talks to develop a framework of basic rules and obligations to govern trade in services. Progress was made toward developing special rules for financial services and telecommunications. Our negotiators also made progress toward getting the participants to discuss market liberalization. By the end of 1990, the United States and eight other countries had submitted offers of market access and national treatment in all services sectors. By early 1991, 18 other countries had committed to table offers and enter into market access negotiations with the United States.

Intellectual Property: A working draft agreement was developed in 1990. It includes patents, copyright and related rights, trademarks, industrial designs, layout designs for computers, geographical indications, and trade secrets. The enforcement section includes requirements on both internal and border enforcement.

Trade-Related Investment Measures (TRIMs): Negotiations to draft an agreement to prohibit and discipline trade-related investment measures continued in 1990, with the important contribution of a U.S. draft legal text. Developing countries remain concerned about imposing new disciplines on investment.

Subsidies: The United States submitted a comprehensive proposal aimed at prohibiting most trade-distorting subsidies.

Balance of Payments: The United States and Canada submitted a second proposal in June. It encourages countries facing serious balance of payments problems to limit their reliance on trade restrictions to address these difficulties.

Dispute Settlement: Procedural changes to the dispute settlement process have improved the process substantially. However, the United States is working to further improve and expedite the process. The Administration supported many elements of Canadian proposals that would more quickly implement the findings of GATT panels regarding violations of rules and give the aggrieved country a faster right to retaliate if panel findings are not implemented.

Brussels Ministerial: The Uruguay Round was to have been concluded in December 1990. Unfortunately, at the final ministerial meeting in Brussels the negotiations stalled over the liberalization of agricultural trade.

The vast majority of countries at the meeting had long called for the reduction of export subsidies and internal supports that distort trade, and for greater market access. For many of them, agricultural reform is the only reason they are participating in the Round.

Three key participants, however, refused to enter into substantive negotiations on export subsidies and market access in agriculture, and this brought the entire Round to a halt without agreement on any of the issues.

The United States remains committed to strengthening the multilateral trading system through a successful Uruguay Round. When it is clear that a basis exists for successfully completing these negotiations, the United States will immediately return to the negotiating table.

To reengage the talks we must have an agreed agricultural framework within which to conduct the negotiations. This means specific commitments in the three areas of contention: export subsidies, internal supports, and market access. Only then can we discuss the size and duration of agricultural reform.

GATT Membership

During 1990 a relatively large number of countries completed GATT accession requirements. Tunisia, Bolivia, Costa Rica, and Venezuela became members. Currently, seven countries have formal applications pending, indicating not only the continued importance of the GATT in world trade, but also reflecting the movement to market-oriented economies throughout the world.

GATT Disputes

The United States addressed a number of trade disputes with its trading partners through the GATT. More specifically, we:

- Obtained a favorable ruling from a GATT panel in which the United States challenged Canadian import restrictions on ice cream and frozen yogurt.
- Obtained a favorable ruling from a Subsidies Code panel in which Brazil challenged U.S. countervailing duties on footwear from Brazil.
- Obtained a favorable ruling from a GATT panel in which the EC challenged U.S. sugar import restrictions under Section 22 of the Agricultural Adjustment Act.

III. U.S. Initiatives to Open Foreign Markets

In 1990 the United States conducted a broad range of regional, bilateral, and sectoral negotiations that generated real market opportunities for U.S. business.

A. Regional/Bilateral Negotiations

Western Europe

The United States actively monitors the EC's plan to form a unified market by 1992. The Administration approves of this effort as long as it does not create trade barriers to U.S. business. The Administration has moved quickly when presented with problems to see that they are resolved and that U.S. trade with the EC is not affected. In 1990 the Administration worked to solve a number of problems including:

- **Enlargement-related compensation:** Negotiated a one-year extension of the 1986 agreement compensating the United States for trade impairments caused when Spain and Portugal joined the EC, and an agreement to resolve the issue definitively by September 1991.
- **Computer Software Copyright Protection:** Extensive U.S. diplomacy led to acceptable modifications to a proposed directive providing for copyright protection for computer software.
- **Rules of Origin:** The Administration succeeded in dissuading the EC from adopting a rule of origin for printed circuit boards based on percentage of value added. Had such a rule been adopted, U.S. semiconductor producers would have lost sales to European-based producers or would have felt compelled to manufacture their products in Europe.
- **Legal Services:** French legal reform has accommodated certain U.S. interests at our request, although concerns remain for firms and lawyers not yet established in France.

The Soviet Union and Eastern Europe

The United States has been very supportive of efforts within the Soviet Union and the nations of Eastern Europe to undertake market-oriented reforms of their economies.

Soviet Union

- President Bush and President Gorbachev signed the historic U.S.-Soviet commercial agreement on June 1, 1990. It provides for improved access to each country's markets; facilitates business by easing restrictions on commercial activities; and offers strong intellectual property protections.
- On December 29, 1990 President Bush issued a Jackson-Vanik waiver for the Soviet Union, permitting the extension of U.S. Government agricultural credits.

- the Administration held several rounds of negotiations on a bilateral investment treaty.

Eastern Europe

Bulgaria

- The Administration initialed a Title IV trade agreement with Bulgaria on October 5. Once approved and brought into force, this agreement will extend most favored nation (MFN) tariff treatment to products of Bulgaria and to U.S. exports to Bulgaria.
- The United States also initiated bilateral investment treaty negotiations with Bulgaria.

Czechoslovakia

- The Administration implemented the U.S.-Czechoslovakia Trade Agreement in November 1990, thereby extending MFN tariff treatment to Czechoslovakia in return for MFN treatment of U.S. goods entering Czechoslovakia.
- We also made substantial progress on a bilateral investment treaty with Czechoslovakia and expect to conclude negotiations shortly.

Hungary

- The Administration began negotiations for a Business and Economic Relations Treaty including intellectual property and business facilitation provisions.

Poland

- The United States signed a Business and Economic Relations Treaty in March 1990 which was ratified by the Senate in late October.

Romania

- The Administration held technical-level discussions with the Romanian government to advise them on fair and open investment principles, and comment on Romania's draft investment legislation.

Yugoslavia

- Significant progress was made during two rounds of negotiations for a bilateral investment treaty.

Japan

Japan, as the world's second largest market, must fulfill its international responsibility to be open and accessible. The Administration considers it a top priority to affect changes in Japanese market practices.

Structural Impediments Initiative (SII)

A key milestone in this effort was reached on June 28, 1990 with the issuance of the Joint Report of the U.S.-Japan Working Group on the SII. This Joint Report contains highly visible undertakings by the Government of Japan to remove an array of structural barriers, to amend laws, change policies, and spend money in ways that will further open the Japanese market. For example, the Japanese Government committed to:

- Stem collusion between Japanese companies that keeps foreign firms out of the Japanese market by more vigorously enforcing Japan's Antimonopoly Act;
- Facilitate imports by increasing spending on public infrastructure like roads and harbors;
- Create new opportunities for foreign retailers by liberalizing Japan's Large Scale Retail Store Law; and
- Reduce barriers to foreign investment through legislative changes.

The Administration is continuing to press for speedy implementation of these and other undertakings in 1991. We are also following up through a series of consultations with top-level Japanese government officials.

Specific Trade Actions

In the past year the Administration has used the leverage afforded by Section 301 and other provisions of the 1988 Omnibus Trade Act to

advance its market opening efforts in Japan. These agreements will create new market opportunities for U.S. firms.

Satellites: In April 1990 Japan agreed to open government procurement of all satellites except for genuine R&D satellites.

Supercomputers: We concluded an agreement with Japan in June 1990 on supercomputers under which Japan will seek adequate funding for supercomputer purchases, use practical benchmarks to select among machines, credit bidders who offer extra performance, and provide an effective procedure for handling complaints.

Wood Products: In April 1990 Japan agreed to improve market access for U.S. exports of wood products. This will provide major benefits to U.S. exporters by addressing the following areas of concern: tariff misclassification, product certification, product standards, building codes, and tariffs.

Amorphous Metals: Talks with Japan on amorphous metals, a high-technology product used primarily to improve the efficiency of electric power transformers, resulted in greatly expanded market opportunities for this product in the Japanese market.

Sound Recordings: The Government of Japan agreed to take major steps to improve the copyright protection of foreign sound recordings, including the protection of foreign recordings produced before 1978, provision of "national treatment" for rentals, and the extension of the term of protection from 30 to 50 years.

Telecommunications: Two new major agreements were achieved in this area: International Value-Added Network Services (IVANS) and Network Channel Terminal Equipment (NCTE). The IVANS Agreement removes numerous regulatory restrictions that had impeded U.S. services firms from competing on an equal footing with the major Japanese common carriers. The NCTE Agreement enables U.S. producers of equipment to sell their high

technology devices directly to end users in Japan rather than use Japanese common carriers, especially NTT.

The Pacific Rim

The United States engaged in an active dialogue with the nations of the Pacific Rim in 1990 to help that region in its movement toward greater market opening.

ASEAN

- The United States signed a Memorandum of Understanding on Trade and Investment with the ASEAN countries. This memorandum establishes an annual ministerial-level trade meeting and a senior officials group to explore ways to enhance trade.

Indonesia

- The Administration negotiated the end of export subsidies in short-term export financing.
- Indonesia agreed to allow greater access for U.S. motion pictures and allowed the Motion Picture Export Association of America to open a representative office. Further market access talks were scheduled for February.

Korea

- Korea agreed to phase out balance of payments-justified trade restrictions on agricultural products by July 1997.
- The Administration concluded an agreement in April 1990 allowing progressive market access for U.S. beef.
- Ongoing bilateral negotiations on enforcement issues resulted in enhanced efforts by Korean officials to curb piracy of U.S. footwear, luggage, books, and motion pictures.

Malaysia

- Malaysia agreed to adhere to copyright rules set up by the Berne Convention.

Philippines

- The United States and the Philippines signed a trade and investment framework agreement.

Taiwan

- We concluded a tariff agreement with increased market access for U.S. beef.
- The Administration concluded talks on amendments to Taiwan's copyright law to give effect to the U.S.-Taiwan bilateral copyright agreement.
- Negotiations resulted in additional licenses for U.S. insurance firms.

Thailand

- The United States successfully negotiated a section 301 market access agreement for U.S. cigarettes.

North America

Canada

The Administration continued to implement the U.S.-Canada Free Trade Agreement (FTA). Canada is the United States' single largest trading partner.

- The Administration successfully concluded the first round of accelerated tariff elimination negotiations covering roughly \$6 billion in goods. A second round has been initiated.
- Following an FTA dispute settlement panel ruling that Canadian landing requirements were FTA inconsistent, interim measures were implemented by Canada to increase U.S. access to unprocessed fish.
- A FTA dispute settlement panel ruled that U.S. law prohibiting the marketing of lobsters below the federal minimum size did not constitute an illegal export restriction under the FTA.
- An agreement was negotiated with Canada to provide interim access for U.S. exports of hatching eggs and chicks.

- The Canadian Copyright Board established copyright royalties to be paid by cable companies to copyright holders of TV and radio programming produced in the United States, retroactive to January 1, 1990.
- Canada announced a change in its uranium processing policy permitting the export of Canadian unprocessed uranium to the United States for upgrading in U.S. plants.
- Congress passed legislation eliminating the Superfund oil tax differential between domestic and imported petroleum, resolving the pending GATT case.
- Congress also passed legislation amending U.S. customs user fees to make them consistent with the GATT.
- Ontario Provincial Government restrictions on the ability of U.S. manufactured super-trailers to use provincial highways were removed at the request of the United States.

Mexico

On June 11, 1990 President Bush and President Salinas of Mexico endorsed the goal of a comprehensive free trade agreement between the two countries. In August, Ambassador Carla A. Hills and her counterpart, Secretary of Commerce and Industrial Development Jaime Serra Puche, recommended to their respective governments that the formal steps be taken to begin negotiations. The President notified Congress of his intention to pursue negotiations under fast-track procedures.

North American Free Trade Agreement

On February 5, 1991, following consultations among Mexico, Canada, and the United States, Presidents Bush and Salinas, and Prime Minister Mulroney announced their intention to pursue a North American Free Trade Agreement (NAFTA) creating one of the world's largest liberalized markets. The President so notified Congress. A NAFTA would foster sustained economic growth through expanded trade and investment in a market comprising more than 360 million people and \$6 trillion in annual

output. In so doing, the agreement would help all three countries meet the economic challenges they will face over the next decade and into the 21st century.

The trade ministers of the three countries are proceeding, in accordance with each nation's domestic procedures, to prepare for negotiations to begin during the spring of 1991 and expect to conclude by year's end.

Latin America and The Caribbean

Enterprise for the Americas Initiative

On June 27, 1990 the President announced an historic plan to promote growth in this hemisphere, which he termed the "Enterprise for the Americas Initiative (EAI)." The EAI is a three-pronged approach to creating a new economic relationship with Latin America: trade, investment, and debt reduction.

On the trade side, the Initiative ultimately envisions the creation of a hemispheric zone of free trade extending from Alaska to Tierra del Fuego. More immediately, in 1990 the Administration formulated EAI-related trade policies and initiatives, including:

- A common commitment to the successful outcome of the Uruguay Round.
- Development of a prototype framework agreement on trade and investment.
- Negotiation and signature of such framework agreements on trade and investment with Bolivia, Colombia, Ecuador, Chile, Honduras, and Costa Rica.
- Initiation of negotiations on framework agreements with Argentina, Brazil, Uruguay and Paraguay as a group; Venezuela, Peru, and Nicaragua bilaterally.
- Convening of meetings of related councils on trade and investment with Colombia, Bolivia, and Chile.

During 1990 USTR led interagency teams negotiating bilateral investment treaties (BITs) with a variety of countries in Latin America, including: Bolivia, Uruguay, Argentina, and Jamaica. Although no treaties were concluded, substantial progress was made.

Elimination of Subsidies

- Colombia signed the GATT subsidy code, and, after lengthy negotiations, agreed in a bilateral undertaking with us to a timetable for phasing out all export subsidies.
- We began negotiations with Argentina on a bilateral agreement concerning subsidy practices and made considerable progress.

Protection of Intellectual Property

- Brazil promised to introduce new legislation to provide patent protection for pharmaceuticals by March 1991. We agreed to drop trade sanctions imposed in 1988 under section 301.
- Argentina, in accordance with its decision to overhaul its patent regime for pharmaceuticals, streamlined and increased the transparency of its drug registration procedures.
- Chile enacted legislation providing patent protection for pharmaceuticals on January 25, 1991 after over three years of bilateral discussions.

Andean Trade Initiative

USTR continued to play a lead role in developing special trade benefits to help the Andean nations engaged in the fight against narcotics, in accordance with the President's commitments in the Cartagena Declaration. In 1990 we:

- Completed a special Generalized System of Preferences (GSP) review of products of interest to the Andean nations, according GSP treatment for 67 items affecting some \$27 million in current Andean trade.

- Developed the legislation to provide CBI-like treatment for the Andean nations that was introduced in Congress in October.
- Conducted workshops in the region designed to help the Andean countries take maximum advantage of U.S. GSP and textile programs. Held an overall trade policy workshop in Washington.
- Coordinated an interagency mission to four Andean nations to recommend ways to help them develop their untapped potential for economic growth in the agricultural sector.

Caribbean Basin Initiative

- We worked with the Congressional trade committees to secure final passage of the Caribbean Basin Initiative enhancement legislation, which, among other things, eliminated the statutory expiration date for the CBI tariff preference program.
- Developed a preliminary package of administrative measures to enhance the utility and impact of the CBI program for its beneficiaries.

B. Sectoral Negotiations

Shipbuilding

Through the OECD Working Party Six (WP-6) on shipbuilding, the Administration has pursued intensive efforts to conclude an agreement eliminating subsidies and other forms of government assistance to shipbuilders. Agreement has been reached on most of the elements of such an agreement, and it is expected that the agreement will be successfully concluded in the course of 1991.

Steel

With the conclusion of VRAs and bilateral consensus agreements, the United States has been concentrating efforts on incorporating the obligations and disciplines of the bilateral agreements into a multilateral agreement within the GATT through the Uruguay Round. The multilateral effort builds on the commitment in

the bilateral consensus agreements to eliminate trade distortions. Negotiations are underway with countries with bilateral consensus agreements and with other countries, including Sweden, Canada, and Argentina.

The U.S. objectives for a multilateral agreement include:

- The prohibition against most subsidies;
- The elimination of tariff and nontariff barriers; and,
- The establishment of an effective mechanism to resolve disputes.

Textiles

The Administration negotiated a number of bilateral agreements with our trading partners governing their imports of textiles and apparel. Some of these were extensions of existing agreements. All serve a two-fold purpose: first, of ensuring the orderly development of textile and apparel trade; and second, of shielding U.S. producers from sudden import surges.

The United States also is working to create an improved international system of textile and apparel trade which would be a transition from the Multifiber Arrangement to a strengthened GATT in the longer-term context of the Uruguay Round.

In 1990 we:

- Renegotiated expiring bilateral agreements with Singapore, Turkey, Mauritius, and Trinidad and Tobago.
- Negotiated new bilateral agreements with Fiji and the United Arab Emirates.
- Negotiated new quota restraints with China, Nepal, Korea, and the Philippines.
- Negotiated solutions to serious embargo problems involving the Philippines, Indonesia, and Sri Lanka.

- Led Administration efforts to prevent enactment of highly restrictive textile legislation.
- Coordinated and negotiated United States objectives in the Uruguay Round textiles negotiating group and participated in market access negotiations affecting tariff and nontariff barriers for textiles.
- Initiated consultations with Macau, China, Taiwan, Hong Kong, Panama, and the United Arab Emirates to stop fraud and circumvention of quota arrangements.
- Initiated investigations into possible fraudulent trade in apparel with Oman, Bahrain, Qatar, Kuwait, and Tanzania.
- Continued negotiations with Thailand on a new bilateral textile agreement. Successfully defended new quota restraints at the Textile Surveillance Body.

IV. Trade Law Implementation

The Administration uses U.S. trade laws to open world markets and expand trade. Our trade laws are useful tools when used in concert with multilateral and bilateral negotiations to gain access to foreign markets.

Administration implementation of U.S. trade laws includes the following categories:

Section 301

The Administration applied section 301 of the 1974 Trade Act (as amended) with continued success in 1990.

Brazil licensing: In March 1990 Brazil passed a Resolution that eliminates its list of some 1,000 items prohibited for importation, and substantially liberalizes its import regime. Brazil's regime had been identified as a "super 301" priority practice.

Canada fish: We challenged Canada's landing requirements for salmon and herring in a

dispute settlement proceeding under the U.S.-Canada FTA, and won. In February 1990 we reached agreement with Canada under which our fish processors will now be able to buy Canadian fish to process.

EC copper scrap: In January 1990 we settled a GATT dispute with the EC involving their export restrictions on copper scrap, in which the EC eliminated its restrictions.

EC oilseeds: We won a favorable GATT panel ruling on the EC subsidies regime for oilseeds. In January 1990 the EC agreed to adoption of that report and committed to take measures by the 1991 marketing year to comply with the panel report.

EC enlargement: Under the threat of retaliation we succeeded in December 1990 in negotiating an extension of our bilateral agreement with the EC under which the EC compensated us for the adverse trade effects on U.S. exports caused by the accession of Spain and Portugal to the EC in 1986.

Japan satellites: In April 1990 Japan agreed to a new policy that opens government procurement of all satellites except for genuine R&D satellites.

Japan supercomputers: We concluded an agreement with Japan in March 1990 on supercomputers under which Japan will seek adequate funding for supercomputer purchases, use practical benchmarks to select among machines, credit bidders who offer extra performance, and provide an effective procedure for handling complaints.

Japan wood products: In April 1990 the Government of Japan agreed to improve market access for U.S. exports of wood products to Japan. This will provide major benefits to U.S. exporters by addressing the following areas of concern: tariff misclassification, product certification, product standards, building codes, and tariffs.

Korea beef: We won a GATT panel dispute that found Korea's import restrictions on beef violate the GATT; in March 1990 we reached agreement with Korea on steps they will take to comply with the panel findings. In a related matter, Korea agreed to disinvoke its balance-of-payments justification for import restrictions on a number of other products.

Norway toll equipment: We challenged Norway's government procurement practices under the GATT Procurement Code and reached a satisfactory settlement with Norway in April 1990 without having to proceed to dispute settlement.

Thailand cigarettes: The United States challenged Thailand's import restrictions on cigarettes in a GATT dispute settlement panel, obtaining a favorable finding in September 1990. As a result, Thailand agreed to open its market to imported cigarettes.

In other cases, trade disputes were settled without the application of section 301, but with the understanding that a section 301 investigation would be initiated if no agreement were reached.

Japan sound recordings: Japan committed to take major steps to improve the copyright protection of foreign sound recordings, including the protection of foreign recordings produced before 1978 and provision of "national treatment" for rentals.

Japan amorphous metals: Talks with Japan on amorphous metal, a high-technology product used primarily to improve the efficiency in electric power transmission, resulted in new opportunities for access to the Japanese market.

Malaysia copyright: In April 1990 Malaysia agreed to amend its copyright law and join the Berne Convention. Malaysia adhered to Berne on October 1, 1990, thereby establishing copyright relations with the United States.

Telecommunications Provisions of the 1988 Trade Act

In 1989, after conducting the investigation required by section 1374 of the 1988 Trade Act,

the Administration named the EC and Korea as "priority foreign countries" in the telecommunications area. The United States entered into discussions with both to resolve differences in this important area and to gain access for U.S. telecommunications equipment and service suppliers to these markets. The United States and the EC are continuing talks. The United States and Korea initialed a telecommunications record of understanding on standards, procurement, and some services in 1990.

Existing telecommunications agreements were also reviewed under section 1377 of the 1988 Trade Act, which requires USTR to determine whether foreign countries are failing to comply with trade agreements with the U.S. regarding telecommunications products and services or are denying mutually advantageous market opportunities to U.S. telecommunications products and services in the context of such agreements. USTR organized an interagency committee to review Canadian compliance with the telecommunications provisions of the U.S.-Canada FTA. Based on this review, USTR determined that Canada was not violating the agreement. USTR also reviewed the Market-Oriented, Sector-Specific (MOSS) agreements and the Agreement on Procurement by Nippon Telegraph and Telephone with Japan. In the context of this review, the United States and Japan negotiated agreements to open the Japanese market to International Value-Added Network Services (IVANS) and digital network channel terminating equipment.

Generalized System of Preferences

Several significant changes in the GSP program occurred last year. A special GSP review was undertaken as part of the Andean Trade Initiative to create expanded opportunities between those countries and the United States. The GSP program also added four new beneficiaries: Poland, Panama, Bahrain, and Namibia. Also, reviews were begun to consider reinstatement of the Central African Republic, Chile, and Paraguay, which were previously

suspended over worker rights practices. The President announced on February 4, 1991 his decision to reinstate the GSP benefits of these three countries. After a review of the worker rights practices of several countries, GSP privileges were suspended for Liberia.

In 1990 158 GSP product petitions covering 118 products were accepted for review. Sixty-eight products are being considered for addition, nine for removal, 37 for competitive need waivers, and four for both addition and competitive need waivers.

Antidumping/Countervailing Duty Provisions

In 1990 the U.S. Department of Commerce, which jointly administers U.S. antidumping and countervailing duty laws with the U.S. International Trade Commission, reviewed 43 dumping petitions and 8 countervailing duty petitions compared to 23 and 9 in 1989.

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III. U.S. Trade In 1990

The most notable aspects in U.S. trade flows in 1990 were the continued strong expansion of U.S. exports and increased importance of export expansion as the overall economy apparently headed toward recession.

Export Expansion

On a constant-dollar basis, U.S. merchandise exports are preliminarily reported to have increased by 8.6 percent from 1989 to 1990. This constitutes the fourth consecutive year of strong export growth.

In 1986, the year in which the constant-dollar merchandise trade deficit peaked, U.S. exports stood at about the same level as at the beginning of the decade in 1980 (up 0.4 percent). With the movement of foreign economies toward higher rates of growth and moderation of the foreign exchange value of the dollar in the second half of the 1980s, U.S. exports began to grow very rapidly--up 16.2 percent in 1987, 20.5 percent in 1988, 13.5 percent in 1989 and 8.6 percent in 1990. In the four years from 1986 to 1990, the volume of U.S. exports increased by nearly three-quarters.

The export boom has been particularly strong in two broad categories--capital goods which currently account for nearly half of U.S. merchandise exports and which, like agriculture, are areas of strong U.S. competitiveness in merchandise trade; and consumer goods which historically have represented only a small share of U.S. exports. As table 1 indicates, the relative strength of U.S. export growth in capital and consumer goods continued into 1990.

Geographically, U.S. export growth¹ has been wide-spread as well. Over the 4-year period, exports to Canada have grown by 51.1 percent, to Japan by 80.7 percent and to the European Community (EC) by 84.5 percent. Exports from the United States to developing countries have grown by 80.4 percent and to Mexico by a remarkable 129.9 percent.

Import Growth

Merchandise imports to the United States have grown comparatively slowly, up 3.8 percent in 1990 and by roughly one-quarter over the last 4 years.

Source: U.S. Department of Commerce and USTR

Table 1: U.S. Merchandise Exports

	1986	1989	1990	1986/90	1989/90
	(Billions of constant 1982 Dollars)			(Percent Change)	
Total	\$245.9	\$390.8	\$424.4	72.6	8.6
Foods, Feeds and Beverages	26.5	35.8	37.0	39.6	3.4
Industrial Supplies and Materials	63.8	92.2	98.6	54.5	6.9
Capital Goods, except Autos	94.1	176.4	197.7	110.1	12.1
Autos	22.4	28.9	29.9	33.5	3.3
Consumer Goods	14.1	30.9	36.8	161.0	19.1
Other	25.1	26.5	24.2	- 3.6	-8.7
Addendum: Agriculture	30.6	39.6	40.2	31.4	1.5

In the 1980s the pattern of import growth has been the inverse of that for export growth. From 1980 to 1986, imports expanded by 63.1 percent, or by 8.5 percent per year. From 1986 to 1990, a period marked by significant appreciation of many foreign currencies vis-a-vis the dollar, U.S. imports grew less than half as rapidly, or by an average rate of 3.8 percent per year.

During this recent period of relatively slow import growth, one broad sector stands out as the clear exception: capital goods. As table 2 below indicates, capital goods imports grew by 85.3 percent in the last 4 years, accounting for more than two-thirds of the total increase in U.S. merchandise imports. The sharp expansion of capital goods imports undoubtedly reflects what has been strong investment in durable equipment by U.S. producers over the last 4 years. Such U.S. investment increased at an average annual rate of 6.2 percent between 1986 and 1990, or about one and one-third times faster than average annual gross national product (GNP) growth for this period. That U.S. import growth over the last four years has been concentrated heavily in products likely to enhance U.S. productive capacity can be read as a healthy sign for the U.S. economy.

Import growth rates varied greatly by country of origin. Imports were up 35.5 percent on a current-dollar basis from 1986 to 1990 (compared to 25.3 percent on a constant-dollar basis; see endnote 1). Imports were up 33.9 percent from Canada, 21.1 percent from the EC

and just 9.5 percent from Japan. In fact, imports from Japan are estimated to have fallen by nearly 4.2 percent from 1989 to 1990. Imports from less developed countries (LDCs) are up by 54.0 percent for the 4-year period and by an estimated 6.6 percent in 1990. Imports from the Organization of Petroleum Exporting Countries (OPEC) were up by 92.5 percent in the 4-year period, and by 24.2 percent in 1990 (due to the increase in the average price of oil last year.)

Reduction of the U.S. Trade Deficit

The reduction of the U.S. merchandise deficit continued in 1990 at the same rate as in 1989, down 7.7 percent in each of the previous two years (table 3).

The merchandise trade deficit on the most commonly reported current-dollar Census basis is preliminarily reported to be \$101.0 billion. This is 33.6 percent below the peak in the current-dollar trade deficit which occurred in 1987 (\$152.1 billion). As a share of U.S. GNP, the decline has been sharper, down from 3.4 percent in 1987 to an estimated 1.8 percent in 1990.

Through much of 1990 the seasonally adjusted merchandise trade deficit was running at a rate well under \$100 billion. It appeared likely that the deficit reduction in 1990 would exceed the \$9.4 billion decline of 1989. The sharp rise in oil prices in the late summer, however, pushed up the U.S. import bill and limited the trade deficit reduction to \$8.4 billion.

Source: U.S. Department of Commerce and USTR

Table 2: U.S. Merchandise Imports

	<u>1986</u>	<u>1989</u>	<u>1990</u>	<u>1986/90</u>	<u>1989/90</u>
	(Billions of constant 1982 Dollars)			(Percent Change)	
Total	\$413.7	\$499.3	\$518.5	25.3	3.8
Foods, Feeds and Beverages	23.2	23.9	24.7	6.5	3.3
Industrial Supplies and Materials	73.8	72.3	73.0	-1.1	1.0
Petroleum and Products	75.5	93.8	96.1	27.3	2.5
Capital Goods, except Autos	84.1	143.7	155.9	85.3	8.5
Autos	65.8	63.8	63.8	-3.0	0.0
Consumer Goods	74.5	81.5	81.4	9.3	-0.1
Other	16.8	20.4	23.5	39.9	15.2

Oil prices which averaged just over \$17 per barrel in the first eight months of the year rose to over \$29 per barrel by November. As a result of this price increase, while total barrels of petroleum imported in 1990 increased 2.4 percent from 1989, the cost of these imports rose by 23.9 percent or by \$11.7 billion to \$60.7 billion.

The non-petroleum trade deficit declined sharply, from \$64.7 billion in 1989 to \$46.3 billion in 1990. This 28.4 percent or \$18.4 billion drop in the non-petroleum trade deficit was more than accounted for by the drop in the U.S. deficit in manufactures trade. The manufactures trade deficit declined by \$18.8 billion to \$73.6 billion in 1990. Exports of manufactures were up by 10 percent in 1990 (to \$315.7 billion) while U.S. manufactured imports rose just 2.5 percent (to \$388.8 billion).

Geographically, 1990 was marked by a significant decline in the bilateral trade deficit with Japan. The U.S. trade surplus with the EC grew larger, as did the U.S. trade deficit with China. Table 4 provides further detail for selected countries.

Importance of Exports to U.S. Economic Growth

Strong export expansion contributes not just to the reduction of the U.S. trade deficit but also to U.S. economic growth. In the four years since 1986, the U.S. GNP expanded by \$437.9 billion (constant 1982 dollars). Over the same period merchandise exports expanded by \$178.5 billion, an amount equal to 40.8 percent of U.S. GNP growth.

In periods of economic downturn, the ability to expand exports is particularly important. In 1990 the U.S. economy expanded by just \$38.1 billion, or by 0.9 percent from the previous year. Merchandise exports expanded by \$33.6 billion in 1990, or 88.2 percent of GNP growth.

The contribution of exports goes further. Strong export growth encourages business investment in manufacturing and other sectors producing for export. Investment by U.S. producers in durable equipment increased by 2.4 percent in 1990, nearly three times the rate of overall GNP growth. Relative to other recessionary forces, export growth and the added business investment it helps induce are sources of offsetting strength for domestic employment incomes.

One of the principal facts of the current economic landscape working toward a milder economic downturn is the widely held expectation that U.S. export growth will continue in 1991 and beyond. The United States still has a large merchandise trade deficit. The dollar's exchange value has moderated further over the last year. Many of the economies of our principal trading partners will experience stronger growth than the United States in the period immediately ahead. Taken together, these factors suggest continued strong export growth which in turn will have a moderating influence on the U.S. economic downturn.

On the policy side, efforts continue to encourage an environment conducive to export-enhanced U.S. economic growth. The Administration is pursuing an activist trade

Source: U.S. Department of Commerce and USTR

Table 3: U.S. Merchandise Trade

	(Billions of Current Dollars)			
	1987	1988	1989	1990
Balance	-152.1	-118.5	-109.4	-101.0
Exports	254.1	322.4	363.8	394.0
Imports	406.2	441.0	473.2	495.0
Addendum:	3.4%	2.4%	2.1%	1.8%
Trade Balance Expressed as Percentage of U.S. GNP				

policy to reduce global barriers to exports. The ongoing international coordination of macroeconomic policies is designed, in part, to sustain growing demand for imports in the economies of U.S. trade partners with large trade surpluses. Also, Administration and Congressional efforts to reduce the federal budget deficit and raise U.S. saving rates provide, as described in last year's report, the most favorable U.S. macroeconomic environment for the further lowering of the trade deficit through the continued expansion of U.S. exports.

Services Exports

Services exports by the United States are just under one-third the value of U.S. merchandise exports. Their importance, however, should not be overlooked. The United States is the world's largest exporter of services. And, the potential for increased U.S. and world trade in services is large. Services exports serve as an added source of growth for the U.S. economy. Also, the surpluses generated by U.S. services trade partially offset merchandise trade deficits in the overall U.S. current account.

As indicated in table 5, U.S. services exports have grown strongly in the last several years and the U.S. trade surplus in services has increased three-fold. In fact, when merchandise and services trade are taken together, the combined U.S. trade deficit shows a decline from \$146.2 billion in 1986 to an estimated \$79.9 billion in 1990, or a 45.3 percent reduction.

The Administration's Trade Policy and Economic Growth

The Administration's policy aims at reducing global barriers to trade as much as possible in order for trade expansion to contribute maximally to U.S. and world economic growth.

At the current economic juncture, the United States is in a position to experience continued strong export expansion and further declines in the trade deficit. These factors create demand for the output of U.S. farms, factories, offices, and workers. The foreign trade sector of the U.S. economy is thus making a significant contribution to sustaining and expanding aggregate demand for U.S. production.

There are, however, other strong, long-term benefits to the U.S. economy from trade. The Administration's trade policy is aimed at achieving these gains as well through the pursuit of more open global markets.

The lowering of barriers to trade not only expands the volume of trade but encourages each country to expand the production of its most productive, competitive industries (and the well-paid employment they provide). Trade liberalization, in other words, allows each nation to employ its stock of capital and human resources more efficiently to achieve higher levels of production, real incomes and living standards. Because each country's efficiency gain comes not at the expense of, but in conjunction with other countries' gains, trade liberalization is often characterized as a "positive-sum" endeavor in which all participants can be winners.

Table 4: U.S. Bilateral Trade Balances with Selected Countries

	(Billions of Current Dollars)			
	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Canada	-11.3	-9.8	-9.1	-7.5
European Community	-20.6	-9.2	1.2	6.1
Japan	-56.3	-51.8	-49.1	-41.1
Mexico	-5.7	-2.6	-2.2	-1.8
Korea	-8.9	-8.9	-6.3	-4.1
Taiwan	-17.2	-12.6	-13.0	-11.2
China	-2.8	-3.5	-6.2	-10.4

Source: U.S. Department of Commerce and USTR

In addition to these efficiency or so-called "static" gains from trade liberalization, there is a second source of benefit. Trade liberalization can also result in "dynamic" gains from trade which are reflected in a somewhat higher rate of GNP growth over the medium to long term. Higher national income resulting from the static gains from trade liberalization will make possible additional saving and investment and thus somewhat faster growth. Also, the profitability of business investment in new technologies can rise as trade liberalization broadens access to foreign markets, thus encouraging higher investment in growth-enhancing technologies.

The Administration's trade policy includes many varied approaches to opening markets. Multilateral trade liberalization has been at the top of the Administration's agenda, because the scope of multilateral negotiating efforts and the large number of countries involved, create the potential for especially large economic benefits.

Estimates done in conjunction with the Council of Economic Advisers suggest that the static and dynamic gains from the type of trade liberalization achievable in a successful Uruguay Round could add \$1.1 trillion (constant dollars at 1989 purchasing power) cumulatively to U.S. GNP during the next 10 years. That translates into an average gain of \$1,680 for an average U.S. family of four for each of the next ten years. For the world as a whole, such successful multilateral trade liberalization reducing global tariff and nontariff barriers by one-third could create a cumulative 10-year gain to output well in excess of \$4 trillion.

Endnotes

¹Exports by country of destination are not available on a constant-dollar basis. Therefore, the changes in U.S. exports by destination are based on current-dollar export values. On the basis of these current-dollar data (from the Bureau of the Census), U.S. exports overall rose by an estimated 73.5 percent, very close to the 72.6 percent increase on a constant-dollar basis. All current-dollar values for U.S. merchandise trade in 1990 incorporate preliminary data for the month of December.

²Excludes income on foreign investment; includes travel, passenger fares, other international transportation, royalties and license fees, the foreign billings of private service firms and some receipts and expenditures associated with the U.S. government.

³Estimated from data for the first three quarters of 1990.

Source: U.S. Department of Commerce and USTR

Table 5: U.S. Trade in Services²

	1986	1989	1990 ³	1986/90	1989/90
	(Billions of Current Dollars)			(Percent Change)	
Balance	\$5.9	\$20.5	\$23.7	299.6	16.0
Exports	80.0	115.2	129.1	61.5	12.1
Imports	74.0	94.7	105.4	42.3	11.3

IV. Multilateral Negotiations

THE URUGUAY ROUND

Launched in September 1986 in Punta del Este, the Uruguay Round of multilateral trade negotiations (the Round) is the eighth negotiating "round" held under the General Agreement on Tariffs and Trade (GATT) auspices since its 1948 creation. The first round led to GATT's establishment while the last, the Tokyo Round, concluded in 1979.

The United States continues to exercise a leadership role in strengthening the system of multilateral rules. Accordingly, our agenda has been to seek far-reaching, ambitious agreements on the broad range of issues in this negotiation.

In earlier years, GATT negotiations were largely concerned with reducing tariffs, then the principal barrier used to protect home markets. Beginning in the 1960s, however, the focus shifted as nations began to rely less on tariff protection and more on nontariff trade restrictions. During the 1963-67 Kennedy Round, negotiators tried for the first time to write new GATT rules to limit some nontariff measures.

However, significant progress was not achieved on nontariff measures until the 1973-79 Tokyo Round. That negotiation resulted in a series of agreements or codes designed to enhance discipline over nontariff measures such as subsidies, technical barriers to trade, import licensing procedures, government procurement practices, customs valuation, and antidumping procedures.

A strong and open multilateral system is the cornerstone of U.S. trade policy. Despite the agreements reached in the Tokyo Round, there was a growing realization by the United States

and its trading partners that GATT rules had not kept pace with commercial realities. Indeed, a substantial portion of trade and investment falls outside the GATT. Agriculture, services, intellectual property rights, and investment are the best examples. All told, more than \$1 trillion in goods and services trade is not adequately covered by multilateral rules.

In recent years, we have witnessed an unprecedented growth and participation of developing countries in the international economy. Once on the periphery of international trade, developing countries now represent some of the world's fastest growing markets. However, developing countries in many instances are not bound by the GATT's international trade rules and obligations. The GATT's inadequacies and a growing pressure for protecting and closing markets led the United States to call for a round of multilateral trade negotiations to address these issues.

President Bush has made the successful conclusion of the Uruguay Round his top trade priority. The agenda for the negotiations is the most complex to date, dealing not only with issues of traditional market access, but also agriculture, the new areas of trade-related aspects of intellectual property rights (TRIPs), trade-related investment measures (TRIMs), services and of course, GATT's rules. Our objective in these talks is to ensure continued economic growth by opening markets worldwide, and by establishing multilateral rules in areas vital to U.S. competitiveness.

Estimates suggest that a successful Uruguay Round would mean lower tariff and nontariff barriers to manufactured products and other goods

which could increase U.S. output by over \$1 trillion over the next 10 years. Other benefits could be new markets for U.S. service firms, and rules to protect the intellectual property of U.S. entrepreneurs. U.S. exports also could be increased by \$200 billion by the year 2000 through the full participation of developing countries. In addition, fair competition and open markets would be developed in agriculture, thus creating new opportunities for American farmers.

PROGRESS IN THE URUGUAY ROUND

Developments in 1990

Negotiations intensified throughout 1990. In addition to the formal negotiating sessions in Geneva, several informal ministerial meetings were held to engage political leaders around the globe in the issues in the Round, to garner political support, and to break deadlocks in the negotiations. Mexico hosted an Informal Ministerial in Puerto Vallarta in April. The United States and Canada hosted Quadrilateral meetings (United States, Canada, the European Community (EC), and Japan) in May and October respectively in order to continue to secure political support. The trade ministers of the Asia Pacific Economic Cooperation (APEC) group of countries also met in September to build additional momentum in the negotiations. In addition, the Organization for Economic Cooperation and Development (OECD) held specific meetings on the Round.

President Bush sought, through his personal involvement, to elevate the importance of the Uruguay Round in its last and most critical phase of negotiations. The Round, and the future of the multilateral trading system, was the subject of extensive debate and discussion at the Houston Economic Summit in July and the months preceding this important meeting. This interest in part was driven by the movement of the newly emerging democracies of Eastern Europe and the developing world toward adoption of market-oriented economic policies. The President, along with his G-7 counterparts (the United States, Great Britain, Japan, France, West

Germany, Canada, and Italy), used the Summit to underscore the important contribution that the GATT system can make to reinforce these efforts. The heads of state committed to remain personally involved to see the Round conclude successfully.

The heads of state commented extensively on all aspects of the Round, and particularly on agriculture. The seven countries agreed to use the "text submitted by Mr. deZeeuw, the Chairman of the agriculture negotiation group, as the means to intensify negotiations." It was hoped that this specific political commitment to the deZeeuw text would encourage participants to engage in substantive negotiations in agriculture.

Prior to the July 23, 1990 Trade Negotiations Committee (TNC) meeting, participants worked diligently to narrow the differences which had delayed the drafting of negotiating texts. The group Chairmen were instructed to present ad referendum agreements or draft texts in all groups at the July TNC meeting for ministerial consideration. However, progress was too slow and many groups failed to provide the intended documents.

At the December 1988 Montreal Midterm Review, ministers had agreed that all participants should undertake overall tariff reductions at least as ambitious as those achieved in the Tokyo Round, or approximately 33 percent. The assessment of the tariff negotiations at the July TNC meeting revealed that the 33 percent goal would not be reached if participants did not improve their offers. Textiles, antidumping, balance of payments reform, services, and TRIMs also presented contentious issues. It also became clear that agriculture would be the linchpin in the negotiations because many countries linked fundamental reform of agricultural trade to progress in other areas of the negotiations.

In his closing statement at the July TNC meeting, GATT Director General Arthur Dunkel set out a work program, with specific deadlines, identifying the major issues to be resolved in the negotiating groups prior to the Brussels Ministerial on December 3-7, 1990. Essentially,

all negotiations were in continuous session leading up to the Brussels Ministerial meeting.

Brussels Ministerial

The four years of negotiations were to culminate in a closing Ministerial Conference in Brussels December 3-7, 1990, where ministers would agree to texts in all fifteen negotiating groups. With this deadline in mind, negotiators worked to resolve many outstanding issues prior to the ministerial meeting, but a great deal remained to be done. Negotiators in agriculture, services, and TRIPS had particularly difficult tasks. Each of these groups faced fundamental differences among the various positions held by participants.

The United States fielded a comprehensive delegation prepared to negotiate in all areas at the Brussels Ministerial. While the Round was originally scheduled to conclude at this meeting, the impasse due to the lack of progress in agriculture prevented completion of any agreements. As a result, the Round was suspended.

At the closing session of the ministerial, GATT Director General Arthur Dunkel was instructed to consult with participants with the specific objective of achieving agreements in all the areas of the negotiations, and to return to the negotiating table if possible early in 1991. The work from Brussels was noted by the Chairman but no official record was produced.

In his statement on December 11, 1990 President Bush commented that "Unfortunately, the Brussels meeting has ended without result due to the inability of nations with substantial economic strength--the EC, Japan, and Korea--to negotiate fundamental agricultural reform. This is all the more disappointing given the very constructive attitude taken by many developing countries, particularly many of our friends in Latin America. The United States remains committed to maintaining and strengthening the multilateral trading system, and to a timely and successful conclusion of the Round. We will do all we can to bring this about, while continuing to

insist upon agreements that genuinely liberalize trade."

ACTIVITY IN THE INDIVIDUAL NEGOTIATING GROUPS

Market Access

Tariffs and Nontariff Measures

At the 1988 Montreal Midterm Review, ministers agreed that all participants should undertake overall tariff reductions "at least as ambitious as that achieved in the Tokyo Round" (i.e., at least 33 percent). The text did not specify a single method for achieving tariff liberalization goals. Countries could use various formula-type approaches, a request/offer method, or a combination.

However, negotiations were bogged down by disagreement over differences in procedures and treatment of agriculture. In February 1990 the tariffs negotiating group agreed to procedures which allowed countries to proceed on the basis of either a "request/offer" or "formula" approach.

Based on advice from the private sector, U.S. negotiators sought access to other trading partners' markets using a "request/offer" procedure in the negotiations integrating tariffs and nontariff measures to ensure achievement of germaine market access. Under this procedure, the United States presented trading partners with requests for tariff and nontariff measure liberalization on products of interest to U.S. exporters. Other governments in turn presented lists of product-specific interests for consideration by the United States. U.S. negotiators offered to lower particular tariffs and to liberalize certain nontariff measures in response to these lists. More than 15,000 product-specific requests on products of interest to the United States were delivered to more than 40 trading partners during the negotiations.

The U.S. tariff offer was substantially augmented in October 1990 to cover all sectors, including agriculture and textiles, and included

proposed concessions on 86 percent of total U.S. nonpetroleum imports in 1989.

The U.S. offer represented approximately a 40 percent reduction in the average U.S. trade-weighted tariff, if full reciprocity were received from other countries. If implemented in its entirety, the October 1990 offer would lower the average U.S. tariff on dutied products from 5.2 percent to 3.1 percent, based on imports in 1989. If trade which is already duty-free on a most-favored nation basis is included, the offer would reduce the average U.S. tariff of 3.4 percent to approximately 2.0 percent, based on 1989 imports.

The agriculture and textiles sectors were identified by numerous trading partners as being of central interest in the negotiations. The agriculture tariff offers were made as an integral part of the U.S. agricultural proposal, which also addressed the reduction of export subsidies, nontariff measures, and internal supports. On textiles, U.S. negotiators stressed that progress in the area of tariffs on textiles and apparel was related to progress in bringing about the eventual integration of all measures affecting trade in this sector into the GATT on the basis of strengthened GATT rules and disciplines.

A major portion of the U.S. offer comprised proposals by certain domestic industries for eliminating all duties in certain sectors. These "zero for zero" approaches covered such areas as nonferrous metals, steel, wood, paper, pharmaceuticals, construction equipment, computers, semiconductors, electronic medical equipment, fish, and beer.

The industries involved asked the Administration to agree to eliminate all duties in these sectors if a sufficient number of other trading partners agreed to do the same on the identical range of products, and if certain nontariff measures in the sector were also addressed. The offer on steel was made as part of the President's Steel Trade Liberalization Program, which covers subsidies and nontariff measures, as well as tariffs.

The sectors proposed for duty elimination represent some of the largest U.S. exporting industries. In 1989 U.S. exports in the nine "zero for zero" sectors (including dutied and duty-free items) were nearly \$98 billion. U.S. imports of the same products that year were \$119 billion.

Rules of Origin and Preshipment Inspection

The United States has submitted proposals to the GATT on the multilateral rulemaking issues of rules of origin and preshipment inspection. The United States has proposed that participants agree to adopt principles and procedures to govern the use of rules of origin during the Round. In addition, the United States proposed that the GATT, in cooperation with the Customs Cooperation Council (CCC), should begin longer-term negotiations aimed at harmonizing the various origin rules now in use.

In December 1990 agreement was reached at the Brussels Ministerial on an ad referendum basis on a GATT agreement on rules of origin. The agreement includes principles and procedures to be adhered to in applying rules of origin, including advance publication of changes in rules of origin and ability to seek binding assessments of origin for specific products. It also provides for a three-year work program to harmonize nonpreferential rules of origin. This work program is to be carried out jointly by the GATT and the CCC, with the results to be incorporated into the GATT agreement.

The United States has also proposed that GATT adopt a detailed agreement for countries that use preshipment inspection (PSI). PSI refers to the private companies that certain developing countries use to inspect shipments for quality, quantity, and price purposes. These companies operate in the country of export. This agreement would enforce mandatory guidelines governing the activities of PSI firms.

In December 1990 agreement was reached at the Brussels Ministerial on an ad referendum basis on a GATT agreement on PSI. The agreement provides disciplines in the areas of price verification, delays in shipments, and

protection of confidential business information. It also establishes a binding dispute resolution mechanism for disputes between exporters and preshipment inspection companies.

Tropical Products

This negotiating group is of key interest to developing countries because these products represent a high percentage of less developed country (LDC) trade. In an attempt to address the requests of the LDCs, concessions were granted after the Midterm Review in December 1988. The United States contributed to the multilateral package of tropical products concessions by offering 25 percent reductions on 49 tariff lines. Seven cover industrial tropical products. Further liberalization is complicated by the fact that most tropical products of interest are related to agriculture, one of the most contentious of the Uruguay Round issues.

The objective of the United States--to obtain substantial liberalization of trade--depends on achieving our goals in the agriculture and market access negotiations. Integrated with our approach in those negotiations, the United States submitted its proposal to the GATT in March 1990 which offered: To reduce tariffs and nontariff barriers on agricultural tropical products in a manner consistent with our agriculture proposal; to negotiate the liberalization measures on agricultural tropical products for which market access is the main trade-distorting policy in the Tropical Products Group; to negotiate reduction of trade barriers on industrial tropical products on a request/offer basis; and to encourage developing countries to make requests of the United States on products of particular interest to them.

Natural Resource Based Products

This group originally was set up to look at market access problems in three specific sectors: Nonferrous metals, forest products, and fisheries. The United States continues to view this negotiating group as "complementary" to the other market access negotiating groups. Yet, an important element in the U.S. position has been our insistence in going beyond the traditional three sectors and in looking at energy resources.

For example, the United States urged discussion of barriers in energy-based product trade, including two-tier pricing.

After the July TNC meeting, GATT Director General Arthur Dunkel called for the market access negotiating groups of Tariffs, Nontariff Measures, Tropical Products, and Natural Resource Based Products to hold joint meetings so as to avoid disagreement as to where offers should be discussed. Several joint meetings were held from August through November, but emphasis remained on the bilateral tariff negotiations. U.S. objectives for market access liberalization are adequately addressed by our request/offer approach integrating both tariff and nontariff barriers to market access.

Textiles and Clothing

The Uruguay Round negotiating mandate for textiles and apparel, agreed at the Punta del Este meeting of trade ministers in November 1986, called for the "formulation of modalities for eventual integration of this sector into GATT based on strengthened GATT rules and disciplines thereby contributing to the further liberalization of trade." During 1990 work intensified in the Negotiating Group on Textiles and Clothing. The United States presented papers to the negotiating group which urged that alternatives to the Multifiber Arrangement (MFA), such as multilateral quotas and tariff rate quotas, be seriously explored as a transition mechanism to a strengthened GATT, and elaborated our views on the structure of a global quota. Disagreement emerged over global quota versus an MFA-based approach in the early stages of negotiations in 1990 with most participants in the negotiating group favoring an approach based on the structure of the MFA.

The United States, the EC, and Canada insisted that, whatever the nature of a transitional regime, it would have to be gradual, responsible, and undertaken over an extended period of time. Our proposals stated that a goal of the United States is to integrate textile trade into the GATT over a ten year period, and indicated our willingness to provide progressive liberalization

of textile and apparel trade over the course of this transition. The statements indicated the importance to the United States of transitional safeguard arrangements which would enable the United States to deal with problems of market disruption and ensure an orderly increase in imports over the period. Finally, the proposals stressed the need for the transition mechanism to deal with all measures affecting trade in textiles and apparel and for all participants to contribute to trade liberalization in this area.

The Administration faced strong domestic opposition to its goal of liberalizing trade in textiles and apparel. In early September, legislation was introduced and passed in the Congress which limited imports of textiles. However, the President vetoed the legislation and the veto was sustained on October 10, 1990.

Concerted efforts by U.S. negotiators resulted in some progress throughout the year. At the Brussels Ministerial it became evident that participants generally agreed to focus on substance--the MFA-based transition period, the transitional safeguard mechanism, quota growth rates, and product coverage and integration.

Agriculture

Agriculture remains one of the key issues for the United States and many other participants in the negotiations. Talks had concluded on a positive note in 1989 because all major participants had presented specific proposals outlining their framework for implementing the reform commitments made at the Montreal Midterm Review.

However, the submissions did reflect important differences concerning the structure of the reform process. A fundamental issue concerned the basic framework for the reform process. The United States and the Cairns Group (Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay) believed the negotiations should result in specific reduction commitments in each of three areas: import access barriers, domestic support

programs, and export subsidies. Other countries, including the EC and Japan, did not want specific reduction commitments on import access barriers and, except for Japan, on export subsidies. These countries wanted commitments to focus on reductions in internal support through use of a generalized aggregate measure of support with no specific program or policy commitments, including market access.

In July 1990 the Chairman of the Agricultural Negotiating Group, Aart deZeeuw, came forth with a draft negotiating text in the hope that all participants could agree to use it as a common basis for completing the negotiations. His text called for specific commitments in each of the three areas (although it did not propose specific percentage figures), endorsed the concept of tariffication (converting nontariff import access barriers to tariffs), and called for expedited reduction commitments on export subsidies. At the July meeting, all countries agreed to use the text as a means to intensify the negotiations and promised to submit concrete proposals for implementing reduction commitments by October 15, 1990.

The deZeeuw text also addressed the area of sanitary and phytosanitary measures. Throughout the year, in a parallel process, countries had been working to develop substantive rules and dispute settlement procedures for sanitary and phytosanitary measures. The deZeeuw text solidified the work and provided a basis for continued work in the area.

On October 15 the United States submitted its proposal addressing reduction commitments in each of the three areas of the negotiations: internal support, import access, and export subsidies. The U.S. proposal closely followed the deZeeuw text. The U.S. proposal called for comprehensive reduction in support and protection for all agricultural products in all countries over a 10-year time period. In market access, tariffication was to be implemented and all tariffs (including newly converted tariffs) reduced by 75 percent, with a maximum ceiling rate equal to 50 percent ad valorem. For products covered

by tariffication, initial minimum access commitments would be the larger of 3 percent of domestic consumption or existing access.

All internal support policies, except those policies which met carefully defined criteria (permitted programs), were to be reduced by 75 percent in the case of commodity-specific policies and by 30 percent for other trade-distorting programs. Permitted programs included environmental and conservation programs, domestic food aid, marketing, research and extension programs, and income support not linked to production. It also called for 90 percent reduction in export subsidies on primary agricultural products over ten years and elimination of export subsidies on processed agricultural products in six years.

All Cairns Group members except Canada endorsed the October 15 proposal of the group. Canada submitted its own proposal. The Cairns Group proposal called for explicit reduction commitments in internal support (75 percent), import access (75 percent) and export subsidies (90 percent) over a 10-year period. The proposal also contained explicit commitments for developing countries, generally that on internal support and market access they would commit to about half the rate for developed countries over a longer time period.

Although all countries had agreed in July to use the Chairman's text as a means to intensify the negotiations, some key participants did not use the Chairman's framework in their submissions. The EC proposal did not include specific reduction commitments on import access and export subsidies. All other participants accepted the deZeeuw idea of specific commitments on export subsidies, but some were reluctant to replace all nontariff import barriers with tariffs, as called for by the Chairman.

At the Brussels Ministerial, fundamental disagreement over how to reform agriculture continued. The EC, Japan, and Korea rejected a compromise proposal that called for specific commitments in import access, export subsidies, and internal support. Other countries present in

the agriculture negotiations, including the United States, were willing to use the text as a vehicle to develop a common framework for the negotiations.

GATT RULES REFORM AND INSTITUTIONAL ISSUES

GATT Articles

In this negotiating group the United States seeks to improve GATT discipline over trade restrictions justified on balance of payments (BOP) grounds; to clarify disciplines and transparency over the operation of state trading entities; to allow for the imposition of a small import fee to fund trade adjustment programs; and to modify procedures covering accession to the GATT. Other GATT articles are also under consideration: Other Duties and Changes (Art. II:1(b); GATT Waivers (Art. XXV:5), Renegotiation of Tariff Concessions (Art. XXVIII), and Protocol of Provisional Application.

The United States views reform of GATT BOP provisions as a priority issue in its overall effort to strengthen the rules of the multilateral trading system. Current weak BOP rules permit developing countries facing BOP pressures to evade GATT obligations at will for decades. U.S. objectives are: to limit use of the most distortive measures, discretionary quantitative restrictions, import quotas or bans, as a means of addressing balance of payments problems; to have countries announce a specific, reasonable time frame for removal of BOP measures; to improve GATT surveillance over these restrictions; and to clarify the rights of other GATT Contracting Parties (CPs) adversely affected by BOP restrictions.

The United States and Canada jointly submitted two proposals (December 1989 and June 1990) to the negotiating group designed to encourage countries facing serious BOP problems to limit their reliance on trade restrictions to address these difficulties. These proposals do not eliminate the basic right to resort to temporary trade restrictions when necessary.

Because of severe objections by some LDCs to any reform of the BOP provisions, no substantive negotiations have taken place to date.

Safeguards

The GATT's safeguards provision, sometimes referred to as the "escape clause", provides rules governing imposition of temporary import restrictions when fairly traded imports are causing serious injury to a domestic industry. The right to impose such restrictions is provided in GATT Article XIX implemented in U.S. law through section 201 of the 1974 Trade Act. However, Article XIX provides little guidance on the criteria for taking a safeguard measure or for how long the measure may remain in place. Two basic rules exist: The measure must be applied to all countries in a nondiscriminatory manner, and all affected countries are free to retaliate or request compensation.

In some instances, countries have been unwilling or unable to conform to Article XIX procedures when imposing safeguard measures. This may have led to increasing use of voluntary restraint agreements which are not subject to multilateral rules. It also may have led to an excessive reliance on unfair trade statutes to resolve trade problems.

A major U.S. objective in the safeguards negotiation is to design rules that are used, rather than ignored, when fair-trade import problems arise. Another major objective is to ensure that safeguards actions are more transparent and that an objective set of criteria and procedures are followed when action is taken.

The negotiating group prepared a draft text early in 1990. A major point of contention has been whether safeguard measures must continue to be applied on a most favored nation (MFN) basis or whether they may be applied selectively against certain exporters. A compromise solution was put forward midway through the year proposing that all safeguard actions be taken on an MFN-basis but no retaliation or compensation (as currently allowed) would be permitted against

measures with a short duration. These issues continue to be negotiated.

Subsidies

The subsidies negotiating group has operated within a framework that follows a "traffic light" approach, that is, one in which subsidies are categorized as red (prohibited), yellow (actionable but not prohibited), and green (permitted).

The United States submitted a proposal to this group aimed at prohibiting the most trade-distorting domestic subsidies. These included both "quantitative" prohibitions, i.e., those granted to firms that are predominantly exporters and those in amounts that exceed a specified percentage of a firm's total sales, as well as "normative" prohibitions, which would discipline specific subsidy practices considered to be particularly trade-distorting.

The current negotiating text contains a number of improvements to existing international subsidies disciplines. Improvements include clearer identification of domestic subsidies which would be presumed to cause adverse trade effects, and new procedures for streamlining and enhancing the dispute resolution process. The text continues to be disappointing with respect to the identification of new subsidy prohibitions, and retains unacceptable "permissible" subsidies provisions.

At this stage, disagreement remains on a number of key issues in the negotiation. Some developed countries are opposed to significant increased discipline over domestic subsidies, while developing countries are seeking to avoid any tightening of existing rules.

Dispute Settlement

The procedural changes to the dispute settlement process that were adopted at the Montreal Midterm Review have improved the process considerably. Recent panels have been completing their work in 6 to 9 months, but post-panel procedures need improvement.

Under current procedures, the defending party may block a request for a panel, and any party may block adoption of a panel report if it loses. When panel reports are adopted, there is no set time frame for a losing defendant to come into compliance. Finally, where the losing defendant has failed to comply after a "reasonable period" (undefined), the complainant's request for authorization to retaliate can also be blocked by the defendant.

Given these limitations on the effectiveness of the GATT dispute settlement procedures, the United States supported many elements of Canadian proposals for procedures for automatic adoption of panel reports with a right of appeal, and a process by which the right to retaliate could be automatically granted if a losing party has not complied with panel findings (or paid compensation) within a specified time period.

Functioning of the GATT System (FOGS)

The United States accomplished a considerable portion of its objectives at the Montreal Midterm Review in 1988. For example, a commitment was made to hold ministerial meetings every two years, and the Trade Policy Review Mechanism was established. The United States proposed a Small Ministerial Group to manage the GATT. The U.S. proposal would create a management board of ministers, similar to executive bodies in the IMF and World Bank. This group also considered proposals for greater cooperation between the GATT and international financial institutions.

Multilateral Trade Negotiations (MTN) Agreements and Arrangements

Import Licensing

In an effort to improve market access to both developed and developing countries, the United States submitted a proposal jointly with Hong Kong to strengthen the provisions of the Import Licensing Code. This proposal served as the basis for an agreement which was reached on an ad-referendum basis at the July TNC meeting. One country maintains a reservation on the text.

The agreement clarifies the definition of automatic licenses to ensure that such licenses are freely granted in all cases; requires that non-automatic licenses correspond in scope and duration to measures they are used to implement and; increases the provisions on transparency and review.

Antidumping

Rules governing unfairly traded goods are being revised by this negotiating group. The U.S. proposals focused on anticircumvention, deterrence, and repeat dumping. The negotiating group throughout the year was divided over issues to be reformed. Some countries proposed fundamental redefining of what constitutes dumping and others proposed reforms designed to rebalance antidumping methodology away from a perceived bias against importers. This division prohibited the group from forwarding a text at the July TNC meeting.

A small group of countries (Singapore, Brazil, Hong Kong, India, Korea, Mexico, New Zealand, the Nordics, Yugoslavia, the United States, Japan, Australia, Canada, and the EC) worked throughout the fall to narrow differences. In late October, however, the negotiations reached an impasse, reflecting a hardening of positions by the exporting countries on the question of anticircumvention, a key U.S. demand in the negotiations. While progress was made on procedural, due process, and transparency issues during the fall and at the Brussels Ministerial, significant differences remained on most methodological points as well as anticircumvention and deterrence.

Standards, Technical Regulations, and Conformity Assessment Procedures

Work on improving the MTN Agreement on Technical Barriers to Trade proceeded in the first half of 1990 toward a negotiating text combining some fifteen proposals advanced by delegations. The text submitted at the July TNC meeting included five U.S. proposals to: (a) expand disciplines to cover conformity assessment procedures¹; (b) fully cover processes and production methods; (c) cover nongovernmental

regional standards development; and, (d) improve transparency. The United States continued to oppose the Code of Good Practice for standards developers and discussed ways to adjust its requirements so as to minimize any undue burden on private bodies.

Technical level discussions continued throughout the fall. Disagreement over the level of obligation for local governments in the development and application of technical regulations and conformity assessment procedures was the most substantive outstanding issue for the ministers to resolve in Brussels. Discussions in Brussels did not resolve that issue.

Government Procurement Code

In 1990 the Government Procurement Committee met in formal sessions during the months of January, March, and September. The Committee's Working Group on Renegotiations met prior to the Committee's formal meetings in these months and separately, in June, August, October, and November. Members of the Committee met on a bilateral basis in Brussels during December 3-7, 1990 in conjunction with the Uruguay Round negotiations.

Signatories to the code accelerated their efforts to expand the coverage of the code and strengthen its disciplines in 1990. Offers from the United States, the EC, Canada, Japan, Austria, Norway, Sweden, Finland, and Switzerland were submitted by the end of the year. Hong Kong, Singapore, and Israel stated that more time was needed to consider their positions.

Negotiations reached an impasse over the EC insistence that the code be expanded to impose purchasing disciplines on privately-owned firms operating in the telecommunications and electrical utility areas. By the end of the year, however, consensus was developing on other important issues under negotiation, including: expansion of the code to cover procurement by remaining central government agencies and significant procurement by subcentral government entities; extension of the code's disciplines to services

contracts; and requiring the establishment of local bid protest systems.

In other developments, a complaint brought by a U.S. supplier against Norway regarding the procurement of electronic toll identification equipment was resolved on a bilateral basis in favor of the U.S. supplier. The Government of Norway took actions that offset the effect of the procurement in question and agreed to take steps to ensure that future procurements would be carried out in accordance with code procedures. The Committee also completed the Annual Statistical Review of Signatories' 1988 reports.

THE NEW ISSUES

Services

The goal of the United States in the Uruguay Round negotiations on services is to develop an framework agreement setting out basic rules and obligations governing services trade. The agreement also must contain appropriate annexes or other provisions adapting, where necessary, the provisions of the framework agreement to the particular characteristics of individual services sectors.

Working groups have considered whether special rules or annexes would be appropriate for the telecommunications, financial services, transportation, tourism, and professional services sectors and for issues related to labor movement. As of this writing, annexes to the services framework will be developed for financial services and telecommunications.

An important component of the United States proposal in the services negotiation is market liberalization. Towards this goal, the United States urged other participants to submit specific requests/offers of market access and national treatment across the range of services sectors. This process got underway in late 1990. Nine countries had submitted offers by the end of 1990, including the United States.

Trade-Related Aspects of Intellectual Property (TRIPS)

The United States seeks a TRIPs agreement that provides strong minimum standards and effective enforcement provisions. Our objectives have been directed primarily at convincing developing countries to live up to agreed minimum standards of protection and enforcement provisions.

The working draft agreement developed throughout 1990 covers patents, copyright and related rights, trademarks, industrial designs, lay-out designs for integrated circuits, geographical indications, and trade secrets. The enforcement section includes requirements on both internal and border enforcement.

Further refinement of the TRIPs agreement was stopped as soon as the deadlock in the agriculture negotiations became known at the Brussels Ministerial meeting.

Trade-Related Investment Measures (TRIMS)

Prior to the Montreal Midterm Review, the group identified a number of requirements imposed by governments on investors that might be considered TRIMs, including: Local content; manufacturing limitations; trade balancing; foreign exchange limitations; domestic sales requirements; product mandating; and export performance requirements.

The United States offered the first draft text of an agreement in January 1990. The draft prohibited most TRIMs; established a test to discipline other TRIMs that had adverse trade effects; provided time to phase out prohibited TRIMs; created notification procedures; and established a TRIMs Committee to, inter alia, review the work of the agreement. The LDCs, led by Brazil, India, and Egypt, offered an alternative in early June, which pledged the CPs to try to avoid adverse trade effects in their policies; argued the development objectives of those policies; and noted that certain policies were needed to control restrictive business practices of multinational enterprises.

An informal draft by the Chairman tried to take a middle road by offering a shorter list of prohibitions; a longer transition period for developing countries; and permitting infant industry and balance of payment exceptions for the LDCs. While later negotiations focused on the Chairman's draft text, the LDCs were unwilling to accept as a basis for negotiation any text which included the concept of prohibition. This fundamental division prevented the negotiating group from finalizing a draft text, and also prevented consideration of another draft written by the Hong Kong representative at the direction of GATT Director General Dunkel.

COMMITMENTS TO STANDSTILL AND ROLLBACK

The Punta del Este Declaration contains a political commitment to the standstill and rollback of trade restrictive and distortive measures and to multilateral surveillance of the commitment's implementation. The standstill and rollback undertakings are political pledges. Neither creates any new international rights and obligations.

A surveillance body (SB) was created to oversee the commitments and agreed on procedures for notifying perceived or potential violations of these commitments.

The SB reports directly to the TNC and meets just before TNC meetings. The SB was not as active in 1990 as in previous years. In February, the United States raised the issue of the EC's import restraint proposal on Japanese automobiles, noting that the United States expected any agreement between the EC and Japan to be short-lived, transparent, and consistent with the safeguards agreement being negotiated in the Round.

The United States also raised concerns against the EC criterion for biotechnology which would add a socio-economic needs test and environmental impact assessment to the regulatory review process.

OTHER GATT ACTIVITIES

Other GATT activities maintained a regular schedule during the first half of 1990. This activity declined as the year progressed, however, reflecting intensified efforts by the CPs to conclude the Uruguay Round by the end of 1990. Many of the new applicants for GATT membership that had initiated negotiations after the Punta del Este meeting in 1986 pressed hard to complete their accessions in time to participate in the closing negotiations of the Round. Requests to initiate dispute settlement procedures declined sharply, but discussion continued on cases already underway and on those ready for decision or implementation. Six more CPs submitted their trade regimes to review under the Trade Policy Review Mechanism (TPRM) established at the Montreal Midterm Review, and work continued under Article XXVIII to negotiate individual changes in tariffs outside the scope of Uruguay Round Market Access negotiations. The CPs also began consideration of how the GATT might relate to trade in hazardous or domestically prohibited goods.

Governing Bodies

It had been hoped that the Forty-Sixth GATT Contracting Parties' Session would adopt the results of a completed Uruguay Round. After the failure of the Brussels Ministerial meeting of the TNC to finalize these negotiations, however, the Session devoted itself, as it had in 1989, to the consideration of normal GATT work and to adopting the report of the GATT Council of Representatives. The Council, established in 1960 to conduct GATT business between the annual meetings of the CPs, is the principal decision making body of the GATT on a day-to-day basis. The Council met eight times in 1990, and addressed, *inter alia*, requests for the establishment of dispute settlement panels or working parties, the adoption of reports of other GATT bodies, requests for GATT membership or waivers from GATT obligations, and other issues and complaints as raised by the individual CPs².

Council consideration of dispute settlement cases already underway and the implementation of adopted panel reports continued to occupy a

significant portion of the Council's energies, but only three new dispute settlement requests were made in 1990. Canada and the EC went to arbitration concerning the validity of Canadian negotiating rights on grain exports to the EC deriving from the enlargement of the EC in the 1970s and 1980s. The arbitration panel found in favor of Canada. The other new requests were both made by the United States, concerning the U.S. complaint against discriminatory taxation and other barriers to U.S. exports of certain tobacco products to Thailand, and a U.S. complaint involving Canadian restrictions affecting imports of beer³.

Based on improved dispute settlement procedures adopted at the Montreal Midterm Review, adoption of contentious panel reports became less difficult. Panel reports on EC oilseed subsidies, EC antidumping measures on imports of parts and components, and U.S. restrictions on sugar (EC complaint) were adopted.

The United States announced implementation of the panel reports on the U.S. Customs User Fee and U.S. sugar import restrictions (Australian complaint) which, in the case of sugar, was accomplished by the United States moving from a quota to a tariff-rate quota system on October 1, 1990. Korea met United States, Australian, and New Zealand requirements for the implementation of the panel report condemning its import restrictions on beef.

Implementation of a number of other important panel rulings was delayed, however. These included the U.S. complaint against Canadian dairy restrictions and Norwegian barriers to apple imports and U.S. efforts to secure full implementation of the 1988 panel ruling on Canadian restrictions on imported alcoholic beverages. At the end of the year, Council action was still pending on the panel report concerning U.S. countervailing duties on Canadian pork.

A Working Group was established in 1989 at the request of several African CPs to study the possibility of GATT disciplines in the area of trade in hazardous wastes and domestically

prohibited goods. It reported twice to the Council, but was unable to reach a consensus on the role of GATT disciplines on this trade. Work will continue in 1991.

At the end of the year, members of the European Free Trade Association (EFTA) suggested that the GATT address the implications for GATT rights and obligations of measures taken to protect the environment. Sponsors of both issues are pressing for GATT action on these requests in the context of the results of the Uruguay Round.

U.S. representatives again requested the establishment of a working group to address the relationship of internationally recognized labor standards to international trade and new terms of reference that would meet the concerns expressed by some developing CPs, but the U.S. request was again not able to secure the needed consensus to establish the group.

The EC sought and received a waiver to grant tariff preferences for certain imports from Eastern European countries into the territory of the former German Democratic Republic. With German unification on October 3, 1990 this territory became part of the Federal Republic of Germany, and subject to the GATT. A GATT Working Party was established to review the temporary trade preferences for this region, and will initiate its work in 1991.

Uruguay converted its long-standing waiver from Article II obligations for balance of payments reasons to a request for a waiver to establish a new tariff schedule. Pakistan shifted its request for extension of a long-standing waiver from a need to increase tariff revenues for budget purposes to the implementation of the Harmonized System (HS) tariff nomenclature. This shift improves chances that both countries will soon reestablish their Schedules and begin to observe their Article II obligations to other CPs.

The Council continued to receive requests from other CPs for waivers and waiver extensions of up to one year to allow CPs to establish new tariff schedules or to implement the HS tariff

nomenclature prior to completion of negotiations to deal with the resulting changes in tariff applications that violate previous GATT commitments. Thailand sought and received another extension of the exemption from Article III in its Protocol of Accession. The extension grants another two years to remove the discriminatory tax treatment of cigarettes and certain other products, and was accompanied by the assurances of the Thai representative that no further extensions would be necessary. Turkey, which had maintained a GATT waiver since 1963 allowing the application of a surcharge "stamp tax" on its imports, agreed during 1990 that the tax would be eliminated within two years.

The Council received the written answers of Canada and the United States to questions put to them by other CPs concerning the Free Trade Agreement (FTA) implemented in 1989, and took note of the joint U.S.-Mexican announcement that agreement had been reached to negotiate an FTA between these two countries as well.

The GATT Council in Special Session met twice during 1990 to review developments in the trading system and to continue examinations of CP trade policies under the TPRM. Only six additional reviews took place--Colombia, Sweden, Canada, Hong Kong, New Zealand, and Japan. Examinations of the EC, Indonesia, and Hungary, originally scheduled for December 1990, were postponed until April 15, 1991 in light of the strain on CP resources caused by efforts to conclude the Uruguay Round. It is intended that all contracting parties will be examined at least once in each six-year cycle. It is hoped that the regular review of CP trade regimes will encourage better observance of GATT provisions and a better understanding of the forces shaping the international trading system.

GATT Accessions

A relatively large number of countries completed GATT accession requirements during 1990. Tunisia, Bolivia, and Costa Rica finally ratified the agreements reached with GATT CPs during 1989, and became full contracting parties. Venezuela also acceded, and El Salvador and

Guatemala completed accession tariff and Protocol negotiations with a view to assuming contracting party status early in 1991. Macau became a GATT member on January 11, 1991. Nepal and Paraguay responded to the written questions submitted by CPs in 1989, and indicated an interest in initiating Working Party consideration of their accession requests during 1991. Bulgaria's Working Party was activated in 1990, with terms of reference that will focus CP examination on nonmarket factors remaining in its trade and economic regime that may affect Bulgaria's ability to undertake full GATT obligations. Bulgaria requested written questions from interested CPs, and Working Party deliberations will likely commence during 1991.

On January 1, 1990 Taiwan requested accession to the General Agreement under Article XXXIII as the "Customs Territory of Taiwan, Penghu, Kinmen and Matsu." While the GATT accepts membership by customs territories without reference to political sovereignty (e.g., Southern Rhodesia and Hong Kong) the People's Republic of China has strongly objected to consideration of Taiwan's request for GATT membership. As a consequence, the CPs have delayed taking action in the GATT Council to initiate accession procedures for Taiwan in order to provide time for reflection on the application and on how it can be addressed. No other requests for GATT accession were received during 1990.

Negotiations for the terms of GATT participation by the People's Republic of China continue to be stalled in the Working Party established in 1987 to consider China's request for GATT membership. At the latest Working Party meeting in September, CPs sought evidence of a renewed commitment by China to economic and trade reforms that would bring it closer to GATT compatibility. Instead, CPs documented increases throughout 1990 of tariff and nontariff barriers to imports in China, a recentralization of economic decision-making and an intensification of subsidy practices that appeared to take China even further from that goal.

Eastern Europe and the GATT

In May 1990 the Soviet Union was granted observer status in the GATT. This provides the Soviet Union with an opportunity to obtain a better understanding of the GATT system. This decision is separate from the issue of full GATT participation, which the United States continues to oppose at this time. The Soviet economic and trade system remains incompatible at this point with the market price-based mechanisms which underlie GATT obligations.

Efforts by other Eastern European countries to reestablish market-based price and exchange systems in their economies continued during 1990, and Poland, Czechoslovakia, and Hungary all renewed efforts to "normalize" their GATT relations with the United States and other CPs. Poland formally requested establishment of a Working Party to renegotiate its original GATT obligations, based on its rejection of the nonmarket mechanisms that required a special Protocol and Schedule to address the problems of absorbing a nonmarket economy into the GATT system. Renegotiation of Poland's GATT commitments will likely commence in 1991.

Hungary has formally requested that the United States withdraw its reservation under Article XXXV, and establish full GATT relations with Hungary. The United States invoked Article XXXV, i.e., nonapplication of the GATT, at the time Hungary joined the GATT in 1973 because Congress had previously revoked Executive authority to grant such treatment to Communist Bloc countries. The reservation was maintained even after Title IV of the 1974 Trade Act allowed the United States to extend MFN treatment to such countries conditionally, since the GATT requires that CPs extend unconditional MFN treatment to each other. The Czech and Slovak Federated Republic (CSFR) has also suggested regularizing U.S.-CSFR GATT relations, which were suspended in 1951 for the same reasons. The possibility of "normalizing" GATT relations with both countries is under review by U.S. trade policy agencies.

Standing GATT Bodies

Owing to the preoccupation of many delegations with Uruguay Round negotiations, the activities of the GATT standing bodies were limited in 1990.

The GATT Committee on Balance of Payments Restrictions (BOP Committee) met only once in 1990. This committee examines trade restrictions justified on balance of payments grounds. Countries imposing these restrictions are required to consult regularly with the GATT BOP Committee. The purpose of BOP Committee surveillance is to determine whether the country's use of trade barriers is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation while simplified consultations are briefer reviews. In 1990 simplified consultations were held with Egypt and Bangladesh. Scheduled full consultations with Yugoslavia and simplified consultations with Argentina, Nigeria, the Philippines, Tunisia, and Turkey were postponed until the first meeting of the BOP Committee in 1991 because of the press of Uruguay Round business.

The Committee on Trade and Development (CTD) was established in 1965 to consider how the GATT can aid the economic development of LDC CPs. It normally meets two or three times a year, but met only once in 1990. At this meeting, the CTD continued to address trade issues of interest to LDCs, with particular emphasis on progress in the Uruguay Round and on the operation of the Enabling clause in such areas as the Generalized System of Preferences programs, the Global System of Trade Preferences, and regional integration efforts (e.g., the Latin American integration efforts). The Andean group countries circulated a report on activities carried out under the Cartagena Agreement. The Agreement was initially set in the context of the integration process provided for in the 1960 Montevideo Treaty, which since then has been replaced by the 1980 Montevideo Treaty establishing the Latin American Integration

Association (ALADI). As a result of recent changes made in the legal arrangements, the Cartagena Agreement became an independent instrument. The United States has pressed LDCs, in the CTD and other GATT fora, to notify, to improve reporting, and to agree to CP review of the operations of their regional arrangements that grant trade preferences.

In 1990 the Committee on Tariff Concessions continued to focus almost exclusively upon negotiations needed to maintain the balance of GATT concessions during conversion to the common international and statistical nomenclature known as the Harmonized System (HS). Each CP introducing the HS must engage in GATT Article XXVIII negotiations to ensure that the balance of concessions is maintained in its converted tariff. On January 1, 1992 the first amendments to the international HS nomenclature will enter into force. These changes will affect all HS users and could result in the modification of some rates of duty. The Committee considered procedures to facilitate the introduction of these amendments.

1990 marked the second year of U.S. implementation of the HS. During the year, the first full-year U.S. trade statistics compiled on the basis of the HS nomenclature became available. The benefits of using a common international nomenclature became readily apparent when U.S. trade statistics could, for the first time, be easily compared to trade statistics compiled by other countries.

Nontariff Measure Codes

Day-to-day activities in the Committees established to administer the Tokyo Round nontariff measure codes declined sharply in 1990. Negotiations to improve and/or expand the application of the codes were conducted under the auspices of the Uruguay Round Negotiating Group on MTN Agreements and Arrangements. The results of these negotiations will be formally adopted by the various Code Committees.

The Committee on Customs Valuation, which administers the Customs Valuation Code,

met only once in 1990. The Committee exchanged views on the implementation and administration of the agreement by Australia, Cyprus, and South Korea. Responding to concerns raised by India and other developing countries on the rights and obligations of Customs services in instances of suspected fraud, the Committee informally reached an agreement that balances the needs of developing countries to address these cases with safeguards to prevent legitimate traders from being harassed. Although this agreement was reached in the context of Uruguay Round discussions on the MTN Codes, it is envisaged that it will be adopted as a Committee decision. Forty countries are now signatories to the Customs Valuation agreement, which entered into force on January 1, 1981. In addition, Poland signed the agreement subject to ratification on October 30, 1990.

The Committee on Import Licensing, which administers the Licensing Code, held two meetings during 1990. Code signatories discussed implementation problems, as well as developments with regard to their national licensing systems. In addition, signatories focused their efforts on improving the provisions of the Licensing Code as part of the Uruguay Round negotiations.

The Committee on Technical Barriers to Trade met seven times in 1990. Though primarily concerned with implementation of the existing provisions of the Agreement on Technical Barriers to Trade (Standards Code), the Committee's work this year also focused on individual signatories' proposals to improve, clarify, and expand the Agreement as part of the Uruguay Round. To that end, meetings of the Committee were often scheduled to coincide with meetings of the Uruguay Round Negotiating Group on MTN Agreements and Arrangements where improvements to the range of codes and Agreements emanating from previous multilateral negotiations are being negotiated under the auspices of the GATT.

The Committee continued to oversee signatories' implementation and administration of

the code. The total number of signatories currently stands at 40, with the addition of Israel in 1990. The United States used the Committee meetings to raise bilateral standards-related trade issues with other signatories. The eleventh annual review of the Standards Code was also conducted during this period.

The Aircraft Committee (Civil Aviation) met only once during 1990. Various European aircraft export subsidies were reviewed, as well as general subsidy issues and the availability of State aids for aircraft production.

In 1990 the Government Procurement Committee met in formal sessions during the months of January, March, and September. The Committee's Working Group on Renegotiations met prior to the Committee's formal meetings in these months and separately, in June, August, October, and November. Members of the Committee also met on a bilateral basis at the Brussels Ministerial.

The major work of the Committee in 1990 continued to be the renegotiation of the code under Article IX:6(b). These negotiations are being conducted separate from, but in conjunction with the Uruguay Round. Signatories to the code accelerated their efforts to expand the coverage of the code and strengthen its disciplines in 1990. Offers from the United States, the EC, Canada, Japan, Austria, Norway, Sweden, Finland, and Switzerland were submitted by the end of the year. Hong Kong, Singapore, and Israel stated that more time was needed to consider their positions.

Negotiations reached an impasse over the insistence that the code be expanded to impose purchasing disciplines on privately-owned firms operating in the telecommunications and electrical utility areas. By the end of the year, however, consensus was developing on other important issues under negotiation, including: Expansion of the code to cover procurement by remaining central government agencies and significant procurement by subcentral government entities; extension of the code's disciplines to services

contracts; and requiring the establishment of local bid protest systems.

In other developments, a complaint brought by a U.S. supplier against Norway regarding the procurement of electronic toll identification equipment was resolved on a bilateral basis in favor of the U.S. supplier. The Government of Norway took actions that offset the effect of the procurement in question and agreed to take steps to ensure that future procurements would be carried out in accordance with code procedures. The Committee also completed the Annual Statistical Review of Signatories' 1988 reports.

The Antidumping Code Committee held its regular meetings in 1990 in April and October. This schedule was augmented by two special meetings held in September and November. At the regular meetings, the Committee continued to discuss antidumping actions taken by signatories and antidumping legislation and/or regulations promulgated by signatories. On these matters, the United States received additional written questions concerning implementation of the antidumping provisions of the 1988 Trade Act, as well as earlier legislation, and responded to these questions. For its part, the United States (joined by the EC) raised questions concerning antidumping actions initiated against U.S. exporters by several other countries, most notably Korea and Mexico. At the October meeting, Finland requested establishment of a panel to consider Australia's imposition of antidumping duties on transformers.

The two special meetings were called at the request of Sweden for the purpose of considering adoption of a panel report issued in July on U.S. Imposition of Anti-Dumping Duties on Imports of Seamless Stainless Steel Hollow Products from Sweden. The panel found that the initiation by the United States of the antidumping investigation was inconsistent with U.S. obligations under Article 5.1 of the code and recommended that the United States revoke the antidumping duty order and refund duties paid. To date, the panel report has not been adopted. At the September meeting, which was hastily convened, the United States (as

well as the EC) indicated that they needed more time to complete their consideration of the panel report. At the October meeting, Sweden and the United States jointly asked the Committee to defer consideration of the report. At its most recent meeting, in November, the Committee was adjourned after an inconclusive discussion among Sweden, the United States, Canada, and the EC. During the discussion, the United States indicated its willingness to consider the substantive merits of the panel report, but strongly rejected the panel's authority to recommend a specific and retroactive remedy.

The Subsidies Code Committee also held its regular biannual meetings in April and October 1990, and discussed countervailing duty actions taken by signatories, countervailing duty legislation and/or regulations promulgated by signatories, and subsidies taken or notified to the Committee. On these matters, the United States continued to receive written questions concerning implementation of the countervailing duty provisions of the 1988 Trade Act, as well as earlier legislation, and responded to these questions. At both meetings, the Committee also considered for adoption the panel report on U.S. Imposition of Countervailing Duties on Non-Rubber Footwear from Brazil. Brazil continued to block, for the second and third times, adoption of the panel report. Older outstanding panel reports involving Canada, the EC, and the United States remained unadopted.

In addition to its two regularly-scheduled meetings, the Subsidies Code Committee held a special meeting in January to conduct conciliation at the request of the United States in regard to consideration of an exchange rate guarantee provided to Deutsche Airbus by the Federal Republic of Germany. The United States and the EC were unable at the meeting to reach a mutually satisfactory resolution of the matter. A compromise U.S. proposal for concluding the negotiations was rejected by the EC in February 1991. Following the EC rejection, the United States requested the establishment of a panel to review the issue.

THE PRESIDENT'S STEEL TRADE LIBERALIZATION PROGRAM

On July 25, 1989 President Bush established the Steel Trade Liberalization Program. The program's ultimate goal has been to ensure that market forces, not governments, determine the patterns of trade and the price and quantity of steel.

The first phase of the President's program included both negotiation of bilateral agreements to eliminate trade distorting practices in the steel sector and the extension of Voluntary Restraint Arrangements (VRAs) to provide for an orderly transition to an open trading environment. In implementing this phase, the United States concluded bilateral consensus agreements on steel trade with its major steel trading partners: Australia, Austria, Brazil, the EC, Finland, Japan, Korea, Mexico, the Republic of Trinidad and Tobago, and Yugoslavia. Under the agreements, countries are committed to terminate and not re-introduce nontariff barriers and most subsidies in the steel sector, to work towards the reduction and elimination of tariffs and to work within the GATT to incorporate those rules into a multilateral agreement. The agreements also include a dispute resolution mechanism to deal with violation of these commitments. The agreements concluded thus far account for about 90 percent of the steel imports from VRA countries.

Concurrently, the United States also negotiated the extension of 18 VRAs covering all major steel product categories with 28 countries for a period of two and one-half years. They will restrict steel imports from VRA countries to levels consistent with the President's program.

To ensure an orderly return to open trade during the transitional period, the ceiling on VRA country imports will be increased at a rate of one percentage point a year above the President's target level of 18.4 percent of apparent domestic consumption. To help achieve an international consensus, these increases have been allocated to countries that have agreed to eliminate subsidies and other barriers restricting the free flow of steel.

With the conclusion of VRAs and bilateral consensus agreements, the United States has been concentrating efforts on incorporating the obligations and disciplines of the bilateral agreements into a multilateral agreement within the GATT through the Uruguay Round. The multilateral effort builds on the commitment in the bilateral consensus agreements to eliminate trade distortions. Negotiations are underway with countries with bilateral consensus agreements and with other countries, including Sweden, Canada, and Argentina.

The U.S. objectives for a multilateral agreement include:

- The prohibition against most subsidies;
- The elimination of tariff and nontariff barriers; and,
- The establishment of an effective mechanism to resolve disputes.

These objectives, if achieved, would create rules that would eliminate most of the underlying causes of unfair trade in steel that have existed in the past. Without the ability to subsidize domestic producers and with the elimination of both tariff and nontariff barriers, steel companies will be less able to trade unfairly. In addition, the domestic industry will have a quicker, more predictable, and more effective mechanism to address the problems of prohibited subsidies and closed markets, if they occur in the steel sector.

OECD

The Organization for Economic Cooperation and Development (OECD) is the primary forum for the discussion of common economic and social issues confronting the United States, Canada, Western Europe, Japan, Australia, and New Zealand. It was founded in 1960 as the successor to the Organization for European Economic Cooperation which oversaw European participation in the Marshall Plan.

The OECD's fundamental objective is "to achieve the highest sustainable economic growth

and employment and a rising standard of living in member countries while maintaining financial stability and thus to contribute to the world economy." This objective is pursued through in-depth analysis of economic problems confronting the developed market economies and the development of cooperative solutions to many of these problems.

Common analysis of issues in the OECD often is instrumental in forging a consensus among OECD countries to pursue certain negotiating goals in other international fora such as the GATT. Work in the OECD, for example, was instrumental in framing a number of key negotiating issues in the Uruguay Round--in particular the relatively new issues of trade in services, trade-related investment measures, trade-related intellectual property rights, and agriculture.

In the area of agriculture, the OECD over the past few years has conducted a series of studies covering the agricultural policies of member countries, and these studies have led to the development of quantitative indicators and analytical tools that have found application in the Uruguay Round. The OECD over the past year has continued its monitoring of the agricultural policies of member countries, and discussions of policy developments in this area have provided an objective reference point for evaluating the performance of member countries in this sensitive area.

The focal point for work on trade issues in the OECD is the Trade Committee. In 1990 discussions in the Trade Committee touched on such current issues as: The trade impact of domestic industrial subsidies; the relationship between national trade policy and trade related policies of state, local, and other subsidiary governments; the increasing linkage between trade and environmental policies; the scope and content of bilateral negotiations between the United States and Japan within the framework of the Structural Impediments Initiative (SII); and regional free trade negotiations in Europe and North America.

Discussions in the Trade Committee of current policy issues have led to the preliminary identification of issues that are likely to be of increasing importance to member countries in the decade of the 1990s. It is expected that these issues will become the subject of in-depth analysis in coming years, and where such OECD analysis leads to identifiable trade problems it could lead to the negotiation of new trade agreements in the GATT or elsewhere in future years. Among the issues that are priority candidates for an in-depth analysis by the Trade Committee in years to come are: The linkage between national technology or innovation policies and trade policy; the relationship between national competition policies and trade policy; the globalization of production and trade and the implication for trade policy; and the trade policy impact of environmental policies.

The Trade Committee over the past year has also paid increasing attention to the trading relationship with the Dynamic Asian Economies and the East European Economies. As part of a broader outreach effort by the OECD vis-a-vis both groups of countries, the Trade Committee organized informal workshops with senior trade officials from these countries. The OECD also commissioned a number of studies which highlight issues related to the fuller integration of these economies into the world trading system on a market-oriented basis. These workshops are expected to lead to a growing convergence between the trade policies of these countries and the OECD countries.

The work of the Trade Committee with the East European countries is expected to be particularly important over the coming year. In order to successfully manage the transition to democratically-based market economies, these countries will need to significantly expand exports to world markets. The Trade Committee, in close cooperation with trade officials from Eastern Europe, will carry out a joint analysis of foreign barriers and domestic impediments to an expansion of exports by these countries. The results of this analysis are expected to facilitate the identification of policy steps that might be

taken by both OECD countries and the East European countries.

A number of OECD Committees besides the Trade Committee have pursued work on issues with an important trade dimension, in cooperation with the Trade Committee. The Industry Committee, for example, has under way a major study of domestic industrial subsidies provided by member governments. The Information, Computer and Communication Committee has continued its work on the policy implications of the new telecommunications technologies, and has worked closely with the Trade Committee in developing the concepts and principles that might be incorporated in a Telecommunications Annex to the services agreement being negotiated in the Uruguay Round. The Agriculture Committee has continued its close monitoring of member agricultural policies, and its deliberations on concepts and quantitative indicators that are finding application in the Uruguay Round negotiations on agriculture.

Through its Working Party Six (WP-6) on shipbuilding, the OECD has also pursued intensive efforts to conclude an agreement eliminating subsidies and other forms of government assistance to shipbuilders. Discussions in WP-6 have included not only the principal shipbuilding countries within the OECD (the United States, Japan, Finland, Norway, and the EC), but also Korea. Agreement has been reached on most of the elements of such an agreement, and it is expected that the agreement will be successfully concluded in the course of 1991.

The OECD High Level Group on Commodities prepared a study on the adverse trade effects caused by transboundary restrictions of scrap metal resulting from the Basel Convention. This Committee also studies "North-South" raw material trade. The OECD Steel Working Group continues to expand transparency and understanding of the world steel market including the steel industries of non-OECD countries.

UNCTAD

The United Nations Conference on Trade and Development (UNCTAD) is the key UN forum for discussing development and trade issues. In the past this organization has often been characterized by politically slanted rhetoric and analysis based on a confrontational "North/South" world view. Since UNCTAD VII in July 1987, the United States has achieved progress in introducing a greater sense of pragmatism into the discussions.

The United States supported UNCTAD's technical assistance recommendations in the Uruguay Round, especially for African nations. The United States has also supported the UNCTAD Secretariat's efforts to disseminate its data base on trade measures containing tariff and nontariff information for developed and developing countries alike. U.S. dissemination efforts will ensure this information is readily available to any interested UNCTAD member.

In November 1989 UNCTAD convened the Committee on Manufactures (COM), one of UNCTAD's three principal committees. The COM considered recent trends in manufactured product trade and important features of related policies. The COM developed a work program to help prepare for UNCTAD VIII, scheduled for September 1991.

In December 1990 the UNCTAD Committee on Commodities (COC) met to review trends in primary commodity trade and consider policies affecting such trade. The COC adopted a program for its future work and developed a list of possible issues for UNCTAD VIII.

International Commodity Agreements

Largely in response to developing country concerns, commodity issues arise for discussion in international fora including UNCTAD, the Food and Agriculture Organization (FAO), GATT, OECD, and many individual organizations devoted to particular products. This interest reflects the importance of commodity trade to the export earnings of developing countries.

Throughout much of the post-World War II era, developing countries focused their efforts on obtaining international commodity agreements with price stabilization provisions. International consideration of such arrangements became an issue of great importance in the North-South dialogue of the mid-1970s.

The United States remains skeptical about international price-stabilization schemes. They require international organizations to intervene in markets which could create long-term market distortions. World markets should be allowed to operate freely and without government interference. However, the United States has been willing to examine specific agreements on a case-by-case basis.

The United States is now participating in international organizations covering coffee, sugar, wheat, jute, rubber, lead/zinc, tropical timber, and cotton. Only the International Natural Rubber Agreement contains economic stabilization measures currently in operation.

In July 1989 the Council of the International Coffee Agreement (ICA) decided to extend the ICA for two years (until September 30, 1991) but suspend the ICA's export quota provisions during this period. In September 1990 the Council decided to extend the ICA for one additional year (until September 30, 1992) without economic provisions.

Negotiations on a U.S. initiative to establish an international study group for copper concluded successfully in February 1989. In 1990 the United States decided to join the study group and urged other countries to do likewise.

Endnotes

¹Defined broadly to include, among other things, testing, inspection, laboratory accreditation, quality registration systems, product certification, etc.

²For a detailed report on the work during 1990 of the GATT Council and other bodies, see GATT Activities 1990, published by the GATT.

³Developments in dispute settlement cases brought by the United States are covered in the section of this report dealing with U.S. action under section 301 in Chapter VI.

V. BILATERAL NEGOTIATIONS

The United States Trade Representative (USTR) has continued the efforts begun during the first year of the Bush Administration to increase U.S. market access abroad. In addition to multilateral efforts, the United States has held bilateral negotiations with important trading partners to reduce or eliminate trade-distorting practices and their effects on U.S. exports.

In many of those negotiations, the credible leverage of USTR's authority under various U.S. trade laws has helped U.S. negotiators pry open protected foreign markets. This chapter reviews U.S. bilateral initiatives.

ASIA AND THE PACIFIC

U.S. trade with Asia and the Pacific (excluding Japan) continues to grow. In 1990 U.S. trade with the region totaled \$157.4 billion, up from \$152.3 billion in 1989. The U.S. trade deficit with the region declined slightly from \$31.7 billion in 1989 to roughly \$31.0 billion in 1990.

The Administration is committed to strengthening support for market forces and opening markets in both goods and services throughout the region. In both the Uruguay Round and extensive bilateral and regional consultations, the Administration has pressed the United States' Asian and Pacific trading partners for broad market-opening measures, efficiency through competition, and protection for ideas and technologies. The United States also has encouraged the nations in this region to accept greater responsibility for supporting the trading system.

The Administration has urged countries in the region to actively participate in the Uruguay Round. The Cairns Group¹ submitted an innovative agricultural proposal similar to the U.S. submission. The Association of Southeast Asian Nations (ASEAN)², Australia, New Zealand, India, Pakistan, and Korea have been active participants in the Uruguay Round negotiations.

Regional cooperation initiatives were also pursued. The United States worked closely with ASEAN members to encourage open markets, greater transparency, and protection for intellectual property. A Memorandum of Understanding on Trade and Investment was signed between the United States and ASEAN in December 1990 which establishes a senior officials group to explore ways to enhance U.S.-ASEAN trade relations.

The Asia Pacific Economic Cooperation (APEC) process, which was established in 1989, continued to develop and progress in 1990. Ministers of 12 countries in the region met in Singapore to discuss broad issues of cooperation ranging from human resource development to the Uruguay Round.

Republic of Korea

Negotiations with Korea in 1990 produced agreements on liberalization in the telecommunications sector and market access for beef; stronger enforcement of intellectual property rights; implementation of past agreements on cigarettes, wine, and elimination of agricultural quantitative restrictions; and resolution of standards issues affecting agricultural products.

Telecommunications: On February 18, 1989 Korea was designated as a priority country for telecommunications trade negotiations under section 1374 of the 1988 Trade Act. Following a year of consultations, on February 22, 1990 the President determined that substantial progress had been made in the negotiations toward achieving liberalization in the Korean telecommunications sector so as to warrant extending the negotiations for an additional year.

The February 1990 bilateral telecommunications consultations led to, among others, Korean commitments to: Accelerate tariff reductions on telecommunications equipment; apply for accession to the GATT Government Procurement Code and subject telecommunications purchasing entities to Code coverage; and establish transparent and nondiscriminatory procedures for standards-setting and approval processes. Negotiations to open the telecommunications services sector were pursued as part of the Uruguay Round services negotiations and will continue on a bilateral basis in 1991.

Intellectual Property Rights: The "special 301" provision of the 1988 Trade Act requires USTR to identify foreign countries denying adequate and effective intellectual property rights protection and market access to U.S. firms relying on such protection. Improved enforcement of intellectual property rights laws resulted in Korea's move from the "priority watch list" to the "watch list" under the "special 301" provision in May 1990.

Between May and December, intellectual property related raids, prosecutions, and incarcerations in Korea increased, and several company-specific trademark infringement cases were satisfactorily resolved.

Consultations continue to obtain resolution of outstanding complaints in this area, in particular to secure adequate protection for semiconductor chip mask works and trade secrets.

Beef (Section 301): Korea has restricted beef imports since 1967 and imposed a total ban

in 1985. On February 16, 1988 the American Meat Institute (AMI) filed a 301 case seeking the U.S. Government's assistance in removing these import restrictions on all bovine meat, including high quality beef.

On March 28, 1988 USTR initiated an investigation of these practices. The United States, Australia, and New Zealand all took independent complaints to the GATT. On May 4, 1988 the GATT Council authorized establishment of a dispute settlement panel under GATT Article XXIII:2. In May 1989 the GATT panel ruled that Korea's beef import restrictions were GATT-inconsistent and unjustified. The panel recommended the prompt establishment of a timetable for phasing out these restrictions.

The United States and Korea commenced consultations on an acceptable Korean response to the panel report. In April 1990 a bilateral agreement was reached under which Korea affirmed its willingness to eliminate import restrictions no later than July 1997. In the interim, Korea agreed to establish a gradually increasing annual import level for beef during 1990-92. During 1990 U.S. exports of beef to Korea reached a record \$120 million, nearly five times the 1988 level. The agreement also provided for the establishment of a simultaneous-buy-sell system designed to foster reliance on market forces by providing direct access between certain buyers and sellers in the Korean beef market.

Balance of Payments Restrictions: As part of the GATT Balance of Payments Committee review in 1989, Korea agreed to phase out over two three-year periods the remaining 274 quantitative restrictions imposed primarily on agriculture products or justify such restrictions under other GATT articles by July 1, 1997. In 1990 the U.S. government and other GATT contracting parties consulted on implementation of the first three-year tranche of trade liberalization measures under Korea's balance of payments agreement and prepared priority requests for Korea.

U.S.-Korea Standards and Phytosanitary Working Group: In 1990 the United States and Korea met twice under the newly-created standards group. This group was created to resolve sensitive food safety and plant health trade barriers at the technical level. As a result of these meetings, Korea agreed not to implement restrictive new Korean language labeling requirements and agreed to remove a phytosanitary ban on pecan imports. Other issues remain under discussion.

Taiwan

Intellectual Property Rights: In May 1989, Taiwan was placed on the "priority watch list" under the "special 301" provisions of the 1988 Trade Act. On November 1, 1989 USTR determined that substantial progress had been made so as to merit moving Taiwan from the "priority watch list" to the "watch list". Taiwan still remains on the "watch list". The United States continued an intensive dialogue with Taiwan throughout 1990 to obtain improved enforcement of Taiwan's existing patent, copyright, and trademark laws as measured by: Specific and effective actions by Taiwan's enforcement entities; concrete evidence of decreased sales of pirated and counterfeit items; and implementation of measures to fulfill obligations under the recently concluded bilateral copyright agreement and agreements on audiovisual works and rental rights.

Consultations focused particularly on Taiwan's draft amendments to its copyright law which are intended to implement the 1989 bilateral copyright agreement signed with the United States. The revised law to be submitted to the Taiwan Legislative Yuan will provide an extended term of protection, retroactive protection for works created after 1965, and protection of translation rights for foreign works on a reciprocal basis.

Consultations will continue to pursue improvements in Taiwan's patent and trademark laws as well as more vigorous prosecution of trademark and copyright infringements.

Distilled Spirits: On December 3, 1990 the Kentucky Distillers' Association, the Distilled Spirits Council of the United States, and the American Beverage Alcohol Association filed a section 301 petition alleging that Taiwan imposes a variety of trade barriers that severely restrict the importation, distribution, and sale of U.S. distilled spirits in Taiwan. The issue of improved market access for distilled spirits had been the subject of several rounds of bilateral consultations throughout 1990. On January 11, 1991 the petitioners withdrew the petition in response to an announcement by Taiwan of plans to open its market to distilled spirits. USTR intends to monitor closely the implementation of those plans.

India

Bilateral trade and investment relations with India entered a new phase in 1989 with the Administration's implementation of the "super 301" provisions of the 1988 Trade Act. On May 26, 1989 the United States identified as priority practices under "super 301" the trade restricting measures India imposes on foreign investors and Indian barriers to foreign insurance carriers.

Intellectual Property Rights: There was little progress in 1990 on efforts to improve intellectual property protection in India, therefore, India remains on the "priority watch list" under the "special 301" provisions of 1988 Trade Act. India's patent protection is unacceptably weak and has especially adverse effects on U.S. pharmaceutical and chemical firms; its trademark policies discriminate against foreign firms; and it devotes insufficient resources to enforcement of copyright protection.

Trade-Related Investment Barriers (Section 301): Government approval is required for all new or expanded foreign investment in India. Approval is conditioned upon several criteria, including limits on foreign equity participation. If approval is granted, India often requires investors to use locally produced goods in the items they produce in India rather than letting them import the best quality and most cost-effective products. Some investors are also required to meet export targets. These and other

requirements affect foreign investors and result in significant trade distortions.

On June 16, 1989 USTR started a section 301 investigation. In July 1989 USTR received public comments on India's policies and practices and their burden to U.S. commerce. On June 14, 1990 the USTR determined that India's practices were unreasonable and a burden or restriction on U.S. commerce. The USTR further determined that action was not appropriate at that time because this issue was under discussion in the Uruguay Round. A review of India's investment practices will be conducted following the conclusion of the Uruguay Round.

Insurance Trade Barriers (Section 301): Private insurance companies are not permitted to sell insurance in India. The state-owned General Insurance Company of India and its four subsidiaries have a monopoly on general insurance sales. The state-owned Life Insurance Corporation of India has a monopoly on life insurance sales in India.

On June 16, 1989 USTR started a section 301 investigation. In July 1989 USTR received public comments on India's policies and practices and their burden to U.S. commerce. On June 14, 1990 the USTR determined that India's practices were unreasonable and a burden or restriction on U.S. commerce. The USTR further determined that action was not appropriate at that time because the issue was under discussion in the Uruguay Round. A review of India's practices will be conducted following the conclusion of the Uruguay Round.

Association of Southeast Asian Nations (ASEAN)

ASEAN-U.S. Initiative (AUT): In April 1989 private researchers presented a report commissioned by the United States and ASEAN assessing the current state of their trade and investment relations. The report recommended new mechanisms for discussing and expanding those ties.

In December 1990 the six ASEAN governments and the USTR signed a

memorandum of understanding on trade and investment which establishes regular ministerial-level trade consultations and a senior officials working group charged with exploring mechanisms for enhancing trade and investment relations.

Intellectual Property Rights: Protection for intellectual property rights has been strengthened recently in several ASEAN countries. However, Indonesia, Malaysia, and the Philippines remain on the "watch list" under the "special 301" provisions of the 1988 Trade Act, reflecting the Administration's continued concern with the adequacy of this protection. Thailand remains on the "priority watch list" under the "special 301" provisions due to concerns about the adequacy of its protection for patents, copyrights, and trademarks.

During discussions in April 1990 USTR obtained assurances from Malaysia that its copyright law would be amended satisfactorily and that U.S. works would be eligible for copyright protection in Malaysia. Malaysia also agreed to accede to the Berne Convention for the Protection of Literary and Artistic Works. Malaysia now has enacted the copyright amendments requested by the United States; it became a member of the Berne Union on October 1, 1990.

On November 15, 1990 the International Intellectual Property Alliance, the Motion Picture Export Association of America, Inc., and the Recording Industry Association of America filed a section 301 petition alleging that acts, policies and practices of the Thai government failed to provide adequate and effective protection of intellectual property rights. On December 21, 1990 the USTR initiated an investigation relating to the enforcement of copyrights. Consultations with the Thai government will take place in 1991.

Thai Cigarette Import Barriers (Section 301): On April 10, 1989 the U.S. Cigarette Export Association filed a petition alleging that Thailand and its government's Thailand Tobacco Monopoly engage in unreasonable and discriminatory cigarette import practices that

burden and restrict U.S. commerce. On May 25, 1989 USTR initiated an investigation.

On September 21, 1990 a GATT dispute settlement panel issued a report concluding that Thailand's import restrictions are contrary to GATT provisions. The Royal Thai Government announced in October 1990 its intention to lift the import ban on cigarettes. In addition, the United States and Thailand held consultations to seek a mutually satisfactory solution to the matter. As a result, the Thai government will take measures that are intended to allow foreign cigarettes to be sold in Thailand on the basis of nondiscrimination, national treatment, and normal commercial practices and considerations. On November 23, in response to the Thai government's announced intentions to liberalize the market, the USTR terminated the investigation. The United States will monitor Thai implementation of its commitment to provide market access for cigarettes.

People's Republic of China

U.S. trade relations with China are governed by a bilateral trade agreement that took effect February 1, 1980. By its own terms, which provide for automatic extensions at three-year intervals, the agreement was automatically extended for an additional term on February 1, 1989. The agreement extends most-favored-nation (MFN) treatment to exports from both countries, contains safeguards against market disruption, and commits each party to protect intellectual property.

China's MFN status is extended on an annual basis through presidential waivers under the Jackson-Vanik Amendment and section 402 of the 1974 Trade Act. President Bush notified Congress of the annual extension of the Jackson-Vanik waiver to China on June 1, 1990.

Intellectual Property Rights: The United States and China concluded a memorandum of understanding (MOU) on May 19, 1989. The MOU committed China to improving intellectual property rights protection, especially for computer software and patents.

China passed a national copyright law in September 1990. Implementing regulations for the law are now being drafted. The law is scheduled to go into force July 1, 1991.

Although China's new copyright law is a step in the right direction, it fails to meet accepted international standards of protection and enforcement for intellectual property rights in many areas, especially computer software.

China has yet to improve the levels of protection given patents under its existing patent law, as promised in the 1989 MOU. China had indicated that it would extend the term and scope of protection given patents. The United States remains seriously concerned about China's poor record in enforcing rights for patents, trademarks, and trade secrets. Throughout 1990, Beijing showed little inclination to improve intellectual property rights enforcement within China.

China remains on the "priority watch list" under the "special 301" provisions of the 1988 Trade Act.

Science and Technology Agreement: The U.S.-China Science and Technology (S & T) Agreement, which encompasses 29 separate protocols, is the most active science and technology program the United States has with any nation. The United States and China are negotiating renewal of the S & T umbrella agreement, which will include an intellectual property rights annex.

The United States and China met three times for informal consultations in 1990. There were no formal negotiations to renew the agreement in 1990. The agreement, which was extended once in April, 1990, is set to expire on April 30, 1991. Major differences remain in the area of intellectual property rights protection for works flowing from scientific cooperation.

Satellites: On January 26, 1989 the United States and China signed an agreement on international trade in commercial space launch services. The two sides also signed two other related agreements on technology safeguards and

liability. The United States required these three agreements before it would issue export licenses related to the Chinese launch of three U.S.-made communications satellites.

In 1990 the United States and China held their first round of consultations concerning China's performance under the agreement.

VRAs/OMAs: The United States and China have a voluntary restraint agreement on steel, renegotiated and initialed in September 1989. The U.S. orderly marketing agreement (OMA) with China on tungstic acid and ammonium paratungstate remains in effect through September 30, 1991. This OMA was negotiated pursuant to a determination made under Section 406 of the 1974 Trade Act.

GATT: China applied for GATT Contracting Party (CP) status in July 1986 and is a participant in the Uruguay Round.

In 1990 the pace of negotiations in the GATT working party established to review China's request slowed in comparison to their pace in earlier years. At the one working party meeting held in 1990, GATT CPs continued to review the Chinese foreign trade regime's compatibility with the GATT. The CPs observed that recently China's trade practices appear to have moved away from GATT compatibility.

JAPAN

Two-way merchandise trade between the United States and Japan reached \$138 billion in 1990. Exports to Japan rose four billion dollars to \$48.6 billion while imports fell to \$89.7 billion. The resulting \$41.1 billion trade deficit recorded by the United States in its trade with Japan marked an \$8 billion decrease from the 1989 level.

The Administration continues to seek to ensure that Japan, the world's second largest national market, is open and operates in a truly competitive fashion. It is especially important that decisions in the Japanese market be made on the basis of price and quality, and not dictated by administrative guidance by government officials

or exclusionary business practices engaged in by private companies.

The Administration is working toward the goal of a fully open Japanese market in both bilateral and multilateral trade fora. In the Uruguay Round, the elimination of Japanese barriers in agriculture, services, and government procurement is a first priority.

The Administration is working to increase access in specific industrial markets as well as addressing structural barriers to trade and investment through the Structural Impediments Initiative (SII).

Structural Impediments Initiative

The Governments of Japan and the United States issued an Interim Report (April 5, 1990) and a Joint Report (June 28, 1990) containing important undertakings by each government to address structural barriers to trade and to balance of payments adjustment. Both sides agreed to meet regularly for three years to ensure effective follow up and implementation of the undertakings contained in the Joint Report.

The Government of Japan made specific commitments under six principal headings: Savings and investment, land use, the distribution system, exclusionary business practices, keiretsu (a practice of formal and informal interfirm ties), and pricing. The commitments include increased investment in public sector infrastructure, more vigorous enforcement of Japan's antimonopoly laws, the liberalization of the Large Scale Retail Store Law, and increased shareholder rights, among others.

Sectoral Initiatives

"Super 301": On May 25, 1989 the United States, under section 302 of the 1988 Trade Act, identified three Japanese trade practices as priorities for investigation and negotiation: Japan's ban on government foreign satellite procurement; Japan's exclusionary practices in government procurement of supercomputers; and Japanese government policies and practices that restrict forest product imports.

- **Satellites:** On June 16, 1989 USTR started a section 302 investigation. In July 1989 USTR received public comments on Japanese policies and practices and their burden to U.S. commerce. On April 3, 1990 the United States and Japan agreed that satellites procured by Japanese Government agencies which were destined for operational or commercial uses would be opened to competitive bids from both Japanese and foreign suppliers.
- **Supercomputers:** On June 16, 1989 USTR initiated a section 302 investigation. In July 1989 USTR received public comments on Japan's policies and practices and the burden they cause to U.S. commerce. On March 21, 1990 the United States and Japan reached agreement on government procurement of supercomputers. The agreement commits the Government of Japan to new procurement procedures which place emphasis on both price and the performance of competing machines in solving actual problems.
- **Wood Products:** On June 16, 1989 USTR initiated a section 302 investigation. In July 1989 USTR received public comments on Japan's policies and practices and their burden to U.S. commerce. On April 25, 1990 the Governments of the United States and Japan reached agreement on wood products. The agreement calls for Japan to deal with wood product tariffs in a positive manner in the Uruguay Round negotiations. It also provides for changes in the tariff classification of certain wood products in building codes and product standards which will improve access to the Japanese market for foreign wood products.

Telecommunications: The Governments of the United States and Japan reached agreement to liberalize Japanese regulations governing International Value Added Network Services (IVANS) and Network Channel Terminal Equipment (NCTE) on July 31, 1990. These agreements were reached after an investigation

conducted under Section 1374 of the 1988 Trade Act, and a review under section 1377.

Amorphous Metals: A petition under section 301 was brought to USTR by a U.S. firm seeking improved access to the Japanese market for amorphous metal transformer cores. The petition was subsequently withdrawn pending the outcome of negotiations between the U.S. and Japanese governments. After a series of negotiations, the two governments concluded an agreement covering amorphous metal electrical transformers on September 21, 1990.

Construction: In May 1990 the Governments of the United States and Japan began a review of the Major Projects Arrangements (MPA) which were agreed in May of 1988. The MPA was intended to provide foreign construction firms with easy access to 14 major Japanese government construction projects. The arrangement provided for a review of its provisions after two years had transpired.

The United States had concluded in November of 1989 that certain Japanese government acts, policies and practices for procuring architectural, engineering, and construction services and related consulting services were unreasonable and burden or restrict U.S. commerce. USTR has continued to monitor Japan's implementation of its commitments under the MPA including the review process currently underway. Drawing on our experience with problems in carrying out the MPA, we are seeking many improvements in the text so as to broaden its coverage and increase opportunities for U.S. companies. Talks will continue early in 1991.

Semiconductors (Section 301): The 1986 U.S.-Japan Semiconductor Arrangement is scheduled to expire on July 31, 1991. The Arrangement has led to some improvements in foreign access to the Japanese semiconductor market, but this progress has been inadequate. The foreign share of the Japanese market increased from 8.6 percent in September 1986 to 14.4 percent in the third quarter of 1990. Moreover, the U.S. and total foreign market share has been declining since May 1990.

In regular consultations under the terms of the Arrangement, the United States has urged Japan to pursue programs that will lead to improved market access. These programs include: Semiconductor buying missions; promoting long term relationships between foreign suppliers and Japanese semiconductor users; increasing the frequency with which Japanese companies design foreign semiconductors into their end products; and pursuing industry to industry discussions of market opportunities in specific segments of the Japanese semiconductor market.

On October 4, 1990 U.S. semiconductor producers and the major U.S. semiconductor users recommended to the President that the United States and Japan negotiate a new semiconductor agreement to take effect upon the expiration of the current agreement.

Computer Procurement: At the U.S.-Japan Trade Committee meeting on October 2, 1990 the United States expressed concern about the low level of Japanese government procurement of foreign computers. In 1989, for instance, only about 10 percent of computers purchased by the Japanese government were supplied by foreign suppliers. By contrast, nearly 38 percent of computers bought by the Japanese private sector were supplied by foreign suppliers, thus demonstrating the competitiveness of foreign suppliers in the Japanese market. The low level of Japanese government procurement of foreign computers is influenced by a number of factors including selective provision of insider information to potential vendors, allowing only a limited number of firms to bid on a procurement, spec-writing and bid evaluation teams that are allegedly biased toward Japanese vendors, submission of extremely low initial bids in anticipation of follow-on business, and the continuing effects of past "Buy Japan" computer procurement policies.

Agriculture: The United States continued to monitor Japan's implementation of the 1988 Agreement on agricultural market trade liberalization that included beef, citrus, and other

products as well as Japan's commitment to address rice access in the Uruguay Round.

- **Beef and Citrus:** The United States and Japan held bilateral discussions on Japan's implementation of the 1988 agreement calling for Japan to liberalize access to their market.
- **Rice:** The United States continued to urge Japan to provide access to its rice market in the context of the agriculture negotiations of the Uruguay Round.
- **GATT-11:** The United States and Japan held bilateral discussions on Japan's implementation of the 1988 agreement to liberalize access on 11 categories of agricultural products. The United States reiterated that Japan has an obligation to bring its dairy and starch import policy into conformity with the GATT. The United States also raised the U.S. industry concern that Japan's implementation of a tariff-rate quota for tomato paste imports negates the effect of eliminating the quota in the GATT-11 agreement on tomato ketchup and sauce imports.
- **Feedgrains:** The United States continues to press Japan to remove impediments to increased imports of feed and industrial-use grains. Excessive government regulation in the mixed feed industry and import barriers are estimated to cost U.S. exporters \$500 million annually in lost sales.

Food Safety: In October 1990 the United States and Japan created a Food Safety Subcommittee within the U.S.-Japan Trade Committee to bring together on a regular basis officials responsible for the implementation of health and safety regulations with those responsible for trade policy. The goal was to promote a dialogue on the trade policy aspects of food safety which would enable exporters of food products to both countries to market their products in a transparent and predictable regulatory environment. The first meeting of the Food Safety Subcommittee took place in Tokyo in December 1990.

Legal Services: Five rounds of negotiations were held in 1990 to address barriers to the provision of legal services by foreign lawyers in Japan. These include: the prohibition against foreign lawyers forming partnerships with bengoshi (Japanese attorneys); the prohibition against foreign lawyers employing bengoshi; the restriction against using law firm names; the prohibition against counting legal experience in Japan toward the five-year period of experience required for certification to practice in Japan; and the restriction against representing parties in arbitration proceedings.

Paper Talks: At the U.S.-Japan Trade Committee meeting on October 2, 1990, the United States expressed concern about certain distribution and other practices impeding the penetration of paper products, especially high value added paper products, into the Japanese market. A bilateral U.S.-Japan experts-level working group was formed to address these concerns.

Market-Oriented, Sector Specific (MOSS)

Follow-up Talks: The MOSS process of bilateral trade negotiations initiated in 1985 is focused on following and monitoring commitments and undertakings which have been agreed. In 1990 useful progress was made in:

- **Medical/Pharmaceutical Products:** As a result of MOSS talks in May 1990, the Ministry of Health and Welfare agreed to reconsider its intention to impose price controls on certain implantable medical devices such as artificial heart valves.
- **Auto Parts:** A high level meeting of the Auto Parts MOSS took place in Louisville, Kentucky in June 1990. Agreement was reached to implement the Market Oriented Cooperation Plan designed to encourage the establishment of long term business relationships between U.S. auto parts suppliers and Japanese vehicle manufacturing companies.

WESTERN EUROPE AND THE MEDITERRANEAN

Formed in 1957, the European Community (EC) has grown from six member states to 12. The EC comprises a market of some 325 million consumers with a total GNP of about \$4 trillion.

In 1990 two-way trade with the United States was almost \$277 billion. In 1989 the United States enjoyed its first trade surplus with the EC since 1983. As a bloc, EC nations are the United States' largest trading partner. In a trade relationship of this size, frictions are inevitable.

The EC now is embarked on an ambitious program (EC-92) to dismantle barriers to trade and investment among its various member states and create a single EC market by the end of 1992. The United States supports this effort as part of strengthening free market forces throughout the world. However, the United States is closely monitoring the EC-92 program to ensure that as the EC's internal trade barriers are removed, new ones are not erected between the EC and the rest of the world.

The other trade group within Europe is the European Free Trade Association (EFTA) which includes Austria, Finland, Iceland, Norway, Sweden, and Switzerland. Formed in 1960, EFTA provides for eliminating tariffs on manufactured goods and agricultural products that originate in and are traded among its member states. The United States has generally enjoyed smooth trade relations with the EFTA countries.

In 1985 the U.S.-Israel Free Trade Agreement (FTA) entered into force. That agreement and a similar one with Canada are the only bilateral free trade agreements the United States has negotiated to date. The agreement has helped to expand two-way trade by phasing out tariffs and nontariff barriers to trade. All tariffs are to be eliminated by 1995. The United States has some continuing concerns with Israeli agricultural practices and with certain import charges; these issues are being addressed within the framework of the FTA.

European Community

EC 1992: The European Community's single market program--which envisions the mutual acceptance of goods and services, free capital movements, and an end to internal border checks--continued to make progress in 1990. The EC Commission has completed work on all of the 1985 White Paper's 282 directives; the EC Council has adopted approximately 65 percent of the proposals. The key variable now is how thoroughly the directives will be implemented by the member states by the January 1, 1993 deadline.

The United States continues to monitor closely the development of the single market program through a variety of interagency mechanisms. These mechanisms include a senior level interagency EC-92 task force chaired by Deputy United States Trade Representative Julius L. Katz, as well as a Treasury Department-led review of the implications for the United States of European Economic and Monetary Union.

The United States has intervened with the EC in instances where draft directives contained provisions which threatened to adversely affect U.S. commercial interests. For the most part, the EC has responded positively to U.S. concerns and modified or removed the offending provisions before adopting the directives (e.g., see the Computer Software section below). In certain instances, however, the EC has pushed measures which seem designed to impede access to the single European market. In the most recent example, the EC adopted a directive to phase out acceptance of an American test for auto emissions, despite the fact that the test had been previously accepted by the EC and remains valid in a number of EC and EFTA nations.

One of the most important concepts in the single market--mutual recognition of each state's testing and certification regime--is proving to be quite difficult. Once a Community-wide system is established, the United States will seek to ensure that American labs and products receive

nondiscriminatory treatment under the new regime.

U.S. access to the standards drafting process has improved over the last two years. The American National Standards Institute (ANSI) and other private standards organizations have improved relations with the European standards-setting bodies for telecommunications (ETSI) and for electrical standards (CENELEC). However, the industrial standards-setting body (CEN) has been somewhat slower in sharing workplans and allowing U.S. technical experts an opportunity to comment on proposed standards.

The United States strongly supports the EC's efforts to create a single European market and will continue to do so provided it remains a genuinely trade liberalizing effort. The United States will continue to work with the EC to ensure that single market benefits are available not only to Europeans but to their trading partners as well.

Computer Software Directive: In late 1990, the EC Council reached an interim agreement on a long-debated and contentious directive on copyright protection for computer software. The proposed directive was modified considerably during this process. Efforts to permit easy "reverse engineering" of software were rejected in favor of provisions carefully circumscribing the right to look into a proprietary program. The outcome, which currently is being reviewed by the European Parliament, is analogous to the "fair use" provisions of U.S. copyright law.

Intellectual Property Rights Protection: In May 1989 the United States named Greece, Italy, Portugal, and Spain as "watch list" countries under the Administration's review of intellectual property protection by our trading partners. The review was undertaken pursuant to the "special 301" provisions of the 1988 Trade Act. U.S. companies have experienced difficulties securing adequate protection for their intellectual property rights in each of these countries.

In 1990 the United States removed Portugal from the "watch list" due to the improved

enforcement in that country of its intellectual property laws.

Copyright infringements remain a concern in Spain, Italy, and Greece. In Italy, U.S. producers of software continue to find evidence of widespread corporate copying of software. In Spain and Greece, copyright concerns tend to focus more on the illegal copying of American audio and video products. Greece also has a growing problem with pirate TV stations transmitting films without authorization or reimbursement to the rights holder.

The United States continues its efforts to seek improved laws and stronger enforcement for copyright, patent, and trademark protection in these countries.

Telecommunications: Since 1985 the United States has continually urged European nations to open their markets in telecommunications services, terminal equipment, and network equipment procurement. In February 1989 the EC was named a priority country under the telecommunications provisions (section 1374) of the 1988 Trade Act.

During 1990 USTR has sought market access to European telecommunications equipment and services for U.S. providers through all relevant channels, including with the EC Commission, with member states as appropriate, and in the relevant GATT negotiating groups.

Under the 1988 Trade Act comprehensive and detailed bilateral talks on telecommunications were held with the EC in 1989 and again in 1990. Due to U.S. firms' diverse interests and broad competitiveness, U.S. efforts have covered all aspects of telecommunications trade, including market access; government procurement; standards, testing, and certification; public network access; competition in enhanced services; and a host of other technical issues affecting opportunities for telecommunications trade. The U.S. approach to the EC Commission has been coordinated carefully with ongoing GATT work in the same areas.

Deregulation and expanded competition are occurring slowly in Europe. It is still too early to determine the overall outcome of the EC's liberalization campaign because the directives adopted thus far have yet to be implemented, although the influence of national government-controlled Posts, Telegraph, and Telephones (PTTs) remains profound and generally opposed to liberalization.

Nevertheless, progress has been made in gaining access to EC telecommunications standards, in achieving an open market for terminal equipment (telephone instruments, modems, etc.), and (though many important details remain unsettled) in opening up enhanced services to competition among firms operating in Europe. The two critical areas of network procurement and services also has seen some forward movement, although it is not yet clear whether American firms will benefit. Those issues have been negotiated primarily in the GATT in 1990. We have made it clear that our telecommunications objectives must be resolved, either multilaterally in the GATT or bilaterally.

During a September 27, 1990 meeting with the EC, the United States raised several new telecommunications issues, including EC directives on satellite services and privacy protection laws. With respect to the privacy directives, there is an effort on the part of some in the EC to require a rigid set of data protection laws in foreign countries before personal data could be transmitted out of the EC. We are concerned that this "reciprocity" provision could impede the provision of telecommunications services between the United States and the EC, with significant costs and disruptions for any firm which maintains name-linked databases.

EC Enlargement: When Spain and Portugal joined the EC in 1986, Spain breached its tariff binding on imports of corn and sorghum to make its agricultural regime consistent with the EC Common Agricultural Policy (CAP).

In 1987 the EC concluded an agreement with the United States which provided that Spain would import annually, through 1990, 2.0 million

metric tons (MT) of corn and 300,000 MT of sorghum (with adjustments for nongrain feed ingredient imports), as well as offer tariff concessions on a number of other goods. Altogether, the EC Enlargement Agreement is worth approximately \$420 million in trade to the United States.

On December 21, 1990 the United States and the EC agreed to extend the agreement for an additional year, and to seek a permanent solution during 1991. Both parties continue to reserve their GATT rights on the issue.

Third Country Meat Directive (Section 301): The Third Country Meat Directive (TCMD) is a regulation by which the EC controls meat imports based on sanitary requirements. The TCMD requires individual inspection and certification by EC veterinarians of U.S. meat plants wishing to export to the EC.

The TCMD, which was fully implemented with regard to the United States in April 1988, resulted in certification of approximately 100 U.S. meat packing plants for export of meat to the EC compared with almost 400 plants in the previous year.

Since then, the EC has pressured previously certified U.S. slaughter plants to make additional changes to remain in compliance with the TCMD. When these facilities refused, the EC implemented on October 31 its decision delisting all remaining U.S. pork plants from the list of eligible plants to ship meat to the EC. Approval of all other fresh meat establishments, with the exception of those of equine and bovine animals, was withdrawn as of midnight, December 31, 1990.

USDA's Food Safety and Inspection Service (FSIS) contests the legitimacy of many TCMD requirements and the EC insistence on identical, as opposed to equivalent, implementation of testing and post mortem procedures in U.S. plants.

The United States and the EC held consultations on the dispute in November 1990. On January 10, 1991 USTR initiated an

investigation on the basis of a petition filed by the National Pork Producers Council and the American Meat Institute under section 301 of the 1974 Trade Act. Consultations with the EC on this matter are continuing.

Proposed BST Moratorium: In September 1989 the EC Commission proposed an 18-month period of reflection during which the use of bovine somatotropin (BST), a genetically engineered natural hormone that increases milk production in dairy cows, would not be allowed. The moratorium has been extended through December 1991. During the moratorium the EC Commission and member states will consider whether BST should be approved for use in the EC. The United States has urged EC officials to base their decision on scientific rather than economic or political factors.

EC Oilseed Subsidies (Section 301): On December 16, 1987 the American Soybean Association (ASA) filed a petition complaining that EC subsidies are provided to EC oilseed and related animal feed protein producers and that additional subsidies are provided to oilseed processors. These policies encourage the production and purchase of EC oilseeds at the expense of oilseed imports, particularly U.S. soybeans.

ASA said these and other practices are inconsistent with the GATT, deny U.S. trade agreement rights, are unjustifiable, unreasonable, and a burden to U.S. commerce. The industry estimated the effect on U.S. trade to be least \$1.5 billion a year. On January 5, 1988 USTR initiated an investigation under section 301 of the 1974 Trade Act.

On December 14, 1989 a GATT panel ruled in favor of the United States in a report adopted by the GATT Council on January 25, 1990. On January 25, the EC accepted the panel report and announced its intention to comply with the panel's recommendations. Therefore, on January 31, 1990 USTR terminated its section 301 investigation. The EC has committed to implement the panel report in the 1991 crop year.

The U.S. government is closely monitoring the EC's implementation of the report.

Airbus: The Airbus partner governments (Federal Republic of Germany (FRG), France, Great Britain, and Spain) support the Airbus Industrie consortium both financially and politically. The United States believes this support distorts normal competitive conditions.

Throughout 1990 the Administration sought to negotiate effective disciplines on aircraft development and production subsidies with the EC. A compromise U.S. proposal for concluding the negotiations was rejected by the EC in February 1991.

The United States has raised with the EC serious concerns over an exchange rate guarantee scheme which the FRG agreed to provide Daimler Benz in an effort to privatize Deutsche Airbus. The United States contends that such a scheme is prohibited under the terms of the GATT Subsidies Code. The U.S. Government brought this issue before the Subsidies Code Committee in January 1990, but did not pursue panel review pending the outcome of the negotiations on Airbus subsidies with the EC. Following the EC rejection of the proposal, the United States requested the establishment of a Subsidies Code panel to review the German exchange rate scheme.

EC Broadcast Directive: On October 3, 1989 the EC adopted a television broadcasting directive. It contains a provision which requires EC member states to ensure "where practicable" that broadcasters reserve a majority proportion of their entertainment transmission time for European works. The United States had urged the EC Council to reject this provision, which could significantly limit access for U.S. and other foreign-made programs to the EC market.

The United States objects to this local content provision and considers it a violation of the EC's GATT obligations on both national treatment and MFN grounds. Immediately following the Council's adoption of the directive, the United States requested consultations with the EC under the GATT.

The initial consultations were held on December 1, 1989. The consultations focused on the details of the directive, its consistency with the EC's GATT obligations, and EC member states' implementation plans. In July 1990 the U.S. Government held a second round of GATT consultations with the EC on the directive, as well as initial consultations concerning new French decrees which severely limit prime-time broadcasting of non-EC programs. Possible additional steps in the GATT are under consideration. The issue has also been the subject of discussion in the Uruguay Round negotiations on services.

EC Rules of Origin: During 1990 the United States and the EC held several meetings to discuss the adverse effects EC rules of origin have had on U.S. electronics companies. In certain antidumping proceedings, the EC had applied a value added rule of origin on printed circuit board assemblies (PCBAs), and was considering adopting such a rule for PCBAs under all circumstances. Had such a rule been adopted, U.S. semiconductor producers--who claimed to have already suffered lost sales during 1989 due to this origin rule--would have continued to lose sales to European-based producers or would have felt compelled to manufacture their products in Europe. Manufacturers of PCBAs would also have been required to engage in a burdensome exercise to determine the origin of each PCBA they make.

In July, Ambassador Hills and EC Commissioner Scrivener exchanged letters in which the EC agreed that a special PCBA origin rule is no longer necessary. The EC also agreed to consult with the United States prior to taking any further action in this area. Moreover, EC officials assured Ambassador Hills that the EC has no intention of pursuing policies that would force companies to invest in the EC.

EC-Japan Auto VRA: Negotiations between the EC and Japan on a transition regime for auto import restraints continue. A tentative accord struck by the Commission with the Japanese government may face difficulty with

certain EC member states. Ambassador Hills has been assured that the EC will not attempt to block exports from the United States of cars made by Japan-U.S. joint ventures or Japanese-owned companies manufacturing in the United States. The U.S. government also is concerned that the EC not adopt policies which could have the effect of discouraging exports of U.S. parts to auto manufacturers and retailers in the EC.

High Technology: The High Technology Work Group (HTWG) was created at the December 1983 U.S.-EC ministerial meeting in Brussels to examine trade-related issues of mutual interest in the high technology field. The group concentrates on examining current and future high technology developments and factors affecting such development; the possibilities for joint cooperation where appropriate; and areas with the potential for future trade impacts. HTWG meetings are generally held twice a year.

The HTWG has proven to be valuable to both sides for exchanging information and exploring potential areas of cooperation. During 1990 the HTWG discussed the conversion of defense-related production to civilian production and clean energy technologies.

Satellite Launch Services: The United States held a first round of negotiations with the European Space Agency (ESA) on September 24-25, 1990 in Paris. (ESA's 13 European members include some but not all of the EC members; the EC Commission does not play a role in these talks.) The talks flow from the President's recent decision that a set of market-based rules for launch service providers ("rules of the road") would help ensure free and fair competition in this new commercial industry. Such rules would govern competition both between the United States and Western Europe, and with new entrants coming into the market, such as Japan, the Soviet Union, and others.

European Free Trade Association (EFTA)

Norwegian Government Procurement (Section 301): In April, 1990 the United States and Norway exchanged letters resolving a dispute

regarding the Norwegian government's purchase of electronic identification equipment (EIE) for the Oslo Toll Ring Project. The United States initiated consultations with Norway when Dallas-based Amtech Corp., a U.S. supplier of EIE equipment, complained that a contract awarded it had been canceled and subsequently awarded to a Norwegian firm.

With the successful resolution of the case, Ambassador Hills terminated the section 301 investigation that she had initiated on August 25, 1989 at Amtech's request. The United States also terminated its dispute settlement case brought under the GATT Agreement on Government Procurement (the Code).

In its letter, Norway agreed to offset the effect of this procurement on the U.S. supplier and conduct all future procurement covered by the Code, including all procurement of EIE, in accordance with Code requirements.

Nordic Bans on Apple and Pear Imports:

In 1990 Norway implemented a new apple and pear regime in response to a 1989 GATT Panel decision recommending that the Government of Norway bring its apple and pear import measures into GATT compliance. The United States is concerned that the new policy is not GATT-consistent and is continuing discussions with the Government of Norway. Finland and Sweden, in response to U.S. pressure, eliminated their seasonal import bans on apples and pears in 1990 and 1989, respectively.

U.S.-Israel Free Trade Agreement

The U.S.-Israel Free Trade Agreement (FTA) took effect September 1, 1985 with the first set of duty reductions provided under this landmark bilateral trade agreement. On that date the United States eliminated duties on some 80 percent of Israeli imports valued at more than \$414 million. Israel simultaneously eliminated duties on more than 50 percent of its U.S. imports totaling more than \$671 million.

Since then the schedule for eliminating the remaining duties has continued. Tariffs on a second group of items were phased out January 1,

1989. This second phase affected roughly 30 percent of U.S. exports to Israel while covering a much smaller portion of Israel's exports to the United States.

A third set of duties on somewhat more import-sensitive products is gradually being phased out over a longer 10-year period. Duties on the final group of import-sensitive products will remain frozen until January 1, 1995, when they will be eliminated. A provision in the agreement and implementing legislation provides for the possibility of a negotiated phase-out of these duties pending legislative approval over the period 1991 through 1995.

In addition, both parties have undertaken certain unilateral steps to expand trade. For instance, in 1990 the Congress authorized USTR to waive the U.S. customs user fee for Israeli goods, provided there were reciprocal concessions made by Israel. Consultations have been held on the terms for such a waiver, but agreement has not been reached to date.

The Israeli Government also unilaterally eliminated duties on imports of U.S. prefabricated houses. This gesture of good will has already paid off in American exports of prefabricated and mobile homes to house the flood of new Soviet immigrants to Israel.

As a result of the FTA, new export opportunities are becoming available for producers in both nations, and bilateral trade is increasing slowly but steadily.

The FTA established a Joint Committee to supervise the agreement's proper implementation and review the trade relationship between the two nations. Each year the committee has met at the cabinet or subcabinet level to review agreement results and consider ways of improving the bilateral trade relationship as well as the agreement.

As a result of growing exporter interest in Israel, the United States has discovered certain Israeli customs and tax practices which have the effect of making imports more expensive. The

United States has raised its concerns about these practices through the consultative mechanisms of the FTA.

In 1990, Israeli authorities finally reformed a customs practice called "TAMA", whereby customs authorities artificially inflated the price of imports for tax purposes. The new process will allow registered importers to declare the value of imports for tax purposes in the same way as domestic manufacturers do. The United States continues to protest a procedure with similar effect known as "Harama." The Government of Israel has assured the United States that, provided the TAMA reforms do not lead to increased tax fraud, Israel would be willing to sign the GATT Customs Valuation Code, thereby bringing a number of Israeli import practices, including Harama, into conformance with world norms.

Israeli agricultural practices continue to frustrate sales of a number of American commodities to Israel. The FTA specifically exempts agricultural practices such as quotas, import bans and variable levies from its purview. The United States would like to remove these barriers to agricultural trade, either through the GATT or bilaterally through refinement of the FTA.

In July 1990 Israel filed a complaint under the dispute settlement procedures of the FTA, the first use of these procedures. The Israeli complaint concerns U.S. treatment of certain machine tools exported from Taiwan and enhanced in Israel for onward shipment to the United States. Israel has protested the U.S. practice of counting these tools against the ceiling established by a voluntary restraint agreement with Taiwan. Each side has made its initial written and oral arguments; a nonbinding panel decision is expected in mid-1991.

Egypt

Intellectual Property Rights: Now that the United States adheres to the Berne Convention, it has bilateral copyright relations with Egypt. However, concerns exist over whether Egypt's domestic law meets its Berne obligations and

provides adequate protection to copyrighted material.

Egypt has domestic legislation under review to address this matter. Bilateral consultations are underway to address specific U.S. concerns.

Turkey

Intellectual Property: Turkey is on the "special 301" "watch list" of countries from whom the United States seeks stronger intellectual property protection.

Copyright: U.S. adherence to the Berne Convention established copyright relations with Turkey. Although Turkey has a domestic copyright law, unauthorized copying, sale and broadcast transmission of works of U.S.-origin is widespread. The United States has undertaken consultations with Turkey to modify its domestic law to provide adequate protection for U.S. works. A draft law is under consideration in the Turkish Parliament. The United States has raised a number of concerns with the draft.

Patents: Turkey's current patent law does not provide protection for human or veterinary drugs or the processes for making them. Nor are biological inventions, including plant varieties, patentable. Turkey has prepared a draft patent law which protects such pharmaceutical products. The United States is pressing Turkey to enact adequate patent protection into law.

Import Taxes and Charges: The Government maintains a number of separate import taxes and charges, over and above the relatively high average tariff, which have the effect of increasing the cost of imports in the domestic market. The United States continues to press its concerns bilaterally.

The Gulf War and UN-mandated economic sanctions are taking a toll on Turkey, however. A stamp tax assessed on imports, which was scheduled for repeal in 1990, was suspended and then reimposed last year as the sanctions began to take hold.

Gulf Cooperation Council (GCC)

Copyright: Except for Saudi Arabia, neither the GCC nor its other member states (Bahrain, Kuwait, the United Arab Emirates, Oman, and Qatar) provide adequate protection for copyrighted works. These countries are major consumers of pirated U.S. products. There is also increasing pirate production occurring, especially as pirates are expelled from neighboring Asian countries.

Saudi Arabia has only recently enacted copyright protection. The United States is still reviewing the provisions of the Saudi law. However, the law does not appear to apply to foreign works. The United States is urging Saudi Arabia to join the Berne Convention so that works of all Berne signatory countries can receive adequate protection in the Saudi market.

Patents and Trademarks: GCC countries have different levels of protection for patented and trademarked goods, but it is generally low. In consultations with the GCC and individual countries, the United States is seeking to ensure full protection for U.S. goods.

Standards: As U.S. export interest in the region grows, the United States has become concerned with certain restrictive standards in various GCC member states. In particular, Saudi conformance certificates for automobiles, tires, and electrical appliances have proved difficult for exporters to meet. In addition, shelf life requirements for processed foods pose problems. Saudi Arabia, for instance, has an 18-month limit, despite the fact that many canned and other food products have considerably longer shelf lives. By the time an American product has been shipped and cleared customs, there is often not enough time left to distribute it to retailers and sell it to consumers.

The United States in 1990 entered an arrangement with the Saudi Arabian Standards Organization (SASO) to encourage cooperation in the development of standards. SASO's work frequently leads to creation of regional GCC standards. The U.S.-SASO partnership, which

includes a U.S. technical advisor in Riyadh funded by the U.S. private sector, has already led to greater transparency in the Saudi system and increased opportunity for American exporters to comment on draft Saudi standards.

SOVIET UNION AND EASTERN EUROPE

Overview

All East European countries and the Soviet Union have expressed the desire to transform their centrally planned economies into market-oriented ones. The nature of reforms adopted and implemented has significantly varied from country to country.

The Bush Administration has actively supported political and economic reforms in Eastern Europe and the Soviet Union. The United States has provided financial, technical, and administrative assistance designed to support movement toward democracy and market orientation. It has also reviewed its export control policies related to the Coordinating Committee on Multilateral Controls (COCOM), with the aim of limiting restrictions to only those goods vital to national security and minimizing trade impediments.

The Bush Administration has also launched an extensive agenda of negotiations aimed at constructing a framework for the rapid expansion of trade and investment between the United States and Eastern Europe and the Soviet Union. This agenda includes the negotiation of trade agreements to extend MFN tariff treatment; extension of Generalized System of Preferences (GSP) benefits to eligible countries; fuller integration into the GATT; and the negotiation of bilateral investment treaties which guarantee investors treatment in accordance with international law, compensation for expropriation, transfers in freely useable currency, and appropriate dispute settlement procedures.

U.S. trade relations with most East European countries and the Soviet Union are governed by the provisions of Title IV of the 1974 Trade Act³. Title IV requires that a listed country have

satisfactory emigration practices (the Jackson-Vanik amendment) in order to receive U.S. export credits and credit or investment guarantees. Additionally, the country must enter into a commercial agreement with the United States before it may benefit from MFN tariff treatment.

Soviet Union

Interest in market-oriented economic reform has been evident in the Soviet Union throughout 1990. Yet, a comprehensive reform program supported by the central government and the republics has yet to emerge. President Bush has emphasized his strong support for the country's reform efforts.

On December 12, 1990 President Bush issued a temporary waiver of the Title IV Jackson-Vanik provision for the Soviet Union, enabling the extension of agricultural export credits and credit guarantees, along with Eximbank programs, to that country.

The U.S.-Soviet Bilateral Trade

Agreement: At the June 1990 U.S.-Soviet summit, President Bush and President Gorbachev signed a bilateral commercial agreement which, when approved by Congress and brought into force, will reciprocally confer MFN tariff treatment between the United States and the Soviet Union. This agreement also contains provisions to facilitate the conduct of commercial activities and dispute settlement, establishes protections for intellectual property, and sets forth safeguard provisions in the event that Soviet exports threaten market disruption in the United States.

Although the President's recent issuance of a Jackson-Vanik waiver for the Soviet Union would permit the submission of this agreement for Congressional approval, the President has stated that he is not prepared to send the trade agreement to the Congress for approval before the Soviet Union passes emigration legislation which meets international standards.

Bilateral Investment Treaty: In 1990 President Bush launched the negotiation of a

bilateral investment treaty between the United States and the Soviet Union which will protect U.S. investors, and help them conduct business in the Soviet Union more efficiently. Five rounds of negotiations have been held. Due to the lack of a comprehensive economic reform program in the Soviet Union, transfer of profits remains a key area of concern in these negotiations.

Soviet Observer Status in the GATT: The Bush Administration endorsed the Soviet request for observer status in the GATT, which was granted by the GATT CPs in May 1990. Meanwhile, the President urged the Soviet Union to move toward a market-determined price system so that its economy will become more compatible with the GATT system. Observer status in the GATT provides the Soviet Union with an opportunity to learn about the international trading system and GATT rules that are based on market mechanisms which reflect true production costs and encourage efficient resource allocation.

U.S.-Soviet Long-Term Grain Agreement: The 1983 U.S.-Soviet Long-Term Grain Agreement (LTA), which established minimum annual purchase requirements for the Soviets of wheat, corn, and soybeans and was originally set to expire in September 1988, was extended by mutual agreement through December 31, 1990. Further negotiations in 1990 resulted in a new LTA which entered into force on January 1, 1991 with a term of five years. This new LTA requires the Soviets to purchase, annually for the next five years, a minimum of 4 million metric tons (mmt) of wheat, 4 mmt of feed grains and 2 mmt of feed grains, wheat or soybeans/soybean meal.

U.S.-Soviet Joint Commercial Commission: A meeting of the U.S.-Soviet Joint Commercial Commission Working Group was held in London on December 20-21, 1990. The two sides discussed the status of economic reforms in the Soviet Union, including the Soviet proposal for a standardized tariff system, and their impact on the environment for bilateral trade and investment. U.S. officials used the opportunity to press for resolution of delays of payments to U.S. firms by Soviet foreign trade organizations.

Bilateral Trade: Two-way trade between the United States and the Soviet Union has rebounded recently after a gradual decline through the mid-1980s. U.S. exports to the Soviet Union increased 54 percent from \$2.8 billion in 1988 to \$4.3 billion in 1989. They then decreased by 27 percent in 1990 to \$3.1 billion.

U.S. imports from the Soviet Union also rose to a high of \$703 million in 1989, compared to \$578 million in 1988. This increase continued in 1990, reaching \$1.1 billion in 1990, an increase of 56.5 percent from the preceding year.

A relatively small number of commodities continues to comprise a high percentage of the total value of U.S. imports from the Soviet Union. The following products regularly make up nearly 90 percent of all U.S. imports from the Soviet Union: Silver, platinum, petroleum products, chemicals, metals, furskins, and vodka.

Bulgaria

On January 22, 1991 President Bush signed a Jackson-Vanik waiver for Bulgaria. The waiver makes Bulgaria eligible for export credits and credit or investment guarantees, and paves the way for MFN tariff treatment.

Bilateral Trade Agreement: On October 5, 1990 the United States and Bulgaria initialed the text for a trade agreement between the two countries. The agreement provides for the mutual extension of MFN tariff treatment and will generally improve the capacity of American businesses to operate in Bulgaria. It also includes substantial commitments by Bulgaria to increase the protection of intellectual property rights for U.S. nationals and entities. Once signed, the agreement will enter into force after approval by the U.S. Congress and the Bulgarian legislature.

Bilateral Investment Treaty: The United States and Bulgaria held a first round of negotiations for a bilateral investment treaty in October 1990. Consultations on this treaty will continue. The Bulgarian National Assembly is in the process of formulating a new foreign investment law.

GATT Membership: Bulgaria became an observer to the GATT in 1967. Bulgaria has also requested full GATT membership, and in 1990 a GATT Working Party was established and will convene during 1991 to determine whether Bulgaria can undertake basic GATT obligations.

Bilateral Trade: The United States has maintained a trade surplus with Bulgaria since the mid-1970s. Following a recent dramatic increase in that surplus, from \$46 million in 1987 to \$122 million in 1989, data for 1990 reveal a decline in the trade surplus to \$37 million.

U.S. imports from Bulgaria fell from \$59 million in 1989 to \$47 million in 1990. U.S. exports fell even more sharply from \$181 billion in 1989 to \$84 billion in 1990. The decline in U.S. exports can be attributed to the economic crisis there and the lack of hard currency financing brought on in part by Bulgaria's moratorium on debt repayment.

Czechoslovakia

In February 1990 President Bush signed a Jackson-Vanik waiver for Czechoslovakia, paving the way for its MFN status, and making it eligible for export credits and credit or investment guarantees.

The 1990 Customs and Trade Act removed the legislative prohibition on the extension of GSP benefits to Czechoslovakia and, in late October 1990, Czechoslovakia requested participation in the program. The Administration has initiated a review of the GSP eligibility criteria with respect to Czechoslovakia.

Bilateral Trade Agreement: The United States and Czechoslovakia signed a bilateral trade agreement in April 1990. Following approval by the U.S. Congress and the Czechoslovak Federal Assembly, the agreement entered into force on November 17, 1990 granting Czechoslovakia MFN tariff treatment. The agreement secures certain basic rights for U.S. businesses conducting commercial transactions in Czechoslovakia (including MFN tariff treatment) and commits Czechoslovakia to substantially upgrade its protection of all forms of intellectual property.

Bilateral Investment Treaty: After three rounds of talks, the United States and Czechoslovakia have reached substantive agreement on the provisions of a bilateral investment treaty. Upon signature, the treaty will be submitted to the U.S. Senate for ratification. Once implemented, it will provide U.S. investors in Czechoslovakia with important protections and guarantees of fair and non-discriminatory treatment.

Czechoslovakia and GATT Relations: The United States suspended GATT relations with Czechoslovakia and withdrew MFN treatment in 1951 when Congress withdrew executive authority to grant MFN to communist countries. However, Czechoslovakia has now requested that GATT relations be normalized between the two countries. The Administration is currently discussing Czechoslovakia's request with the U.S. Congress.

Bilateral Trade: The United States has had a trade deficit with Czechoslovakia since 1982, although the size of the deficit is declining. Following an increase of 17 percent from 1987 to 1988, U.S. exports to Czechoslovakia remained basically unchanged at \$54 million in 1989. U.S. exports then increased about 65 percent in 1990 to \$89 million. U.S. imports from Czechoslovakia remained basically unchanged at \$87 million in 1989 and 1990 as well.

German Democratic Republic

On October 3, 1990 with its official integration into the FRG, the former German Democratic Republic (GDR) received automatic membership in the EC.

In addition, upon unification, the former GDR territory was automatically covered by the GATT as part of the FRG, and products exported from its territory now receive MFN tariff treatment in the United States. GATT CPs approved the EC request for a temporary (two-year) waiver from the GATT for the GDR territory. Under this waiver, tariff preferences will be given to "traditional" imports into the territory of the former GDR. This "traditional"

trade covers goods listed in trade agreements concluded by the GDR and its former Council for Mutual Economic Assistance (CMEA) partners. The GATT CPs have agreed to establish a Working Party to review the operation of this waiver. The extension of the EC's Common Agricultural Policy to the GDR territory will likely displace some U.S. agricultural exports. The United States has requested that the EC minimize the displacement of U.S. exports, particularly corn, during a transition period.

Bilateral Trade: The United States has maintained a trade deficit with the GDR since the mid-1980s. U.S. exports fluctuated dramatically over the last several years, from \$54 million in 1987, to \$109 million in 1988, to \$94 million in 1989. U.S. exports remained fairly stable, however, at \$62 million in 1990. U.S. imports from the GDR also fluctuated significantly, ultimately reaching a high of \$139 million in 1989. They then dropped back 39 percent to \$85 million in 1990.

Hungary

Hungary was granted MFN tariff treatment in 1978 pursuant to a Title IV bilateral trade agreement. During the visit of Prime Minister Antall to Washington in September 1990, President Bush announced an extensive program of assistance for Hungary, including the extension of agricultural credits and loan guarantees, and a broad array of technical assistance initiatives.

Hungary was designated as a beneficiary country under the U.S. GSP program in November 1989. In the first ten months of 1990, \$82.3 million of Hungarian exports to the United States benefitted from GSP treatment. The Administration is currently reviewing several Hungarian petitions for expansion of GSP product coverage.

Business and Economic Relations Treaty: The United States has proposed to Hungary the negotiation of a Business and Economic Relations Treaty, which would help promote bilateral trade and investment with Hungary. Basic elements of the U.S. proposal include guarantees for the

treatment of investment consistent with those contained in other U.S. bilateral investment treaties, strengthened intellectual property protection, and business facilitation provisions. The first round of negotiations was held in Washington in November 1990.

Hungary and GATT Relations: Hungary has asked the United States to terminate its invocation of GATT Article XXXV (nonapplication) made when Hungary acceded to the GATT in 1973. This reservation was necessary because Title IV of the 1974 Trade Act precludes the extension of unconditional MFN treatment to Hungary. The Administration is discussing Hungary's request to normalize GATT relations with the U.S. Congress.

Bilateral Trade: U.S. exports to Hungary rose from \$122 million in 1989 to \$157 million in 1990. U.S. imports from Hungary have risen steadily in the 1980s. In 1989 U.S. imports reached \$329 million. In 1990 U.S. imports totaled \$340 million.

Poland

Since 1987, when the United States restored MFN status for Polish exports and reinstated Poland's eligibility for U.S. credits, U.S.-Polish trade relations have improved dramatically. The election of a noncommunist Prime Minister in 1989 and the implementation of Poland's economic reform program was followed by extensive U.S. economic assistance.

On January 9, 1990 the President designated Poland as a beneficiary country of the U.S. GSP program, thus eliminating tariffs on a large number of imports from Poland. In the first ten months of 1990, \$73.5 million of Polish exports to the United States benefitted from GSP treatment. The Administration is currently reviewing several Polish petitions for expansion of GSP product coverage.

Business and Economic Relations Treaty: In March 1990 the United States and Poland signed a Business and Economic Relations Treaty which incorporates the investment protections and guarantees of standard U.S. bilateral investment

treaties, expands protections for intellectual property, and removes obstacles to the efficient operation of commercial ventures. The treaty was ratified by the U.S. Senate in October 1990 and awaits approval by the Polish legislature.

GATT Relations: Poland has asked the GATT to renegotiate its original terms of participation in that organization, which reflected the centrally planned nature of its economy, and to replace them with a "standard" tariff-based Protocol of Accession and Schedule of Tariff Concessions. The GATT CPs have established a Working Party which will meet in 1991 to initiate negotiations. The United States welcomes these discussions and will work with Poland toward its full integration into the GATT based on market-oriented principles.

Bilateral Trade: The U.S. trade balance with Poland fluctuated between surplus and deficit in the late 1980s. After a steady increase in U.S. exports to \$414 million in 1989, the first seven months of 1990 showed a 39 percent drop in U.S. exports to \$175 million relative to the comparable period in 1989. Similarly, U.S. imports from Poland, which had been increasing gradually to \$387 million in 1989, remained basically unchanged at \$233 million in the first seven months of 1990 relative to the comparable period in 1989.

Romania

The United States terminated Romania's GSP benefits in 1987 after it was determined that Romania did not provide basic internationally recognized worker rights. After the Ceausescu Government renounced MFN privileges, the MFN provision under Title IV of the 1974 Trade Agreement was suspended by mutual agreement in February 1988. Restoration of MFN and GSP treatment for Romania may be reviewed at an appropriate time.

GATT Relations: Romania has been a GATT CP since 1973, based on special terms of participation reflecting its nonmarket trade regime. Progress towards fuller integration with

the GATT will be reviewed by the GATT CPs in 1991.

Bilateral Trade: U.S. exports to Romania have been declining since the mid-1980s, reaching a low of \$156 million in 1989. They have since increased dramatically to \$369 million in 1990. U.S. imports from Romania, which had been falling steadily since the mid-1980s, were halved by the loss of MFN status in 1988. U.S. imports dropped to \$354 million in 1989 from a high of nearly \$900 million in 1984. This trend continued in 1990 when U.S. imports dropped 34 percent to \$231 million.

Yugoslavia

Yugoslavia has benefited from MFN tariff treatment with the United States since 1948. Yugoslavia joined the GATT in 1966 with a standard Protocol of Accession.

Yugoslavia has also received benefits under the U.S. GSP program since its establishment in 1976. In 1989, \$317 million of U.S. imports from Yugoslavia received GSP benefits, compared to \$240 million in the first ten months of 1990. The Administration is currently reviewing several Yugoslav petitions for expansion of GSP product coverage.

Intellectual Property Protection: In 1989 Yugoslavia was placed on the "watch list" under the "special 301" provision of the 1988 Trade Act due to the inadequate patent protection provided under Yugoslav law. In 1990 the Yugoslav Federal Assembly legislated a number of improvements sought by the United States in bilateral discussions. However, these changes did not address all of the U.S. concerns, and negotiations in this area are continuing.

Bilateral Investment Treaty: Two rounds of talks on a bilateral investment treaty were held in 1990. The investment treaty would provide basic guarantees and protections to U.S. investment in Yugoslavia. In addition, the United States has urged that the longstanding intellectual property issues be resolved in the context of the investment treaty.

Bilateral Trade: For 1990 the U.S. trade deficit with Yugoslavia was \$207 million, \$94 million lower than in 1989. U.S. exports to Yugoslavia in 1990 were \$566 million. U.S. imports from Yugoslavia in 1990 totaled \$773 million or \$29 million lower than in 1989.

U.S. Trade Complaints

Antidumping Investigations: U.S. antidumping investigations generally begin when a domestic industry alleges that the sale of imported goods in the United States at less than fair value cause or threaten to cause material injury to that domestic industry. Only one antidumping investigation involving products imported from Eastern Europe or the Soviet Union was in process during 1990, that involving industrial nitrocellulose from Yugoslavia. In August 1990 the U.S. Department of Commerce's International Trade Administration determined that imports of industrial nitrocellulose from Yugoslavia were being sold in the U.S. market at less than fair value. The U.S. International Trade Commission then determined that a U.S. industry was being materially injured or threatened with material injury by reason of these imports, and antidumping duties were imposed in October 1990.

Import Relief and Market Disruption Cases

No import relief cases or market disruption investigations involving the countries of Eastern Europe or the Soviet Union were in progress or instituted during 1990. Such cases would be conducted pursuant to section 201 or section 406 of the 1974 Trade Act respectively.

CANADA

Free Trade Agreement

The U.S.-Canada Free Trade Agreement (FTA), which took effect on January 1, 1989, is an unique and historic undertaking offering significant benefits and opportunities to both parties. Canada has long been the United States' largest trading partner, and the FTA creates the world's largest and most comprehensive bilateral free trade area. Bilateral trade in goods reached

\$167 billion in 1989, an increase of approximately 9 percent over 1988, and goods and services trade exceeded \$200 billion. For 1990 trade equalled \$174 billion, an increase of 4.2 percent over 1989, despite a slowdown in both economies.

The FTA demonstrates it is both possible and profitable for countries to liberalize trade in many areas. Over time it should stimulate growth, boost incomes, and increase the competitiveness of firms in both nations. Implementation of the FTA has proceeded smoothly in its first two years. Canada and the United States enacted and have put into effect broad implementing legislation and regulations necessary to meet the obligations of the FTA. Traders and investors on both sides of the border have moved to take advantage of the many opportunities opened by the progressive reduction and elimination of trade and investment barriers. The outlook is for further growth as the staged removal of impediments continues during the 10-year phase-in period.

Under the FTA all tariffs on goods traded between the United States and Canada will be phased out within at least 10 years. Duties on products with a \$3 billion trade value were eliminated immediately on January 1, 1989 and other initially negotiated tariff reductions also have been implemented annually on the first of January. In addition, accelerated elimination of tariffs subsequently agreed to by the two governments on 400 products with a bilateral trade value of \$6 billion was implemented in May of 1990. For the past two years bilateral trade has been moving at preferential rates under a predictable and transparent rule of origin. Other barriers or restrictive practices in the areas of agricultural trade, investment, financial services, energy trade, and cable retransmission have been reduced or liberalized.

Given the scope of our economic relationship and the comprehensive nature of the FTA, there were remarkably few disputes that arose during the first two years of the agreement. Those disputes that did arise generally concerned issues that pre-dated the FTA and for which the FTA did not change the substantive trading rules. The

dispute settlement procedures established by the FTA have been used effectively in promoting resolutions in an expeditious and impartial manner.

The elimination of tariffs and most other trade barriers between the United States and Canada is not only good for both economies, but also for international trade liberalization in general. The FTA's successful implementation will provide an example for multilateral as well as other bilateral trade negotiations.

Trade Commission

The FTA's central bilateral oversight body is the U.S.-Canada Trade Commission jointly chaired by the U.S. Trade Representative and the Canadian Minister for International Trade. The Commission has held two meetings in each of the two years of implementation of the FTA.

The Commission is responsible for overseeing implementation and the further elaboration of the FTA, as well as dispute settlement. The Commission has established several working groups and advisory bodies to consider ways to facilitate the FTA's implementation and to examine unresolved issues as appropriate. For both sides, this process has provided fora for negotiating further, mutually advantageous liberalization of the bilateral economic relationship.

Working Groups

The tariff working group is charged with negotiating the accelerated elimination of tariffs on those products still subject to duties after January 1, 1989. For example, the period for phasing out a duty could be reduced from 10 to five years or the tariff could be eliminated immediately.

The tariff acceleration negotiation overseen by the working group is a private sector-driven process. In May 1990, the two governments implemented agreed accelerated tariff eliminations on more than 400 items covering \$6 billion in bilateral trade. Initiating the second round of tariff acceleration negotiations in 1990,

over 500 interested parties submitted specific requests to either the U.S. or Canadian governments. After receiving advice from the U.S. International Trade Commission and advisory committees on these petitions, the United States commenced negotiations with Canada in late January 1991.

Following the conclusion of negotiations, legal procedures in the United States require the submission of reports to the House Ways and Means and Senate Finance Committees. At the conclusion of the 60-day layover and consultation period, amendments to the U.S. tariff schedule will be implemented by Presidential proclamation.

It is noteworthy that the first round of agreed tariff accelerations was carried out with the strong support of the private sector on both sides of the border, the Canadian Government, and the U.S. Congress.

In the area of customs matters and rules of origin, working groups have been meeting on a regular basis to address questions arising from the administration of the FTA. These efforts have contributed to a high degree of cooperation and uniformity in the operation of the FTA.

The Parties agreed in Article 1004 of the FTA to establish a select panel on automotive trade. In contrast to other FTA panels which have members who are government officials, the auto panel is made up of distinguished private sector leaders from both countries appointed by their respective governments.

The select panel has a broad mandate to assess the state of the U.S. and Canadian automotive industry and investigate ways to improve its competitiveness both in the North American market and the rest of the world. Within that mandate, the United States asked the panel to examine issues relating to trade in automotive products set out in the statement of administrative action accompanying the U.S. FTA implementing legislation, including the impact of increasing the value content requirement in the automotive rule of origin from 50 to 60 percent.

On August 1, 1990 the select panel recommended the adoption of an increase to 60 percent in the value content of the FTA rule of origin for automotive products. The Canadian Government declined to accept the select panel's recommendation as a basis for action, citing a need for demonstration of greater benefits for Canadian industry from such a change, as well as a desire to await the select panel's competitiveness report.

In the FTA, the United States and Canada agreed to develop, within seven years, rules to govern the use of subsidies, countervailing duties, and antidumping measures. A working group established for this purpose has met twice and both governments agreed the complexity and importance of these issues requires thorough preparation and planning before substantive negotiations can begin.

Accordingly, both governments have been developing an inventory of subsidy practices at the federal and sub-federal level. In addition, domestic consultations with interested parties in both nations have been undertaken. Both governments also agreed to follow developments on subsidies in the Uruguay Round negotiations and take account of the results.

During 1990 the nine FTA agricultural technical working groups have been working toward eliminating technical barriers to trade in agriculture, food, beverages, and certain related goods. In addition, the trade liberalizing efforts of the tourism working group and the working group on trade in services continued. This latter group is charged with monitoring the implementation of the FTA's provisions on trade in services and, in consultation with the industries concerned, considering the expansion and further liberalization of services trade.

To encourage free trade in plywood products, the United States and Canada established a binational technical committee to develop a common plywood performance standard. The committee has prepared a draft common standard and submitted it to the appropriate national organizations for approval.

Once approved, it will be incorporated into the building codes on both sides of the border. This final step will permit the implementation of the FTA tariff reductions on certain wood items according to Article 2008 of the FTA.

In the area of temporary entry for business persons, a working group has been considering ways to expand the categories of business people allowed easier temporary entry between the two countries under the FTA. It has also examined amending eligibility requirements for temporary entry of professionals.

Amendments for the further enhancement and facilitation of temporary entry, agreed upon by the working group and approved by the Commission, were announced in the Federal Register on February 26, 1990. Recommendations for further addition of professions were approved by the Commission in October 1990, and should be published in the Federal Register in early 1991.

Dispute Settlement

The dispute settlement procedures contained in Chapters 18 and 19 are some of the more important and innovative aspects of the FTA. Chapter 18 provides in part for panels of independent experts to review disputes between the United States and Canada on FTA provisions. Chapter 19 provides for binational panels to review antidumping and countervailing duty determinations.

Chapter 18: Chapter 18 panel review procedures are a significant improvement over GATT dispute settlement procedures. Under the FTA, the process works faster and more effectively. The panels are composed of five nongovernmental experts, two chosen by each side, with the fifth chosen jointly. Panel composition will vary from case to case depending in part on the dispute's subject matter.

Normally the parties will resolve the dispute by following the panel's recommendation. However, the parties can agree to an alternative, mutually satisfactory solution. Failing such agreement, a party may take compensatory action.

Salmon and Herring: In 1986, a group of Pacific Northwest seafood processors filed a section 301 petition complaining of Canadian prohibition of unprocessed salmon and herring exports. In 1987 the United States requested establishment of a GATT dispute settlement panel and in late November 1987 the GATT panel ruled in favor of the United States. The panel report was adopted in February 1988.

Instead of removing the export restrictions, in April 1989 Canada implemented regulations requiring all Pacific roe herring and salmon caught in Canadian waters to be landed in British Columbia before export. In May 1989 the United States challenged Canada's landing requirements before a FTA Chapter 18 dispute settlement panel.

In October 1989 the panel found that Canadian landing requirements violated FTA Article 407, which prohibits GATT-inconsistent export restrictions. Taking into account the panel findings, the United States and Canada negotiated an interim solution to the dispute in February 1990. As a result, Canada agreed to permit 25 percent of Canadian-caught salmon and herring to be exported to the United States without landing in Canada. In June 1990 USTR terminated its Section 301 investigation and announced it would monitor Canadian implementation of the interim agreement.

Lobsters: On December 12, 1989 President Bush signed into law an amendment to the Magnuson Fishery Conservation and Management Act, which prohibits the marketing in interstate or foreign commerce of lobsters below the federally established minimum size.

On December 21, 1989 Canada requested formation of a dispute settlement panel under FTA Chapter 18 to examine this provision. Canada alleged the amendment was inconsistent with the FTA because it restricted Canadian lobster imports. The panel decided on May 25, 1990 that the U.S. law did not constitute an import restriction under the FTA.

Other Consultations: At the present time, there are no Chapter 18 panels in operation. Of

the issues where consultations have been held under Chapter 18, only plywood standards and trade in alcoholic beverage issues remain active. One Chapter 18 issue was addressed by an October 2, 1990 decision of the Canadian Copyright Board. The decision set copyright royalties to be paid by cable companies and other retransmitters for carrying "distant" Canadian and U.S. television radio signals in 1990 and 1991. The decision is retroactive to January 1, 1990.

It is estimated that these royalties will generate payments of just over \$C50 million per year, of which a substantial portion should go to copyright owners of programming produced in the United States. In December 1990 the Canadian cabinet declined to overturn or modify on appeal the royalty decision. The Copyright Board's decision has been appealed to Canadian federal court.

Chapter 19: FTA Chapter 19 provides for binational panel review of final national countervailing duty (CVD) and antidumping (AD) determinations in place of review by national courts. Chapter 19 panels are automatically established at the request of persons who would have a right to judicial review in U.S. and Canadian cases. The panel is required to apply the same law and same standard of review as would a U.S. court in U.S. cases or a Canadian court in Canadian cases.

By the end of 1990, 15 cases had been filed under the provisions of Chapter 19, 10 of which have been resolved. The majority of panel decisions have been unanimous, although individual panelists have written dissenting opinions in two recent cases. The Chapter 19 panel review process has proven to be an expeditious and impartial mechanism for resolving bilateral AD/CVD disputes.

Several cases are currently pending. A decision in the case involving the U.S. Department of Commerce, International Trade Administration's (ITA) administrative review of an antidumping duty order on paving parts is due in mid-year 1991. Decisions in two other cases, which involve the Canadian International Trade

Tribunal's administrative review of an antidumping duty order on induction motors from the United States and the ITA's scope determination covering an antidumping duty order on oil country tubular goods, are due in September 1991. Concerning U.S. countervailing duties on Canadian pork, binational panels have remanded again to the U.S. International Trade Commission (USITC) its injury determination in the case and are reviewing the ITA's upholding of its subsidy determinations on remand. The USITC decision on remand is due February 12 and a panel decision on the ITA determination is expected March 7. In addition, ITA has recently completed administrative reviews of two dumping cases involving Canadian goods (oil country tubular goods and sheet piling), which are expected to be appealed to binational panels.

MEXICO

Free Trade Agreement

On June 11, 1990 President Bush and Mexico's President Salinas endorsed the goal of a comprehensive FTA between the United States and Mexico. They directed their trade ministers, U.S. Trade Representative Carla A. Hills and Dr. Jaime Serra Puche, Secretary for Commerce and Industrial Development, to undertake the domestic consultations and preparatory work needed to begin negotiations and to report back to the Presidents as soon as practicable.

In August 1990 Ambassador Hills and Secretary Serra jointly recommended beginning negotiations for an FTA that would provide for the progressive elimination of barriers to trade in goods and services and to investment, as well as for the protection of intellectual property rights and the establishment of a fair and expeditious dispute settlement mechanism.

On August 21, 1990 President Salinas formally proposed that the two countries take the steps necessary to begin FTA negotiations. On September 25 President Bush notified the Chairmen of the Senate Finance and House Ways and Means Committees of his intent to negotiate an FTA with Mexico. This notification, required

under the "fast track" procedures for implementation of trade agreements, starts a 60-legislative day period during which either Committee may disapprove fast track authority.

Given the current legislative calendar, this period should expire by the end of February 1991. Negotiations will also require extension of the fast-track authority beyond June 1, 1991. Assuming Congress does not disapprove, we would expect formal negotiations to begin in Spring 1991. The goal is to have an agreement negotiated by the end of 1991.

In his September 25 letter to the Committees, the President also noted that Canada has expressed a strong desire to participate in three-way negotiations with the United States and Mexico. The United States, Mexico, and Canada share a common commitment to the ultimate goal of a free trade area among the three countries, and the President welcomed the opportunity to work with our two trading partners toward this end. Following the President's September 25 notification on Mexico, a series of meetings were held by officials from the United States, Mexico, and Canada. Based on the work done among the governments and domestic consultations, the three governments decided to proceed with trilateral negotiations -- that is, to negotiate a North American Free Trade Area (NAFTA). The President so informed the Chairmen of the Senate Finance and House Ways and Means Committees in writing on February 5, 1991.

Trade and Investment Understandings

During the October 1989 U.S.-Mexican Presidential summit, the United States and Mexico agreed to a mandate for "Trade and Investment Facilitation Talks" (TIFTs). TIFTs aim at deepening the U.S.-Mexican trade and investment relationship by providing the umbrella for limited bilateral negotiations on specific trade and investment issues.

In March 1990 both governments agreed to negotiations in the areas of petrochemicals and standards, regulations, testing, and certification. Negotiations in the standards area began in July

1990, with limited progress made during the remainder of 1990. Talks have focused on the issues of: The compatibility of standards and regulations; the need for effective enforcement mechanisms; the acceptance of tests and certification marks; and the exchange of information. Due to scheduling difficulties and the announcement of the FTA initiative, no negotiations were held on petrochemicals.

The TIFTs mandate builds on the 1987 "Understanding Concerning a Framework of Principles and Procedures for Consultations Regarding Trade and Investment Relations" (Framework Understanding). This understanding provides a consultative mechanism for resolving trade, investment, and intellectual property rights problems. Under the Framework Understanding, work groups have been established in industry (steel, textiles, electronics, and automobiles), agriculture, investment and Intellectual Property Rights (IPR), services (transportation and insurance), tariffs, and coordination.

Standards, Regulation, Testing and Certification

In March 1990 the United States and Mexico agreed to negotiations in the area of standards, regulations, testing, and certification under the TIFTs. A major U.S. goal is to create transparent procedures by which Mexican standards and regulations are set, testing is conducted, and certification systems are maintained.

In addition, the United States hopes to establish a long-term process for harmonizing Mexican and U.S. standards and regulations and examining specific standards-related trade barriers that impede trade between the two nations.

In agriculture, a work group staffed by U.S. and Mexican animal and plant experts has worked to resolve disagreements over animal and plant health and safety issues. The work group is under the jurisdiction of the U.S. and Mexican departments of agriculture.

Government Procurement

Under Mexican law, the Federal government and state-owned enterprises are required to issue invitations to bid on contracts for purchases, leases, and providing services connected with goods. Tenderings are officially open to suppliers from all countries, whether GATT members or not.

Mexican law gives preference to Mexican goods and services to promote national development. Before drawing up agreements for procuring foreign goods or services imported directly or bought in Mexico, government offices must also get Department of Trade and Industrial Development authorization. However, in mid-1988 parastatal (state-owned) companies were exempted from this import license requirement.

During 1990 Mexico eliminated its rule that parastatals give preference to national suppliers. In practice, however, Mexican government agencies continue to give preference to national firms when possible.

The United States encourages Mexico's accession to the GATT Government Procurement Code on terms that provide significant commercial opportunities to U.S. exporters. Mexican firms are now prohibited from winning code-covered contracts in the United States. This should be an incentive for Mexico to open its government procurement market to the United States.

Lack of Intellectual Property Protection

Extensive discussions on intellectual property issues were held in 1990. These discussions resulted from Mexico's recognition that protecting intellectual property was in its own self interest, particularly as government officials promoted foreign investment in Mexico. The Salinas Administration forwarded legislation for consideration by the Mexican Congress that would upgrade the protection currently afforded in Mexico to the holders of copyrights and patents. However, no legislation was enacted; the

Salinas Administration withdrew copyright legislation and the industrial property legislation was still pending when Congress adjourned because key congresspersons expressed a need for more time to review its content.

Patents: The United States seeks improvement in Mexico's patent laws. Currently, process patent protection is provided for 14 years from date of grant. Moreover, product patent protection is not available for chemicals, pharmaceuticals, alloys, and foods. Such protection will not become available until 1997. No protection is planned for biotechnologies under current law.

The major U.S. objective in the patents area is to obtain immediate product patent protection for all products. Other objectives include interim product-patent protection during phase-in, extending the patent term from 14 to 20 years from filing, improving the enforcement of trade secret protection, and shifting the burden of proof to the alleged infringer in process patent cases.

In January 1990 Mexico published its "National Industry and Foreign Trade Modernization Program" which included a commitment to strengthen the country's IPR legislation in a manner consistent with improvements sought by U.S. interests. Immediately after the publication, the Mexican Commerce Secretary publicly stated Mexico's intention to seek a new patent law in 1990 and, if approved, to implement it in 1991. Following these events, Mexico was removed from the "priority watch list" under the "special 301" provisions of the 1988 Trade Act, based on its commitment to improve intellectual property rights protection.

The proposed new patent law that was introduced to the Mexican Congress by the Salinas Administration in December, 1990 results from an October 1989 commitment to seek improvement of patent and trademark protection. It provides for a 20-year term for protection; substantial transitional protection; full product coverage; limits on compulsory licensing; protection for trade secrets; and substantially

improved protection for trademarks. The United States awaits enactment of the law by the Mexican Congress and its subsequent implementation.

Copyrights: U.S. traders continue to express concerns about the level of copyright protection in Mexico for all classes of works including films, sound recordings, and computer software. In May 1990 the Salinas Administration introduced to the Mexican Congress a new copyright law that would strengthen protection by providing for tougher criminal penalties for copyright violations in general, including sound recordings under the copyright penal code, and by covering computer programs as literary works. The bill was withdrawn by the Salinas Administration before the Congress took action. No substitute bill was introduced by the end of 1990. The United States awaits enactment of the law by the Mexican Congress and its subsequent implementation.

Services Barriers

Trucking: Mexico undertook far-reaching deregulation of its trucking operations within Mexico in 1990. Building on its previous deregulation of domestic routes and rates, in early 1990 the Mexican Administration allowed owners of "maquiladora" factories to benefit from the deregulation environment by permitting them to ship via their own trucks. In late 1990 Mexico announced that its frontier zone was to be opened to American truckers for the first time in decades, a step that will greatly facilitate U.S. access to the motor carrier market and create rough reciprocity on both sides of the border. As of the beginning of 1991 implementation of the policy was not clear.

Bus Operations: Mexico issued a deregulation decree covering the domestic bus industry in March 1990. Access for U.S. charter/tour bus operators improved greatly in 1990. A provision of the deregulation decree granted full access to U.S. charter/tour buses in international operations, and in December 1990, the United States and Mexico signed a "memorandum of understanding" on charter/tour

bus operations that establishes permanent ground rules for operations in the two countries. U.S. regulator route bus operators have limited access to the Mexican border area, while their Mexican counterparts operate regular cross-border service.

Insurance: Mexican law traditionally incorporated several major insurance sector barriers. Many of these barriers were removed in early 1990 when Mexico issued a new insurance regulation. New investment by foreign corporations in the insurance sector had been prohibited since 1935, and established companies had been required to reduce their ownership to 15 percent. In January 1990 the Government reversed the ban, increased the limit of permitted foreign investment to 49 percent, and eliminated the requirement that insurers place at least 50 percent of their reinsurance in the Mexican market. The new regulation does not alter the prohibition on the import and export of primary insurance.

Premium volume in Mexico is substantially above \$1 billion each year and could grow significantly in the next few years. Mexico has shown interest in exploring flexible policies in equity participation. Recent insurance discussions under the Framework Understanding revealed a willingness to consider a further liberalization in the insurance industry and the desire to resolve cross-border insurance issues.

Telecommunications: Mexico has initiated several steps that should radically change the Mexican telecommunications sector. These steps include privatizing Telefonos de Mexico (Telmex), liberalizing foreign investment rules, introducing competition in some telecommunications service sectors, instituting competitive long-distance service to the United States, and restructuring the regulatory entities managing Mexico's telecommunications sector.

Investment Issues

Investment is an important part of the U.S.-Mexico economic relationship. The United States is by far the largest foreign investor in Mexico, accounting for nearly two-thirds of the

\$27.7 billion in authorized investment. Mexico is also the 14th largest host country to U.S. "foreign direct investment" (FDI). Mexican investment in the United States was \$958 million at the end of 1989, and increased substantially in 1990 with the \$900 million acquisition of two glass companies.

The United States and Mexico consult regularly on investment issues, with the U.S. goals being to secure nondiscriminatory treatment of foreign investment and Mexican laws that provide the most favorable treatment possible for foreign investment. The heart of Mexico's foreign investment regime is the 1973 Law to Promote Mexican Investment and to Regulate Foreign Investment (the 1973 Law). The Law established a general ownership limitation of 49 percent on foreign investment, unless the investment is deemed to be in the national interest. Under the 1973 Law, new foreign investment and the expansion of existing investment must be registered with and approved by the Government of Mexico, which traditionally based its decision on criteria including balance of payments and employment effects and the use of local inputs.

Regulations issued in May, 1989 significantly liberalized implementation of the 1973 Law. The regulations reduced to six the number of conditions required for automatic approval of one-hundred percent foreign ownership. However, foreign investment is still restricted in key sectors, such as petroleum, mining, and transportation. Moreover, by law the Government retains the right to restrict foreign investment in all sectors.

Other Trade Concerns

Import Licensing: As part of its "protection rationalization" policy, Mexico has significantly reduced the number of items subject to import licensing. This policy should lead toward fulfilling Mexico's GATT commitment to gradually eliminate all import licensing permits.

At the time it acceded to the GATT, the Mexican import licensing scheme covered approximately 820 items. By late 1990

approximately 230 product categories remained subject to such requirements.

In several cases, the Salinas Administration issued new rules that eliminated the need for import licenses. In December 1989 a new auto decree was issued, which, as of mid-1990, allowed auto manufacturers in Mexico to import vehicles, subject to certain foreign exchange requirements. In April 1990 Mexico eliminated import permits for computers, substituting a 20 percent duty on computers and a 10 or 15 percent duty on parts and accessories. In July 1990 import licensing requirements for various oilseeds, oilseed flours, and animal and vegetable fat products were eliminated.

Import licensing requirements continue to limit many U.S. agricultural exports (particularly apples, grapes, peaches, poultry, corn and wheat). Although licensing requirements now affect less than 6 percent of Mexican tariff categories, those categories represent approximately 40 percent of the value of Mexican agricultural imports from the United States.

Further adding to the burdensome nature of these remaining import licenses is their nontransparent administration. Indeed, many times they function as complete import bans (as in the case of apples for the vast majority of the year).

Tariffs: The role of tariffs as a trade policy tool has increased as Mexico has reduced the number of items subject to import licensing requirements.

Since 1985 Mexico has both rationalized its tariff regime through a broad tariff reduction program and consolidated the number of tariff levels. In December 1987 Mexico unilaterally set the maximum applied tariff at 20 percent. A year later the tariff schedule was rationalized so that the vast majority of tariffs are between the levels of 10 and 20 percent.

Mexico's trade-weighted average tariff is approximately 10 percent, a relatively low level for a developing nation. The applied level of

Mexican tariffs is lower than required under its GATT Protocol of Accession. The protocol includes an overall ceiling binding of 50 percent for those products not covered by a lower individual tariff line binding.

In the Uruguay Round, the United States is seeking additional reductions in Mexican tariffs, both in bound and applied rates.

LATIN AMERICA AND THE CARIBBEAN

Latin America and the Caribbean are traditional markets for U.S. exports, and the United States has been a key market for Latin American and Caribbean goods. In 1990 U.S. exports to the region totaled \$54.1 billion, while imports into the United States totaled \$64.0 billion.

The 1980s were years of economic stagnation for much of Latin America. The burden of a large stock of foreign debt and inappropriate domestic economic policies greatly hampered the ability of Latin American and Caribbean countries to trade with the outside world, including the United States. As a result, the region took a declining share of U.S. exports, from 14.9 percent in 1980 to 12.9 percent in 1990.

In the past two years, however, there has been a remarkable turnabout in economic policy orientation in the hemisphere. Governments throughout the region are eschewing protectionist and statist development strategies in order to create more market-oriented, open, and competitive economies. Trade barriers such as quotas, import licensing, and import deposit schemes are being abolished. Tariff rates are being reduced on an across-the-board basis, and domestic and foreign private investment is being actively encouraged.

This trend to open markets offers an historic opportunity to reshape our trading relationship with Latin America and make permanent reductions of trade barriers that will serve the economic interests of both the United States and the countries of the region.

Enterprise for the Americas Initiative

On June 27, 1990 President Bush proposed to seize this historic opportunity by announcing a new economic relationship with Latin America, which he called the "Enterprise for the Americas Initiative (EAI)." The EAI has trade, investment, debt, and environment aspects. On the trade side, the EAI involves a renewed effort to make common cause for a successful outcome in the Uruguay Round, and a complementary effort to reduce trade barriers within the hemisphere, leading to a system of free trade stretching from Alaska to Tierra del Fuego. To this end the President announced that the United States stands ready to enter into free trade agreements with markets in Latin America and the Caribbean, particularly with groups of countries that have associated for purposes of trade liberalization.

To begin the process of creating such a hemispheric free trade system, the United States has offered to enter into "framework" agreements on trade and investment with interested countries or groups of countries in the hemisphere. These agreements set up intergovernmental councils to discuss and, where possible, negotiate the removal of trade and investment barriers. These councils will also be the fora for preparation for further stages of trade liberalization, including the possible negotiation of FTAs.

In 1990 the United States concluded framework agreements with Bolivia, Colombia, Ecuador, Chile, Honduras, and Costa Rica. Several more framework agreements are under active negotiation, including one with Argentina, Brazil, Uruguay, and Paraguay as a group, and bilateral agreements with Venezuela, Peru, Nicaragua, and Jamaica.

There has been a remarkable response to the EAI, reflecting the new attitude of many countries of the region towards trade liberalization. Nevertheless, the vision of free trade throughout the hemisphere will take many years of effort to realize fully. Many Latin American countries still have a long way to go in terms of economic reform and liberalization, and it is unlikely that

many of them will be ready to negotiate FTAs with the United States within the next few years. In the interim, there are important opportunities for trade and investment liberalization in Latin American and Caribbean countries.

Brazil

As our largest trading partner in South America, Brazilian barriers to trade have long been a focus of U.S. attention. Substantial progress has been made under President Collor's Administration in reducing such barriers. Areas of notable progress, as well as areas where additional progress is needed, are discussed below.

Patent Protection for Pharmaceuticals:

After over four years of bilateral discussions, and following the election of Fernando Collor de Mello as President of Brazil, the Government of Brazil reversed its longstanding policy and agreed to pursue patent protection for pharmaceutical processes and products. The decision to seek patent protection for pharmaceuticals was publicly announced on June 26, 1990 by the Economy Minister, Zelia Cardoso de Mello. The legislation is to be submitted to the Brazilian legislature by March 20, 1991. Brazil remains on the "priority watch list" under the "special 301" provisions of the 1988 Trade Act, and the United States will continue to encourage the enactment of adequate and effective patent protection for pharmaceuticals.

Informatics: Informatics remains a high priority U.S. trade policy issue with Brazil. The Collor Administration has taken steps to reduce barriers to trade and investment in the informatics (i.e., computer and related digital electronics) area. This follows over five years of bilateral discussions, which included a section 301 investigation that was concluded on October 5, 1989. Areas where progress has been achieved include market access for computer software, institutional reforms, and investment. However, significant barriers continue, most notably in the area of computer hardware. The United States will continue to press for a reduction of barriers in this sector.

Argentina

Argentina under President Menem has undertaken a substantial liberalization of its trade and investment regime. Throughout the reform process, the United States has continued to encourage a reduction in the barriers to U.S. exports and investment. Some notable areas of interest in the trade policy area are discussed below.

Export Subsidies: The United States has made substantial progress in negotiating a bilateral export subsidies agreement in anticipation of Argentina's desire to join the Subsidies Code. A few issues remain to be resolved but the United States hopes to conclude an agreement early in 1991. This would be a major step forward in our bilateral trade relations and an indication of Argentina's desire to discipline its export subsidy practices.

Patent Protection for Pharmaceuticals: The Government of Argentina publicly stated late in 1989 its intent to seek patent protection for pharmaceuticals. In addition, the Government of Argentina indicated in August 1989 to the United States its intention to improve the transparency of and simplify its drug registration procedures. Reforms have been undertaken to improve the drug registration procedures. The United States continues to encourage Argentina to enact adequate and effective patent protection for pharmaceuticals.

Chile

Chile has one of the most open trade and investment regimes in Latin America and the United States will continue to encourage further reductions in its barriers to U.S. exports and investment. The United States and Chile signed a framework agreement that created a bilateral Trade and Investment Council to consult on trade and investment issues and seek liberalization. The first Council meeting took place in November 1990. Chile has expressed a strong interest in pursuing a free trade agreement with the United States under the EAI.

Patent Protection for Pharmaceuticals:

Following over three years of bilateral talks, the Government of Chile made significant progress in providing patent protection for pharmaceuticals. The Aylwin Administration introduced legislation to provide patent protection for pharmaceuticals in June 1990. The legislation was revised and passed by the Chilean legislature. President Aylwin used his defacto line item veto authority to improve the legislation in November and his veto was sustained by the legislature on December 20, 1990. The Government of Chile has enacted this legislation, and is expected to implement the law early in 1991. The United States will follow the progress of implementation.

Colombia

Subsidies: Colombia became a signatory to the GATT Subsidies Code in May 1990. By virtue of a bilateral agreement between our countries, whereby Colombia has committed to phase out its export subsidies, the United States now grants the injury test to Colombia in U.S. countervailing duty proceedings. The United States and Colombia signed a framework agreement that created a Joint Commission on Trade and Investment. The first meeting of the Commission took place in September 1990.

Caribbean Basin Initiative

The Caribbean Basin Initiative (CBI) is intended to promote the economic revitalization of the Caribbean Basin through tariff preferences. U.S. duties are eliminated on all products from the 24 CBI beneficiaries, except for textile and apparel products (subject to the Multifiber Arrangement), petroleum, canned tuna, footwear, certain leather goods, and certain watches and watch parts.

The CBI has effectively increased exports of nontraditional products from this region to the United States. Exports of such products increased at an annual rate of 15 percent between 1983 and 1989.

Exports of textiles and apparel have grown an average of over 25 percent per year since 1983, largely as a result of the "807" tariff program

which also allows importers to pay duties on only the value added abroad. The introduction in 1986 of the Guaranteed Access Level (GAL) program also contributed to the increase in exports. This program provides beneficiary countries flexible and guaranteed access to our market for apparel and other items assembled from fabric formed and cut in the United States.

In November 1989 the President called on all agencies to find ways to enhance the operation of the CBI program. New legislation (CBI II) extending permanently the program and enhancing its benefits passed Congress and was signed by President Bush in August 1990. The USTR-chaired Caribbean Task Force, with input from the private sector, CBI beneficiaries and U.S. Embassies in the region, developed an initial package of CBI enhancement measures which was announced on November 1, 1990.

President Bush restored Panama's CBI benefits in March 1990 and granted Nicaragua beneficiary status in November 1990.

Andean Trade Preference Initiative

The President is seeking congressional approval for tariff preferences for the Andean region in order to fulfill his commitment to help the drug embattled countries of the region to expand economic alternatives. The proposed Andean Trade Preferences legislation was submitted to Congress on October 5. It was introduced into the House of Representatives by Congressman Gibbons in the final days of the 101st Congress.

The Administration resubmitted the proposed legislation to the 102nd Congress. The legislation was reintroduced in the House by Congressman Coone on January 28, and in the Senate by Senators Dole, Roth, Durenberger, Moynihan, D'Amato and Baucus on January 29. The Administration is working with Congress to achieve the quick passage of the legislation.

Endnotes

¹Australia, Indonesia, Malaysia, New Zealand, the Philippines, and Thailand, plus Argentina, Brazil, Canada, Chile, Colombia, Hungary, and Uruguay.

²Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand.

³Title IV of the 1974 Trade Act applies to all nonmarket economy countries which did not benefit from MFN at the time of enactment of the 1974 Trade Act. These countries included: Albania, Bulgaria, Cuba, Czechoslovakia, Hungary, those parts of Indochina under communist control or domination, Mongolia, North Korea, the People's Republic of China (PRC), Romania, and the Soviet Union. MFN treatment for Poland and Yugoslavia is not subject to Title IV provisions: Poland has received MFN since 1962, Yugoslavia since 1948.

VI. Implementation of U.S. Trade Law

SECTION 301

Section 301 is an effective trade law tool to enforce U.S. rights under bilateral and multilateral trade agreements. Section 301 may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, section 301 may be used to increase opportunities for exporting U.S. goods and services, provide more equitable conditions for U.S. investment abroad, and obtain more effective protection worldwide for U.S. intellectual property.

Private parties may petition USTR to investigate a foreign government policy or practice and take action under section 301. USTR may also initiate such investigations on its own. In 1990 USTR started two investigations in response to filed petitions and self-initiated one investigation. In addition, thirteen investigations begun before have continued in bilateral negotiations or resorted to dispute settlement proceedings under the General Agreement on Tariffs and Trade (GATT).

All these investigations are fully described in the appropriate sections in chapter five, including:

Brazil:

Import Quotas and Restrictive Licensing
(concluded 5/21/90)

Pharmaceutical Patents (concluded 7/2/90)

Canada:

Beer import restrictions (continuing in 1991)

Salmon and herring landing requirements
(concluded 6/1/90)

EC:

Enlargement (continuing in 1991)

Oilseeds and Animal Feed Subsidies
(concluded 1/31/90)

Copper Scrap Export Restrictions (concluded
2/26/90)

India:

Trade-Related Investment Barriers
(concluded 6/14/90)

Insurance Trade Barriers (concluded 6/14/90)

Japan:

Foreign Satellite Procurement (concluded
6/15/90)

Government Supercomputer Procurement
(concluded 6/15/90)

Wood Product Import Barriers (concluded
6/15/90)

Korea:

Beef Import Restrictions (concluded 4/26/90)

Norway:

Discriminatory Government Procurement
(concluded 4/26/90)

Thailand:

Copyright Enforcement (continuing in 1991)

Cigarette Import Barriers (concluded
11/23/90)

In eleven of the investigations started before 1990, the United States and its trading partners reached a mutually satisfactory resolution in

1990. In the remaining two investigations, involving investment and insurance barriers in India, negotiations have continued in the context of the GATT Uruguay Round negotiations.

Special Provisions in the 1988 Trade Act

The 1988 Trade Act added several trade policy tools to the Administration's arsenal. These include provisions requiring the identification of trade liberalization priorities ("super 301"), and special initiatives related to intellectual property protection and market access ("special 301"), U.S. exports of telecommunications products and services, and foreign government procurement practices.

This section outlines how the Administration implemented these special provisions in 1990.

"Super 301" Trade Liberalization Priorities

The 1988 Trade Act's "super 301" provisions required the identification of U.S. trade liberalization negotiating priorities by April 30, 1990. In 1990 the Uruguay Round of multilateral trade negotiations was the Administration's top trade liberalization priority; reforming the global trading system is crucial to the future prosperity of the United States and other trading nations. As part of its 1990 "super 301" determinations, the Administration determined that attaining ambitious results in those negotiations--meaning a significant reduction of trade barriers world-wide and the development of clear and enforceable rules of international trade--is the most effective way to significantly increase U.S. exports, to safeguard America's economic future, and to ensure the viability of the international trading system into the next century.

Trade liberalization is an ongoing process that requires negotiations in a variety of fora, and use of a variety of tools. As part of the "super 301" process, USTR prepared the National Trade Estimate (NTE) report, which contains an inventory of trade barriers affecting goods, services, investment, and intellectual property protection in 35 countries and two regional trading blocs. Many of the barriers described in the NTE report have been--and continue to

be--addressed constructively through multilateral and bilateral negotiations.

In the 1989 "super 301" process, the Administration had identified three priority countries: Japan, Brazil, and India. It also identified six priority practices from those countries as being emblematic of U.S. objectives in the Uruguay Round. Investigations under section 302 of the 1974 Trade Act were initiated on all six practices on June 16, 1989. In April 1990 the United States reached satisfactory solutions on all three of the Japanese practices. In addition, consultations with Brazil satisfied U.S. negotiators that 1990 reforms in Brazil would resolve U.S. concerns about its import licensing regime.

"Super 301" Agreements: In 1990 the Administration successfully concluded agreements in all three important areas identified as 1989 "super 301" priorities in Japan:

Supercomputers: On March 22, 1990 the United States and Japan concluded an ad referendum agreement on supercomputers, under which Japan agreed to seek adequate funding for supercomputer purchases, use practical benchmarks to select among machines, and provide an effective procedure for handling complaints.

Satellites: On April 3, 1990 Japan agreed to a new policy that opens government procurement of all satellites except for genuine R&D satellites. Its commitments will work to create new opportunities for U.S. commercial satellite producers.

Wood Products: On April 25, 1990 Japan agreed in principle to improve market access for U.S. exports of wood products to Japan. Final agreement was reached June 15. This will provide major benefits to U.S. exporters by addressing the following areas of concern: Tariff misclassification, product certification, product standards, building codes, and tariffs.

The priority practices in India--trade-related investment measures and insurance market

barriers--remain unresolved. Therefore, India was identified again in 1990 as a priority country and these two practices were identified again as priority practices under section 310 of the 1974 Trade Act. The deadline for completing the section 302 investigations begun in 1989 on these practices was June 16, 1990.

On the basis of the investigation and the consultations with the Government of India and affected U.S. firms, the USTR found on June 14, 1990 that certain barriers to foreign insurance providers imposed by the Government of India are unreasonable, and a burden or restriction on U.S. commerce. Private insurance companies are not permitted to sell insurance in India. The state-owned General Insurance Company of India and its four subsidiaries have a monopoly on sales of general insurance, and the state-owned Life Insurance Corporation of India has a monopoly on the sale of life insurance in India.

Also on July 14, 1990 the USTR determined that trade restricting measures imposed by the Government of India upon foreign investors are unreasonable and burden or restrict U.S. commerce. Government approval is required for all new or expanded foreign investment in India. Approval is conditioned upon a number of criteria, including limits on foreign equity participation. Where approval is granted, the Indian Government often requires investors to use locally-produced goods in the items they produce in India, rather than allowing them to import the best quality and most cost-effective products. Some investors are also required to meet export targets. These and other requirements affect foreign investors, and result in significant trade distortions.

The USTR further determined that no responsive action under section 301 of the 1974 Trade Act was appropriate at that time given the potential for results through the Government of India's participation in the Uruguay Round of negotiations on TRIMs and trade in services. Therefore, the USTR terminated the investigations initiated pursuant to section 302 of the 1974 Trade Act, and will review the status of

India's practices after the conclusion of the Uruguay Round negotiations and determine at that time whether action under section 301 would be warranted.

"Special 301" Provisions on Intellectual Property

Pursuant to the 1988 Trade Act the USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection. Such countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as priority foreign countries.

Priority foreign countries are potentially subject to initiation of an investigation under section 301 conducted on an accelerated time frame. USTR may not designate a country as a priority foreign country if it is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of intellectual property rights.

USTR must consider designation of countries each year and issue a decision within 30 days after issuance of the NTE report. In addition, USTR may designate a trading partner as a priority foreign country or remove such designation at any time the factual circumstances warrant action.

USTR has also created the "priority watch list" and "watch list" under "special 301". Placement of a trading partner on the "priority watch list" or "watch list" indicates that particular problems exist with respect to the protection or enforcement of intellectual property rights or market access for persons relying on intellectual property. Countries placed on the "priority watch list" are the focus of increased bilateral attention on the problem areas.

On April 27, 1990 USTR found that because of progress to date in current negotiations, no

country should be designated as a priority foreign country. USTR retained Thailand, the People's Republic of China, India, and Brazil on the "priority watch list" as trading partners whose acts, policies, and practices warranted special attention. Nineteen countries were placed on the "watch list" and identified for continuing discussions of problem areas. Portugal was removed from all "special 301" lists.

Telecommunications Trade

In January 1989 an investigation to identify priority foreign countries as required by the telecommunications provisions of section 1374(a) of the 1988 Trade Act was concluded. The required report, which identified the EC and Korea as priority foreign countries, was submitted to the President and appropriate congressional committees on February 18, 1989. Discussions have subsequently been held with both the EC and Korea concerning how to achieve U.S. telecommunications trade and investment objectives. During 1990 the EC adopted a number of directives to liberalize and harmonize the EC telecommunications market, including those providing for the competitive provision of value-added services and conditions involving access to and use of the network. The EC Commission also proposed to the Council of Ministers a directive for mutual recognition of type approval for terminal equipment. In Korea, all agreed provisions of the February 1990 Record of Understanding have been implemented, including those to reduce tariffs on telecommunications equipment, establish a new standards-making system, and to begin procedures for adherence to the GATT Code on Government Procurement.

In addition, Japan and certain other nations were also reviewed under section 1377(a)(2) of the 1988 Trade Act which requires USTR to determine each year whether a nation is complying with its U.S. telecommunications agreements or "otherwise denies" under agreement terms mutually advantageous telecommunications market opportunities to U.S. firms. As a result of this review, on July 31, 1990 the United States and Japan concluded a 120-day negotiation that

improved market access and opportunities for foreign providers to Japan of international value-added network services (IVANS) and digital network channel terminating equipment (NCTE).

For those important trading partners neither initially named as priority countries nor subject to section 1377 review, USTR, in consultation with other Executive Branch agencies, has developed a program of continuing internal review and bilateral and multilateral consultations.

A wide variety of interested parties, including the interagency trade committee established under section 242(a) of the Trade Expansion Act of 1962, appropriate committees established pursuant to section 135 of the 1974 Trade Act, other private sector groups, and appropriate congressional committees, were consulted during negotiations with countries whose trade and investment practices affect U.S. telecommunications interests.

The United States views its work under the telecommunications provisions of the 1988 Trade Act as a dynamic, ongoing process of study, investigation, evaluation, and further identification of priority foreign countries. The United States will not hesitate to add countries to the priority list or seek additional bilateral consultations as further in-depth studies proceed.

Government Procurement

Section 305 of the 1979 Trade Act as amended by Title VII of the 1988 Trade Act (Title VII) calls for the identification in a report to Congress of foreign countries that are Signatories to the GATT Agreement on Government Procurement (Procurement Code) and are either in violation of their obligations under the code or meet three statutory criteria for discrimination in areas not covered by the code; or, are countries not signatories to the code and meet the three criteria for discrimination under the statute.

The three statutory criteria for identification are: A significant and persistent pattern or practice of discrimination in government procurement against United States goods and

services; identifiable harm to U.S. businesses; and significant purchases by the U.S. government of products or services from the country.

Title VII provides that the first report be submitted to the Congress by April 30, 1990 and that annual reports be submitted each year on April 30, until 1996 unless renewed.

In accordance with the Title VII provisions, USTR submitted the first annual report on April 27, 1990. The report took into account all available information, including foreign government procurement practices and procedures, specific barriers reviewed in the annual NTE report, and procurement experiences reported by U.S. industry. USTR closely examined those markets in which procurement discrimination appeared substantial, and that were of importance to U.S. industry. After reviewing all the available data on these countries, the Administration determined that no country met the criteria under the statute for identification as a discriminating country.

USTR also provided separately to the Congress information on countries and regions whose procurements markets are of particular significance to the United States. These included the EC, the Federal Republic of Germany, France, Italy, Japan, Greece, and Australia.

With regard to these important procurement markets, the USTR stated that the status of the code and bilateral consultations would be carefully evaluated before the 1991 Title VII report, and any developments would be taken into consideration.

Import Fee For Trade Adjustment

Section 1428 of the 1988 Trade Act directs the President to enter into negotiations to achieve changes in the GATT that would allow any country to impose a small import fee to fund programs "which directly assist adjustment to import competition". The 1988 Trade Act also directs the President to negotiate acceptance of the fee with our free trade area partners, Canada and Israel. A two-year period is provided for

these negotiations, which ended on August 23, 1990.

In October 1989 the United States tabled a proposal to allow for the imposition of such an import fee in the Uruguay Round Negotiating Group on GATT Articles. U.S. negotiators continued to raise the issue in subsequent meetings of this negotiating group in an effort to seek multilateral support. In addition, U.S. officials raised the issue in numerous bilateral meetings on the Uruguay Round. Despite our attempts to stress the trade liberalizing aspects of the proposal, our GATT trading partners viewed the proposal as an attempt by the United States to raise trade barriers. They considered the proposal to run counter to the trade liberalizing objectives of the Uruguay Round. Likewise, Canada and Israel objected to the proposal. They viewed the proposal as inconsistent with our bilateral free trade agreements.

On August 23, 1990 the President determined that unilateral imposition of a small import fee to fund programs to assist adjustment to import competition would not be in the national economic interest. This decision was based on the view that imposition of the fee would have a negative impact on the Uruguay Round, may require the United States to compensate our trading partners or be subject to retaliation, and/or encourage our trading partners to impose similar but more trade-restrictive measures.

LAWS TO ADDRESS UNFAIR TRADE PRACTICES AND IMPORT RELIEF LAWS

This section examines the administration of laws to address unfair trade practices and import relief laws in 1990.

Laws to address unfair trade are designed to counter the effect of foreign imports that benefit from unfair trade practices such as subsidization and dumping that injure a U.S. industry.

Import relief laws are designed to provide a temporary safeguard for U.S. industries suffering serious injury as a result of rising import levels even when no unfair trade practice is involved.

The adjustment assistance provisions of the 1974 Trade Act provide financial and technical assistance to firms, workers, and communities to help them adjust to rising import competition.

Laws to Address Unfair Trade Practices

Antidumping Actions: The purpose of the antidumping law is to offset dumping--sales of imported products below the price or cost of production in the exporting country--that causes material injury to a U.S. industry. The law's provisions are incorporated in Title VII of the 1930 Tariff Act and have been substantially amended by the 1979 Trade Act, the 1984 Trade Act, and the 1988 Trade Act. The U.S. Department of Commerce and the U.S. International Trade Commission (USITC) jointly administer the law.

Under the antidumping law, offsetting duties are imposed when the Department of Commerce determines that a class or kind of foreign merchandise is being sold at "less than fair value" (LTFV) and the USITC determines the dumped imports are causing or threatening material injury to a U.S. industry.

An investigation typically starts when a U.S. industry, or a representative filing on its behalf, submits a petition alleging injurious dumping. If the Department of Commerce decides the petition contains sufficient evidence of injurious dumping, it will initiate an antidumping investigation.

After initiation, the next major event in the conduct of a case is a preliminary USITC decision on whether there is a reasonable indication that imports cause or threaten material injury, or in certain unusual cases, materially retard an industry's establishment. This preliminary determination is designed to eliminate cases where there is little or no evidence of material injury.

If the USITC finds that there is a reasonable indication of material injury, threat, or material retardation, the focus of the case shifts back to the Department of Commerce for inquiry into the alleged LTFV sales. Under its standard practice, Commerce will send questionnaires to foreign

producers. After analyzing the responses, Commerce will issue a preliminary determination of whether there have been sales at LTFV.

If Commerce issues a preliminary determination that exporters from the country(ies) involved are making LTFV sales into the U.S. market, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin. After questionnaire responses are verified on site and interested party comments are evaluated, Commerce issues a final determination.

If the final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final determination of material injury. If the USITC determines that LTFV imports cause or threaten material injury, an antidumping order is issued and all imports entered after the preliminary Commerce determination are subject to antidumping duties. If the USITC determination is negative, the investigation is terminated and the Customs bond released.

From 1981 through 1985 the dollar's high value and major structural adjustments in international steel trade generated record numbers of antidumping cases. These pressures subsided somewhat with the President's 1984 Steel Stabilization Program and the dollar value's decline after the 1985 Plaza Accord.

In fact, the decrease in import pressure, rising import prices, and U.S. manufacturing sector prosperity have sharply reduced the number of antidumping cases. However, these circumstances, particularly the sustained decline in the value of the dollar, have generated substantial dumping margins in certain cases when foreign companies sought to hold onto U.S. market share through LTFV sales.

Thus, the number of antidumping petitions was: 19 in 1981; 71 in 1982; 73 in 1984; 62 in 1985; 65 in 1986; 15 in 1987; 42 in 1988; 23 in 1989; and 43 in 1990. The number of antidumping orders (not including suspension

agreements) was: four in 1981; five in 1982; 13 in 1983; 23 in 1984; three in 1985; 21 in 1986; 38 in 1987; eight in 1988; 31 in 1989; and 22 in 1990.

Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII and section 303 of the 1930 Tariff Act. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The countervailing duty law's purpose is to offset foreign government subsidies. CVD procedures under Title VII are very similar to antidumping procedures. Commerce normally initiates cases based upon a petition submitted by an interested party. The USITC is responsible for investigating material injury.

For a case to proceed, the USITC must first make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment. Commerce then issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

There is one major difference between CVD and antidumping investigations. In the case of CVD proceedings, the United States has a separate procedure for countries not bound by the Tokyo Round Subsidies Code or those not accepting substantially equivalent obligations in bilateral agreements with the United States. This procedure is contained in section 303 of the 1930 Tariff Act.

In the case of dutiable imports, CVD investigations under section 303 do not require an injury test for those countries that have not signed the GATT Subsidies Code or negotiated bilateral agreements with the United States. Accordingly, when Commerce makes a determination of subsidization under section 303, it will impose a countervailing duty regardless of whether there is

injury to a U.S. industry. In the case of duty-free imports, an injury test is provided if the country is a GATT member.

The number of CVD petitions was 11 in 1980; 14 in 1981; 124 in 1982; 31 in 1983; 53 in 1984; 41 in 1985; 28 in 1986; eight in 1987; 13 in 1988; nine in 1989; and eight in 1990. At the end of 1990 there were 71 CVD orders in effect, along with 12 CVD suspension agreements.

Unfair Practices Investigations (Section 337)

Section 337 of the 1930 Tariff Act makes it unlawful to engage in unfair acts or unfair methods of competition when importing or selling imported goods. Most section 337 investigations concern alleged infringement of intellectual property rights. Alleged patent infringement constitutes well over half the investigations initiated.

The USITC conducts section 337 investigations through adjudicatory proceedings under the Administrative Procedures Act. By statute, the USITC must complete its investigation and rule on whether there is a violation of section 337 within 12 months after starting an investigation (18 months in more complicated cases).

If the USITC finds a violation, it can order unfairly traded goods excluded from the United States. The USITC can also issue cease and desist orders requiring firms to stop unlawful conduct such as the sale or other distribution of imported goods in the United States.

Section 337 orders are subject to public interest considerations and Presidential review. The USITC must consider, for example, an exclusion order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products before it issues an order. If the USITC decides public interest considerations do not preclude relief, it issues an order.

The USITC transmits its order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review

process if the importer pays a bond set by the USITC. The President has 60 days to approve or disapprove the USITC order. If the President approves the order or takes no action within 60 days, the USITC's order becomes final and infringing goods are excluded from the United States. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

In 1990 the President permitted each of the eight temporary and permanent section 337 orders subject to policy review to become final.

In November 1988 a dispute settlement panel of the GATT found that certain procedural aspects of USITC investigations under section 337 provided imported products less favorable treatment than that accorded domestically produced products in federal district court patent litigation. Currently, the United States is considering what measures it might take to address the issues raised in the panel report. When the GATT Council adopted the panel report on section 337, the President issued an Administration Policy Statement that enforcement of section 337 will not change in the interim between adoption of the panel report and enactment of any legislative changes to section 337.

Import Relief Laws

Safeguard Actions (Section 201)

Section 201 of the 1974 Trade Act provides a procedure whereby the President may grant temporary import relief, not to exceed a maximum of eight years, to a domestic industry seriously injured by increased imports. Import relief generally takes the form of increased tariffs or quantitative restrictions. To be found eligible for relief under section 201, the USITC must determine that the industry has been seriously injured and that imports have been a substantial cause (not less than any other cause) of that injury. Import relief subsequently provided by the President is designed to remedy the injury and to

facilitate positive adjustment by the domestic industry.

Criteria for import relief set forth in section 201 are based on Article XIX of the GATT. This article is often referred to as the "escape clause", because it permits a country to escape temporarily from its obligations under the GATT when increased imports of a product are causing or are threatening to cause serious injury to domestic producers of a like or directly competitive product.

One petition was filed under section 201 during 1990, by the Keystone Camera Corporation. In that case, the USITC determined, by a vote of 4 to 0, that increased imports were not a substantial cause of serious injury to the domestic camera industry.

Market Disruption (Section 406)

Section 406 of the 1974 Trade Act gives the President authority to impose import relief on products from communist countries when the USITC determines such imports cause market disruption. If the President decides emergency action is necessary, he may provide immediate relief pending a USITC finding.

According to section 406, "market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

Amendments to section 406 made in the 1988 Trade Act clarified the meaning of the phrases "increasing rapidly" and "significant cause." These amendments also specified several factors which the USITC must consider in determining whether market disruption exists.

The USITC must conduct a section 406 investigation and report to the President no later than three months after a petition is filed or a request for investigation is made. If the USITC

decides market disruption exists, the President may provide import relief.

The types of import relief that can be provided under section 406 are similar to those authorized to remedy injury in escape clause cases under section 201. However, in market disruption cases, import relief measures must be confined to imports from the communist country or countries involved.

There were no cases, petitions, or requests filed under section 406 in 1990. There is outstanding relief in the form of an orderly marketing agreement (OMA) with the People's Republic of China concerning U.S. imports of ammonium paratungstate and tungstic acid which the USITC had determined in 1987 were causing market disruption. The OMA limits Chinese tungsten product imports into the United States until September 30, 1991.

Trade Adjustment Assistance (TAA)

Adjustment Assistance For Workers: The TAA program provides worker assistance through Title II of the 1974 Trade Act. Assistance includes trade adjustment allowances, training, job search and relocation allowances, plus reemployment services for workers adversely affected by increased imports. Initially authorized by the Trade Expansion Act of 1962, the program is scheduled to expire September 30, 1993.

For workers to be certified as eligible to apply for TAA, the Secretary of Labor must determine that workers in a firm have become or are threatened to become totally or partially separated; that the firm's sales or production have decreased absolutely; and that increases in like or directly competitive imported products contributed importantly to the total or partial separation, and to the decline in the firm's sales or production.

Modifications to program and eligibility standards were made through the Omnibus Budget Reconciliation Act of 1981 and the Deficit Reduction Act of 1984. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) made other program changes, the most

significant of which extended TAA payments through September 1991 and authorized trade readjustment allowance payments retroactive to December 18, 1985.

Provisions of the 1988 Trade Act amended the 1974 Trade Act to expand coverage to workers in oil and gas industry firms engaged in exploration or drilling, and allowed a one-time, 90-day opportunity under the new eligibility rules to apply for retroactive trade readjustment allowances.

The U.S. Department of Labor administers adjustment assistance to workers through the Employment and Training Administration (ETA). Workers certified for trade adjustment assistance are provided a certification of eligibility, and may apply for TAA benefits at the nearest office of the State Employment Security Agency. For the first time, the 1988 Trade Act amendments made training an entitlement. The amendments require eligible workers to have completed training or be enrolled in training as a condition for receiving trade readjustment allowances.

The number of petitions submitted to the Department of Labor declined in FY 1990. Fact-finding investigations were instituted for 1,455 petitions; 588 petitions were certified or partially certified covering 61,326 workers, while 836 petitions covering 96,813 workers were denied. In contrast, investigations were instituted on 2,282 petitions in FY 1989; 1,115 of which were certified or partially certified, covering 89,021 workers, while 1,096 petitions were denied. The 1989 activity levels were significantly above those in preceding years, attributable in part to the 1988 amendments to the 1974 Trade Act that expanded TAA eligibility to workers in the oil and gas industry.

The number of cases under investigation at the end of FY 1990 was 202 compared to the carryover of 198 cases in 1989.

Workers have been certified in a wide variety of industries under the TAA program. From April 1975 through September 1990 the seven industries with the largest concentration of

certified workers were located in automotive equipment (768,200); apparel and other finished products made from fabrics and similar materials (226,800); primary metal industries (171,600); leather and leather products (102,600); electrical and electronic machinery equipment and supplies (91,300); oil and gas production and services (57,500); and fabricated metal products (53,200).

Adjustment Assistance for Firms and Industries: The TAA Division in the Commerce Department's Economic Development Administration (EDA) administers trade adjustment assistance for firms and industries authorized by Title II, Chapter 3, of the 1974 Trade Act. Authority for program assistance is scheduled to expire on September 30, 1993.

To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers.

Following certification, a firm may apply for technical assistance to develop and implement its economic recovery strategy. The TAA program also provides assistance to specific industries adversely impacted by import competition.

TAA's technical assistance to firms includes guidance in preparing certification petitions, general diagnosis of a firm's problems and opportunities for recovery, help in preparing adjustment proposals, examination of specific problems recognized by a firm's management, and in-depth assistance to firms in carrying out their adjustment proposals.

EDA's TAA program currently funds 12 Trade Adjustment Assistance Centers (TAACs). They are nonprofit, nongovernment organizations established to help firms qualify for and receive assistance in adjusting to import competition. From fiscal years 1979 to 1990 the TAA program awarded cooperative agreements totaling \$135 million to fund TAAC operations.

The TAACs are the primary source of technical assistance to certified firms. TAAC staffs provide professional assistance to eligible firms in such areas as production, management, exporting, marketing, and finance. The TAACs also contract for the services of industry experts and management consultants to provide more detailed or more complex technical assistance.

During this period (FY 1979 to FY 1990), TAACs assisted more than 3,870 firms resulting in certification for more than 3,395 firms. Also during this time period, the TAACs provided diagnostic or implementation assistance to more than 2,429 certified firms. Over the past five years, TAACs have placed greater emphasis on providing firms with in-depth production, marketing, and management advice in implementing adjustment strategies.

During the calendar years 1985 to 1990, 1,560 petitions for certifying eligibility applications were received from trade-impacted firms; 479 in 1985, 114 in 1986 (a decline caused by a lapse in legislative authority), 201 in 1987, 278 in 1988, 301 in 1989, and 187 in 1990. During 1990 more than 95 percent of the petitions were accepted for investigation and processing. The unaccepted petitions were either withdrawn by the firms or rejected because they did not meet legislative criteria, were improperly prepared, incomplete, or lacking supportive information necessary for completing the investigation process.

A total of 5,094 petitions have been received during the program's 15-year existence (CY's 1975-1990). Of these, 3,399 firms were certified as eligible for benefits. Over this period, Commerce has certified 822 apparel firms, 298 metal product manufacturers, 297 machinery and equipment manufacturers, 183 footwear companies, 171 food growers and processors, 154 electronics firms, 134 textiles firms, 123 wood products producers, 113 communications equipment makers, and 106 producers of handbags and parts. During 1990 the top five certified industry groups were metal products,

electronics, apparel and accessories, machinery and equipment, and food beverages.

After a firm is certified, the TAA program must approve an adjustment proposal from the firm before it may submit a formal application for technical assistance. The adjustment proposals must show that the firm is aware of its strengths and weaknesses, and has a clear and rational strategy for recovery from the import impact. All adjustment proposals submitted by certified firms are reviewed by EDA's Adjustment Proposal Review Committee (APRC) for final approval.

During FY 1990 the APRC reviewed 86 adjustment proposals and approved 80 of them. The 80 firms with approved adjustment proposals employed approximately 5,590 employees. These adjustment proposals totaled \$5.8 million of which the average government share was 62 percent, while the firm share averaged 38 percent. Each firm is required to share at least 25 percent of the total project cost. The total average dollar investment per employee was \$1,136. The cost of providing technical assistance to implement the accepted proposals averaged approximately \$45,000 per proposal.

From 1978 to 1990 \$42 million in technical assistance was provided for export promotion, improving manufacturing productivity, and establishing new or expanding existing domestic markets for trade-impacted industries. Industries receiving assistance during this period included steel founders, gear manufacturers, apparel, jewelry, die casters, automotive parts, wire machinery, and furniture.

TAA-industry assistance projects from 1985 to 1990 also included the following:

U.S. electronics industry Japan office:

This TAA project is cosponsored by the American Electronics Association (AEA). The project's main goal is to help U.S. electronics companies penetrate the Japanese market and improve the worldwide competitiveness of U.S. electronics companies. The Japan office helps U.S. companies address formal and informal barriers to U.S. electronics products in Japan. Since it first

opened in June 1984 the office has provided assistance to more than 8,500 users in the Japanese electronics market.

This project has also played a key role in placing U.S. electronics company representatives on Japanese standards-setting committees and in supporting U.S. industry and government representatives in trade negotiations with the Japanese. The executive director is the first foreign advisor to become a member of the Japanese Electronics Divisional Council, which controls all Japanese electronics standards.

Data base of critical technical information for austempered ductile iron: This TAA-funded program, completed in 1989, supported the Gear Research Institute (GRI) austempered ductile iron (ADI) project. Its goal is to make improved gears at a more competitive price.

More than 30 firms sponsored the research and provided financial and technical support to the project. Work has been completed on analyzing ADI metallurgical characteristics and assessing ADI's performance characteristics. The final tests have been completed which will determine the material components and processing procedures for optimum ADI performance.

Ladle treating, pouring, and gating for steel and casting production: The clean steel castings project is managed by the Steel Founders' Society of America (SFSA) with financial and technical support from more than 20 sponsoring firms.

Under this TAA project, the SFSA has identified the major causes of nonmetallic macro-inclusions in steel castings. This project addressed 30 actions for reducing or eliminating these inclusions from steel castings and offers great promise to enable U.S. steel founders to produce cleaner castings and regain their competitiveness in major markets.

Flexible manufacturing system for the furniture industry: This TAA project was administered by North Carolina State University

under the sponsorship of the American Furniture Manufacturers Association. Its purpose was to research and develop a prototype flexible manufacturing system to produce wood furniture parts. The system used computer numerical control woodworking machinery, machine vision systems, and microprocessor controls. The system can produce a variety of furniture parts, in small lots, in an automated cell, with a significant labor cost reduction while retaining styling freedom. The system's development is expected to lead to more complex future systems with broad application in other woodworking industries.

OTHER TRADE LAWS

This section covers actions under laws regulating textile trade, national security considerations, implementation of the Generalized System of Preferences, the Agriculture Adjustment Act, and the Meat Import Act of 1979.

Arrangement Regarding International Trade in Textiles

The arrangement on international trade in textiles, also known as the Multifiber Arrangement (MFA), is the primary basis for U.S. textile trade policy. In 1990 approximately 84 percent of U.S. textile and apparel imports came from MFA signatories. In 1990 the United States maintained quantitative restraints under the auspices of the MFA covering about 83 percent of our textile and apparel imports from nearly 40 countries.

First put into effect in 1974, the MFA has been extended three times, most recently on August 1, 1986. It is scheduled to expire July 31, 1991. The present MFA enhances U.S. ability to control disruptive imports by letting the United States impose unilateral restraints for two years rather than one as under the previous MFA. This gives the United States a way to prevent import surges when bilateral agreement on a restraint level is not reached. The MFA also gives the United States the right to change quotas unilaterally for fraudulent imports.

In 1990 the United States extended or renegotiated expiring bilateral agreements with Turkey, Singapore, Mauritius, and Trinidad and Tobago, and concluded new agreements with the United Arab Emirates and Fiji.

In addition, the United States initiated investigations and consultations with trading partners aimed at stemming fraud and circumvention of quota arrangements. In particular, negotiations with Macau were completed which resulted in reduced quotas for certain products as well as other measures to put an end to fraudulent textile shipments to the United States. Also, the People's Republic of China's quotas were charged by the United States for transshipment of nearly one million garments through third countries.

Finally, in 1990 the United States intensified work in the Uruguay Round to bring textile trade into the GATT system after a sufficient transition period.

Generalized System of Preferences

The Generalized System of Preferences (GSP) is a program of temporary duty-free tariff preferences the United States grants to developing nations and territories. The United States joined with 19 other Organization for Economic Cooperation and Development (OECD) members to institute GSP programs in the early 1970s. There are now 27 nations operating GSP programs.

The GSP's primary purpose is to promote the economic growth and industrialization of beneficiary developing countries. It also promotes the notion that trade rather than aid is a more effective and cost-efficient way of encouraging broad-based, sustained economic development.

GSP administration is based upon recognizing that beneficiaries often need temporary preferential advantages to compete effectively with industrialized nations in the U.S. market. The GSP has not only been helpful in encouraging developing nations' economic growth but also in promoting U.S. exports. U.S.

exports to developing nations have increased more than 33 percent to \$100 billion in 1988 compared to a 24 percent increase to all other markets.

The United States offers preferential duty-free entry on some 4,230 products, defined at the eight-digit level in the Harmonized Tariff Schedule, from 134 designated beneficiary countries and territories. The value of GSP duty-free imports has risen from \$3.2 billion since the program's 1976 start to a peak of \$18.3 billion in 1988. In 1989, after four of the largest beneficiaries were graduated from the program, GSP imports fell to \$10 billion. Graduation of South Korea, Taiwan, Hong Kong, and Singapore disguises the fact that current beneficiaries continue to make greater use of the program; their 1989 GSP imports increased 18.6 percent over 1988.

Renewed through July 4, 1993 by the 1984 Trade Act, the GSP is also designed to integrate developing countries into the international trading system in a manner commensurate with their development. Accordingly, the U.S. GSP program is designed to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment; provide effective ways foreign nationals may secure, exercise, and enforce exclusive intellectual property rights; and afford laborers internationally recognized worker rights.

An important attribute of the U.S. program is its ability to adapt on a product-specific basis both to changing market conditions and the changing needs of producers, workers, exporters, importers, and consumers. Modifications to the list of articles eligible for duty-free treatment are made through an annual review procedure.

This 13-month process begins each June 1, the filing deadline for petitions requesting an eligibility change. The President announces his decisions on or about April 1 of the following year. The process concludes with implementation on July 1.

1990 GSP Program Changes: The past year has seen several significant changes in the operation of the GSP program. For the first time, a special GSP product review was conducted as part of the President's initiative designed to create opportunities for expanded trade and investment between the Andean nations and the United States. This review was in addition to the annual review; the results of both are noted below. The GSP program has also expanded through the addition of four new beneficiaries: Poland, Panama, Bahrain, and Namibia. Czechoslovakia is currently being considered for GSP designation. Also for the first time, reviews were begun in 1990 to consider reinstatement for three beneficiaries, the Central African Republic, Chile and Paraguay, previously suspended after a review of their worker rights practices. The President announced on February 4, 1991 his decision to reinstate the GSP benefits of these three countries.

Results of GSP Reviews Concluded in 1990: The 1989 annual review and the Special Review for Bolivia, Columbia, Ecuador, and Peru together resulted in a record expansion of GSP product coverage. The Special Review resulted in 66 products being added to the program, benefitting \$120 million in 1989 imports.

The 1989 annual review added 23 new products, and expanded or continued GSP coverage for nearly \$2.4 billion in 1989 imports. Seven products (four categories of steel wire rope, gelatin sheets, cellulose nitrates, and cotton towels) were removed from GSP eligibility in response to U.S. industry petitions or GSP statutory requirements. This affected trade totaling \$20.7 million in 1989.

During the 1989 annual review Benin, the Dominican Republic, Haiti, Indonesia, Liberia, Nepal, Thailand and Syria were investigated for worker rights violations. Indonesia and Thailand were found to meet the program's eligibility standards. Liberia was found not to meet U.S. requirements and was suspended from the GSP program on July 1, 1990. Reviews of Benin, the

Dominican Republic, Haiti, Nepal, and Syria have been extended for an additional year.

In addition, the 1989 review resulted in several program modifications as required by sections 504(b)(2) and 504(c) of the 1974 Trade Act. A fuller discussion of recent GSP program changes can be found in The President's Report to Congress on the Generalized System of Preferences issued in February 1990.

1990 GSP Annual Review: GSP petitions submitted in the 1990 annual review are now under consideration. A total of 158 product petitions covering 118 products were accepted for review. Sixty-eight products are being considered for addition to the GSP, 9 products for removal, 37 for competitive need waivers, and four for both addition and competitive need waivers.

Nine beneficiaries are also under review to determine whether they meet the country practice eligibility standards of the GSP law. This includes three worker rights cases begun this year (Bangladesh, El Salvador and Sudan), and five cases continued from prior reviews (Benin, the Dominican Republic, Haiti, Nepal, and Syria). One expropriation petition regarding Peru is also under review.

Public hearings on 1990 petitions were held in September. The President will announce his decision in early April 1991. Results are scheduled to be implemented July 1, 1991.

National Security Import Restrictions (Section 232)

On the basis of the Secretary of Commerce's formal investigation and report, section 232 of the Trade Expansion Act of 1962 authorizes the President to regulate commodity imports that threaten to impair U.S. national security. Unless the President reverses the Secretary's finding, he must take whatever action he considers necessary to control the importation of the subject articles, thus preventing national security impairment.

No investigations were initiated under section 232 during 1990 and no action was taken pursuant to this provision.

Agricultural Adjustment Act

Under section 22 of the Agricultural Adjustment Act of 1933 as amended, the President, following a USITC investigation, may impose quota restrictions or fees on certain commodity imports to prevent interference with programs undertaken by the U.S. Department of Agriculture.

The modification, suspension, or termination of an existing section 22 restriction also requires USITC advice and presidential action. In 1989 the President requested that the USITC initiate an investigation to determine whether the circumstances requiring the imposition of restrictions with respect to certain cotton comber wastes had changed. Public hearings were held on November 28, 1989.

The USITC submitted its report to the President on January 25, 1990. Upon reviewing the findings and recommendations of the USITC, the President announced (Proclamation 6228 of November 13, 1990) the indefinite suspension of the section 22 quota restrictions on all imported cotton comber waste.

Quantitative limits imposed under section 22 in previous years remained in place through 1990 on cotton of certain specified staple lengths, peanuts, dairy products, and certain products containing added sugar. An import fee remains in effect on refined sugar.

Meat Import Act of 1979

The 1979 Meat Import Act requires the President to impose import quotas on fresh, chilled and frozen beef, veal, mutton, and goat meat if the Secretary of Agriculture estimates annual imports will exceed a basic import level that equals approximately 7 percent of U.S. production.

The act provides a formula for calculating the basic import level which is modified each year by a production adjustment factor and a countercyclical factor.

No Meat Import Act quotas were imposed in 1990 and no voluntary export restraint agreements were negotiated with supplying countries in 1990.

VII. TRADE POLICY DEVELOPMENT

U.S. trade policy development is a cooperative effort involving close consultation between the President, Congress, and the private sector. USTR functions as the coordinator in this effort. It manages the private sector advisory system, consults regularly with Congress, and chairs the interagency committees which develop trade policy within the Executive Branch.

As a result of these efforts, the United States is able to display a united front when it negotiates multilateral and bilateral agreements with other nations. The U.S. negotiating position is strengthened because its objectives are developed on a bipartisan basis with private sector support before trade negotiations begin.

Congressional Relations

From the earliest stages of the Uruguay Round, USTR has consulted closely with the Congress. Ambassador Hills and other USTR officials meet regularly with congressional members and staff to discuss the progress of the negotiations and U.S. and foreign proposals.

Under the terms of the 1974 Trade Act as amended, 10 Members of Congress (five representatives and five senators) have been officially designated as congressional advisors to international trade negotiations. USTR has held extensive briefings for members and staff of the House Committee on Ways and Means, the Senate Committee on Finance, the House and Senate Agriculture Committees, as well as the numerous other committees with jurisdiction over portions of the negotiations. These briefings provide regular reports on the negotiations' status and an opportunity to obtain members' advice and counsel on pending issues.

Throughout the year there has been heavy congressional travel to USTR's Geneva office where Ambassador Rufus Yerxa has kept members and staff apprised of the negotiations, and solicited advice from them. During these visits, USTR Geneva has also facilitated sessions for the visiting congressional delegations with key foreign delegations.

Congressional representation at the Brussels Ministerial meeting included members from the Ways and Means, Finance, and Agriculture Committees. Additionally, over 45 staff members from 11 House and Senate committees participated in the week long meeting to monitor developments and provide advice to U.S. negotiators.

In addition to frequent Uruguay Round consultations, USTR has worked cooperatively with Congress as it continues oversight of the Administration's implementation of the 1988 Trade Act and the U.S.-Canada Free Trade Agreement.

USTR has also worked with Congress to achieve our objectives in a number of bilateral issues including the Caribbean Basin Initiative, agreements with Japan on supercomputers, satellites, and forest products, the U.S.-Soviet trade agreement, and trade agreements and business and economic initiatives with Hungary, Poland, Czechoslovakia, and other Eastern European countries. The President notified Congress on September 25, 1990 of his intention to negotiate a free trade agreement (FTA) with Mexico. Consultations with Congress regarding the FTA commenced shortly thereafter and will continue throughout 1991 as the negotiations proceed. The President also submitted legislation

to Congress providing for duty free treatment to certain products of the four Andean countries, Columbia, Peru, Bolivia, and Ecuador.

Private Sector Advisory Committee System

In 1974 Congress established a private sector advisory committee system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. It expanded and enhanced the role of this system in three subsequent trade acts.

The committees now provide information and advice on negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The private sector advisory system consists of almost 40 committees with a total membership of approximately 1,000 advisors. The system is arranged in three tiers: The President's Advisory Committee on Trade Policy and Negotiations (ACTPN); seven policy advisory committees; and more than 30 technical, sectoral, and functional advisory committees.

The ACTPN is the top tier of the system. The President appoints its 45 members to two-year terms. The 1974 Trade Act requires ACTPN's establishment and that its membership broadly represent key economic sectors affected by trade. The committee considers trade policy issues in the context of the overall national interest.

The next tier consists of seven policy-level committees appointed by the USTR alone or in conjunction with other Cabinet officers. Those policy-level committees managed solely by USTR are the Services (SPAC), Investment (INPAC), and Intergovernmental (IGPAC) Policy Advisory Committees. Those policy advisory committees managed jointly with the Departments of Commerce, Agriculture, Labor, and Defense are the Industry (IPAC), Agriculture (APAC), Labor (LAC), and Defense (DPACT) Policy Advisory

Committees respectively. Each of these committees provides advice based upon the perspective of its specific interest.

The third tier is composed of technical, sectoral, and functional advisory committees organized in two areas: Industry and agriculture. Representatives are jointly appointed by the USTR and the Secretaries of Commerce and Agriculture.

Each technical or sectoral committee represents an individual industry sector or commodity group (such as steel or dairy products) and provides specific, often highly technical information concerning the effect that trade policy decisions may have on its sector. The three functional advisory committees at this level provide cross-sectoral technical advice on standards, customs, and intellectual property issues.

Private sector advice is both a critical and integral part of the trade policy process. USTR already maintains an ongoing dialogue with interested private sector parties on most trade agenda topics. However, the congressionally established private and public sector advisory system is unique since all committees meet on a regular basis (averaging quarterly), receive sensitive information about ongoing trade negotiations and other trade policy issues and developments, and are legally required to provide a report to the President, Congress, and USTR on any trade agreement entered into under section 1102 of the 1988 Trade Act.

In 1990 the advisory system's focus has closely mirrored the priorities of U.S. trade policy. The focus of this year's effort has been the Uruguay Round of multilateral trade negotiations. The committees have also provided advice on a broad range of other trade issues now on the U.S. trade policy agenda.

These issues included accelerated tariff reduction negotiations under the U.S.-Canada FTA, EC-92, the U.S.-Japanese trade relationship, the Enterprise for the Americas Initiative, trade and investment agreements with the Soviet Union

and Eastern European countries, and the potential free trade agreement with Mexico.

The ACTPN is the only committee within the private sector advisory system that will examine all elements of a Uruguay Round agreement. To meet that responsibility, much of ACTPN's energies were directed toward these negotiations.

The ACTPN, along with the chairmen of the seven other policy advisory committees, visited Geneva in September to demonstrate the importance the U.S. private sector places on achieving a comprehensive Uruguay Round agreement. They examined firsthand the status of the negotiations and relayed U.S. private sector views on key issues to our major trading partners. A representative group from the ACTPN also participated in the Brussels Ministerial meeting in December as part of the official U.S. delegation.

The ACTPN issued a report containing recommendations on the Uruguay Round Subsidies and Countervailing Measures (CVM) Negotiations. The report cited the ACTPN's discouragement over the relative lack of progress in the negotiations and attributed this lack of progress to the lack of political will on the part of many of our most important trading partners.

A Textiles and Apparel Task Force of the ACTPN was established and provided a report on the subject to the USTR. The EC 92 Task Force expanded its mandate to also provide advice on trade agreements with emerging Eastern European and Soviet markets. The Intellectual Property Task Force kept abreast of the trade-related intellectual property rights (TRIPs) negotiations and continued to provide advice throughout the year.

The SPAC is the key committee in the system advising on services negotiations. Broadly representative of the wide spectrum of services industries, the SPAC contributed to U.S. requests and offers in the market access portion of the services negotiations. In addition, SPAC members provided their perspectives on framework issues.

The INPAC is the primary committee for private sector advice on the trade-related investment measures (TRIMs) negotiations. In addition, INPAC is the key committee for providing advice on trade negotiations with Eastern European nations and the Soviet Union.

The APAC and the agriculture technical advisory committees (ATACs) are the source of both broad-based policy advice and technical expertise on agriculture negotiations. These committees focus on the Uruguay Round agriculture negotiations and the increasing number of bilateral agriculture trade issues.

The LAC consists of about 80 members and solidly represents the broad range of organized labor in the United States. A LAC steering subcommittee meets monthly to consider all ongoing trade negotiations and developments. The LAC actively follows Uruguay Round talks and has prepared positions on each of the 15 negotiating groups. LAC members went to Geneva in April 1990 to promote U.S. labor views to U.S. trading partners and gain a firsthand view of the GATT process and the negotiations' status.

Like other policy advisory committees, the IPAC this year concentrated on the Uruguay Round negotiations. It issued a report providing its views on each of the 15 negotiating issues. IPAC's priorities are TRIPs, TRIMs, safeguards, subsidies, nontariff measures, and antidumping. The IPAC also presented reports on technology transfer/export control issues and the Structural Impediments Initiative with Japan to Ambassador Hills and Secretary of Commerce Mosbacher.

The IGPAC consists of representatives from state and local government bodies with an interest in or responsibility for trade. Fifteen of its 35 members are governors. The IGPAC provided a report to USTR on Uruguay Round issues of primary importance to states and localities including services, subsidies and CVMs, TRIMs, government procurement, and agriculture. The report raises questions about the impact of possible agreements in each of these areas on sub-national entities.

In 1990 the DPACT examined a series of defense trade issues including those related to strengthening the U.S. industrial base and facilitating defense exports. DPACT made recommendations for a defense export policy by the Government and provided suggestions on defense export financing, embassy support for exporters, and procedural reforms. The committee prepared reports on defense export policy and an interim report on the Uruguay Round, focusing on TRIPs, subsidies, government procurement, and services.

By providing technical advice to U.S. negotiators, the industry sector and functional advisory committees (ISACs and IFACs) form the backbone of the advisory system. In 1990 they provided detailed information on which products they seek tariff reductions for and by which country. Information the ISACs provided constitutes the bulk of U.S. requests under the request/offer procedure in the tariff negotiations. The 20 ISAC/IFAC chairmen visited Geneva in January and July and attended the Brussels Ministerial meeting in December.

Policy Coordination

USTR has the lead role in the development of policy on trade and trade-related investment. Taking into consideration the advice of Congress, the private sector, and other interested government agencies, USTR directs the analysis process, sets priorities and timing for consideration of policy issues, and assumes responsibility for directing the implementation of these decisions.

Under the Trade Expansion Act of 1962, the President established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC),

administered and chaired by USTR, are the principal subcabinet interagency trade policy coordination groups. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 60 subcommittees responsible for specialized areas and several task forces that work on particular issues.

Through the interagency process, USTR assigns responsibilities for economic analysis to members of the appropriate TPSC subcommittee or task force. Conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are taken up by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPRG and the TPSC consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, and Energy, the Office of Management and Budget, the Council of Economic Advisers, the National Security Council, and the International Development Cooperation Agency. Representatives from the White House Office of Policy Development and the U.S. International Trade Commission attend meetings as observers. Representatives of other agencies may also be invited to attend meetings depending on the specific issues discussed.

The final tier of the interagency trade policy mechanism is the Economic Policy Council (EPC), chaired by the President with the Secretary of the Treasury serving as the chairman pro tempore. The EPC provides Cabinet-level review of major economic issues and is involved in many important trade issues--especially those requiring attention by the President. The EPC is composed of the Secretaries of State, Treasury, Agriculture, Commerce, Labor, and Transportation, the U.S. Trade Representative, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers; the Vice President and the Chief of Staff to the President

serve as ex officio members. The Cabinet officers of other agencies may also be invited to attend meetings of the EPC, depending on the specific issues discussed.

During the interagency review stage, advice is generally sought from the private sector advisory committees and from Congress. While virtually all issues are developed and formulated through the interagency process, USTR has definitive responsibility for making recommendations to the President, or, where appropriate, framing the issue for Presidential decision. In some cases, USTR advice may differ from that of the interagency committees.

As policy decisions are made, USTR assumes responsibility for directing the implementation of that decision. Where desirable or appropriate, USTR may delegate the responsibility for implementation to other agencies.

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