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DRAFT—5/04/00

PROPOSED CHINA FRAMEWORK

I. Congressional-Executive Commission on China

Proposal: As part of the framework for bringing China into the WTO, the proposal will establish a Congressional-Executive Commission on China. The Commission will consist of nine Members of each House, plus five Presidential appointees.

The Commission will have three pillars within its scope. The first pillar will be monitoring human rights in China (including religious freedoms). The second pillar will be monitoring overall aspects of labor market issues in China. The third pillar will be monitoring and encouraging the development of rule-of-law and democracy-building in China.

The Commission will submit to Congress and to the President an annual report of its findings, including as appropriate WTO-consistent recommendations for legislative and/or executive action. It will also maintain lists of victims of human rights abuses in China. Finally, the Commission will respond to information requests from individual Members of Congress.

The model for this Commission is the Commission on Security and Cooperation in Europe, a Congressional-Executive entity established in 1976 to monitor compliance by other countries with the provisions of the Helsinki Final Act.

The CSCE experience indicates that a China Commission will be an effective mechanism for maintaining pressure on China with respect to labor market issues, rule of law issues, and human rights.

From its creation in 1976 to the end of the Cold War, the CSCE was one of several important instruments for championing human rights, democracy and rule of law in the countries of the former Soviet bloc. Since the Cold War, the CSCE has monitored elections in former Soviet bloc countries.

The strengths that the CSCE has exhibited include the following:

- It has pulled together large amounts of information related to human rights, regional security, and other issues, analyzed that information, and communicated it to the Administration, Congress, and the public in a manner that generally is considered impartial and authoritative. Its credibility with the Administration and Congress has given the CSCE a good deal of influence in shaping policy on issues within its areas of expertise.

- The CSCE has become a reliable liaison between the U.S. Government and dissidents, human rights leaders, intellectuals and other citizens of the countries that it monitors.

- The CSCE has drawn attention to particular cases of human rights violations. During the worst days of Soviet bloc repression, the Commission brought cases to the attention of governments in the Soviet bloc and worked to resolve them.

Based on the CSCE experience, there are several reasons to expect that a China Commission will be an effective means of maintaining scrutiny and pressure on China in the areas of human rights (including religious freedom), worker rights, and rule of law:

- First, a bipartisan standing Commission will institutionalize Congressional examination of measures by the Government of China that affect U.S. interests. Commitment to this task will be permanent and concentrated, as opposed to sporadic and diffuse, as has been the case under current law (i.e., annual reviews).

- Second, the Commission will become an effective base from which to mobilize support for particular improvements in China's policies and practices. For instance, if the Commission spotlights particularly egregious conduct by the Government of China, it will be able to rally a bipartisan consensus for pressing China to change its conduct more easily than an individual Member of Congress would otherwise be able to do.

- Third, as Chinese citizens gain greater access to the outside world through the Internet and other modes of communication, the Commission will become an important conduit between Chinese citizens, on the one hand, and the U.S. Government and public, on the other. For instance, victims of human rights abuses in China and their advocates in the NGO community will be able to communicate directly with the Commission.

- Fourth, the Commission will be a strong, effective, and unique point of contact on China issues between Congress and the Administration. Thus, as in the case of the CSCE, the Commission will be used to highlight for the Administration issues of particular concern to Congress. This will assist the Administration in deploying its diplomatic and other foreign policy tools most effectively.

II. Legislating the China Product-Specific, Anti-Surge Safeguard

Background: The November 1999 Agreement between the United States and China contains a product-specific safeguard, which will be included in China's protocol of accession to the WTO. The safeguard permits the United States and other WTO Members to provide relief to domestic industries and workers, "where products of Chinese origin are being imported into the territory of any WTO Member in such increased quantities or under such conditions as to **cause or threaten to cause market disruption** to the domestic producers of like or directly competitive products."

This special anti-surge safeguard will apply to China for a period of **12 years** following China's accession to the WTO.

The China safeguard contains lower causation and injury standards than ordinarily would apply between WTO Members. According to the U.S.-China Agreement, market disruption occurs when subject imports "are increasing rapidly, either absolutely or relatively, so as to be a **significant cause** of **material injury**, or threat of material injury to the domestic industry." By contrast, under the U.S. law that applies to other WTO Members (section 201 of the Trade Act of 1974), the relevant inquiry is whether goods are being imported into the United States "in such increased quantities as to be a **substantial cause** of **serious injury**."

Issue: There is a need to spell out how the anti-surge safeguard in the U.S.-China Agreement will be implemented as a matter of U.S. law. Therefore, Congress should develop and write into law a procedure for U.S. industries and workers to seek and obtain relief under the China product-specific safeguard.

Proposal: Under the proposed legislation, U.S. industries or workers claiming injury due to import surges from China would file a petition with the U.S. International Trade Commission ("ITC"), or the ITC would initiate an investigation at the request of the President or on motion of the House Ways & Means Committee or Senate Finance Committee. Within 60 days after receipt of the petition or request/motion, the ITC would make a determination as to whether the subject imports are causing or threatening market disruption. If the ITC determination is affirmative, the President would be required to request consultations with the Government of China. This would start a 60-day consultation period, as required by the U.S.-China Agreement.

Twenty days after the ITC made an affirmative determination with respect to market disruption (i.e., 80 days after receipt of the petition or request/motion), the ITC would make a recommendation of actions necessary to prevent or remedy the market disruption. Twenty days later, the U.S. Trade Representative would publish a notice of proposed action, seeking comments on the appropriateness of the proposed action and whether it would be in the public interest. An opportunity for hearing on that action would also be provided.

If the United States and China are unable to reach agreement within the consultation period, then the President will be required to decide what action, if any, to take within 25 days after the end of consultations. Any relief proclaimed would become effective in 15 days.

The entire period from petition (or request/motion) to proclamation of relief would be 150 days.

The proposal will make clear the standards for application of Presidential discretion in providing relief to injured industries and workers. If the ITC makes an affirmative determination on market disruption, there will be a presumption in favor of providing relief. That presumption can be overcome only if the President finds that providing relief would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, or that such action would cause serious harm to the national security of the United States.

The proposal also will authorize the President to provide a provisional safeguard in cases where "delay would cause damage which it would be difficult to repair," as permitted under the U.S.-China Agreement. If such circumstances are alleged, the ITC would be required to make a preliminary determination on market disruption and critical circumstances on an abbreviated schedule. After receiving an affirmative preliminary ITC determination, the President would be required to determine whether to provide such relief on a similarly abbreviated schedule.

Finally, the proposal will implement a provision in the U.S.-China Agreement concerning trade diversion. That provision addresses circumstances in which a safeguard applied by a third country with respect to Chinese goods "causes or threatens to cause significant diversions of trade" into the United States.

Under the proposal, if another WTO Member requests consultations with China under the product-specific safeguard, the U.S. Customs Service would begin monitoring imports of subject products into the United States. If, on the basis of this monitoring or other credible evidence, it is determined that an action by another WTO Member threatens or causes significant trade diversion, the USTR will request consultations with China and/or the Member imposing the safeguard. If, as provided in the Agreement, consultations fail to lead to an agreement to address the trade diversion within 60 days, the USTR will publish notice of proposed action and provide an opportunity for the public to provide evidence and views on the proposed action. After receiving such views, the President shall determine, within 20 days, what action, if any, to take to prevent or remedy the trade diversion.

III. Continuing Oversight of China's Compliance With WTO Obligations

A. Annual Report on China's Compliance With WTO Obligations

Proposal: This provision will require the U.S. Trade Representative to issue an annual report on China's compliance with WTO obligations. The report will cover compliance by the People's Republic of China with commitments made in connection with its accession to the World Trade Organization, including both multilateral commitments and any bilateral commitments made to the United States.

The report's contents will be more comprehensive than the China section in USTR's National Trade Estimate Report on Foreign Trade Barriers. The report will be a complete analysis of Chinese compliance with the implementation of obligations. By highlighting where China is meeting obligations and where it is falling short, the report will be a guide to where and how to commit enforcement resources.

B. Annual WTO Review of China's Compliance With WTO Obligations

Proposal: In negotiating China's Protocol of Accession, the Administration will press for a mechanism for reviewing China's compliance with WTO obligations on an annual basis.

Given the early stages of development of a free market and rule of law in China, it is necessary that China be given special scrutiny within the WTO. Paired with the annual report by the USTR (described in the immediately preceding section), there will be two mechanisms to ensure strong oversight of China's trade record.

IV. Task Force on Prohibition of Importation of Products of Forced or Prison Labor

Proposal: The import of goods made by forced or prison labor into the United States is prohibited by U.S. law (section 307 of the Tariff Act of 1930), consistent with the GATT 1994. Article XX of the GATT allows countries to take action without retaliation to prohibit import of goods made by prison labor. The proposed provision will instruct the President to establish an interagency task force, chaired by the Secretary of the Treasury or his designee, to monitor and promote effective enforcement of this prohibition, including compliance by Chinese and other foreign exporters. The task force will include officers and employees from the Departments of Treasury, Commerce, Labor, and other agencies. The task force will coordinate closely with the U.S. Customs Service to promote maximum effectiveness of Customs enforcement of Section 307 of the Tariff Act of 1930 in the following specific areas:

1) investigations of allegations of forced or prison labor imports;
2) working with the Chinese government and other foreign governments to arrange visit to suspected prison labor facilities;
3) providing technical assistance to China and other foreign governments to ensure that forced or prison labor goods are not imported into the U.S.;
4) monitoring U.S. ports for forced or prison labor goods; and
5) engaging in any other activities necessary to stringently enforce section 307 of the Tariff Act of 1930.

The task force will strengthen the ability of the U.S. Government to stop imports of goods made by forced or prison labor. The members of the task force will work with the Chinese Government and other foreign governments to ensure that this prohibition is strictly enforced.

V. Monitoring and Enforcement of Foreign Government Compliance With Trade Agreements

Proposal: This provision calls for additional resources to be allocated to the Departments of Commerce, Agriculture, and State, and to the Office of the U.S. Trade Representative to strengthen the ability of the United States to monitor and enforce Chinese and other foreign government compliance with trade agreements. The provision will include resources to promote the following activities, among others:

1) staffing to monitor China's compliance with the WTO Agreements;
2) defend U.S. safeguard, antidumping, and countervailing duty measures and U.S. policy to maintain strong trade remedies;
3) enforce U.S. trade laws, including import monitoring, subsidy enforcement, and prompt antidumping and countervailing duty investigations under Title VII of the Tariff Act of 1930;
4) create a Trade Law Technical Assistance Center to assist small and medium sized businesses, workers, and unions with preparation of petitions seeking remedies for alleged violations of trade laws;
5) create an Overseas Compliance Program, that will monitor compliance with international trade obligations by foreign governments;
6) commit additional funds to investigate, prosecute and defend cases before the WTO and NAFTA tribunals;
7) commit funds and resources to analyze the impact of trade on the economy of the United States;
8) increase legal and technical expertise in areas covered by trade agreements and U.S. trade law, including food safety and biotechnology.

The wide-ranging provisions will substantially increase the ability of the U.S. Government to monitor and enforce Chinese and other foreign government obligations in international trade agreements. In addition to calling for funds for enforcement, the framework calls for legal and technical assistance for companies and workers pursuing antidumping and countervailing remedies.

VI. Promotion of Adherence to Core Labor Standards in Foreign Countries

Proposal: This proposal calls for the allocation of resources to the Department of Labor to provide assistance to China and other foreign countries in complying with internationally recognized worker rights. Such assistance will be provided on a multilateral or bilateral basis and will support working with international organizations that promote core labor standards, such as the International Labor Organization. Specific provisions will include resources for multilateral and bilateral technical assistance programs on issues such as:

1) development of laws, regulations, and other measures to implement internationally recognized worker rights, including elimination of the worst forms of child labor;
2) establishing national mechanisms for the enforcement of national labor laws and regulations;
3) training government officials concerned with the implementation and enforcement of national labor laws and regulations;
4) developing an infrastructure to educate workers about their legal rights and protections under national labor laws and regulations.

The Administration, including the Secretary of Labor, will continue to pursue efforts to promote and advance core labor standards in China, including through a bilateral dialogue and programs with China.

In FY 2000, the Congress appropriated $30,000,000 to the Department of Labor for bilateral and multilateral technical assistance programs to promote core labor standards and social safety nets. The present provision will expand upon that appropriation to carry out this mission, including with respect to China.

VII. Accession of Taiwan to WTO

Proposal: This provision will express the sense of the Congress that the WTO General Council should approve both the PRC's accession and Taiwan's accession at the same General Council session.

Clark, Howard Dean

From: Clark, Howard Dean
Sent: Friday, March 31, 2000 3:41 PM
To: Resler, Tamara J; O'Sullivan, Susan; Fritz, Jonathan D; Goldberg, Robert; Mann, Christopher
Cc: Ackerman, David A; Sambaiew, Vladimir P; Samuel, E Bryan; Weintraub, Leon
Subject: Helsinki Commission info

I had a long conversation yesterday with Dorothy Taft, the chief of staff at the Helsinki Commission. I had called her asking if she could provide further details on the Helsinki Commission's budget. She's sent over a copy of their statutes, their Budget Request for Fiscal Year 2001, and a set of papers from a 1995 seminar discussing the "the feasibility of [the OSCE] structure in other geographic regions, including the Asia/Pacific region." She said she likes the idea of examining how something similar might be done with China as Levin suggests, bearing in mind the Helsinki Commission model cannot be simply transferred so 'creative thinking' would be required.
If you'd like a copy of any of the papers, let me know. The statutes are 9 pages and can be faxed. The budget request is about 30 pages, the seminar document is 176 pages (the Asia portion's about 30 pages).
Howard Clark
EB/ODC

Commission on Security and Cooperation in Europe

Budget Request for Fiscal Year 2001

I. Budget Authority and Appropriation Request for FY 2001

The Commission was created on June 3, 1976, pursuant to Public Law 94-304, codified as 22 U.S.C. § 3001, et. seq. This statute authorizes and directs the Commission ". . . to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and Cooperation in Humanitarian Fields." The Helsinki Final Act was agreed to by thirty-five countries, including the United States, Canada, West and East European states, and the Union of Soviet Socialist Republics. The states which emerged after the break-up of the USSR and Yugoslavia independently signed the Final Act and subsequent commitments in the early 1990s. As of January 1, 1995, the Conference on Security and Cooperation in Europe was renamed the Organization for Security and Cooperation in Europe (OSCE). The participating States of the OSCE now total 54. The former Yugoslavia (Serbia-Montenegro) remains under suspension. Israel, Egypt and Jordan are among the six Mediterranean Partners for Cooperation while Japan and South Korea are Partners for Cooperation.

In accordance with section 3 of Public Law 99-7 (March 27, 1985), codified as title 22 U.S.C. § 3007(a), there are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

The total budget for FY00 (including the budget authority and the unobligated balance) is $1,350,125.24. The level included in the FY00 Commerce, Justice, State Appropriations bill reflected the understanding that unobligated funds from prior years would ensure the difference between actual expenditures and the FY00 budget authority. For fiscal year 2001, the Commission requests an appropriation of $1,370,000, an increase of $19,874.76 over funding available to the Commission in FY00. The increase is necessary in FY01 in order to maintain the current staff level. The President's Budget for Fiscal Year 2001 includes a request for $1,370,000.

II. Membership of the Commission

The Commission is composed of twenty-one Commissioners, nine each from the U.S. House of Representatives and the United States Senate, appointed respectively by the Speaker of the House and the President of the Senate. In addition, there are three Commissioners from the executive branch, one each from the Departments of State, Defense, and Commerce, appointed by the President of the United States.

At the beginning of each even-numbered Congress, the Speaker designates a House Member as Chairman and the President of the Senate designates a Senate Member as Co-Chairman. At the beginning of each odd-numbered Congress, the President of the Senate designates a Senate Member as Chairman and the Speaker designates a House Member as Co-Chairman.

Under this procedure, Rep. Christopher H. Smith was appointed Chairman, and Senator Ben Nighthorse Campbell is Co-Chairman for the 106th Congress. See Appendix (A) List of Commissioners, for additional information.

III. Personnel of the Commission

The Commission's staff is composed of fifteen full-time, permanent employees, though at the time of this submission one position is in the process of being filled. Staff Advisors have both geographic and functional area responsibilities. In addition, the Department of State continues to detail a senior Foreign Service Officer to the Commission on a full-time basis, and the Government Printing Office details a printing clerk to the Commission on a full-time basis. With the December 1999 retirement of the State Department detailee, the Commission is awaiting the appointment of another Foreign Service Officer.

Since its establishment, the Commission has maintained a small but highly motivated and exceptionally capable professional staff. In addition to their expert knowledge in the geographical areas of the OSCE and in the human rights, security, economic and legal dimensions of the Helsinki process, current staff members are proficient in related languages such as Azerbaijani, French, German, Polish, Russian, Spanish and Ukrainian.

Moreover, due to the long service of the majority of the staff and their exclusive focus on OSCE issues, the Commission provides a continuity and unmatched reservoir of institutional knowledge within the U.S. Government. This institutional knowledge has been utilized by the Congress and U.S. Government agencies, most especially the Department of State in its preparation for, and participation in OSCE meetings, as well as by NGOs and private sector institutions and think tanks. The OSCE community has also recognized the Commission's unique leadership, knowledge and talent, consulting with staff in preparation for meetings and the drafting of documents, and enlisting Commission staff for OSCE missions and delegations.

IV. Focus of Commission in 106th Congress

The Commission has the responsibility, the international credibility, and the expertise to make a significant difference on issues that potentially threaten the peace, security, and stability of Europe, and to promote U.S. national interests in this critical region. The Commission's unique composition allows it to affect both U.S. foreign policy and congressional support for specific policies, while its expert practice of public diplomacy vigorously advances American values, ideals, and principles at home and abroad.

Among the 54 OSCE participating States, the Commission monitors closely those countries and regions which are confronting significant political change and upheaval or where persistent violations of human rights occur. Particularly serious are the human rights violations which occur in the context of armed conflicts. After a two-year hiatus, the war in **Chechnya** flared up again as the Russian military embarked on an "anti-terrorist operation" that became a full-scale war against the *de facto* Chechen state. Since the second Chechen war was preceded by an incursion by Islamic militants into Dagestan, the Commission held a briefing on the situation in Dagestan in September 1999, followed by a hearing on the Chechen war in November. The House overwhelmingly approved on November 16 House Concurrent Resolution 206 sponsored by the Commission Chairman and several other Commission members calling upon the Russian Government to seek a negotiated settlement to the crisis. The Commission will continue to bring attention to the humanitarian needs of the refugees and internally displaced people of Chechnya, and call upon the Russian Government to find a resolution through diplomacy.

In 1999, the **Balkans** returned to the U.S. foreign policy spotlight as the cease fire and deployment of the OSCE Kosovo Verification Mission negotiated the previous October gave way to a NATO air campaign against Yugoslav and Serbian military sites and infrastructure from March to June. The air campaign followed the refusal of the Belgrade regime of Slobodan Milosevic to accept a peace plan negotiated in Ramboulliet, France, and signs that, instead, the military, security and paramilitary forces under Belgrade's control were preparing for an all-out assault on the people of Kosovo. Indeed, the year began with the discovery of the slaughter of innocent civilians near the town of Racak. Both the OSCE Mission and the Commission publicly condemned the Serb forces responsible for this heinous act.

Commission activities regarding **Kosovo** focused on areas where there is broad agreement, such as the need to address the tremendous humanitarian problem as 1.5 million were either internally displaced or fled to neighboring Albania, Macedonia or Montenegro (and, for many, on to third-country destinations, including the United States), as well as to prosecute those responsible for war crimes and crimes against humanity in Kosovo. Two hearings were held on these issues. The April hearing focused on atrocities and the humanitarian crisis in Kosovo, with testimony of Ambassador William Walker, the head of the Kosovo Verification Mission. The May hearing focused on progress and prospects in accountability for war crimes. The Commission also hosted a public briefing featuring the Executive Director of the International Helsinki Federation and the heads of the Helsinki Committees of Serbia, Montenegro and Kosovo, to discuss the response of human rights non-governmental organizations to the conflict taking place.

In the aftermath of the Kosovo conflict, Commission members were active in debate at the OSCE Parliamentary Assembly on the need for active OSCE participation in the recovery, not only from what happened during the course of the NATO campaign but from the prior decade of severe repression of the Kosovo population. This included efforts regarding the return of all displaced persons, including the Serbs and Roma wrongfully displaced by those returning Albanians seeking retribution for the wrongs done to them. In addition, a letter (signed by a number of Commissioners and other participants in the OSCE Parliamentary Assembly delegation) to Secretary of State Albright outlined their opposition to what appeared to be a U.S.-inspired effort to hold early elections in Kosovo. Finally, a Commission staff delegation visited Kosovo in November to assess progress in restoring civil society and meeting human needs in Kosovo.

While addressing the immediate crisis associated with the conflict in Kosovo and its aftermath, the Commission also maintained a steady focus on the need to support democratic change in **Serbia**, a crucial issue which has broad support among Commissioners. Democracy would not only help restore human rights which Serbia's inhabitants are entitled to enjoy, it would also enhance tremendously regional stability. With the hearing on this subject held in December 1998, as well as relevant briefings, the Commission Chairman (along with the House Ranking Member, and other Commissioners as cosponsors) introduced H.R. 1064 – the Serbia and Montenegro Democracy Act of 1999 – which would increase the assistance for Serbia and Montenegro and targeted this assistance to democratic initiative. The Chairman publicly expressed outrage over the beating of a Serbian student and the assassination of a Serbian journalist who had testified before the Commission in December 1998.

The Commission has initiated a close examination of the problem of **"trafficking in human beings"** in the OSCE region. Trafficking of human beings, especially women and children, for the purpose of placing them in slavery-like conditions—such as forced prostitution, indentured servitude or debt bondage—is one of the fastest growing criminal enterprises in the global economy with a revenue of an estimated $7 billion annually. The Commission's examination of this issue began with a hearing at which Administration and NGO witnesses testified that more than one million people are "trafficked" around the world each year. Since the fall of communism in the OSCE region, many countries of the former Soviet Union and the new independent states have become "source" countries for this trade in human beings and the United States is a frequent destination point for people who are trafficked.

The Commission has encouraged the U.S. Government and OSCE participating States to focus greater attention on the issue of trafficking. Shortly after the Commission's hearing, the Commission Chairman proposed at the OSCE PA meeting in St. Petersburg, Russia, a resolution condemning trafficking in human beings and calling for greater action by OSCE participating States to prevent trafficking, prosecute traffickers, and protect victims; the resolution was adopted unanimously by the Parliamentary Assembly. At the suggestion of the Commission, the U.S. delegation to the 1999 OSCE Review Conference included as a public member an NGO representative who spoke about efforts to combat trafficking in the former Soviet Union. In addition, Commission staff worked with the U.S. Mission to the OSCE to draft a new commitment on combating trafficking in human beings for inclusion in the document signed by the OSCE participating States at the Istanbul Summit. And, Commission staff had extensive consultations with government representatives and non-governmental activists in Moscow.

In addition, the Commission undertook a major new economic dimension initiative in 1999 which will be the focus of much of its work in the OSCE process for 2000 and the future. During the 8th Annual Session of the OSCE Parliamentary Assembly held in St. Petersburg, Russia in July, the U.S. delegation was successful in offering amendments introduced by the Commission Co-Chairman to include in the OSCE PA resolution language which called for focused OSCE efforts to **combat corruption and organized crime**. The U.S. delegation urged the establishment of high-level, inter-agency, corruption-fighting mechanisms in each of the OSCE participating States, as well as the convening of a meeting of OSCE Ministerial to promote cooperation among these Sates in combating corruption and organized crime.

On the heels of the St. Petersburg meeting, the Commission held a hearing on **Bribery and Corruption** in the OSCE Region. Witnesses, including Commerce Department Commissioner Assistant Secretary Patrick Mulloy, focused on assessing the breadth and depth of the problem in the OSCE region and recommended strategies that the OSCE, in cooperation with other international organizations, could employ in combating corruption and organized crime and promoting transparency in government.

The Commission has carefully documented political developments in **Central Asia and the Caucasus**, and the recent elections in the region. Particular attention has been focused on Central Asia. The countries of the region are led by authoritarian rulers, whose determination to remain in power has exacerbated the problems they would have encountered in the best case, as they struggle with a difficult transition from communism. Throughout Central Asia, progress towards democratization and observance of OSCE commitments on human rights has been poor. To illustrate the nature and extent of the problem, the Commission has launched a series of hearings on the region, beginning with **Kazakstan** (May 6), **Uzbekistan** (October 18), and **Turkmenistan** (scheduled for March 2000). At both, representatives of opposition groups joined State Department witnesses, ambassadors of the countries in question, and academic experts in testifying before Commission members on the current state of affairs, prospects for reform, and U.S. leverage. Following up on the hearings, Commission staff traveled to Uzbekistan and Turkmenistan to meet with members of persecuted religions, human rights activists, and OSCE representatives to gather information for a comprehensive report on the situation in those countries and to convey concerns to government officials.

V. Scope of the Commission's Mandate

A. Monitoring the Various Dimensions of the OSCE

1. Basket I - Principles and Military Security

The Commission actively monitors implementation of the fundamental principles of the Helsinki Final Act, including those provisions in the field of military security. The underlying belief is that the essence of security is found in respect for basic human rights and freedoms of the individual and that the origin of many current conflicts can be traced to violations of these rights. Besides human rights, the principles encompass key aspects of relations between states which have gained a new urgency in the post-Cold War period: respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs; equal rights and self-determination of peoples; cooperation among states; fulfillment in good faith of obligations under international law.

These issues have provided a framework for the Commission's efforts to address current and potential conflicts in OSCE participating States, particularly in **Kosovo** and **Bosnia-Herzegovina**, to which considerable time and attention described elsewhere in this report have been devoted. The Commission has likewise pursued these matters in the context of the conflict in Chechnya, ethnic strife elsewhere in the former Yugoslavia, the situation in Nagorno-Karabakh, and developments in southeastern **Turkey** as well as tense relations between the successor states of the former Soviet

Union.

In the sphere of military security, the Commission continues to monitor the work of the Forum for Security Cooperation and developments in the elaboration of the so-called Security Model for the 21st Century. The Vienna-based Forum is designed to draw the new European democracies more closely into the OSCE through expanded military cooperation and contacts, enhanced exchange of information on defense planning, and the elaboration of stabilization measures for use in crisis situations. These activities are part of a broader effort by the Commission to track implementation of existing OSCE provisions on confidence- and security-building measures as well as adherence to the terms of the **Treaty on Conventional Armed Forces in Europe (CFE)**. An Adaptation Agreement to CFE was signed in Istanbul on the margins of the OSCE summit replacing the Treaty's bloc-to-bloc structure and enhancing transparency. Related political commitments address Russian deployments in Chechnya, deployments in the Kaliningrad and Pskov oblasts as well as the presence of Russian forces in **Georgia** and **Moldova**.

One of the major crises in the OSCE diplomacy has been the 1994-96 war in **Chechnya** and its renewal in September 1999. An OSCE Assistance Group (mission) was dispatched to Chechnya's capital Grozny in early 1995. Mission head Tim Guldimann was a witnessing signatory to the Khasavyurt Agreements that ended the first war. For security reasons, the mission was evacuated to the Norwegian Embassy in Moscow (as Norway was OSCE Chairman in Office at that time) in December 1998. At the November 1999 Istanbul OSCE Summit, the OSCE participating States, including Russia, reaffirmed the existing mandate of the Assistance Group in Chechnya, and stated that the assistance of the OSCE would contribute to achieving a political solution to the crisis. In December 1999, OSCE Chairman in Office Kurt Vollebaek visited the conflict area and internally displaced persons camps in Ingushetia. However, at this writing, the Russian Government has not agreed to an active renewal of OSCE efforts in Chechnya.

2. Basket II - Cooperation in the Field of Economics

The post-communist era has expanded opportunities and challenges for the implementation of the OSCE economic dimension, particularly since the political stability of many newly independent states hinges on sound economics. The dramatic political changes in Central and Eastern Europe and the countries of the former Soviet Union resulted in a commitment by the participating States to assist the new democracies in the transition to free, market-based economies. How to meet this goal is the continuing challenge of the economic dimension. At the 1992 Helsinki Follow-up Meeting, the United States proposed convening an Economic Forum in order to give political stimulus to the transition to free market economies and to promote practical efforts for their development. The Commission furthers its mandate by participation in the annual meetings of the Economic Forum and the follow-on seminars, which focus on region-specific economic and development issues. Commission participation includes developing proposals for specific agenda topics and providing rapporteurs for working group sessions, recommending private sector experts for delegations to the Forum and seminars, and engaging officials and other representatives of OSCE countries in ongoing dialogue regarding strategies for transition economies.

As detailed in the section above, the Commission has been instrumental in advancing the U.S. initiative within the OSCE to strengthen efforts to combat **Corruption and Organized Crime** in the OSCE Region. In addition, Commission staff participated, as part of the U.S. delegation, in the Seventh Economic Forum and the concurrent Implementation Review Meeting held in Prague, May 25-28, 1999. The Forum addressed security aspects in the field of the environment and included review, with NATO representatives, of the NATO Pilot Study entitled "Environment and Security in an International Context." The priorities of the U.S. delegation were promoting inter-regional cooperation on transboundary water management, fostering development of energy efficiency and supporting greater public participation in environmental decision making.

Through regular meetings with government officials, economic experts and business people, both in the United States and abroad, the Commission appraises the progress of the implementation of economic dimension commitments and also serves as a resource for information about economic opportunities and potential obstacles in the region.

3. Basket III - Protection of Human Rights

The Commission is mandated to monitor participating States' compliance with provisions of the Helsinki Final Act and subsequent OSCE agreements, with particular attention on human rights. These human rights commitments encompass a broad array of issues, including the freedoms of speech, press, assembly, association and movement; religious liberties; and the treatment of persons belonging to national minorities. Although many of the abuses associated with the communist era have diminished or ceased, the post-communist era has ushered in different kinds of human rights problems, largely stemming from extreme nationalism and ethnic conflicts. Accordingly, the Commission continues to focus on those states where fundamental human rights violations are the most egregious—from the states in Central Asia where authoritarian governments prevail, to states in Central and Eastern Europe, where significant progress with respect to human rights has been made, but where democracy is still fragile and the rule of law does not yet have strong roots. Increasingly, the Commission has followed human rights developments in Western Europe, focusing largely on protection of the freedom of religion.

The Commission pursues this mandate in a variety of ways. First, specific instances of human rights abuses or shortcomings are raised with the violating country. Members of the Commission intercedes directly with that country's officials and representatives (at home and abroad), through correspondence (often joined by other Members of Congress); and Commissioners offer legislation, resolutions and statements. Concerns have been communicated to senior officials in **Azerbaijan, Belarus, Bulgaria, Croatia, Czech Republic, Greece, Hungary, Kazakstan, Romania, Russia, Slovak Republic, Turkey, Turkmenistan, Ukraine,** and **Uzbekistan**, among others. When warranted by improvements in the human rights situation, Commissioners drew positive attention to these developments as well.

Members of the Commission communicate their views to the Department of State and other relevant U.S. Government agencies, and, when necessary, seek to raise or improve the level of official U.S. engagement with specific countries, cases or issues, or on OSCE policies. Significantly, the work of the Commission has resulted in considerable success in helping to resolve individual cases of human rights violations, and in ameliorating specific problems in this fashion.

Hearings and briefings offer the most public forum to highlight violations of human rights. At times, Administration officials have testified on U.S. Government policies, and Commissioners have also utilized these hearings to press the Executive Branch to take more resolute actions where necessary. These hearings find an audience among other U.S. governmental agencies, non-governmental organizations, the media, the general public, and among the embassies and other officials of OSCE participating States. Moreover, the records of these public hearings are highly valued by human rights activists in countries which violate human rights as a tool for applying international pressure on their own officials. In 1999, the Commission held numerous detailed hearings and briefings on human rights abuses in countries and regions, including **Belarus, Bosnia, Croatia, Kazakstan, Kosovo, Macedonia, Russia (including Chechnya and Dagestan), Serbia and Montenegro, Turkey** and **Uzbekistan**. Hearings and briefings sometimes focused on specific issues, such as religious liberty, the political and economic transition of post-communist countries, property restitution in post-communist countries and trafficking of women and children.

Other vehicles used to raise concerns regarding human rights and democracy building are the Commission's authoritative implementation reports, statements by Commissioners printed in the *Congressional Record*, newspapers and journals, and public appearances by individual Commissioners and staff.

The Commission also fulfills its monitoring mandate through on-the-ground assessments to the most problematic areas. These official visits permit frank face-to-face discussions on specific problems with the leaders of these countries and are invaluable in communicating the need for improved human rights performance by the particular OSCE State, in keeping with their Helsinki commitments.

The Commission persistently interacts with non-governmental organizations and relies on information and expertise provided by the NGOs. At the same time, the Commission, through its events, contacts, reports, initiatives, statements and other means, brings appropriate issues before NGOs and the public, and provides interested experts and leaders from outside the government the opportunity to comment upon, discuss and recommend courses of action. The Commission also provides a valuable platform for NGOs to express their concerns. In turn, the Commission is uniquely positioned to bring the OSCE-related concerns of private citizens and groups to the attention of U.S. officials, the Congress, and especially representatives of other OSCE participating States.

Commission staff, through its presence at OSCE institutions and in its capacity as members of U.S. delegations to various OSCE meetings, has ensured that NGO human rights concerns are raised and reviewed, and have found expression in OSCE agreements. The Commission has worked consistently—and, to a great extent, successfully—to facilitate access by NGOs to OSCE meetings and follow-up activities, and to maximize their ability to participate in the OSCE process.

Legislative initiatives, in the 106th Congress, by Members of the Commission have focused on promoting democratic development in **Serbia and Montenegro**; the culpability of Serbia-Montenegro's President Slobodan Milosevic for war crimes, crimes against humanity and genocide; the need to return wrongfully confiscated property; egregious violations of human rights and lack of progress towards democracy and rule of law in **Belarus**; and concern about serious violations of human rights and fundamental freedoms in most states of Central Asia.

B. Providing Leadership at 1999 Review Conference in Vienna and Istanbul and the Istanbul Summit

The participating States of the OSCE met in Vienna, Austria (September 20 - October 1) and Istanbul, Turkey (November 8-10) for a two-part Review Conference to assess implementation of all OSCE commitments and for a Summit of Heads of State and Government in Istanbul (November 18-19). The Review Conferences, held periodically, are the participating States' principal venue for public diplomacy and are an important vehicle both for identifying continued areas of poor human rights performance and for shaping the OSCE decision-making process. Review Conferences also precede the OSCE's summits of Heads of State and Government.

The Commission's preparations for, contributions to, and participation in the Review Conference and the Summit were substantial and effective. Key Commission concerns including **religious liberty, anti-corruption, criminal defamation, trafficking in human beings**, and **torture** topped the U.S. delegation's agenda. In March, the Commission convened a hearing,"The Road to the OSCE Istanbul Summit and Human Rights in the Republic of Turkey," to examine U.S. policy and strategy for the Summit. In August, the Commission provided written views to the Department of State regarding the U.S. approach to the Review Conference and Summit, suggested specific human rights questions to be raised, and prospective public members. At the Review Conference, Commissioners Harold Hongju Koh and Patrick A. Mulloy served as Co-Heads of Delegation for the Istanbul portion, and the Senior Advisor to the Commission served as Co-Head of the U.S. delegation for the Vienna portion. Commission staff participated in all aspects of the U.S. delegation's work, including the preparation and delivery of U.S. interventions, bilateral meetings with other countries' delegations held to raise specific human rights concerns, meetings with non-governmental representatives, and consultations on the overall direction of OSCE human dimension and economic dimension activities.

Members of the Commission urged Secretary of State Madeleine Albright to move the corruption issue to the top of the agenda for the Economic Dimension of the Review Conference held in Vienna and Istanbul in preparation for the OSCE Summit of Heads of State or Government in Istanbul, Turkey, November 18 -19. The U.S. delegation to the Vienna portion of the Review Conference was Co-Headed by United States Ambassador to the OSCE David Johnson and Senior Advisor of the Commission Ambassador William Courtney. Under their leadership, the effort to focus the implementation review on the development of strategies the OSCE can undertake to help the participating States, particularly those in transition, to combat corruption and promote the rule of law and transparency in government was successful. This theme was then selected by the OSCE Chairman in Office as one of three specific topics to be reviewed during the three-day conference in Istanbul held immediately prior to the Summit.

As Co-Head of the U.S. delegation and Assistant Secretary of Commerce for Market Access and Compliance, Commissioner Mulloy proposed that the OSCE identify and approve a set of norms for action by governments to promote public integrity and good governance as well as to control official corruption and he pushed for the inclusion of language on corruption in the Istanbul Summit document. The Summit concluding documents recognized that corruption poses a great threat to the OSCE's shared values, generates instability and reaches into many aspects of the security, economic and human dimensions and tasked the Permanent Council to examine how best to contribute to efforts combating corruption and report on its efforts to the OSCE Ministerial Council at the end of 2000. Commission staff will participate in regular informal group meetings to develop OSCE strategies to combat corruption for recommendation to the Ministerial Meeting. Additional hearings on this topic, including its impact on reconstruction and rebuilding of civil society in the Balkans, will be held.

Commission staff including the Senior Advisor also served on the U.S. delegation for the Istanbul Summit and assisted with negotiations on human and economic dimension subjects, working successfully to ensure that the summit documents included language on **fighting trafficking in human beings**, particularly women and children; ending **corruption**; the eradication of **torture**; protection of **Roma**; and support for the democratic opposition in **Serbia-Montenegro**. The Commission published a report describing and evaluating the meeting for distribution electronically and in printed form. In all of these activities, the Commission drew on its institutional memory of the Helsinki process, its regional expertise, and its specialization in human rights matters to advance U.S. interests.

C. Active Player in Multilateral Diplomacy Through Participation on U.S. Delegations to OSCE Meetings

Commissioners and staff have participated on U.S. delegations to nearly all OSCE meetings, with the Commission Chairman and Co-Chairman at times acting as delegation Vice-Chairmen. The multilateral context affords the Commission a valuable tool in furthering its mandate to monitor and promote compliance by OSCE states with the commitments which they have freely undertaken. In particular, within the context of OSCE fora, specific violations of commitments are consistently raised directly with the States concerned.

At OSCE meetings, Commission staff participate as full members of the official U.S. delegation and have regular contact with delegations from other OSCE participating States. They convey the concerns of the United States in presentations at the formal, multilateral OSCE meetings, as well as in bilateral meetings on the margins of the larger gatherings. Participation in these meetings uniquely enables the Commission to contribute to the process of standard-setting and establishing OSCE priorities and goals to advance implementation of the OSCE commitments.

While the Commission is legally an independent agency of the U.S. Government, the fact that the Commission's leadership and membership is primarily provided by the Congress reinforces an understanding in foreign capitals that the Congress and the American people accord very high priority to respect for individual rights, including in international affairs. The Commission's bipartisan and bicameral nature, its tenure, and its relentless efforts reaffirm that respect for such rights is a matter of basic principle for Americans. Equally importantly, the Commission's work facilitates an understanding by foreign governments of the singular involvement of the U.S. Congress in foreign affairs, an aspect of American politics that is often not well understood overseas. (In fact, no other legislature of any other OSCE country has a body analogous to the Commission.)

Throughout 1999, the Commission was engaged in a number of important OSCE activities. The Commission's Staff Advisor to the U.S. Mission to the OSCE in Vienna, Austria, participated in all the meetings of the Permanent Council (the OSCE's main decision-making body) and its sub-groups, as well as re-enforced meetings of the Senior Council (a body of high-level representatives from capitals). She also traveled in May to **Turkmenistan, Uzbekistan, Kyrgyzstan** and **Kazakstan** as the U.S. representative on an OSCE/ODIHR delegation assessing implementation of the Office for Democratic Institutions and Human Rights (ODIHR) programs in Central Asia, as well as prospects for upcoming elections.

Commission staff participated in the three OSCE Supplementary Human Dimension Meetings, initiated by the OSCE in 1999 to serve as an annual vehicle to increase the Permanent Council's consideration of Human Dimension issues. Held in Vienna, the first three meetings focused on Religious Liberty (March), Gender Issues (June) and Romani Issues (September). The Commission issued a report on these meetings, including recommendations for improving the organization of this format. Commission staff also participated in and issued a report positively assessing the annual Warsaw Human Dimension Seminar in April, which in 1999 focused on "Human Rights, the Role of Field Missions." Other special OSCE sessions attended by the Commission staff included the annual meeting of the OSCE Economic Forum in Prague, which was held in May; the July re-enforced Permanent Council meeting on the European Security Charter for the OSCE Summit; and the December OSCE Mediterranean Seminar on the Implementation of Human Dimension Commitments, which was held in Amman, Jordan.

Commission staff also engaged heavily in preparations for, and participated as members of, the U.S. delegation to the Implementation Review Conference, part held in September in Vienna and the remainder in November in Istanbul. This included the preparation of virtually all U.S. statements for the Human Dimension portion of the conference and the delivery of many of them. Commission staff also remained in Istanbul for the Summit which followed the last portion of the Review Conference and participated in some of the ongoing negotiation of documents adopted at the Summit.

In July 1999, Commissioners participated in meetings of the **OSCE Parliamentary Assembly** (an institution in which the Commission has played a substantive role since the early 1990s). The 1999 Parliamentary Assembly meeting held in St. Petersburg, Russia, was attended by 14 Members of the House and three Members of the United States Senate, including seven Commissioners: Chairman Smith; Co-Chairman Campbell; Ranking Member Hoyer; and Commissioners Cardin, Slaughter, Salmon and Hutchison. In cooperation with the House International Relations Committee, the Commission provided staff support for the delegation's work in pressing human rights concerns and other matters of particular interest to the United States. Major U.S. initiatives in St. Petersburg included a resolution on the trafficking of women and children for the sex trade, an amendment stressing the need to combat corruption and organized crime as well as calling for the convening of an OSCE ministerial meeting on these issues, and a memorial resolution on the assassination of Russian Parliamentarian Galina Starovoitova who was an outspoken advocate of democracy and human rights. Members of the U.S. delegation also actively participated in a special plenary session on Kosovo and contributed to a draft resolution concerning the situation there. Commissioner Hoyer will be serving as Vice-President of the Assembly through 2001. Commission staff had participated in the St. Petersburg preparations, the primary agenda item for the April Expanded Bureau Meeting of the OSCE PA held in Copenhagen, Denmark.

VI. Commission Activities of Particular Note

A. Religious Liberty in the OSCE

The status of religious liberty in an increasing number of OSCE countries is deteriorating, not only in Central and East European nations still in transition but also in a number of West European countries, where religious intolerance is on the rise. In 1999, new religion laws were considered by the parliaments and governments of **Romania, Bulgaria, and Kazakhstan**. In Western Europe, **Belgium and Austria** instituted a sect observatory and **France**'s Inter-Ministerial Commission to Battle Dangerous Sects continued to investigate and issue reports on the magnitude of the "sect problem." In 1997, laws were passed by **Macedonia, Russia, and Austria** restricting religious practice and in 1998, **Uzbekistan** passed an extremely oppressive law criminalizing any unregistered religious meetings and instituting criminal penalties against religious speech intended to persuade the listener. All of these developments are or have the potential of becoming violations of the OSCE principles of religious freedom.

In 1999, the Commission continued to monitor these developments. The Commission held a hearing in June on "Religious Freedom in Western Europe: Religious Minorities and Growing Government Intolerance" and in October, a hearing on the "Status of Human Rights and Democratization in Uzbekistan," which focused on human rights violations, particularly religious liberty violations in **Uzbekistan**. Staff traveled to **Belgium, Austria and France, as well as Uzbekistan and Turkmenistan** to focus further and report on the violations of religious liberty. The Commission, in conjunction with the Law Library of Congress, compiled an extensive comparative legal analysis of the laws, constitutional provisions, and administrative decisions affecting religious liberty for 12 representative countries in the OSCE region. This report will be published in 2000. As mentioned earlier, the OSCE conducted a Supplementary Human Dimension Meeting on religious liberty in March 1999.

The Commission will continue to monitor the unfolding legal situation in Europe regarding religious liberty. The broader societal manifestations of intolerance toward minority religious and other groups will be watched, such as investigations by parliamentary commissions, media treatment, loss of legal status or tax-exempt status, and public harassment of minority religious and other groups. The treatment of minority groups by public institutions and the media are indicators that may point to eventual codification of intolerance in law, as is the case in **Russia, Uzbekistan, Macedonia, and Austria**. The level of governmental interference in religious organizations, such as investigations into religious practice, official government pronouncements on the bona fides of a group, and governmental determinations as to the legitimacy of a particular religious creed are all worrisome trends observed in law and in practice in various OSCE participating States. Ancillary issues, such as restrictions on religious speech and registration requirements tailored to limit religious association, will also be followed closely.

B. Romani Human Rights Issues

There are an estimated 8-10 million Roma dispersed throughout Europe and some demographers believe they are the fastest growing minority on the continent. During 1999, a number of developments drew increased international attention to their plight. First and foremost, in the aftermath of NATO engagement in **Kosovo**. Roma there were targeted for violent retribution by some ethnic Albanians who perceive Roma as the "co-conspirators" of the Serbs who had earlier persecuted them. Second, significant numbers of Roma have continued to leave Central and Eastern European countries – in addition to the Roma fleeing the conflict in the Balkans – to request asylum in Western countries. During 1999, an estimated 5,000 Roma left the Czech Republic because of alleged persecution; in July alone, some 1600 Slovak Roma requested asylum in Finland. Finally, Roma have become more active in bringing attention to the prejudice, discrimination and violence they face. For example, Romani non-governmental organizations coordinated a transnational protest when local officials in the Czech town of Usti nad Labem built a wall intended to segregate Roma from non-Roma residents.

Throughout 1999, the Commission played an active role in addressing these issues. Commissioners met with high-ranking officials from the **Czech Republic** and **Slovakia** and corresponded with officials from **Bulgaria, Hungary** and **Greece** regarding Romani human rights issues. Commissioners also wrote to President Clinton, Secretary of State Albright, Under Secretary Bonnie Cohen, and Assistant Secretary Harold Hongju Koh drawing attention to specific human rights concerns of Roma. Romani issues were raised by Commissioners at the 1999 hearing on property restitution issues and raised during the debate on Kosovo at the OSCE Parliamentary Assembly meeting in Saint Petersburg, Russia. The Commission ensured the inclusion of language on Romani human rights issues in the Istanbul summit documents and Commission-suggested amendments to the draft documents specifically raised the violation of the rights of Roma in Kosovo. A Commission staff delegation to Kosovo in November 1999 stressed to the international presence there the need to address this problem. Although Commissioners were especially active in raising negative developments, such as the violent attacks on Roma in Kosovo and the ghetto wall built in Usti nad Labem, they also drew pubic attention to the change in the Czech citizenship law – a long standing issue of concern for the Commission – which may enable tens of thousands of stateless Roma to gain citizenship.

C. Constitutional Crisis in Belarus

Another serious issue facing the OSCE region is the continuing constitutional crisis in **Belarus**. The legitimate Belarusian parliament was disbanded by authoritarian president Alexander Lukashenka after an illegal 1996 constitutional referendum which extended his term of office by two years to 2001. Lukashenka continues to hold the levers of power in Belarus, and to selectively crack down on opposition figures through arrests and disappearances. OSCE-encouraged efforts for constructive dialogue between the government and opposition have not produced results thanks to government intransigence. There is the possibility of elections for parliament to be held in the Fall. A Commission staff delegation accompanied Assistant Secretary of State and Helsinki Commissioner Harold Hongju Koh to Belarus in November 1999, raising concern about the state of human rights and democracy. A hearing including the Speaker of the legitimate 13th Supreme Soviet, other opposition figures in the parliament, and the Chairman of the OSCE Parliamentary Assembly working group on Belarus is scheduled for the Spring.

D. Unsettled Conflict in Nagorno-Karabakh

Commission staff also undertook on-the-ground assessment of the situation in **Azerbaijan**, which has been unable to resolve the Nagorno-Karabakh conflict. The parties to the dispute cannot agree on basic issues: **Armenia** and Nagorno-Karabakh insist on the territory's right to self-determination, while Azerbaijan holds fast to the principle of territorial integrity. The OSCE's Minsk Group devised a compromise plan in 1997, which Azerbaijan and Armenian President Ter-Petrossyan accepted as a basis for negotiations, but which Nagorno-Karabakh and Armenian leaders rejected, leading to the ouster of Ter-Petrossyan. Since the March 1998 election of Robert Kocharian as Armenia's president, OSCE negotiators have put forward a new plan, which Armenia and Nagorno-Karabakh accept but which Azerbaijan has rejected out of hand. The details of these plans and the poor prospects for a successful peace process were analyzed at length in Commission reports on the Armenian and Azerbaijani presidential elections. In 1999, Azerbaijani President Aliev decided that negotiations in the forum of the OSCE Minsk Group were leading nowhere and, with U.S. encouragement, tried to accelerate a resolution of the conflict through bilateral talks with Armenian President Kocharian. The two heads of state met regularly throughout the year. The Commission, in its report on Armenia's May 1999 parliamentary election, analyzed the probable reasons for Aliev's change of tactics, the inherent difficulties which negotiations in any forum would have to overcome for a successful resolution, and the prospects for success.

E. International Criminal Tribunal for the Former Yugoslavia

The Commission continued to bring public attention to the work of the International Criminal Tribunal for the Former Yugoslavia, located in The Hague. Although it is an organ of the United Nations, efforts to hold war criminals personally accountable for their actions are inextricably tied to initiatives of the OSCE. A staff prepared briefing paper on the work of the Tribunal is published periodically. Several Commissioners were active in maintaining the legislative restriction on U.S. assistance going to localities where persons indicted by the Tribunal are strongly believed to be moving about at large.

VII. Reporting on Critical Elections and Selected Current Political Developments

With the fall of the Berlin Wall in 1989, the communist regimes of Central and Eastern Europe and the Soviet Union began the historic process of opening up their societies and moving toward the establishment of democratically elected political institutions. The Commission has monitored this democratization process of holding parliamentary and presidential elections, and constitutional and independence referendums. The Commission focuses more intently on those countries where democratic reform is still incomplete; for those countries which have made the transition to fully functioning democracies, election monitoring is no longer necessary.

At one time it was widely assumed that, after one or maybe two multi-party elections, the need for election monitoring would subside, as confidence in the electoral systems would grow. This has proven not to be the case, as many ruling parties — and not necessarily the former communist parties — have frequently created conditions for new elections that fell far short of being free and fair. In some cases, the first multi-party elections held were more in accord with OSCE provisions on elections than subsequent elections. Thus, the Commission has considered it necessary to observe elections several times in some countries, and has been obliged to report less than satisfactory progress in specific cases.

The Commission staff finds that the 1997 agreement between the OSCE Parliamentary Assembly and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) on coördinating election observation efforts continues to work well. Commission staff have stressed, however, that coordination should not be replaced by control, and that no one organization should monopolize the international election observation effort.

While a number of other U.S. and international organizations send observers to monitor elections and referendums, the Commission's role in this process has been unique and of genuine political importance. The presence of Commission observers, whether Members or staff, demonstrates to the people and electoral officials in emerging democracies the high priority that the U.S. Congress places on the transition to democracy and independence through the process of free and fair elections. No other institution in the U.S. Government has developed and maintained such a comprehensive and effective election monitoring effort from 1990 to the present as has the Helsinki Commission. This achievement has been widely acknowledged in the United States and within the OSCE community and, most importantly, has gained the respect of both the voters and the authorities in the new democracies and independent states.

A critical complement to the Commission's on-site monitoring and the high-profile presence of U.S. congressional observers are the follow-up activities in Washington which the Commission pursues upon completion of its election monitoring abroad. This follow-up includes a timely initial notification to the Congress of the results and political significance of the election, followed by a more in-depth analytical report. These reports are provided to the Congress, Executive Branch officials, and a diverse list of academics, public policy researchers, embassies, and many researchers around the world who access them electronically.

One election concern which the Commission has raised forcefully with relevant officials in recent years was the continued reluctance of many OSCE states to permit domestic, civic organizations to observe elections held in their own country. While the right to do so is not explicit in OSCE commitments, a positive reference to such observation implies that it should be permitted unless there is good reason not to do so. Opposition to domestic observers reflects an unwillingness to encourage fledgling civic consciousness in societies still far from being tolerant and democratic. There was some improvement in the openness shown for civic domestic observers in the 1999 elections.

The Commission has garnered a reputation over the years of being the most ardent guardian of such a standard for internationally monitored elections and has held back several initiatives from other countries that would have weakened the standard.

Elections Observed in 1999

In 1999, Commission staff observed two elections in **Kazakstan**: the presidential election in January and a parliamentary election in October. Unfortunately, both demonstrated the determination of President Nazarbaev to remain in power and to eliminate all serious non-communist opposition from participation in Kazakstan's electoral exercises. The OSCE, having determined that it would be impossible to hold a presidential election that could meet OSCE standards, because the leading opposition politician had been excluded, refused to send an observation mission, dispatching a small reporting mission instead. It concluded that the election fell far short of OSCE standards. Desirous of getting a full observation mission for the parliamentary election, Kazakstan's authorities made a show of election reform. OSCE did send an observation mission but its assessment was that overwhelming and pervasive interference in the process by the authorities produced an election that fell quite short of OSCE standards.. The Helsinki Commission concurred with these assessments.

Commission staff observed **Armenia**'s parliamentary election in May. Several previous elections in Armenia had been marred by serious irregularities. The OSCE/ODIHR noted improvements, especially the government's respect for freedom of speech, parties' ability to campaign freely, provision for domestic observers and the neutrality of media coverage. But serious reservations remained, especially about voter lists; on election day, country-wide problems kept thousands from casting their ballots. Apart from this serious problem, a pre-election alliance between the country's most influential politician – Defense Minister Vazgen Sargsian – and most popular politician – Karen Demirchian – essentially sealed the outcome in advance , with the victory of their bloc and Helsinki Commission observers felt the process continued to be controlled from above. While the outcome of the election created a balance of power among Sargsian, Demirchian and President Kocharian, the stunning assassination of Sargsian and Demirchian on October 27 has left a virtual vacuum of power and great uncertainty in its wake. Pre-term presidential elections may be held in 2000.

Georgia held a parliamentary election on October 31. President Eduard Shevardnadze's pro-Western, pro-market ruling party, the Citizens Union, faced a serious challenge from the pro-Russian Batumi Alliance, which promised to reexamine market reforms. Considering how tight and tense the race was, the Citizens Union won a surprisingly large victory and most opposition parties have refused to accept the official results, claiming widespread fraud. Nevertheless, the OSCE called the election a "step towards" compliance with OSCE commitments. In the Helsinki Commission view, there were serious problems with the election, but the strongly pro-Russian stance of the Batumi Alliance did undermine its chances, contributing to the CUG's victory. The election's outcome virtually ensures President Shevardnadze's reelection in April 2000.

Ukraine's October 31 - November 14 election was also observed. While there were violations of Ukraine's elections law and OSCE commitments on democratic elections, especially during the second round, these did not have a decisive affect on the outcome, given incumbent President Kuchma's substantial margin of victory over the communist candidate. While the West welcomed the Ukrainian people's rejection of communism and any plans to reinvent a Soviet or Russian empire, the lack of economic reforms, as well as inappropriate governmental involvement in the election campaign, dampened Western exuberance. The appointment of a new, reformist Prime Minister has given some grounds for cautious optimism.

Elections were held in the Caucasus and Central Asia which the Commission decided not to observe, because the human rights situation is so poor that it would be impossible to hold an election that might meet even the most minimal standards. These included the parliamentary elections in

Uzbekistan and **Turkmenistan** (both in December). The Commission will analyze those elections, based on OSCE accounts of what transpired

Commission staff observed both the first and second rounds of the **Macedonia** presidential election in October and November. In 1998, an improved electoral system facilitated a change in the governing coalition to one which seemed prepared to settle many of the country's inter-ethnic differences. It was hoped that the presidential election would show even further improvements in electoral administration. Unfortunately, while the election was administered well throughout most of the country, in some areas – predominantly in Albanian-inhabited western part of the country – there was numerous evidence of election fraud in the first round, which grew even worse rather than better in the second, causing a significant number of polling stations to have reruns of the second round in December. These problems reflected antagonisms based largely on the repercussions of the Kosovo conflict for inter-ethnic relations in Macedonia, which came to the fore during the election campaign.

Parliamentary elections in **Croatia** were originally scheduled for Croatia in 1999, but the death of Croatian President Franjo Tudjman in December led to the postponement of the elections to January 3. Commission staff followed the lead-up to the elections closely, and the Commission leadership pressed Croatian officials to create a more transparent electoral system and to loosen their controls on the media. Many improvements were made, and the Commission traveled to Croatia at year's end to observe the election which, as a result of these improvements, allowed more democratic forces to defeat the ruling party which had imposed a nationalist authoritarianism on Croatia for almost a decade.

VIII. Role of Commission in Public Diplomacy

The Commission continues to be an active and highly effective proponent of public diplomacy, reaching out to the private sector, think tanks, public groups and individual citizens to explain and promote the principles, activities and objectives of the OSCE. Members and staff attend public fora, participate in panel discussions, and make media appearances in an effort to heighten public awareness of the Helsinki process and of issues of concern in specific OSCE participating States and engage both organizations and private citizens in the promotion of European security and cooperation. Again, these activities reinforce in the public mind the leadership of the Congress on individual rights issues the American people care about very deeply.

The Commission has been particularly effective in introducing private citizens directly into the activities of the OSCE by proposing public members of U.S. delegations to OSCE meetings, seminars and specialized events. Under the guidance and assistance of Commission staff, these private citizens have made an important contribution to these meetings and have acquired for themselves a unique awareness of the value and mission of the OSCE.

IX. Summary of 106th Congress, First Session Hearings, Briefings, Reports and Congressional Delegations

A. Hearings

Whither Human Rights in Russia? (January 15, 1999)
The Road to the OSCE Istanbul Summit and Human Rights in the Republic of Turkey (March 18, 1999)
The Long Road Home--Struggling for Property Rights in Post-Communist Europe (March 25, 1999)
Atrocities and the Humanitarian Crisis in Kosovo (April 6, 1999)
Belarus--Back in the USSR? (April 27, 1999)
The State of Human Rights and Democracy in Kazakstan (May 6, 1999)
Accountability for War Crimes: Progress and Prospects (May 11, 1999)
Religious Freedom in Western Europe: Religious Minorities and Growing Government Intolerance (June 8, 1999)
The Trafficking of Women and Children in the United States and Europe (June 28, 1999)
Bribery and Corruption in the OSCE Region (July 21, 1999)
Democratization and Human Rights in Uzbekistan (October 18, 1999)
The Chechen Crisis and its Implications for Russian Democracy (November 3, 1999)

B. Briefings

Bosnia, Croatia, Macedonia, and Serbia: The Political and Electoral Outlook for 1999 (January 8, 1999)
Civil Society, Democracy and Markets in East Central Europe and the NIS: Problems and Perspectives (February 18, 1999)
Deputy Shishlov: The Decline in Human Rights, Rule of Law, Religious Liberty, and Environmental Safety in Russia Today (March 24, 1999)
Serbia, Montenegro and Kosovo: The Views of Local Human Rights Advocates (May 12, 1999)
Human Rights in Russia's Regions (September 9, 1999)
The Situation in Dagestan (September 17, 1999)
Ukraine Elections Briefing (October 15, 1999)

C. Commission Reports Released in 1999

Macedonia's Parliamentary Elections (October 18 and November 1, 1998)
Elections in Bosnia-Herzegovina (September 12-13, 1998)
Report on Kazakstan's Presidential Election (January 10, 1999)
The OSCE/ODIHR Seminar Human Rights: The Role of Field Missions
Selected Reporting on Romani Human Rights from the U.S. Department of State's Annual Country Reports on Human Rights for Calendar Year 1998
Legal Status of Religious Groups in the United States (A Brief Overview)
Report on Armenia's Parliamentary Election (May 30, 1999)
Kazakstan's Parliamentary Elections (October 10, 1999)
The 1999 Supplementary Human Dimension Meetings
U.S. Interventions at the OSCE Review Conference (September 20 - October 1, 1999)
Ukraine's Presidential Elections (October 31 and November 14, 1999)
Georgia's Parliamentary Elections (October 31, 1999)
Macedonia's Presidential Elections (October 31, 1999; November 14 and December 5, 1999)

War Crimes Prosecutions before the International Criminal Tribunal for the Former Yugoslavia (a periodically updated briefer, issued in April, July and August 1999)

D. Congressional Delegations

Austria, January 13 - 16, 1999, Commissioner Steny H. Hoyer participated in the Standing Committee of the OSCE Parliamentary Assembly.

Appendix (A) List of Commissioners

Legislative Branch Commissioners

Senate	House
Ben Nighthorse Campbell, Colorado Co-Chairman	Christopher H. Smith, New Jersey Chairman
Kay Bailey Hutchison, Texas	Frank R. Wolf, Virginia
Spencer Abraham, Michigan	Matt Salmon, Arizona
Sam Brownback, Kansas	James C. Greenwood, Pennsylvania
Tim Hutchinson, Arkansas	Joseph R. Pitts, Pennsylvania
Frank R. Lautenberg, New Jersey	Steny H. Hoyer, Maryland
Bob Graham, Florida	Benjamin L. Cardin, Maryland
Russell D. Feingold, Wisconsin	Louise McIntosh Slaughter, New York
Christopher J. Dodd, Connecticut	Michael P. Forbes, New York

Executive Branch Commissioners

Harold Hongju Koh, Department of State
Edward L. Warner III, Department of Defense
Patrick A. Mulloy, Department of Commerce

Appendix (B)

COMMISSION ON SECURITY AND COOPERATION IN EUROPE STAFF

Dorothy Douglas Taft	Chief of Staff
Ronald J. McNamara	Deputy Chief of Staff
(Vacant)	Senior Advisor (from Department of State)
Elizabeth M. Campbell	Office Administrator *Budget Officer* *Congressional Delegation and Staff Travel Coordinator* *Intern Coordinator*
Orest S. Deychakiwsky	Staff Advisor *Belarus, Bulgaria, Ukraine* *Security Officer* *NGO Liaison* *Human Contacts, Emigration*
John J. Finerty	Staff Advisor *Estonia, Latvia, Lithuania, Moldova, Russia*
Chadwick R. Gore	Staff Advisor *Cyprus, Greece, Turkey, Mediterranean Partners* *Press Freedom Issues* *Election Issues* *Secretary, U.S. Delegation to OSCE Parliamentary Assembly*
Robert A. Hand	Staff Advisor *Albania, Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia* *OSCE Large Scale Missions*
Janice Helwig	Staff Advisor to the U.S. Mission to the OSCE (Vienna, Austria) *Central Asia, OSCE PA, Roma, OSCE Field Activities and Structural Issues*

Marlene Kaufmann	Counsel *Romania* *Economics, Trade, Technology, Environment Issues* *Economic Forum and Anti-Corruption Initiatives*
Sandy List	GPO Liaison - Printing Clerk
Karen Lord	Counsel for Freedom of Religion
Michele Madasz	Staff Assistant/Systems Administrator *Publications Coordinator* *Computer Systems Manager*
Michael J. Ochs	Staff Advisor *Armenia, Azerbaijan, Georgia, Kazakstan, Tajikistan, Turkmenistan, Kyrgyzstan, Uzbekistan*
Erika B. Schlager	Counsel for International Law *Czech Republic, Poland, Slovakia* *Romani Human Rights* *Prevention of Torture* *The International Criminal Tribunal for the Former Yugoslavia and other international organizations* *OSCE Issues (human dimension; institutional questions)*
Maureen Walsh	General Counsel *Human Rights affecting Women* *Hungary* *International Law, Property Rights, Trafficking Issues*
(Vacant)	Communications Director *DIGEST Editor* *Security and Conflict Prevention Issues*

Appendix C

OSCE Participating States
as of February 2000

Albania	Observer as of 6/90; Fully participating State since 6/91
Andorra	Fully participating State since 4/96
Armenia	Fully participating State since 1/92
Austria	Original participating State
Azerbaijan	Fully participating State since 1/92
Belarus	Fully participating State since 1/92
Belgium	Original participating State
Bosnia-Herzegovina	Fully participating State since 4/92
Bulgaria	Original participating State
Canada	Original participating State
Croatia	Observer as of 1/92; Fully participating State since 3/92
Cyprus	Original participating State
Czech Republic	As Czechoslovakia, original participating State; fully participating State as the Czech Republic since 1/93
Denmark	Original participating State
Estonia	Fully participating State since 9/91
Finland	Original participating State
France	Original participating State
Georgia	Fully participating State since 3/92
Germany	Originally participated as Federal Republic of Germany and the German Democratic Republic
Greece	Original participating State
The Holy See	Original participating State
Hungary	Original participating State
Iceland	Original participating State
Ireland	Original participating State
Italy	Original participating State
Kazakstan	Fully participating State since 1/92
Kyrgyzstan	Fully participating State since 1/92
Latvia	Fully participating State since 9/91
Liechtenstein	Original participating State
Lithuania	Fully participating State since 9/91
Luxembourg	Original participating State
Malta	Original participating State
Macedonia	Observer as of 4/93; Fully participating State as of 10/95
Moldova	Fully participating State since 1/92
Monaco	Original participating State
Netherlands	Original participating State
Norway	Original participating State
Poland	Original participating State

Portugal	Original participating State
Romania	Original participating State
Russia	Succeeded Soviet Union as fully participating State, 1/92
San Marino	Original participating State
Slovak Republic	As Czechoslovakia, original participating State; as Slovak Republic, Fully participating State since 1/93
Slovenia	Observer as of 1/92; Fully participating State since 3/92
Spain	Original participating State
Sweden	Original participating State
Switzerland	Original participating State
Tajikistan	Fully participating State since 1/92
Turkey	Original participating State
Turkmenistan	Fully participating State since 1/92
Ukraine	Fully participating State since 1/92
United Kingdom	Original participating State
United States	Original participating State
Uzbekistan	Fully participating State since 1/92
Yugoslavia	Original participating State; membership suspended as of 7/92

Partners for Cooperation

Japan
South Korea

Mediterranean Partners for Cooperation
(formerly Non-participating Mediterranean States)

Algeria
Egypt
Israel
Jordan (as of 5/98)
Lebanon*
Libya*
Morocco
Syria*
Tunisia

* These countries, originally designated as Non-participating Mediterranean States, have not participated in OSCE activities since the balance of the group was reconstituted as "Mediterranean Partners for Cooperation" pursuant to a decision of the Permanent Council, December 7, 1995.

EXECUTIVE ORDER

COMMISSION ON WORKERS, COMMUNITIES AND ECONOMIC CHANGE IN THE NEW ECONOMY

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Establishment. There is established the Commission on Workers, Communities and Economic Change in the New Economy ("Commission"). The Commission shall be comprised of not more than 15 persons appointed by the President from individuals who are representatives of State or local agencies relating to workforce development or community economic development, workforce development professionals and educators, labor organizations (chosen from representatives who are nominated by a national labor federation), business leaders and Members of Congress. In addition, the Secretaries of the Treasury, Labor, Commerce and Housing and Urban Development shall serve as non-voting ex-officio members of the Commission. The President shall appoint a chairperson from among the voting members of the Commission.

Sec. 2. Functions. The Commission shall conduct a study of matters relating to economic dislocation and worker and community adjustment to such dislocations. In carrying out this study, the Commission shall examine:

(a) the impact of international trade, technology, globalization and the changing nature of work on both workers and their communities;

(b) the effectiveness of existing programs at the Federal level in assisting workers and communities in adjusting to economic change, including the adequacy of the design of such programs and resources devoted to such programs;

(c) the strategies for providing workplace education and training to assist workers in acquiring new skills;

(d) the strategies for assisting communities to adjust to changing economic conditions and the changes in the mix of employment opportunities in those communities;

(e) the role of public-private partnerships in implementing job training and community assistance; and

(f) the role of income support and economic security programs in facilitating worker adjustment in rapidly changing economic circumstances.

Sec. 3. Report. Not later than12 months after the first meeting of the Commission, the Commission shall prepare and submit to the President and the Congress a report that contains:

(1) a detailed statement of the findings and conclusions of the Commission relating to the study carried out under Section 2;

(2) a compendium of best practices and policies carried out by employers and public-private partnerships in providing workers with the education and training needed to effectively adjust to economic change;

(3) a compendium of best practices and policies carried out by or on behalf of communities in responding to large-scale economic changes; and

(4) any recommendations relating to legislative and administrative actions that the Commission determines to be appropriate.

Sec. 4. Administration. (a) Members of the Commission shall serve without compensation for their work on the Commission. While engaged in the work of the Commission, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

(b) The Department of Labor shall provide the commission with funding and administrative support. The Commission may have paid staff including detailees from Federal agencies. The Secretary of Labor shall perform the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General services.

Section 5. General Provisions. The Commission shall terminate 30 days after submitting its report.

Major Provisions of Jackson-Vanik II

Jackson-Vanik II preserves the human rights monitoring that is central to the original Jackson-Vanik while removing the trade sanctions that could violate WTO rules. Unlike the President's legislation, this bill does not throw out the human rights baby with the bathwater of trade sanctions.

Under Jackson-Vanik II the President must report to Congress semi-annually on the human rights standards and practices of countries currently covered by Jackson-Vanik. Congress may then adopt a joint resolution concurring with the President's assessment or taking issue with it. The joint resolution would be considered under the same expedited procedures currently provided by Jackson-Vanik.

If Congress and the President do not agree that that a country protects fundamental human rights, then as under current Jackson-Vanik that country becomes ineligible for participation in U.S. Government credit programs.

The President has the authority to waive a country's ineligibility access to credit facilities, if he determines that such a waiver would promote human rights in that country and U.S. national security interests. In that event as under current Jackson-Vanik, Congress has an additional opportunity to overrule the President's waiver by joint resolution.

A BILL

To promote political, economic, social, and religious freedom in certain countries.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Jackson-Vanik II Act".

SEC. 2. PRESIDENTIAL CERTIFICATION OF HUMAN RIGHTS:

(a) SUBMISSION OF REPORTS TO CONGRESS.—On or before each June 30 and December 31 following the enactment of this Act, the President shall submit to the Congress a report, with respect to each country that was subject to title IV of the Trade Act of 1974 on January 1, 2000, setting forth the President's conclusion (or his inability to reach such a conclusion) that such country does not—

(1) deny its citizens the right or opportunity to emigrate;

(2) impose more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever;

(3) impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his or her choice;

New, (4) deny religious freedom, including the right to worship free of involvement of and interfere by the government;

(5) incarcerate political opponents of the government as punishment for such opposition;

(6) incarcerate persons as punishment for exercising or advocating their human rights (includin those described in this Act);

(7) subject its citizens to torture or to cruel, inhuman punishment;

(8) deny its citizens equal protection under the law;

(9) impose or tolerate forced abortion as a matter of official or unofficial policy;

(10) subject its citizens to arbitrary arrest, detention, or exile;

(11) deny its citizens the right to fair and public hearings by an independent and impartial tribunal for the determination of a citizen's rights and obligations, or for the adjudication of any criminal charge against a citizen;

(12) deny its citizens the right to freedom of movement and residence within the borders of the country;

(13) deny its citizens the right to own property, both alone or in association with others;

(14) arbitrarily deprive its citizens of property;

(15) deny its citizens freedom of opinion and expression, both public and private;

(16) deny its citizens the freedom to peacefully assemble and associate;

(17) deny its citizens free choice of employment;

(18) deny its citizens humane working conditions;

(19) deny its citizens equal pay for equal work; or

(20) deny its citizens the right to form or to join trade unions.

(b) SPECIFIC INFORMATION IN REPORTS.—The President's report under subsection (a) with respect to a country shall include specific information as to the nature and implementation of laws or policies concerning the human rights set forth in subsection (a), and as to restrictions applied to or discrimination against citizens exercising any of the rights set forth in subsection (a).

SEC. 3. JOINT RESOLUTION OF CONCURRENCE OR DISAPPROVAL, IN WHOLE OR IN PART.

during 6 mos. of on. year.

(a) TIME OF INTRODUCTION.— At any time during the three-month period on or after the date the President is required to transmit to the Congress a report under section 2 of this Act, any member of the House or Representatives and any member of the Senate may introduce a resolution under this section.

(b) CONTENTS OF JOINT RESOLUTION.—For purposes of this Act, the term "resolution" means only a joint resolution of the two Houses of Congress, the subject matter of which is exclusively the concurrence of the Congress with, or the disapproval by the Congress of, in whole or in part, a report transmitted to the Congress (or which was required to have been transmitted to the Congress, but was not so transmitted) under section 2 of this Act, and the reasons for such concurrence or disapproval.

SEC. 4. CERTAIN SUBSIDIES CONDITIONED ON RESPECT FOR HUMAN RIGHTS.

Ex. IM

Notwithstanding any other provision of law, no country that was subject to title IV of the Trade Act of 1974 on January 1, 2000, may participate in a program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, unless within the preceding six months the President shall have issued a report to the House of Representatives and the Senate with respect to such country under section 2 of this Act setting forth the President's conclusion that such country does not abridge any of the human rights enumerated in that section, and unless the Congress has concurred in whole with the portions of such report concerning such country through the enactment of a joint resolution described in sections 3 and 6 of this Act.

SEC. 5. WAIVER AUTHORITY OF PRESIDENT.

(a) PREDICATE FOR WAIVER AUTHORITY.—If under section 4 of this Act, notwithstanding the President's timely issuance of a report concluding that a particular country does not abridge any of the human rights enumerated in section 2 of this Act, such country becomes ineligible for participation in any program of the Government of the United States, the President is authorized to waive by Executive order the application of section 4 with respect to such country, if the President reports to the Congress that the President—

all 3 needed.

(1) has determined that such waiver will substantially promote human rights in such country;

(2) has determined that such waiver will substantially promote the national security of the United States; and

(3) has received assurances, which the President deems reliable and satisfactory, that the existing laws and policies of that country will substantially promote advances towards protection of human rights.

(b) REQUIREMENTS FOR WAIVERS.—A waiver with respect to any country shall be effective only upon transmittal to the House of Representatives and the Senate. In the event a waiver with respect to a particular country is issued following the enactment of a joint resolution of disapproval in whole or in part concerning such country in accordance with sections 3 and 6 of this Act, such transmittal must be made no later than 10 days after the enactment of the joint resolution. A waiver under this section with respect to a particular country may be issued at any time if, during the period since the preceding June 30 or December 31, no joint resolution under sections 3 and 6 of this Act with respect to such country has been enacted.

(c) EFFECTIVE PERIOD FOR WAIVERS.—A waiver under this section shall become ineffective upon the subsequent enactment of a joint resolution with respect to such country in accordance with sections 3 and 6 of this Act.

SEC. 6. PROCEDURES FOR CONGRESSIONAL CONSIDERATION OF RESOLUTIONS UNDER THIS ACT.

(a) REFERENCE TO COMMITTEES.—All resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations, and all resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(b) DISCHARGE OF COMMITTEES.—

(1) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution introduced with respect to the same matter, except that a motion to discharge—

(A) may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so; and

(B) is not in order after the committee has reported a resolution with respect to the same matter.

(2) A motion to discharge under paragraph (1) may be made only by an individual favoring the resolution, and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. A motion to recommit the resolution shall not be in order. Only an amendment to a resolution which is limited to striking out all references to one or more countries shall be in order. Debate in the House of Representatives on any amendment to a resolution shall be limited to not more than 1 hour, which shall be equally divided between those favoring and those opposing the amendment. A motion in the House to further limit debate on an amendment to a resolution is not debatable. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolution in similar circumstances.

(d) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his or her designee. Such leader, or either of them, may, from time under their control on the passage of a resolution, allot addition time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. A motion to recommit a resolution is not in order in the Senate.

(5) No amendment is in order except for any amendment to a resolution which is limited to striking out all references to one or more countries. The time limit on debate on a resolution in the Senate under paragraph (2) shall include all amendments to a resolution. Debate in the

Senate on any amendment to a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or his or her designee. The majority leader and minority leader may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to a resolution is not debatable.

(e) PROCEDURES IN THE SENATE.—

(1) Except as otherwise provided in this section, the following procedures shall apply in the Senate to a resolution to which this section applies:

(A) Except as provided in subparagraph (B), a resolution that has passed the House of Representatives shall, when received in the Senate, be referred to the Committee on Foreign Relations for consideration in accordance with this section.

(B) If a resolution to which this section applies was introduced in the Senate before receipt of a resolution that has passed the House of Representatives, the resolution form the House of Representatives shall, when received in the Senate, be placed on the calendar.

(2) If the texts of resolutions concerning any matter are not identical—

(A) the Senate shall vote passage on the resolution introduced in the Senate, and

(B) the text of the resolution passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the resolution passed by the House), be substituted for the text of the resolution passed by the House of Representatives, and such resolution, as amended, shall be returned with a request for a conference between the two Houses.

(3) Consideration in the Senate of any veto message with respect to a resolution, including consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(f) CONSIDERATION OF SECOND RESOLUTION.—It shall not be in order in either the House of Representatives or the Senate to consider a resolution with respect to a report of the President under section 2 if a resolution has already been enacted with respect to a particular country; provided that if following the enactment of such a resolution with respect to a particular country the President issues a waiver for such country under this section, then it shall be in order in either the House of Representatives or the Senate to consider a joint resolution of disapproval under the procedures set forth in this section. A joint resolution of disapproval, for purposes of this subsection, means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the waiver contained in the Executive Order transmitted to the Congress on ___ with respect to ____.", with the first blank being filled with the appropriate date, and the second blank space being filled with the names of those countries with respect to which the waiver is not approved.

(g) PROCEDURES RELATING TO CONFERENCE REPORTS IN THE SENATE.—

(1) Consideration in the Senate of the conference report on any joint resolution described in subsection (a), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection

therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(2) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between and controlled by, the manager of the conference report and the minority leader or his or her designee. No amendment to any amendment in disagreement shall be received unless it is a germane amendment.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, including the waiver authority contained in section 5, shall be effective upon the date of its enactment.

(b) EFFECTIVE DATE FOR INITIAL PRESIDENTIAL REPORT.—The Presidential reporting requirements of sections 4 and 5 shall be effective on July 1, 2001.

DRAFT-FOR DISCUSSION PURPOSES ONLY

April 28, 2000

The Honorable Sander M. Levin
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, D.C. 20515

Dear Sandy:

For a number of months you have worked to move the discussion surrounding granting China Permanent Normal Trade Relations (PNTR) to be more responsive to the concerns expressed by many Americans. Some have insisted on looking at this process as an isolated vote on PNTR, it is clear that the actions required of this Congress must go beyond simply approving the proposed PNTR status. This vote will, in fact, shape our relationship with the world's most populated country and redefine this nation's economy for generations to come. That is why your efforts to expand the discussion to ensure that our potential partnership addresses more than just an annual review is critical to this process. For example, your proposed legislation to establish a body to review the progress made on human rights protections has moved the China PNTR debate forward.

I would hope that at the end of the day that I would be able to vote for the PNTR for China. However, for that to occur it is essential that PNTR be tied to the successful inclusion of the issues you have raised. That would include not only the human rights monitoring legislation but also the codification of safeguards and prioritizing of trade and environment in our country's WTO strategy.

As we have talked about frequently, we also must make progress in our own domestic trade laws consistent with our WTO commitments and our bi lateral agreement with China.

If we step back from the debate of the moment, it is clear that significant gaps remain in the WTO and our own International Trade Commission's (ITC) inclination and ability to adequately monitor, protect and enforce international trade standards and law. This country's manufacturing and export community have had to endure WTO and ITC delays and convoluted interpretation of trade laws designed to protect economic interests from unfair and illegal practices. It is especially disturbing when the very organization that was created to ensure equitable trade for this country's interests, the ITC, continues to make decisions counter to the administration's, 1999, Steel Action Program, stance of a policy of "zero tolerance" for unfair trade. This has most recently occurred in March of this year when the ITC denied relief to the U.S. steel industry and its workers in the cold-rolled cases even after the Department of Commerce had found 12 countries were dumping at substantial margins. These continued decisions by the ITC give little assurance for help for American industry and workers as we debate the China PNTR issue.

I have brought to your attention the needed legislative changes included in HR 1505. That legislation was filed by Congressman English and me in response to the illegal steel dumping in 1999. I believe it is essential that, at a minimum the changes in Sec. 201 and the issues concerning captive production be addressed in the PNTR legislation. Although not included in HR 1505 there are other legislative issues that I should mention:

First, we must address the special sunset rule for endemic dumping and or subsidization. The new sunset review provisions require that antidumping and countervailing duty order be revoked, and suspended investigations terminated, after five years unless revocation or termination would be likely to lead to a continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. These laws must remain in effect as effective tools for relief against foreign, unfair trade practices.

Second, we must create a WTO Dispute Settlement Review Commission to review settlement rulings.

There is one matter that the administration can do without legislation that would be very helpful to domestic steel and consistent with the assurances made in 1999. Specifically, the administration could elect to file an amicus brief in favor of the domestic steel industry's position as to the interpretation of the captive production provisions in the appeal of the ITC cold-rolled decision.

Sandy, I have talked to many of our colleagues who support PNTR to see whether the issues I have raised would cause concern to proponents. Quite frankly, I have found no opposition. As you recall, the House voted by overwhelming numbers to help steel from illegal dumping in 1999. I believe we could develop legislation that would not jeopardize any of the votes of those members who already support PNTR. Such legislation would only help with the undecided members.

There should be some way that my concerns can be met and if so I will support PNTR.

Sincerely,

Benjamin L. Cardin
Member of Congress

BLC:dc

UNCLASSIFIED FAX
FROM THE NATIONAL SECURITY COUNCIL
AND THE NATIONAL ECONOMIC COUNCIL
OF THE WHITE HOUSE

SENDER: MALCOLM LEE, **INTERNATIONAL GROUP**

WH PHONE: 202-456-9299 ____ PAGES INCLUDING COVER SHEET
WH FAX: 202-456-9290

SUBJECT: Brief Summary of Republican Requests + Rec. Comments

TO:	**FAX:**	**PHONE:**
Novick	5-3639	

X = No
✓ = Yes

UNCLASSIFIED FAX

PROVISION BY PROVISION

1. Proposal: Clarify that "domestic producers" means "domestic producers as a whole..." (i.e., domestic industry).

   Cite: P. 28, L. 16 (All citations are to LEVIN.038 draft (Friday cob.)

2. Proposal: Include provision that would require an industry to wait two years after the ending point of relief before it could bring another action. Provision contained in section 202(j). THIS IS NOT INCLUDED IN SECTION 406.

   Cite: P. 29, L. 14-16.

   Note: The rationale under 201 is different from the rationale under 406 – in case of a nonmarket economy, production decisions are a matter of social policy rather than supply and demand, and the result may be overcapacity, as in the case of Chinese steel, with consequence of an immediate surge, even (if not especially) right after relief has been lifted.

3. Proposal: Add to definition of "significant cause" ("a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause"), the following language from section 201: "the Commission shall examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry..."

   Cite: P. 30, L. 22.

   Note: This is not a part of section 406, not part of section 406 standard (which draft included verbatim) and imposes an additional burden on the petitioning industry – therefore, disrupts balance of draft. We have agreed to remove language at p. 31, ls. 9-11, which comes from nearby section, for consistency.

✓4. Proposal: Add provisions for dissenting Commissioners to provide additional or dissenting views.

Cite: P. 32, Ls. 4 & 17.

✓5. Proposal: Add provision from section 201 that requires Commission to prepare analysis of medium to long term impact of providing relief on industry and also consumers etc.

Cite: P. 32, L. 17ff.

✓6. Proposal: Technical clarification that if agreement reached with China does not remedy market disruption, full anti-surge provision comes back into play (i.e., President cannot just impose relief automatically unless there has been a violation of the terms of an agreement).

Cite: P. 36, L. 6-12.

X7. Proposal: Eliminate clarification to 406 standard creating presumption of relief unless "President determines that provision of such relief is not in the national economic interest of the United States..." Clarification would provide that "relief is not in the national economic interest ... only if the President finds that the taking of such action would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this subtitle." Note: proposal would maintain the new provision on discretion for president not to act based on harm to national security, which is not found in any form in current 406.

Ref counterproposal

Cite: P. 36, L. 24 - P. 37, L. 6.

Note: Clarifying this standard is essential to preserving credibility of this provision, given its lack of use over the last 20 years.

8.	Proposal:	Incorporate section 204(a) and (b), which would allow President to modify, terminate relief at any point after 6 months, including at request of domestic parties.
	Cite:	P. 37, L. 19ff
9.	Proposal:	Delete authorizations for appropriations for Commerce to enforce U.S. trade laws (ad/cvd).
	Cite:	P. 25, L. 9-14
	Note:	There has been strong support in both caucuses and the Administration for beefing up compliance and enforcement to enforce effective integration of China into WTO, credibility of U.S. trade remedies.
10.	Proposal:	Delete authorizations for investigations under section 301 (including WTO-plus in telecom, government procurement and IPR).
	Cite:	P. 27, L. 1-3.
	Note:	See point 9, above.

TARGETED DEMS BY PNTR YL-NL

Opportunities in bold

YL(11)	U (17)	NL (8)
Boyd, Jr.	Berman	Baldacci -
Cramer, Jr.	Clayton - [illegible]	**Brown (FL)**
Frost	Deutsch	**Clyburn**
Hinojosa	Dixon	Dingell
LaFalce	Fattah POTUS [illegible]	Gordon
McCarthy (MO)	Filner Monday POTUS	Holt - did not want to see anyone
Meehan POTUS [illegible]	**Gejdenson** today	Sandlin
Meeks - Y list	Hastings - see POTUS	**Scott** - POTUS [illegible]
Ortiz pipeline	Jackson-Lee - Madeline	
Reyes - good	Kanjorski - [illegible]	
Thompson	**Markey** - [illegible]	
	Napolitano - LN	
	Oberstar - POTUS	
	Pastor	
	Pickett - [illegible]	
	Turner - Monday POTUS	
	Waxman	

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4444

OFFERED BY MR. ARCHER

Strike all after the enacting clause and insert the following:

SECTION 1. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the People's Republic of China; and

(2) after making a determination under paragraph (1) with respect to the People's Republic of China, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.—Prior to making the determination provided for in subsection (a)(1) and pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the President shall transmit a report to Congress certifying that the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999.

SEC. 2. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 1(a)(1) shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

(b) TERMINATION OF APPLICABILITY OF TITLE IV.—On and after the effective date under subsection (a) of the extension of nondiscriminatory treatment to the products of the People's Republic of China, subtitle A of title IV of the Trade Act of 1974 (as redesignated by section 3 of this Act) shall cease to apply to that country.

SEC. 3. RELIEF FROM MARKET DISRUPTION.

(a) IN GENERAL.—Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) is amended—

(1) in the title heading, by striking "CURRENTLY";

(2) by inserting before section 401 the following:

"Chapter 1—Trade Relations With Certain Countries"; and

(3) by adding at the end the following new chapter:

"Chapter 2—Relief From Market Disruption to Industries and Diversion of Trade to the United States Market

"SEC. 421. ACTION TO ADDRESS MARKET DISRUPTION.

"(a) PRESIDENTIAL ACTION.—If a product of the People's Republic of China is being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of a like or directly competitive product, the President shall, in accordance with the provisions of this section, proclaim increased duties or other import restrictions with respect to such product, to the extent and for such period as the President considers necessary to prevent or remedy the market disruption.

"(b) INITIATION OF AN INVESTIGATION.—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)), upon the request of the President or the United States Trade Representative (in this subtitle referred to as the 'Trade Representative'), upon resolution of either the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate (in this subtitle referred to as the 'Committees') or on its own motion, the United States International Trade Commission (in this subtitle referred to as the 'Commission') shall promptly make an investigation to determine whether products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

"(2) The limitations on investigations set forth in section 202(h)(1) of the Trade Act of 1974 (19 U.S.C. 2252(h)(1)) shall apply to investigations conducted under this section.

"(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

"(4) Whenever a petition is filed, or a request or resolution is received, under this subsection, the Commission shall transmit a copy thereof to the President, the Trade Representative, the Committee on Ways and Means of the House of Representatives, and the Committee of Finance of the Senate, except that in the case of confidential business information, the copy may include only nonconfidential summaries of such information.

"(5) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

"(c) MARKET DISRUPTION.—(1) For purposes of this section, market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.

"(2) For purposes of paragraph (1), the term 'significant cause' refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

"(d) FACTORS IN DETERMINATION.—In determining whether market disruption exists, the Commission shall consider objective factors, including—

"(1) the volume of imports of the product which is the subject of the investigation;

"(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

"(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.

The presence or absence of any factor under paragraph (1), (2), or (3) is not necessarily dispositive of whether market disruption exists.

"(e) TIME FOR COMMISSION DETERMINATIONS.—The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b)(1) at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting relief under subsection (i)) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

"(f) RECOMMENDATIONS OF COMMISSION ON PROPOSED REMEDIES.—If the Commission makes an affirmative determination under subsection (b), or a determination which the President or the Trade Representative may consider as affirmative under subsection (e), the Commission shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (g), separate views regarding what action, if any, should be taken to prevent or remedy market disruption.

"(g) REPORT BY COMMISSION.—(1) Not later than 20 days after a determination under subsection (b) is made, the Commission shall submit a report to the President and the Trade Representative.

"(2) The Commission shall include in the report required under paragraph (1) the following:

"(A) The determination made under subsection (b) and an explanation of the basis for the determination.

"(B) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e), the recommendations of the Commission on proposed remedies under subsection (f) and an explanation of the basis for each recommendation.

"(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

"(D) A description of—

"(i) the short- and long-term effects that implementation of the action recommended under subsection (f) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

"(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

"(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (but shall not include confidential business information) and cause a summary thereof to be published in the Federal Register.

"(h) OPPORTUNITY TO PRESENT VIEWS AND EVIDENCE ON PROPOSED MEASURE AND RECOMMENDATION TO THE PRESIDENT.—(1) Within 20 days after receipt of the Commission's report under subsection (g) (or 15 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative shall publish in the Federal Register notice of any measure proposed by the Trade Representative to be taken pursuant to subsection (a) and of the opportunity, including a public hearing, if requested, for importers, exporters, and other interested parties to submit their views and evidence on the appropriateness of the proposed measure and whether it would be in the public interest.

"(2) Within 55 days after receipt of the report under subsection (g) (or 35 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative, taking into account the views and evidence received under paragraph (1) on the measure proposed by the Trade Representative, shall make a recommendation to the President concerning what action, if any, to take to prevent or remedy the market disruption.

"(i) CRITICAL CIRCUMSTANCES.—(1) When a petition filed under subsection (b) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to the product identified in the petition, the Commission shall, not later than 45 days after the petition containing the request is filed—

"(A) determine whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair; and

"(B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

If the Commissioners voting are equally divided with respect to either of its determinations, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

"(2) On the date on which the Commission completes its determinations under paragraph (1), the Commission shall transmit a report on the determinations to the President and the Trade Representative, including the reasons for its determinations. If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Commission shall include in its report its recommendations on proposed provisional measures to be taken to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determinations under paragraph (1) are eligible to vote on the proposed provisional measures to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determinations may submit, in the report, dissenting or separate views regarding the determination and any recommendation of provisional measures referred to in this paragraph.

"(3) If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Trade Representative shall, within 10 days after receipt of the Commission's report, determine the amount or extent of provisional relief that is necessary to prevent or remedy the market disruption and shall provide a recommendation to the President on what provisional measures, if any, to take.

"(4)(A) The President shall determine whether to provide provisional relief and proclaim such relief, if any, within 10 days after receipt of the recommendation from the Trade Representative.

"(B) Such relief may take the form of—

"(i) the imposition of or increase in any duty;

"(ii) any modification, or imposition of any quantitative restriction on the importation of an article into the United States; or

"(iii) any combination of actions under clauses (i) and (ii).

"(C) Any provisional action proclaimed by the President pursuant to a determination of critical circumstances shall remain in effect not more than 200 days.

"(D) Provisional relief shall cease to apply upon the effective date of relief proclaimed under subsection (a), upon a decision by the President not to provide such relief, or upon a negative determination by the Commission under subsection (b).

"(j) AGREEMENTS WITH THE PEOPLE'S REPUBLIC OF CHINA.—(1) The Trade Representative is authorized to enter into agreements for the People's Republic of China to take such action as necessary to prevent or remedy market disruption, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in subsection (e) or a determination which the Trade Representative considers to be an affirmative determination pursuant to subsection (e).

"(2) If no agreement is reached with the People's Republic of China pursuant to consultations under paragraph (1), or if the President determines than an agreement reached pursuant to such consultations is not preventing or remedying the market disruption at issue, the President shall provide import relief in accordance with subsection (a).

"(k) STANDARD FOR PRESIDENTIAL ACTION.—(1) Within 15 days after receipt of a recommendation from the Trade Representative under subsection (h) on the appropriate action, if any, to take to prevent or remedy the market disruption, the President shall provide import relief for such industry pursuant to subsection (a), unless the President determines that provision of such relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action pursuant to subsection (a) would cause serious harm to the national security of the United States.

"(2) The President may determine under paragraph (1) that providing import relief is not in the national economic interest of the United States only if the President finds that the taking of such action would have an adverse impact on the United States economy clearly greater than the benefits of such action.

"(l) PUBLICATION OF DECISION AND REPORTS.—(1) The President's decision, including the reasons therefor and the scope and duration of any action taken, shall be published in the Federal Register.

"(2) The Commission shall promptly make public any report transmitted under this section, but shall not make public any information which the Commission determines to be confidential, and shall publish notice of such report in the Federal Register.

"(m) EFFECTIVE DATE OF RELIEF.—Import relief under this section shall take effect not later than 15 days after the President's determination to provide such relief.

"(n) MODIFICATIONS OF RELIEF.—(1) At any time after the end of the 6-month period beginning on the date on which relief under subsection (m) first takes effect, the President may request that the Commission provide a report on the probable effect of the modification, reduction, or termination of the relief provided on the relevant industry. The Commission shall transmit such report to the President within 60 days of the request.

"(2) The President may, after receiving a report from the Commission under paragraph (1), take such action to modify, reduce, or terminate relief that the President determines is necessary to continue to prevent or remedy the market disruption at issue.

"(3) Upon the granting of relief under subsection (k), the Commission shall collect such data as is necessary to allow it to respond rapidly to a request by the President under paragraph (1).

"(o) EXTENSION OF ACTION.—(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any relief provided under subsection (k) is to terminate, the Commission shall investigate to determine whether action under this section continues to be necessary to prevent or remedy market disruption.

"(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

"(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under subsection (m) is to terminate.

"(4) The President, after receiving an affirmative determination from the Commission under paragraph (3), may extend the effective period of any action under this section if the President determines that the action continues to be necessary to prevent or remedy the market disruption.

"SEC. 422. ACTION IN RESPONSE TO TRADE DIVERSION.

"(a) MONITORING BY CUSTOMS SERVICE.—In any case in which a WTO member other than the United States requests consultations with the People's Republic of China under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the World Trade Organization, the Trade Representative shall inform the United States Customs Service, which shall monitor imports into the United States of those products of Chinese origin that are the subject of the consultation request. Data from such monitoring shall promptly be made available to the Commission upon request by the Commission.

"(b) INITIATION OF INVESTIGATION.—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974, upon the request of the President or the Trade Representative, upon resolution of either of the Committees, or on its own motion, the Commission shall promptly make an investigation to determine whether an action described in subsection (c) has caused, or threatens to cause, a significant diversion of trade into the domestic market in the United States.

"(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

"(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

"(c) ACTIONS DESCRIBED.—An action is described in this subsection if it is an action—

"(1) by the People's Republic of China to prevent or remedy market disruption in a WTO member other than the United States;

"(2) by a WTO member other than the United States to withdraw concessions under the WTO

Agreement or otherwise to limit imports to prevent or remedy market disruption;

"(3) by a WTO member other than the United States to apply a provisional safeguard within the meaning of the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO; or

"(4) any combination of actions described in paragraphs (1) through (3).

"(d) BASIS FOR DETERMINATION OF SIGNIFICANT DIVERSION.—(1) In determining whether significant diversion or the threat thereof exists for purposes of this section, the Commission shall take into account, to the extent such evidence is reasonably available—

"(A) the monitoring conducted under subsection (a);

"(B) the actual or imminent increase in United States market share held by such imports from the People's Republic of China;

"(C) the actual or imminent increase in volume of such imports into the United States;

"(D) the nature and extent of the action taken or proposed by the WTO member concerned;

"(E) the extent of exports from the People's Republic of China to that WTO member and to the United States;

"(F) the actual or imminent changes in exports to that WTO member due to the action taken or proposed;

"(G) the actual or imminent diversion of exports from the People's Republic of China to countries other than the United States;

"(H) cyclical or seasonal trends in import volumes into the United States of the products at issue; and

"(I) conditions of demand and supply in the United States market for the products at issue.

The presence or absence of any factor under any of subparagraphs (A) through (I) is not necessarily dispositive of whether a significant diversion of trade or the threat thereof exists.

"(2) For purposes of making its determination, the Commission shall examine changes in imports into the United States from the People's Republic of China since the time that the WTO member announced the commencement of the investigation that led to a request for consultations described in subsection (a).

"(3) If more than 1 action by a WTO member or WTO members against a particular product is identified in the petition, request, or resolution under subsection (b) or during the investigation, the Commission may cumulatively assess the actual or likely effects of such actions jointly in determining whether a significant diversion of trade exists.

"(e) COMMISSION DETERMINATION; AGREEMENT AUTHORITY.—(1) The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b) at the earliest practicable time, but in no case later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

"(2) The Trade Representative is authorized to enter into agreements for the People's Republic of China to take such action as necessary to prevent or remedy significant trade diversion into the domestic market in the United States, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in paragraph (1) or a determination which the trade Representative considers to be an affirmative determination pursuant to paragraph (1).

"(3) REPORT BY COMMISSION.—

"(A) Not later than 10 days after a determination under subsection (b), is made, the Commission shall submit a report to the President and the Trade Representative.

"(B) The Commission shall include in the report required under subparagraph (A) the following:

"(i) The determination made under subsection (b) and an explanation of the basis for the determination.

"(ii) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e)(1), the recommendations of the Commission on increased tariffs or other import restrictions to be imposed to prevent or remedy the trade diversion or threat thereof, and explanations of the bases for such recommendations. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy the trade diversion or threat thereof.

"(iii) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in clauses (i) and (ii).

"(iv) A description of—

"(I) the short- and long-term effects that implementation of the action recommended under clause (ii) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

"(II) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry are located, and on other domestic industries.

"(C) The Commission, after submitting a report to the President under subparagraph (A), shall promptly make it available to the public (with the exception of confidential business information) and cause a summary thereof to be published in the Federal Register.

"(f) PUBLIC COMMENT.—If consultations fail to lead to an agreement with the People's Republic of China or the WTO member concerned within 60 days, the Trade Representative shall promptly publish notice in the Federal Register of any proposed action to prevent or remedy the trade diversion, and provide an opportunity for interested persons to present views and evidence on whether the proposed action is in the public interest.

"(g) RECOMMENDATION TO THE PRESIDENT.—Within 20 days after the end of consultations pursuant to subsection (e), the Trade Representative shall make a recommendation to the President on what action, if any, should be taken to prevent or remedy the trade diversion or threat thereof.

"(h) PRESIDENTIAL ACTION.—Within 20 days after receipt of the recommendation from the Trade Representative, the President shall determine what action to take to prevent or remedy the trade diversion or threat thereof.

"(i) DURATION OF ACTION.—Action taken under subsection (h) shall be terminated not later than 30 days after expiration of the action taken by the WTO member or members involved against imports from the People's Republic of China.

"(j) REVIEW OF CIRCUMSTANCES.—(1) The Commission shall review the continued need for action taken under subsection (h) if the WTO member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the People's Republic of China pursuant to consultation referred to in subsection (a). The Commission shall, not later than 60 days after such notification, determine whether a significant diversion of trade continues to exist and report its determination to the President. The President shall determine, within 15 days after receiving the Commission's report, whether to modify, withdraw, or keep in place the action taken under subsection (h).

"SEC. 423. REGULATIONS; TERMINATION OF PROVISION.

"(a) TO CARRY OUT RESTRICTIONS AND MONITORING.—The President shall by regulation provide for the efficient and fair administration of any restriction proclaimed pursuant to the subtitle and to provide for effective monitoring of imports under section 422(a).

"(b) TO CARRY OUT AGREEMENTS.—To carry out an agreement concluded pursuant to consultations under section 421(j) or 422(e)(2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement.

"(c) TERMINATION DATE.—This subtitle and any regulations issued under this subtitle shall cease to be effective 12 years after the date of entry into force of the Protocol of Accession of the People's Republic of China to the WTO.".

(b) CONFORMING AMENDMENT.—The table on contents of the Trade Act of 1974 is amended—

(1) in the item relating to title IV, by striking "CURRENTLY";

(2) by inserting before the item relating to section 401 the following:

"CHAPTER 1—TRADE RELATIONS WITH CERTAIN COUNTRIES"; and

(3) by adding after the item relating to section 409 the following:

"CHAPTER 2—RELIEF FROM MARKET DISRUPTION TO INDUSTRIES AND DIVERSION OF TRADE TO THE UNITED STATES MARKET

"Sec. 421. Action to address market disruption.
"Sec. 422. Action in response to trade diversion.
"Sec. 423. Regulations; termination of provision.".

SEC. 4. AMENDMENT TO SECTION 123 OF THE TRADE ACT OF 1974—COMPENSATION AUTHORITY.

Section 123(a)(1) of the Trade Act of 1974 (19 U.S.C. 2133(a)(1)) is amended by inserting after "title III" the following: ", or under chapter 2 of title IV of the Trade Act of 1974".

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*** ACTIVITY REPORT ***
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RECEPTION OK

TX/RX NO.	0472
CONNECTION TEL	2024566687
CONNECTION ID	NEC INTERNATIONA
START TIME	05/18 07:35
USAGE TIME	07'31
PAGES	26
RESULT	OK