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Inside U.S. Trade

An Inside Washington Publication

An exclusive weekly report on major government and industry trade action

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U.S., EU AGREE TO EXTEND HELMS-BURTON TALKS; EU CRITICIZES PROGRESS

The U.S. and European Union late this week agreed to seek an indefinite extension of negotiations to settle their dispute over the Helms-Burton law beyond the original Oct. 15 deadline, according to informed sources. But while U.S. officials said enough progress was made in an eleventh hour Oct. 14-15 meeting in Brussels for the talks to continue, EU member states this week called progress between the two sides "disappointing."

In an Oct. 16 statement expected to be released today (Oct. 17), EU member states warned the U.S. that an agreement on Helms-Burton can only be reached if the U.S. is more flexible in the negotiations than it has been up to now. Member states also called for a "time for reflection," which one EU official said is a sign of their disappointment with the U.S. so far.

The request for a pause in the talks also means "the ball is in the U.S. court to be more flexible," an EU

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U.S. FOCUSED ON IMPLEMENTING JAPAN AUTO DEAL, NOT WTO CASE

U.S. efforts to open the Japanese auto market will not focus on an international dispute settlement panel after last week's second annual review of a bilateral auto agreement, which U.S. officials called "disappointing." Instead, the U.S. will continue to focus on implementing the agreement in a way that will increase access to Japan's auto and auto parts market, a U.S. official said in an Oct. 9 press conference.

In response to a question of whether the U.S. is considering a case in the World Trade Organization, a U.S. official said the U.S. "goal now is to make the 1995 agreement work." The U.S. will "focus our energy on making this agreement work," the official said.

At the same time, officials said U.S. complaints about the openness of Japan's auto market are supported by officials from the European Union, Canada and Australia who attended the meeting last week.

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BERMAN PREDICTS HOUSE WILL VOTE ON FAST TRACK DESPITE UNCERTAINTY

A senior White House official this week predicted that there will be a vote in the House of Representatives on the renewal of fast-track negotiating authority despite the current uncertainty over its outcome. But Special Counselor to the President Jay Berman also admitted that the Administration has received no assurances from the Republican leadership that there will be floor action on fast track.

"I think the concept of not having [a vote] at the end of the day is so staggering that at the end of the day we will all find a way," Berman said at the Economic Strategy Institute.

Republicans have generally provided the "great majority" of votes for trade legislation, "somewhere in the 75 percent range," Berman said. "[T]he question is can they -- will they -- do it again," he added.

Rep. Bob Matsui (D-CA), the ranking member of the House Ways & Means trade subcommittee last week

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BERGER GIVES CHINA NEW DOCUMENT OUTLINING KEY WTO ACCESSION ISSUES

The Clinton Administration last week presented to a senior Chinese official a list of five priority areas in which it wants China to make additional market access concessions by this month's summit of President Clinton and Chinese President Jiang Zemin as a way to move forward the negotiations for accession to the World Trade Organization.

Assistant to the President for National Security Affairs Sandy Berger last week told Liu Huaqiu, the director of the foreign affairs office in China's State Council, that new concessions in these areas would allow Clinton to highlight the issue of WTO membership at the summit, U.S. and Chinese officials said this week.

The five priority areas are tariffs, non-tariff measures, services, agriculture and the information technology sector, these officials said.

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The U.S. is hoping that China will make an announcement at the summit regarding its willingness to sign on to the Information Technology Agreement, which would eliminate tariffs in the sector by 2000, according to informed sources.

Chinese ministries seem engaged in an internal debate on the merits of a low or high tariff policy to promote China's information technology industry, informed sources said. Up to now Chinese negotiators have told their U.S. and EU counterparts that it would be very difficult to sign on to the ITA.

A Chinese endorsement of the ITA could be the biggest trade breakthrough to be announced at the summit since few U.S. officials expect major concessions related to the WTO negotiations, these sources said.

Berger has taken a more active role in the summit preparations in an effort to beef up the trade side of the agenda, according to informed sources. Nevertheless, it is unclear what if any movement on trade can be achieved at the summit, both in terms of the WTO or Chinese announcements for commercial deals that would reduce the trade deficit.

"There is not a final resolution on what is going to happen at the summit," an Administration official said. "It is still a story in midstream."

A Chinese buying mission is visiting the U.S. next week and will be hosted by the U.S.-China Business Council in an Oct. 24 lunch.

New concessions would allow a more prominent consideration of trade at the summit. "Obviously, we want to use the summit to move along the WTO process as much as possible," one Administration official said. "But that depends on China's willingness to deliver in the five areas [identified in the U.S. paper]."

He and other Administration officials emphasized that Robert Cassidy, the chief U.S. negotiator on China's accession, has no plans to meet with his Chinese counterpart Long Yongtu before the summit. Such a session has been previously discussed, but was ultimately rejected as were proposals that U.S. Trade Representative Charlene Barshefsky visit Beijing before the summit, sources said.

Several officials believe that China itself is not too keen to engage in intense WTO negotiations until after the summit, since Long requested a working party meeting in December instead of agreeing to the U.S. proposal of a November meeting.

WU YI REJECTS U.S. CHARGES ON TRADE DEFICIT, CALLS FOR PERMANENT MFN

Chinese trade minister Wu Yi last week rejected U.S. charges that China's policies are the cause of the U.S. trade deficit with China, and insisted that many factors are contributing to the imbalance. In an Oct. 5 article published in China, she criticized the U.S. for focusing solely on the trade numbers instead of the benefits of increased trade, according to a statement released by the Chinese government.

"[N]either country should solely shoulder the responsibility for the trade imbalance," Wu Yi said. "It will not help solve the problem if the United States pays attention only to numerical differences and ignores the mutual benefits brought by growing trade between the two big countries."

At the same time, she said that further bilateral cooperation can only develop in a healthy manner if "non-trade" factors are excluded from the U.S.-China economic relationship. Wu Yi also predicted that the upcoming summit between President Clinton and Chinese President Jiang Zemin will bring new opportunities for Sino-U.S. economic ties.

A Chinese buying mission will visit the U.S. next week in advance of the summit and is likely to announce commercial deals, sources said. The group will be led by China's State Planning Commission and the Ministry of Foreign Trade & Economic Cooperation, and will attend a lunch hosted by the U.S.-China Business Council on Oct. 24.

Wu Yi said the trade deficit is the result of several factors, such as differences in economic development, trading methods, labor practices and statistics. "The shift of industrial processing from other Asian countries to China, the transit trade via Hong Kong and direct U.S. investment in China all directly contribute to the trade imbalance," according to Wu Yi. "Indeed, the trade balance in favor of China is as historically unavoidable as the previous one in favor of the United States."

Wu Yi's statements indirectly rebut charges by Daley that China is causing the trade deficit with the U.S. and the rest of the world by focusing on its own economic growth and internal policies before opening its economy to international competition (*Inside U.S. Trade*, Oct. 10, p. 19). Daley made these comments on his recent trip to China, during which he had hoped the Chinese government would announce sizeable contracts for U.S. firms in an effort to reduce the bilateral trade deficit.

Wu Yi said the Chinese government has made great efforts to develop bilateral economic links, such as sending purchasing groups to the United States to reduce the trade deficit with China. She urged the U.S. to increase cooperation between the two countries as well.

Wu Yi added that a stable foundation of U.S.-China economic ties depends on permanent most-favored nation status. The uncertainty created by the annual review of MFN for China gives a "sense of instability" to Chinese and U.S. businesses, she said.

EU-CHINA WTO PRINCIPLES INCLUDE NEW UNDERSTANDING ON TARIFF CUTS

The joint principles released by the European Union and China this week to guide the talks on China's entry into the World Trade Organization break new ground on tariff negotiations, according to U.S. and EU officials. The relevant principle commits China to a formula approach for tariff cuts, including curbing peak tariffs at 15 percent with very limited exceptions, according to the statement reprinted below.

A formula approach would help address a problem that has plagued the WTO market access negotiations for some time -- China's refusal to deal with different countries' tariff priorities, a U.S. official said. A formula approach that sets a ceiling for tariffs will offer an opportunity to address these priorities, he said.

The EU-China principle on tariff negotiations is part of an agreed statement covering four negotiating principles issued after a meeting of EU Commissioner for External Relations Leon Brittan and Chinese Minister of Foreign Trade and Economic Cooperation Wu Yi. Brittan hailed the document as a "conceptual breakthrough" that would help "breathe new life" into the WTO negotiations. Negotiators for the U.S., Canada and the EU have said that talks have lagged in recent months with only minimal progress.

The principles are expressed in very general terms. They express the need to adhere to the WTO principles of non-discrimination and national treatment; the phaseout of quotas by a fixed date, which one EU official said is "more or less" understood to be the year 2005; the need to cut so-called peak tariffs and apply a formula approach to tariff negotiations; and to open up the Chinese services market to foreign service providers.

The principles also hold open the possibility of progress in two areas beyond tariffs, but otherwise are a restatement of agreements already reached, EU sources said. The principles could help move the negotiations forward if China offers market access concessions in time for a December meeting of the WTO working party that are "not be totally inconsistent" with them, one informed source said.

U.S. officials praised the EU-China announcement as "promising" and a "constructive step" that could move the negotiations forward. EU officials said this week that staff-level negotiators did not discuss the initiative with their U.S. counterparts earlier this month when they met to coordinate approaches in the WTO China negotiations because it had been proposed by China during Brittan's visit.

Brittan touted the principles as allowing the WTO talks to enter the final phase during his visit to Beijing. "I believe that agreement on a set of firm and specific principles governing the WTO negotiations amounts to a conceptual breakthrough which should reinvigorate the whole accession process," Brittan said in an Oct. 14 statement. "I believe we can now enter the last lap of the negotiations for China's accession to the WTO."

The principle regarding the phaseout of quotas could break new ground if China adheres to it, one informed source said in an assessment shared by a U.S. official. In the principles, China agreed to phase out all quotas on imports according to a clear schedule leading to the elimination of its last quotas by a fixed date. However, detailed talks between the EU and China have thrown "some doubts" on China's commitment to eliminate all quotas, according to the informed source.

Similarly, the principle on national treatment and non-discrimination could be significant since it arguably could be interpreted to extend into the services sector, he said. China committed to applying these principles to goods and "companies established and operating in China," according to the statement reprinted below. Establishment of companies is a services issue, the source pointed out.

But even if applied to goods only, the principle is not necessarily a restatement of commitments that China has already made, a U.S. official said. It is true that national treatment is one of the commitments China has taken on in the context of WTO draft protocol, but it has not applied that to market access, the official said.

China has offered to bring its legislation into conformity with the WTO principles of national treatment and non-discrimination immediately or upon accession, one EU official said.

This commitment includes such issues as after sales and maintenance services for cars and foreign appliances, the official said. To provide such services at this time, foreign companies need a special license from MOFTEC, something local firms do not need, he said.

The services principle is the weakest of the four, EU officials conceded. The statement says China will improve its "commitments so as to offer a real perspective of market opening on the basis of fair and transparent principles in which all non-Chinese service providers enjoy balanced and equitable access."

This language is consistent with the Chinese reluctance to make major services concessions, which has led both U.S. and EU negotiators to conclude that any future services offer by China is likely to be modest (*Inside U.S. Trade*, Oct. 10, p. 1).

Brittan and Wu Yi emphasized in their statement that there is still a "considerable distance" between the two sides, and that "considerable negotiations" are still required on the timing of China's WTO commitments. "We have instructed our negotiators to meet for a further intensive round of negotiations in

Geneva in early December," it said.

In the WTO negotiations, China has offered to the U.S. and EU a package of cuts that amount to an average tariff of 12 to 14 percent for several thousand items, which includes numerous tariff peaks, official said. But officials warned that one can only assess a tariff offer if it is comprehensively covering all 6,000 tariff lines, they said.

Independent of the WTO talks, China announced unilateral tariff cuts effective Oct. 1 that maintain many tariff peaks. The package cuts to 80 percent its tariffs on cars, such as station wagons and cross country vehicles, according to a U.S. official. Also under the Oct. 1 package, tariffs on busses are 70 percent and go up to 100 percent for certain cars, the official said. Only one tariff line in the automotive sector is reduced to 30 percent, according to the official.

In the WTO negotiations, the U.S. has pressed for China to have no tariffs higher than the 15 percent level defined as a peak in the Uruguay Round, and an average tariff rate of 8 percent, officials said. The EU has pressed for similar goals -- an average 8 percent tariff rate not including the tariff cuts required by the Information Technology Agreement, and no peaks over 15 percent with possibly a "handful" of exceptions, one official said.

If China implemented EU demands on tariffs, the simple and trade-weighted average tariff would amount to about 8 percent, one EU official said.

The EU is not counting tariffs affected by the ITA, which would eliminate tariffs in the sector by the year 2000, in its average tariff calculations because the ITA was concluded long after the EU formulated its demands for the average 8 percent level, an EU official said. China has not completely ruled out accepting some of the ITA tariff cuts, and is still engaged in an internal debate on whether it should pursue a high or low tariff policy to promote its electronics industry, informed U.S. sources said.

The Clinton Administration is hoping that China will make an announcement regarding the ITA at the upcoming summit of President Clinton and Chinese President Jiang Zemin (see related story).

In a related development, Wu Yi last week highlighted China's decision to lower its average tariff rate to 17 percent effective Oct. 1. So far, China has reduced its tariffs by 60 percent since 1993, and has made a commitment to bring its tariff level down to the average of developing countries by the end of the century, she said in an Oct. 6 speech held in Hong Kong to the 28th General Assembly of the World Trade Centers Assn.

"This fully demonstrates China's determination and confidence in participating in international competition and cooperation, she said. She pointed out that China will adopt "much more preferential policies" for high-technology equipment and advanced technology entering China.

The EU and China also reached a memorandum of understanding outlining a number of areas in which the EU will support China's transition to a market economy.

EU-China Principles on WTO Accession

Agreed Statement Following the Meeting Between Minister Wu Yi and Sir Leon Brittan On 14 October, 1997

"We have held a constructive discussion on China's accession to the WTO. I firmly reiterated the European Union's strong and long-standing support for membership as soon as possible on terms that will be of mutual benefit and reinforce the world trading system. Although a considerable distance remains between our positions on a number of points, we now have greater confidence that real and concrete progress can be made, and we are now actively engaging in a crucial stage of these negotiations. Considerable negotiation will of course be required to agree on acceptable timing for China's eventual WTO commitments, but I am confident that the following general principles which the Minister and I agreed will help breathe new life into the talks.

China has reaffirmed its full commitment to the principles of National Treatment and non-discrimination, fundamental tenets of the WTO, in the treatment of imported goods and companies established and operating in China.

China has agreed to phase out all of its quotas on imports according to a clear schedule leading to the elimination of its last remaining quotas by a fixed date.

On market access for goods, it was agreed that a tariff-cutting package should include the limitation of 'peak' tariffs with the possibilities of very limited exceptions in addition to the overall reduction of China's tariff average, and that an agreed formula to that effect would be needed.

On market access in services, it was agreed that China would improve its commitments so as to offer a real perspective of market opening on the basis of fair and transparent principles in which all non-Chinese service providers enjoy balanced and equitable access.

We have instructed our negotiators to meet for a further intensive round of negotiations in Geneva in early December. I am confident that these talks, in addition to efforts made so far, should bring us substantially closer to the final phase in this long negotiation."

HIGH-TECH INDUSTRY SEEKS MORE PRODUCTS, COUNTRIES IN NEW ITA INITIATIVE

Key players in the U.S. high-tech industry have asked the U.S. government to expand the product and country coverage of an existing agreement set to eliminate tariffs on information technology products by the year 2000. U.S. companies and associations have also called on the U.S. to negotiate the acceleration of tariff reductions included in the Information Technology Agreement struck in early 1997 and to tackle a number of non-tariff barriers to trade in the sector.

In Sept. 30 public comments to the Office of the U.S. Trade Representative, U.S. industry groups said the ITA should be extended to China and countries in Latin America. It should also cover products such as consumer electronic equipment and components, inputs and components of products included in the first phase of the ITA, and the equipment and parts of the equipment used to make those products.

The so-called "ITA II" should also address practices such as forced technology transfer, public procurement decisions, differential product standards and discrepancies in product classification, they said.

A coalition of U.S. industry associations also said that countries should agree to accelerate the pace of tariff elimination as negotiated in the ITA by dropping tariffs to zero as soon as they reach three percent. The ITA Coalition argued that the administrative costs of such low tariffs are greater than their financial benefits.

The ITA's 43 participants met late last month in Geneva to begin work on the ITA II. The Sept. 29 meeting of the new WTO Committee of Participants in the Expansion of Trade in Information Technology Products was largely organizational, but each country informed the committee that it is in the process of consulting with its relevant domestic industries in order to generate lists of products for possible expansion of the agreement, according to a trade official.

The consultation process is set to continue until the end of the year, by which time participants should have tabled their submissions for new provisions in the ITA, the official said. Negotiations based on the product lists are set to begin in January 1998, with the deadline for completion set for Sept. 1, 1998. Implementation of the new agreement is to begin by January 1, 1999.

The Committee has yet to elect a chairman or decide on its rules of procedure, but should make progress on these issues at its next meeting, scheduled for October 30, the official said.

As part of their public comments to USTR, a number of U.S. groups complained about the impact of forced technology transfer. According to the ITA Coalition, the Semiconductor Industry Association, and Semiconductor Equipment and Materials International, countries hamper market access through this practice. They condition investment in a country on the transfer of foreign companies' intellectual property to local firms.

The groups cited existing WTO rules on Trade-Related Investment Measures (TRIMs) as inadequate to address forced technology transfer and urged ITA participants to undertake a review of the issue to determine what actions might be taken to discourage technology transfer.

"This review should also include a review of measures in countries which are not yet signatories to the ITA, but which might join ITA in the future," the ITA Coalition and SIA added in an apparent reference to China. None of the three groups put forward any suggestions for action, however.

According to an industry source, the associations are hoping to cooperate with USTR in developing guidelines in technology transfer. "No one wants to get out ahead of the Administration on solutions," the source said.

The ITA Coalition also urged ITA signatories to review the impact of purchasing decisions by state-invested enterprises in China and Latin America on global trade in information technology. International rules should ensure that these firms "make purchases and sales solely on the basis of commercial considerations," and a review mechanism should be developed to enforce such a commitment.

Thirdly, the Coalition recommended that the ITA II negotiations should include an effort to address regulatory reform issues, specifically in simplifying procedures for regulatory acceptance of products already certified in other countries. The Coalition said the ITA II should develop a consensus on facilitating trade through a principle of "one standard, one test" and to move toward a Conformity Assessment Agreement.

Finally, the Coalition urged USTR to persuade signatories to accept ATA Carnets, customs permits which allow for the temporary importation of products and are usually used for trade show and demonstration goods. The Coalition cited Costa Rica, Indonesia, Macau, Liechtenstein, Panama and the Philippines as ITA members who do not now honor the carnets.

USTR was asked to address two additional types of barriers. Sematech, a consortium of semiconductor manufacturers, cited customs practices, including customs clearance times and procedures, which they charged inhibit the timely and free flow of goods.

In addition, Micron Technology said ITA members should develop a remedy for the problem that addresses the government-designed and assisted build up of high-tech industries designed primarily for export. According to Micron, Korea, Taiwan, China, Malaysia and Singapore offer the most blatant examples of this practice, and that these practices have a distorting effect on semiconductor trade.

All associations and companies who submitted comments also urged USTR to seek to expand the product coverage of the ITA to include parts of and inputs for products that were included in the first round of tariff eliminations negotiated earlier this year as well as finished products specifically excluded from the first ITA. For example, two individual companies and two major associations urged USTR to include on its product list the raw materials used in the manufacture of capacitors. "The inclusion of the capacitor raw material into the ITA II is an absolute necessity if we are to continue in business at a reasonable level of sales," the North American Capacitor Company wrote.

Another capacitor manufacturer, Barker Microfarads, Inc., stressed its specific opposition to accelerating the negotiated tariff reduction on finished capacitors and thus eliminating all protection for the U.S. capacitor industry.

The Business Technology Association urged USTR to work to extend the ITA to include all types of photocopiers. Digital photocopiers were included in the first phase of the ITA, but more common non-digital machines were excluded at the behest of a major U.S. manufacturer.

The Electronic Industries Association (EIA) included many so-called "convergence products," which incorporate different functions into a single product. Several other submissions joined EIA in proposing to phase out tariffs on such products as CD and DVD (digital video disc) players, television receivers and tuners, flat panel displays and digital cameras.

"These products represent the trend in our industry towards a convergence of traditional information technology and consumer electronics," wrote EIA.

Several groups also asked USTR to clarify how ITA signatories will treat software and other copyrighted material. Although the software product category was included in the first ITA, the term can be interpreted to only include products that can be played in personal computers and to exclude similar products designed for other types of hardware. Two associations joined the ITA Coalition in urging USTR to work with U.S. industry and the ITA signatories to establish a clear and broad definition of software subject to tariff reductions that does not specify the type of playback apparatus.

"USTR should seek international consensus to define software, irrespective of the media on which it may reside, as 'instructions and data, whether or not incorporating sounds or images, recorded in binary form, and capable of being manipulated or providing interactivity to a user,'" wrote the Coalition.

The Motion Picture Association of America went a step further. Citing the blurring of traditional classifications of media through so-called multimedia products, the MPAA advocated negotiation of duty-free trade for all copyrighted material regardless of the underlying media in which the content is embedded. MPAA specifically cited cinematographic film, tape for videocassettes and laser-read discs for inclusion in the U.S. product list, all of which now carry motion pictures and related content.

In accordance with the Administration's initiative on electronic commerce, MPAA also asked that copyrighted content delivered over the Internet be given the same treatment. "To avoid distortions in the market, the customs treatment of copyrighted content should be the same regardless of what physical form the content is traded or whether the content is electronically transmitted," MPAA wrote.

USTR also received requests to include many other products which have information technology applications. In addition, two U.S. manufacturers urged USTR to disregard suggestions that ball bearings and linear bearings be included in the U.S. product list, although no comments proposed their inclusion. According to an industry source, bearings had been considered but were discarded from the industry proposals before their submission to USTR.

U.S. SCORES PARTIAL VICTORY IN WTO CASE ON EU CLASSIFICATION DISPUTES

An interim report of a World Trade Organization dispute settlement panel has handed the U.S. a partial victory over the European Union with respect to its classification of a number of high-technology products, according to informed sources. Although the panel concluded that the EU violated its WTO obligations by applying a higher tariff to Local Area Network (LAN) equipment than identified in its schedule, it did not agree with the U.S. that EU duties on personal computers/televisions (PCTVs) violate WTO rules, these sources said.

The panel agreed with U.S. arguments that EU duties on LAN equipment violate Art. II of the General Agreement on Tariffs & Trade, which outlines rules on adherence to tariff schedules, informed sources said. The EU violated this provision by reclassifying LAN equipment from a category of the Harmonized Tariff System with a 3.9 percent tariff to one with a 7.5 percent duty, the panel concluded.

The European Commission on June 14, 1995 reclassified LAN products from HTS category 8471 (automatic data processing machines and units thereof) to category 8517 (telecommunications apparatus). Customs authorities in the United Kingdom and Ireland began following such a classification scheme even before the Commission decision.

Informed sources noted that the panel did not explicitly indict the EU's reclassification. It simply concluded that the EU committed a straightforward violation of Art. II, though the reclassification was the process by which the violation occurred, these sources.

The panel declined to rule on whether the reclassification of PCTVs violated international trade rules, informed sources said. Principally, it said that it did not have enough information to make a clear decision, these sources said.

The PCTV issue stems from decisions by UK customs authorities to classify "certain enhanced computers" not as computers, which face a three percent tariff, but as "television receivers" (HTS category 8528) with a duty of 14 percent. The panel essentially declined to rule on this issue because the U.S. could not show evidence that its companies have had to pay this higher rate, informed sources said.

UK authorities imposed the 14 percent rate on one shipment of computers three years ago, but U.S. companies have stopped shipping this particular product, one source noted.

The impact of the classification of PCTVs was further lessened by the manner in which the EU said that it would treat these goods in the context of an agreement to eliminate duties on high-tech items in four stages by the year 2000. As part of the Information Technology Agreement, countries signed Annex A, which listed the specific HTS lines that will go to zero by 2000, and Annex B, which listed products on which duties would be eliminated regardless of their HTS classification.

The EU ultimately classified most of these products in category 8471 at a 3.9 percent, but created a carveout for PCTVs at a five percent rate. Since the first phase of the ITA took effect on July 1, cutting rates by a further 25 percent, the current duty on the products most commercially important to U.S. exporters in the PCTV category is 3.8 percent, and will go to zero by 2000.

One source said a key reason for bringing a WTO challenge on the PCTV issue was to pressure the EU to implement the ITA in a way that would eliminate the problems created by any classification disputes. Now that it has done so, he said, a WTO victory is not necessary for the U.S. to achieve its goals.

U.S., KOREA UNLIKELY TO MAKE PROGRESS ON AUTOS UNTIL NEXT YEAR

The U.S. and Korea are unlikely to make early progress on a bilateral dispute over access to the Korean auto market because of December presidential elections in that Asian country, according to informed sources. The two sides have not yet resumed negotiations on the implementation of a 1995 memorandum of understanding which were suspended on Oct. 1 when the U.S. initiated a Section 301 case against Korea as part of its Super 301 review of trade practices.

Korea told the U.S. prior to the launch of the 301 case that it would take "all proposals" off the table if the U.S. took this bilateral step, a Korean official said. Korea also said the U.S. "knows there are some constraints" on what Korea can offer prior to its December elections, the official said.

Korea has also warned the U.S. that it will initiate a case in the World Trade Organization if the U.S. moves to limit Korean access to the U.S. market, a Korean official said. Korea would begin the WTO process as soon as the U.S. began drafting a retaliation list, the official said.

Prior to the Oct. 1 Super 301 deadline, the two sides made progress on some minor issues but not nearly enough to convince the U.S. not to take the 301 route, informed sources said. In the area of technical standards and certifications, Korea had offered to institute a "self-certification procedure" which would allow automakers to conduct their own safety inspections instead of submitting to inspections by Korean authorities, these sources said.

But the Korean offer on this point was worded in such a way that left uncertain whether Korea would be clearly bound to take this step, one source said.

Moreover, the U.S. and Korea made virtually no progress on a U.S. complaint that Korea's tax and tariff structure discriminates against imported vehicles, informed sources said. Korea said that it could not reduce tariffs on vehicles, which are currently bound at 80 percent in the WTO but are applied at an eight percent rate, because that move would require legislation by the National Assembly, these sources said.

The U.S. auto industry has called on Korea to reduce the tariff to 2.5 percent, an industry source said.

The U.S. has also charged Korea with evading the 1995 MOU through its reclassification of sport utility vehicles as passenger vehicles for the purpose of its internal tax system. The move greatly increased the tax applied to these vehicles.

The U.S. is also likely to raise the issue of actions and statements by the Korean government which adversely affect "consumer perceptions" of imported products, such as tax audits of people who buy imported cars, an informed source said. The U.S. industry has pressed Korean officials to make public statements indicating that there will be no reprisals against people who buy imports, an industry source said.

The two sides could also face further conflict over a tax on vehicles which is used to finance subway construction in Seoul and Pusan, informed sources said. Korea has said it will eliminate the tax by the end of this month, but has not kept similar pledges in the past, these sources charged.

When the Clinton Administration announced it would launch an investigation of the Korean auto market under Section 301, it employed a provision of the 301 law which makes it clear that even though the U.S. is not charging Korea with a violation of WTO rules at this time, it could bring a WTO dispute settlement case in the future (*Inside U.S. Trade*, Oct. 3, p. 13).

The Administration is planning to publish a notice in the *Federal Register* formally launching the 301 case on Oct. 21, according to informed sources.

EU SAYS IT INTENDS TO COMPLY WITH WTO RULING ON BANANA REGIME

The European Union yesterday (Oct. 16) announced that it intends to comply with a World Trade Organization ruling that its system regulating imports of bananas violates international trade rules. But the EU said it has initiated a process to examine all options for compliance, and that it is too early to prejudge the result of that process.

EU officials told the meeting of the WTO Dispute Settlement Body (DSB) that the EU would need a "reasonable period of time" in which to implement the ruling, which they termed extremely complex, sources said.

The chairman of the DSB meeting said that the EU and parties to the dispute have until Nov. 9 to decide on what a reasonable period of time is for the EU to implement the ruling. WTO rules allow members as a general rule no longer than 15 months to implement decisions once they are adopted by the DSB. The Appellate Body ruling on bananas was adopted on Sept. 25.

Despite the EU's stated commitment to compliance, the U.S. and other members called on the EU to reveal more detailed plans for complying with the WTO findings as soon as possible.

The EU did not provide further details in the DSB meeting, but informed sources said the Commission has moved away from suggestions that compliance with the ruling could be achieved through compensating the U.S. and other complainants for trade lost as a result of the regime. The Commission does not consider compensation to be more than a transitional arrangement to be used in the short term, a senior EU official said. He stressed that the EU does not see compensation as a "long-term solution" for settling the fight.

The Commission is interested in exploring possible solutions with the U.S., he said. EU Commissioner for External Relations Leon Brittan is expected to respond to a U.S. request to have staff-level officials meet to discuss possible solutions to the dispute. Brittan's expected response is to a request by U.S. Trade Representative Charlene Barshefsky transmitted to the EU on Sept. 22 (*Inside U.S. Trade*, Sept. 26, p. 6).

The WTO Appellate Body and a dispute settlement panel found that the EU regime regulating imports of bananas is in violation of WTO rules on goods and services through its imposition of quantitative and licensing restrictions on Latin American bananas. The case was brought by the U.S., Mexico, Guatemala, Ecuador and Honduras.

Also at this week's DSB, a dispute settlement panel was formed to hear the EU's complaint that India's patent protection regime does not comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs). While a panel has already ruled in favor of the U.S. on this issue against India, the EU requested its own panel because it was not a party to the previous one, and therefore cannot be offered compensation in the event India cannot fully comply with the panel ruling.

While the panel was established, India argued at the DSB that the WTO dispute settlement system could come under "undue strain" if panel decisions have to be reexamined, according to an informed source. India said the EU request raises the issue of whether panels can reexamine issues that have already been resolved by a panel simply because a WTO member chose not to be a party to the original panel.

As a result, India reserved its right to ask the new panel to examine, as a preliminary procedure, whether the WTO can reexamine issues that have already been resolved in past dispute settlement proceedings.

The U.S. said at the meeting it hoped the EU panel would not slow down progress by the original dispute proceeding initiated by the U.S. The U.S. panel was to be adopted by this week's DSB, but India announced on Oct. 15 that it would appeal the panel's ruling, informed sources said.

Also this week, the DSB formed a dispute settlement panel that will examine charges by the U.S. and EU that Korea's liquor tax regime is discriminatory, informed sources said. The U.S. and EU have argued that Korea's regime results in higher taxes for imported distilled spirits than for domestic spirits, and therefore violates the WTO's national treatment rules.

Both WTO members made their second request for a panel this week, and Korea agreed that one panel should hear both of the complaints, sources said. Mexico and Canada both reserved their rights as third party to the panel.

At the request of the EU, the DSB also formed a panel to examine whether measures established by Argentina unfairly hurt imports of foreign textiles and clothing.

Two first-time panel requests were blocked by WTO members this week. Japan blocked a U.S. request to form a panel on Japanese measures that require each specific variety of fruits and vegetables to pass certain pesticide tests. In addition, India blocked another U.S. panel request to examine whether India's balance-of-payments restrictions violate WTO rules.

Finally, the DSB heard an update from Japan on its progress in implementing a WTO ruling that its liquor tax regime violates national treatment rules. However, Japan continued to insist that it will need up to five years to fully implement the WTO ruling.

In response, the U.S. and Canada both urged Japan to implement the ruling by February of next year, in line with WTO guidelines that members implement panel decisions no later than 15 months after the adoption of the decision. The U.S. has been pressing Japan especially hard in the WTO and in bilateral meetings to implement the panel findings by early next year (*Inside U.S. Trade*, Oct. 3, p. 9).

Separately, the U.S. last week requested WTO consultations with the EU over charges that the EU is providing export subsidies to processed cheese in a way that violates EU commitments on export subsidies. In its Oct. 8 request, reprinted below, the U.S. said these EU subsidies violate Articles 8, 9, 10, and 11 of the Agreement on Agriculture and Article 3 of the Agreement on Subsidies and Countervailing Measures.

U.S. Request for Consultations on Cheese

World Trade Organization
WT/DS104/1
G/AG/GEN/13
G/SCM/D16/1
13 October 1997
(97-4384)

Original: English

EUROPEAN COMMUNITIES - MEASURES AFFECTING THE EXPORTATION OF PROCESSED CHEESE

Request for Consultations by the United States

The following communication, dated 8 October 1997, from the Permanent Mission of the United States to the Permanent Delegation of the European Commission and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the European Communities (EC) pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 19 of the Agreement on Agriculture, and Article 30 of the Agreement on Subsidies and Countervailing Measures with respect to the export subsidies of the EC concerning processed cheese. The relevant citations include, but are not limited to, Regulation (EC) No 210/69, Regulation (EC) No 3665/87, Regulation (EC) No 1466/95, Regulation (EC) No 300/97, Regulation (EC) No 417/97, Regulation (EC) No 418/97, and any amendments or modifications.

The European Communities (EC) is providing export subsidies, including under an inward processing arrangement, in favour of processed cheese without regard to the export subsidy reduction commitments of the EC with respect to processed cheese. These export subsidies distort markets for dairy products and adversely affect U.S. sales of dairy products.

These subsidies appear to be inconsistent with the obligations of the EC under the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. The provisions of these agreements with which these measures appear to be inconsistent include, but are not limited to, the following:

(1) Agreement on Agriculture, Articles 8, 9, 10 and 11; and

(2) Agreement on Subsidies and Countervailing Measures, Article 3.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.

HOUSE MEMBERS CALL FOR QUICK CONSIDERATION OF AFRICA TRADE BILL

The ranking member of the House Ways & Means Committee and 31 other House members last week called on Ways & Means Chairman Bill Archer (R-TX) to schedule quick consideration of a bill aimed at promoting trade with sub-Saharan Africa.

"We are writing to request that you schedule early consideration by the Committee on Ways & Means of H.R. 1432, the African Growth and Opportunity Act," Rep. Charles Rangel (D-NY) and the other members wrote Archer on Oct. 6.

The letter is reprinted below.

Ways & Means could take up the Africa bill as early as next week, though no action has been scheduled, a congressional source said. Archer has not clearly said when he will move the bill, but has said he wants to do so this fall, the source said.

The members also emphasized that the bill should not be considered as part of a bill to renew fast-track negotiating authority. "We strongly urge that the controversies surrounding fast track legislation should not be allowed to undermine the political consensus that has been achieved on H.R. 1432," they wrote.

Ways & Means subsequently passed a fast-track renewal bill without taking action on the Africa bill (*Inside U.S. Trade*, Oct. 10, p. 1).

Rangel Letter on Africa Bill

October 6, 1997

Honorable Bill Archer
Committee on Ways and Means
1102 LHOB
Washington, D.C. 20515

Dear Chairman Archer:

We are writing to request that you schedule early consideration by the Committee on Ways and Means of H.R. 1432, the African Growth and Opportunity Act. We further request that the Committee consider this legislation on its own, and not as part of a broader trade legislative proposal that includes renewal of fast track trade agreement authority.

As you know, H.R. 1432 was ordered reported by the House International Relations Committee on June 25 with strong bipartisan support. It is our understanding that the Committee on Ways and Means must act on those trade provisions in H.R. 1432 within the committee's jurisdiction before the bill can be scheduled for consideration by the full House. Furthermore, it is our understanding that H.R. 1432 has broad bipartisan support in the Committee on Ways and Means and in the House as a whole.

H.R. 1432 is important legislation that will improve our trade and economic relations with Sub-Saharan Africa. It is legislation that is being eagerly awaited by dozens of nations in that region of the world. It should be considered on its own merits and enacted into law as rapidly as possible.

We fear that, if H.R. 1432 is linked to other more controversial legislation such as fast track, it could substantially diminish prospects for its early passage into law. We strongly urge that the controversies surrounding fast track legislation not be allowed to undermine the political consensus that has been achieved on H.R. 1432.

For these reasons, we respectfully request that you schedule consideration of H.R.1432 as soon as possible and take action on it as a free-standing bill so that is can move to the House floor expeditiously.

Thank you for your consideration of this important matter.

Sincerely,

Charles B. Rangel
Member of Congress

John Conyers (D-MI)
Harold Ford (D-TN)
Donna M. C. Green (D-VI)
Eddie Bernice Johnson (D-TX)
Chaka Fattah (D-PA)
Sheila Jackson Lee (D-TX)
Cynthia McKinney (D-GA)
Major Owens (D-NY
Danny Davis (D-IL)
Juanita Millender-McDonald (D-CA)
Sanford Bishop (D-GA)
Elijah Cummings (R-CA)
Alcee Hastings (D-FL)
Earl Hilliard (D-AL)
Jesse Jackson, Jr. (D-IL)
Carrie Meck (D-FL)
Julian Dixon (D-CA)
Donald Payne (D-NJ)
William Jefferson (D-LA)
Edolphus Towns (D-NY)
Floyd Flake (D-NY)
Ben Thompson (D-MS)
Julia Carson (D-IN)
Albert Wynn (D-MD)
Bobby Rush (D-IL)
Eva Clayton (D-NC)
Eleanor Holmes Norton (D-DC)
Corrine Brown (D-FL)
Melvin Watt (D-NC)
Carolyn Kilpatrick (D-MI)
Louis Stokes (D-OH)

PETITIONERS SEEK CHANGES IN STEEL SUSPENSION DEAL, CONCLUSION OF CASE

The petitioners in an antidumping case against cut to length steel plate from Russia, Ukraine, China and South Africa this week expressed opposition to an initialled agreement that would suspend the case, partially because they do not restrict a broad enough range of products.

Instead of being limited to iron and non-alloy steel, the agreement should also cover alloy steels to prevent the circumvention of the quotas and floor prices established in the agreements, the petitioners told the Commerce Dept. in an Oct. 14 submission.

The petitioners believe that without this addition, countries under restraint could easily transform non-alloy steel into alloy steel and sell it in the U.S. freely.

"In order to preserve the ability of...the parties to address attempts to circumvent the Agreement, the definition of subject merchandise should not be limited to the literal terms of the scope description," the petitioners said in comments. Therefore, the final suspension agreements should cover the iron and non-alloy steels now covered by the initialled agreement as well as all plate products including alloy steel, they argued.

But petitioners did not insist that the final suspension agreement cover plate in coil products, according to their comments on the Ukraine deal. Representatives for the Russian steel industry have previously insisted they will not sign a suspension agreement that would cover products beyond the scope of the original dumping case.

Expanding the scope of the suspension agreement would likely meet with opposition from the respondents in the case, which point out that U.S. law does not allow the negotiation of a suspension agreement that goes beyond the scope of an underlying case.

The initialled suspension agreements came under attack from the American Institute for International Steel, which charged in an Oct. 7 statement that U.S. steelmakers are trying to manage trade as they did under the voluntary restraint agreements that ended in 1992. "This new system of quotas being developed, like the former, will deprive American steel users of competitive choices in the international market place," AIIS said. "Domestic industry assurances that they want to compete with 'fair traders' ring hollow." The statement charged that U.S. producers have accused every major foreign steel supplier of unfair trade over the years.

In their comments on the initialled suspension agreements with Ukraine and Russia, the petitioners do not criticize the floor prices set or the negotiated quota restriction. However, they do demand changes in the procedures by which the floor prices will be recalculated each quarter.

Despite their stated opposition, the petitioners' submission did not threaten to sue the Commerce Dept. in the Court of International Trade, and instead said they will evaluate all their options if Commerce decided to go ahead and finalize the initialled agreements without changes, according to a private-sector source. "We'll see and evaluate the situation [then]," he said.

The case was brought by Geneva Steel and Gulf Steel, and was ultimately supported by other producers such as Bethlehem Steel and USX.

Both the petitioners, as well as Bethlehem and U.S. Steel Group, a unit of USX, urged the Commerce Dept. to continue the antidumping case by issuing final dumping margins as scheduled this month and by letting the case go forward to the International Trade Commission in December regardless of whether final suspension agreements go into effect.

This approach would ensure that dumping margins would go into effect immediately if the suspension agreements were violated or abrogated by the signatories. Otherwise, petitioners would have to restart the case, which would cost time and money, the private-sector source said.

Similarly, proceeding to the injury determination at the International Trade Commission for all producers will help petitioners because the cumulative impact of imports from all sources will make a positive injury finding more likely. This finding would lead to the imposition of dumping duties against countries that do not sign a final suspension agreement.

Sources said it would be more difficult to get a positive injury finding against one country in the event it does not sign a suspension agreement because only imports from that country could be considered.

In comments to the Commerce Dept., the Russian Federation urged a change to the initialled suspension agreement that would allow an increase in the quota linked to increase in the floor price. This provision is similar to the one included in the Ukrainian draft agreement.

"In the same manner as in the Ukraine agreement, therefore, we propose that the Agreement provide for the possibility of a 5% increase of the quota if the average FOB sales price is determined to exceed the reference price by more than 5%," the Russian Federation said. The comments also request minor changes to the initialled agreement.

China has made it clear it will not sign a final suspension agreement unless its floor price decreases to allow more sales and its quotas expands significantly (*Inside U.S. Trade*, Sept. 26, p. 12).

TRADE IMPLICATIONS OF U.S. FOOD SAFETY PROGRAM STILL UNCLEAR

A new White House initiative to ensure the safety of food from domestic and foreign sources through increased inspections and guidance on good agricultural practices will have to be carefully crafted to ensure they do not restrict trade in a way that violates U.S. commitments in the World Trade Organization.

President Clinton announced on Oct. 2 that he is seeking legislation that would allow the Food and Drug Administration to ban imports of fruits and vegetables from countries whose health and safety measures are not on par with U.S. standards. Clinton also vowed to boost funding for the FDA in fiscal year 1999 to step up inspections in the U.S. and abroad.

"This new initiative will help guarantee the safety of food in the United States," Clinton said in an Oct. 8 letter to Rep. Sherrod Brown (D-OH). "It provides the improved inspection capacities and increased regulatory powers we need to prevent contaminated imports from reaching American tables." Brown and Rep. Bart Stupak (D-MI) have been leading the congressional charge against fast-track negotiating authority that does not include strong food safety provisions.

But informed sources said the details of these new requirements, which have not yet been developed, would determine whether they could be challenged under WTO rules on sanitary and phytosanitary measures.

"You can't just go off to the races and impose what you want," a source familiar with WTO rules said this week. "The U.S. will have to establish a genuine risk...and will need to have scientific evidence that the measures are reasonably related to these problems."

The WTO agreement on sanitary and phytosanitary (SPS) measures requires that food safety measures be based on a sound scientific evaluation that they are needed to avoid a real health risk to the population. It also allows members to take measures "necessary" to the protection of human, animal or plant life that are not inconsistent with the agreement's obligations.

U.S. requirements could run the risk of being challenged as unnecessarily restrictive if they make excessive demands on U.S. trading partners, sources said. For example, the U.S. will likely require that countries' workers have access to uncontaminated water for the rinsing of fruits and vegetables and for workers to wash their hands. One informed source said that a potential trade problem could arise in defining a clean water standard, since the U.S. may have to be able to demonstrate a link between water that does not meet that standard and a specific health risk.

The new U.S. requirements will also focus on ensuring that workers have access to sanitary facilities in or nearby the fields in which they work, according to FDA and Administration officials. "One question [on the sanitary facility issue] is: will an outhouse comply, or will countries need to install indoor plumbing," one source said. Requiring the installation of plumbing could be seen as an unnecessary step, could become a "serious obstacle" to continuing trade for many developing countries, and could result in a WTO challenge.

An FDA official this week said it is unlikely that the U.S. will require the installation of plumbing nearby growing fields as a condition of continuing exports to the U.S.

The U.S. is also expected to require that certain pesticides which the U.S. bans will not be used in countries wishing to export to the U.S., FDA officials said this week. These countries may also be required to demonstrate that trucks and other equipment used to transport agricultural products are not used for other purposes that might expose commodities to other dangerous chemicals. Finally, the U.S. will likely require that workers are free of diseases such as hepatitis, according to FDA officials.

These officials said these standards would be measured by sending FDA inspectors to foreign countries, which would be certified by the FDA once they passed inspection. They added that the U.S. can already demonstrate that the absence of these requirements could result in a measurable health risk.

Sources also noted this week that once the standards are developed, they could take years to implement. They said the Administration plans to require U.S. agricultural producers to comply with the standards before foreign producers are required to meet them, and that in each case it is likely that they will be phased in over a number of years.

U.S. officials have stressed that the primary intention of the measures is to ensure a safe food supply in the U.S., and that FDA would ban agricultural products only from those countries that cannot meet the final standards. President Clinton reiterated in an Oct. 2 press conference his Administration's intent to have the measures impact trade as little as possible.

"I hope it doesn't complicate the trade environment," Clinton said. "But, you know, it seems to me that we have no higher responsibility than to protect the health and safety of our citizens. I don't want [the measures] to complicate the trade environment, but I'm not interested in trade in things that will make the American people sick."

Clinton also assured Brown and Stupak that he places food safety over trade. "I share your concern about the safety of food for all Americans, and I will not permit any trade policy to impair the health and safety of the

American people," he wrote.

At the same time, White House Press Secretary Mike McCurry told reporters on Oct. 2 that the U.S. will implement the new requirements in a way that is consistent with WTO rules. "[W]e have international obligations, and we do respect international law when it comes to trade and commerce, and we would act fully consistent with our international obligations," McCurry said.

Stupak and Brown spearheaded a House letter in late September urging Clinton to take several concrete steps to ensure food safety. The letter, which was signed by 80 House Democrats and four House Republicans, specifically called on Clinton to ensure that fast-track trade negotiating authority includes food safety provisions, and to renegotiate the North American Free Trade Agreement in order to strengthen its food safety provisions.

But Stupak said in an Oct. 2 release that Clinton's new initiative is "only a good first step," and that increased border inspections will also be needed to ensure food safety.

Clinton said in an Oct. 2 press statement that he issued an Executive Order directing Secretary of Agriculture Dan Glickman and Secretary of Health and Human Services Donna Shalala to report back within 90 days with a complete schedule for developing food safety standards within one year. He added that the U.S. would develop outreach and educational activities to ensure that these "good agricultural practices" and "good manufacturing practices" for fruits and vegetables have the widest possible effect.

In addition, Clinton said he would ask Congress to pass legislation giving FDA the authority to ban fruits and vegetables from countries that do not adhere to these standards, and to certify countries that follow the standards.

Regarding an increase in the FDA's budget for FY-1999, sources said this week that an additional $20 million or so would be needed for this effort.

OECD MEMBERS SEE GOOD PROSPECTS FOR STRIKING AGREEMENT ON BRIBERY

Members of the Organization for Economic Cooperation & Development are poised to reach agreement on an international convention to criminalize the bribery of foreign officials by the end of the year, according to informed government sources. But OECD members must still resolve a number of outstanding issues, including the definition of a foreign official and when the convention will take effect, these sources said.

"Overall, we think we are on track to get an agreement by the end of the year," one official close to the negotiation said.

The most contentious issue which was not resolved during an Oct. 6-10 negotiating session in Paris was the extent to which payments to legislators would be criminalized under the convention, informed sources said. The U.S. and other countries have called for broad coverage of actions intended to influence legislators for commercial gain, but faced strong opposition from Germany and Austria, who have said that the convention should be directed only at bribes meant to influence specific votes by legislators in parliament, these sources said.

"This will need a political solution," one official said.

The U.S. has argued that legislators can be bribed for commercial gain even if the bribe is not directed at a specific vote in parliament, a U.S. official said. A legislator could still, for example, seek to influence a decision of the executive branch on a particular procurement on behalf of a company paying a bribe, the official said.

In contrast, Germany and Austria have said that the OECD convention should criminalize bribery of foreign legislators only to the extent that their national laws forbid the bribery of their own officials, informed sources said. Primarily as a result of their traditions of parliamentary immunity, German and Austrian law only criminalizes bribery to cover "outright vote-buying," one source said.

These two countries have argued that a broader definition in the OECD convention could lead to a situation in which conduct which is illegal in foreign countries is permissible domestically, informed sources said. The U.S. has countered that this point is "their own political issue" which should not affect the coverage of the convention, a U.S. official said.

A more "conceptual" debate related to the definition of a foreign official was whether to cover officials of political parties, one official said. A minority of countries, including the U.S., has argued that officials of political parties may not have "public positions" but can still have influence on government-related commercial issues, and therefore should be covered by the convention, a U.S. official said.

OECD members seem likely to agree to a convention which covers so-called "parastatals" -- persons associated with state-owned enterprises -- although the extent of coverage is "very much up in the air," one official said. Some countries have called for a test which would require the coverage of a publicly-owned company only if it does not function as a full-fledged competitor in the market, the official said.

Beyond the definition of a foreign official, the other key outstanding issue concerns when the agreement will enter into force, informed sources said. The U.S. has argued that it should do so when two countries formally ratify it, while others have "informally bandied about" other formulations, one official said. Other formulations have been to have it take effect when the top ten or fifteen economies ratify it, the official said.

"No doubt the solution will be somewhere in between," one official said.

Disagreements on this point are largely an outgrowth of concerns on the part of countries including France and Germany that OECD members who have not already done so should move in lockstep to criminalize bribery, informed sources said. These OECD members have expressed the fear that countries could gain a commercial advantage by moving more slowly to criminalize bribery than other nations, these sources noted.

The U.S. is also pressing for language in the convention which would provide strong penalties equivalent to the corporate criminal liability in the Foreign Corrupt Practices Act, a U.S. official said. Major OECD countries including Germany and Japan do not have the concept of corporate criminal liability in their legal systems. The U.S. has called for civil or administrative penalties "equivalent" to criminal ones, the official said.

The penalties issue is "not a problem to the extent that these countries can say what they will do" to ensure strong penalties against violators, the official added.

Senior officials of OECD member states are now scheduled to meet Nov. 18-20 in Paris, informed sources said. The U.S. will likely be represented by Assistant Secretary of State for Economic and Business Affairs Alan Larson, a U.S. official said.

OECD members need to complete work on the convention by the end of November so that it can be cleared by legal authorities before signing by December, a U.S. official said. OECD ministers agreed in May to finalize a bribery pact by the end of the year (*Inside U.S. Trade*, May 30, p. 9).

Separately, Sen. Ben Nighthorse Campbell (R-CO) last month introduced legislation which would require the President to impose sanctions on countries which he concludes are not making progress in fighting corruption. The bill would require an annual report from the President which details the progress countries receiving U.S. aid are making in economic reform, corruption-fighting efforts and "moving toward integration in the world economy."

Under the bill, the President would be required to cut off bilateral foreign aid and oppose multilateral loans to countries that are not making progress in these areas. The bill would also require the Dept. of Commerce to establish a toll-free telephone number for companies to report on the progress countries are making in improving the climate for U.S. business.

The International Anti-Corruption Act of 1997 was referred to the Foreign Relations Committee but no action has been scheduled, according to informed sources.

CLINTON, ON LATIN TRIP, PLEDGES EFFORT TO PASS FAST TRACK THIS YEAR

President Clinton this week in Brazil pledged to "do all we can to pass" fast-track trade-negotiating authority this year, but stressed the need for stepped-up lobbing by the private-sector.

"I hope that those of you representing American companies will urge members of Congress of both parties to support the legislation," Clinton told business leaders in Sao Paulo. "I need all the help I can get."

Meanwhile, Clinton is making progress during his Oct. 12-18 swing through Venezuela, Brazil and Argentina toward achieving the Administration's top trade-policy goal for the trip, aides said. That objective, U.S. officials said last week prior to departure, was to secure a public commitment from South American leaders, especially Brazilian President Fernando Henrique Cardoso, in favor of launching Free Trade Area of the Americas talks in a comprehensive manner early next year.

"From our perspective," U.S. Deputy National Security Advisor Jim Steinberg told reporters in Brasilia on Oct. 14, "the most important of what [Clinton and Cardoso] have agreed to is that they are going to begin comprehensive negotiations, which means all of the issues including tariffs and market access and the like will all be on the table from the beginning of the negotiations."

"Our nations are committed to launch comprehensive negotiations at Santiago in April and, as we agreed at the Miami Summit, to achieve concrete progress by the turn of the century," Clinton told his Sao Paulo audience on Oct. 15.

The U.S. and most other nations in the Western Hemisphere have called for beginning FTAA talks in all areas simultaneously, but the Southern Cone Common Market (Mercosur) countries, led by Brazil and Argentina, have insisted thus far on a "gradual" negotiation that might take place in stages that would leave market-access talks for later.

In a related development, the chairmen of the Congress' two international relations committees last week urged Clinton to take up the cause of U.S. telecommunications and pharmaceutical firms during his South American trip.

In an Oct. 9 letter, Senate Committee on Foreign Relations chairman Sen. Jesse Helms (R-NC) and House Committee of International Relations chairman Benjamin Gilman (R-NY) said the President can "demonstrate his commitment" to his stated goal of having fast track negotiating authority to help bring about global free trade "by using [his] trip to South America to insist that the interests of U.S. companies are... protected and advanced."

In Brazil, the issues they urged Clinton to address with government leaders included "discriminatory taxes and regulations making it next to impossible for American optical fiber and cable manufacturers to compete in Brazil's growing market."

After much effort by U.S. industry to get the two governments to "overcome these artificial barriers," they said, it would be "exceedingly helpful" if the President would "impress upon... Cardoso that his personal commitment is essential to ensure" that the U.S. products receive fair treatment.

In Argentina, pharmaceutical manufacturers are being hurt by that government's intellectual property rights (IPR) laws, which provide "exceedingly inadequate protection to patents held by American companies, despite assurances years ago" that President Carlos Menem's government would upgrade the protection, according to the letter.

U.S. industry is asking Argentina to use its regulatory and licensing process to "prevent infringement of existing valid patents and that data, provided for the purposes of patent registration, be protected against thievery by patent pirates," the letter said.

The industry also asked that a "bilateral technical team be reconvened to resolve the deficiencies" in Argentine IPR law, the letter said. It also called on Clinton to urge Menem to "take the necessary administrative steps to demonstrate his personal commitment" to improving IPR protection.

A U.S. pharmaceutical industry source this week called the Argentine situation "the main intellectual property case in the world along with the case in India." He charged that while Menem blames his Congress for the lack of resolution, the Argentine president "has not invested an ounce of [political] capital to remedy this."

On Venezuela, the leading oil source for the U.S., the letter encouraged Clinton to keep industry in mind as he signed a cooperative energy treaty there.

Meanwhile, Administration officials confirmed this week that high level conversations have been held regarding a number of specific trade issues, including between Clinton and Cardoso. But specifics are being left to negotiators later, Steinberg said on Oct. 14.

The leaders of both the U.S. and Brazil, top trader in Mercosur, have also expressed their mutual commitment to an FTAA. But while Clinton has been trying to convince Brazil of his support in the U.S. for fast track to negotiate an FTAA, Cardoso repeatedly referred to Brazil's position as a "global trader," with ties to many regions beyond North America.

Also, the two presidents agreed that Mercosur's continued efforts to expand it's subregional pact does not run contrary to the efforts to create a larger FTAA.

U.S., JAPAN TO CONSULT ON 1995 FLAT-GLASS AGREEMENT NEXT WEEK

The U.S. and Japan next week will hold consultations on market access for U.S. flat glass under a bilateral agreement in Tokyo, led by David Burns from the Office of the U.S. Trade Representative and Takashi Manabe from the Ministry of International Trade & Industry.

The U.S. expects to discuss new steps for increasing market access for U.S. firms during the Oct. 21 & 22 talks, according to a U.S. official. The mutually agreed agenda for the meeting states that both sides will discuss measures they have taken under the flat glass agreement, as well as other points, officials said.

USTR highlighted lagging U.S. exports under the bilateral agreement in its Oct. 1 Super 301 report by stating that the volume of foreign glass handled by major Japanese distributors is still "very limited." There also has been virtually no increase in the overall use of insulated glass and a decline in the use of safety glass even though Japan was to promote the use of these types of glass under the 1995 agreement, USTR said in the report.

Promotional measures which the U.S. had expected Japan to take included issuing new standards to promote the use of insulated glass in residential and commercial construction, the USTR report said. The U.S. flat glass industry and its supporters have pressed for quick action under the agreement, which is at the mid-point of its five year duration (*Inside U.S. Trade*, Sept. 26, p. 7).

Separately, the U.S. will call on Japan for new talks on paper and paper products "very soon" after next week's senior official meeting of the Asia Pacific Economic Cooperation forum, according to a U.S. official. The U.S. will continue to press Japan and has "very firm intentions" to talk about its proposal for a joint work program that will increase market access for paper and paperboard products, the official said.

"Such a program would lead to a reduction in structural barriers and exclusionary business practices and will result in meaningful access to distribution channels and end users," USTR said in the Super 301 report. The proposal covers trade promotion elements and seeks to open the distribution channels and procurement procedures of major buyers, the official said.

A Japanese official this week said that it was "impossible" to have consultations on paper with the U.S.

because there is no bilateral agreement in the sector. Japan earlier this year rejected U.S. efforts for government to government initiatives in the paper sector (*Inside U.S. Trade*, April 4, p. 3 & March 28, p. 1).

The American Forest & Paper Assn. this month welcomed USTR's announcement in the Super 301 report that the paper sector remained a top bilateral priority. "This country's forest and paper industry is the largest and most environmentally responsible forest products industry in the world, a high-wage employer and producer of quality consumer products," the AF&PA said in an Oct. 3 statement. "Denial of access to world markets -- such as Japan's -- is a serious threat to our industry's maintaining this position."

The statement endorsed the U.S. proposal for a work program as "pragmatic" and "effective."

PRESIDENT CLINTON NOMINATES TEXAS INVESTMENT BANKER AS DEPUTY USTR

President Clinton late last week announced the nomination of Richard Fisher, a Texas businessman, to be Deputy U.S. Trade Representative with the portfolio for Asian and Latin American affairs based in Washington. In that position, Fisher would hold the rank of ambassador, according to an Oct. 10 White House announcement.

Fisher is currently a managing partner with Fisher Capital Management and Fisher Ewing partners and is also an adjunct professor at the University of Texas at Austin, the announcement said.

He also serves as Chairman of the Dallas Committee on Foreign Relations, director of the United States-Russia Investment Fund, a member of the Executive Committee of the Inter-American Dialogue and a member of the Council on Foreign Relations.

In 1994, Fisher was the Democratic nominee from Texas for the U.S. Senate. He also held positions during the Carter Administration, including Executive Assistant to the Treasury Secretary, Assistant to President Carter at the Tokyo Economic Summit in 1979 and Advisor at the Bonn Economic Summit in 1978. He also served as a member of the team that negotiated the historic Claims and Asset Settlement between the U.S. and the People's Republic of China. Fisher is an honors graduate of Harvard University with an economics degree, and received an MBA from Stanford.

In a related development, the Senate Finance Committee has yet to vote on the nomination of Rita Hayes to be Deputy U.S. Trade Representative to the World Trade Organization (WTO). The vote will take place once Hayes has fully answered the questions posed by members of the Committee.

A Finance Committee staffer said this week that the Committee was "close to finishing its work and reporting the nomination out favorably."

The nomination of Thomas Foley to be Ambassador to Japan could be voted on by the full Senate as early as next week, according to another congressional source. The nomination was reported out favorably from the Senate Foreign Relations Committee on October 8.

KEY DEVELOPING COUNTRIES AGAIN FAIL TO TABLE OFFERS IN FINANCIAL TALKS

Key developing countries this week again failed to table initial offers in World Trade Organization negotiations on the liberalization of financial services markets. Several Asian and Latin American countries have hinted that they will make offers in November, and at press time only Iceland, Slovenia, Nigeria and Kenya had tabled new offers this week, trade officials said.

The meeting of the formal negotiating group on financial services was scheduled for today (Oct. 17), when other countries might also present new offers, trade officials said.

Industry and government sources this week noted that countries are likely to wait until November to table initial offers to avoid coming under pressure to improve them before the Dec. 12 deadline for the negotiations. Although countries have not signalled that they are backing away from the talks, these sources warned that the delay in presenting offers could greatly complicate efforts to achieve a successful outcome.

"Everyone seems to be committed to the process," one source said. "But if everyone waits until November, things will get very difficult."

A U.S. official cautioned that, though there is not enough on the table right now, there is still time to reach a successful deal. "Clearly there is not enough on the table, but that does not mean that will be the case in December," the official said.

A number of Asian countries told government and industry officials that capital-based officials have been preoccupied with their ongoing banking and currency crisis.

WTO members have agreed that there will be a high-level meeting in mid-November in an effort to "do some real dealing," one official said. The U.S. will likely be represented by Deputy U.S. Trade Representative Jeff Lang and Assistant Secretary of the Treasury Timothy Geithner, informed sources said.

During bilateral meetings this week, Korea came under fire for its offer, which was tabled at the September negotiating session. Korea's offer would not bind in the WTO all the commitments it made in the financial services sector as part of its accession to the Organization for Economic Cooperation & Development, trade officials said. In particular, it still imposes ceilings on how much of a particular company can be held by foreign institutions, and restricts foreign ownership of financial services firms, these officials said.

Malaysia has also come under pressure from several WTO members to relax a law which will require foreign insurance companies to reduce their ownership of firms in Malaysia to no more than 49 percent by June 30, 1998, trade officials said. Malaysia's current domestic practice is to allow majority ownership by foreign firms, but its existing commitments in this sector allow only 49 percent foreign ownership.

The law was one of the most contentious issues in negotiations in 1995, and has been cited as one reason why the U.S. declined to take on full commitments on a most-favored nation basis.

Industry sources this week said that a plan by Thailand to liberalize its financial services sector in response to its currency and banking crisis could be an important contribution to the negotiations if it bound these practices in the WTO. But the Thai plan currently calls for allowing full foreign ownership in some sectors for only ten years before scaling back access to minority stakes, one source noted.

"Buying a bankrupt institution and selling it after ten years is not the greatest idea," one source said.

WTO member were also planning to hammer out the technical details of how the protocol to the General Agreement on Trade in Services will be structured, and when a new financial services deal would take effect, informed sources said. The "rule of thumb" is that 12 months would elapse between the conclusion of the agreement and its taking effect, one official said.

If a new agreement were struck by the Dec. 12 deadline, the existing interim agreement would likely remain in effect for an additional year, the official added.

WTO COMMITTEE KICKS OFF SUBSTANTIVE WORK ON REGIONALISM ISSUES

A World Trade Organization committee charged with examining the relationship between regional trade agreements (RTAs) and the multilateral system this month decided how it would tackle its controversial substantive work that could lead to proposals for changing international rules defining RTAs. The Committee will begin its work by analyzing two key definitions of RTAs contained in the General Agreement on Tariffs & Trade based on factual analyses provided by the WTO secretariat.

The two definitions focus on the stipulation in GATT Article XXIV that RTAs must cover "substantially all trade," and that members of an RTA must apply substantially the same duties and "other regulations of commerce" to trading partners outside the arrangement, according to informed sources.

These two definitions are among the 60 items the committee will analyze in its efforts to define the relationship between RTAs and the multilateral trading system with the purpose of assessing whether existing rules should be changed. Members such as Japan, Australia and Hong Kong are hoping to conclude this analysis in a timely manner by 1999, which could open the door to proposals for new WTO rules.

In contrast, trading partners such as the U.S., Mexico and Southern Cone Common Market (Mercosur) countries are advocating a more gradual approach to the work, and want to ensure that it does not necessarily lead to changes in existing rules. They are less interested in changing existing rules because that could impair their ability to expand existing RTAs, officials said.

The divergent interests of WTO members are reflected in the committee's terms of reference struck as a compromise at the first WTO ministerial in December 1996. The terms authorize an examination of the "systemic implications" of regional trade agreements and initiatives for the multilateral trading system and their relationship to each other. The committee is also charged with making "appropriate recommendations" to the General Council.

The Committee's chairman was able to channel members' different positions into a common approach to tackling the work after three rounds of informal consultations. In presenting the results of his consultations to the committee during the Sept. 30 to Oct. 2 meeting, he emphasized that the debate of the systemic issues in the committee must be conducted without prejudging the results. In addition, he said the committee's discussions should not be seen as a "negotiating exercise" on WTO rules for RTAs, sources said.

The chairman also announced the WTO secretariat will help the committee by compiling "factual" information on RTAs, according to informed sources. The chairman said these papers will be presented to members as soon as possible, these sources said.

The WTO papers on "substantially all trade" and "other regulations of commerce" will be ready for discussion by the next meeting of the CRTA scheduled for Nov. 5, sources said.

The committee will examine the systemic issues laid out in the May 1997 checklist of 60 items in a three-pronged approach. This will encompass a legal analysis of relevant WTO provisions, an examination of RTAs in terms of the horizontal rules that apply to trade within an agreement. For example, this could cover customs valuation rules or rules of origin. The third part of this approach will examine the economic aspects of RTAs.

The committee chairman said the WTO secretariat use these three different approaches as appropriate in the papers it prepares, so that all delegations can emphasize the approach they see as most important, sources said.

The Article XXIV provision that RTAs must cover "substantially all trade" has long been a point of contention among WTO member-countries, according to the official. "No criteria have been agreed to for determining what the term 'substantially' all the trade in Articles XXIV[] entails," the Secretariat stated in its checklist.

The debate has evolved into two distinct interpretations, one stressing the term's quantitative aspect, the other its qualitative one, according to the Secretariat. Under the quantitative approach, questions include whether RTA parties must liberalize a set percentage of the volume of trade, or may take a more flexible case-by-case approach; whether the outcomes of an RTA over time (i.e., increases or decreases in trade barriers among RTA members) should be considered; and whether the dampening effect of pre-existing trade impediments on imports of RTA members be considered in calculating the percentage of trade liberalized.

The qualitative interpretation, according to the Secretariat, presupposes an RTA covering the majority of its parties' trade, but "still falls short of adequate sectoral coverage." Questions for future debate will include whether any assessment of an RTA should take into account its tendency to facilitate trade expansion in a sector even if RTA provisions don't call for the elimination of trade barriers; and whether the removal of trade barriers need take place among all RTA members in order for that liberalization to be considered in an assessment.

Additionally, the "substantially all trade" debate in the past typically focused on the exclusion of agricultural products from intra-RTA trade liberalization. "No consensus was ever reached on this point," the Secretariat states.

The Secretariat will now begin preparing papers which will cover "the history of discussion and debate" surrounding these first two issues, according to a source close to the process. They could also include some possible new definitions for the Article XXIV provisions under discussion, although the source could not speculate on what those definitions might be.

The Sept. 30-Oct. 2 meeting of the CRTA also included a review of two RTAs to evaluate their compliance with WTO rules. The first entailed the implementation of a customs union between the European Union and Turkey, and raised questions regarding the Agreement's agriculture and textile policies. The customs union will enter into force on January 1, 1998, but the EU would not offer an "end date" by which all aspects will be fully implemented, according to a trade official present at the meeting.

Both the U.S. and Australia pressed the EU on the details of full integration with regard to the Agreement's agriculture and textile sectors, and also questioned the EU on the timing of implementation. The EU indicated only that it was moving toward a "selective opening" of its markets, and would be "submitting written answers to these questions at a later time," the official stated.

The second review encompassed the free trade area between the EU and the Faroe Islands, a dependency of Denmark. The U.S. pressed Denmark on the Islands' minimum pricing policy with regard to fish and agricultural products.

EU SCIENTIFIC COMMITTEE CREATES THREE GROUPS TO EXAMINE BSE THREAT

The European Commission's Scientific Steering Committee (SSC) this week postponed a discussion of whether certain U.S. animal products could be exempted from a controversial European Union ban on products containing materials that may carry Bovine Spongiform Encephalopathy (BSE). Instead, the Oct. 16 SSC meeting created three groups that will examine separate elements of the EU's ban and whether any derogations can be made.

The three groups are expected to offer opinions in their respective areas in the next few weeks, and then report back to the SSC. The European Commission could then decide to act on those opinions by amending a July 30 decision due to take effect Jan. 1, 1998 that would ban animal products containing specified risk materials (SRMs).

One of the new groups will examine issues related to tallow and tallow derivatives, another will examine bone meal, and the third will study issues related to SRMs. This last group could discuss whether to expand the list of SRMs to include other animal parts.

The U.S. has been insisting that U.S. products should be exempt from the ban because it is free of BSE, a designation which could then allow U.S. animal products to enter Europe regardless of whether they contain SRMs. The U.S. has also sought a derogation from the ban for tallow derivatives, which the U.S. as well as an EU scientific body agree could be granted because tallow derivatives are processed in a way that kills any BSE elements that may be present.

The U.S. has charged that the ban would needlessly ban billions of dollars worth of U.S. pharmaceutical products that contain tallow and gelatin, as well as millions of dollars worth of tallow and tallow-containing products such as cosmetics. Informed sources said the Administration may consider a WTO challenge against the EU should it decide not to exempt the U.S. from its ban.

Sources said the three groups are expected to at least consider the U.S. demands. An EU official this week said the group formed to handle tallow and tallow derivatives will likely examine whether tallow derivatives should be exempt from the ban because of the way they are processed. But he said the group could decide to increase the pressure and temperature requirements that must be met before the derivatives are considered safe.

This official added that the three groups will likely discuss the possibility of granting EU trading partners BSE-free status. But this source said it seems unlikely that the U.S. would be given this status. EU Commissioner for Agriculture Franz Fischler has previously said that the U.S. will not be designated as BSE-free (*Inside U.S. Trade*, Sept. 26, p. 1).

The EU Commission last week signalled that it could be more receptive to U.S. demands. In an Oct. 8 report to the European Parliament, the Commission emphasized there could be consequences to banning animal products.

"The EU has a vital interest in ensuring that international trading rules are respected," the Commission said in its statement. "It is important to ensure that our exports do not encounter unjustified restrictions in gaining access to the world market." At the same time, the Commission said it "must be able to set the level of protection of human health which it considers to be appropriate."

In addition, the Commission indicated that certain pharmaceutical products should be exempted from the ban in certain circumstances. "[A] derogation for them should be envisaged on the basis of scientific advice in order to avoid any shortage in life-saving and essential medicines," the Commission said in the statement.

Despite this statement, the Pharmaceutical Research and Manufacturers of America (PhRMA) urged the Clinton Administration in an Oct. 14 letter to reject the notion that only lifesaving medicine in short supply could be made exempt from the SRM ban.

"We urge you to underscore that the United States expects, and will be satisfied with, no less than a comprehensive resolution of the problems that the Commission has created in adopting decision 97/534," the letter said. "The interests of patients, public health, and our industry, for example, require a full exemption for all pharmaceutical and biological medicines."

The letter added that a partial exemption would not eliminate the risk to public health or injury to the U.S. industry, and would not comply with the EU's obligations under the World Trade Organization's agreement on sanitary and phytosanitary (SPS) measures. A full exemption could be achieved by creating an exemption either for all medical products or by designating the U.S. as a BSE-free country, it said.

PhRMA also urged the Administration to fight against any expansion of the definition of SRMs under the ban, a topic the SSC was scheduled to discuss this week. "We urge you to contact your counterparts in the European Commission and Member States to clarify that any extension of the current ban would only exacerbate an already very serious concern of the United States on both public health and trade/commercial/agricultural grounds," the letter said.

U.S. DOWNPLAYS WTO CASE ON JAPAN AUTOS . . . begins page one

Sources close to the issue said that the U.S. did not threaten Japan with a WTO case during meetings in San Francisco last week. At the meeting, Japan refused several U.S. demands for additional market access steps.

The U.S. official also declined to comment on whether Japan must improve access for autos and parts by a certain date or face increased U.S. pressure. Instead, the official said only that the U.S. is monitoring Japan's compliance with the 1995 agreement on a "daily basis."

The failure of the Oct. 9 review to agree on new Japanese initiatives for boosting U.S. exports will be taken into account as the U.S. drafts its next semi-annual report on the agreement, according to U.S. officials. The report is due in mid-November.

"We will carefully consider the results of this meeting as we prepare the report," Assistant U.S. Trade Representative for Japan Wendy Cutler told reporters on Oct. 9. "Our next step is to prepare the semi-annual monitoring report and implementation of the agreement."

Cutler said that she and Deputy Assistant Secretary of Commerce for Japan Marjory Searing will report the outcome of the Oct. 9 session to Commerce Secretary Bill Daley and U.S. Trade Representative Charlene Barshefsky upon returning to Washington.

While the U.S. tabled a number of specific proposals last week on how to increase U.S. access in Japan, Japanese officials said only that they would convey this concern to Japan's auto industry. Japan also said it would hold a hearing to examine whether there should be certification for mechanics to repair one vehicle system rather than requiring them to be able to repair all seven major systems, and agreed to several initiatives aimed at promoting U.S. cars and parts (*Inside U.S. Trade*, Oct. 10, p. 1).

Sources said this week that Japan accepted those elements of the U.S. proposal that reflected ideas the Japanese government first proposed to the U.S. in September, and rejected those elements of the U.S. proposal that went beyond the initial Japanese proposal.

Copies of the U.S. proposal, as well as separate "non-papers" tabled by Japan's Ministry of International Trade & Industry (MITI) and Ministry of Transportation (MOT), are reprinted below.

While the U.S. pointed out that access to dealers for U.S. autos is not growing as fast as it should, MITI countered in its non-paper that the number of dealers is "steadily increasing." MITI further suggested that continued access to dealers will depend on the ability of U.S. manufacturers to make cars that Japanese consumers want.

"The Japanese market is undergoing rapid change with an ongoing trend toward recreational vehicles especially centered on small minivans and small station wagons," MITI's non-paper said. "Accordingly, foreign automakers are expected to inject competitive models into those market segments where demand is growing."

MITI also said that the Japan External Trade Organization (JETRO) will be supporting exhibitions of foreign autos in Japan. The proposal noted that exhibitions will take place in Osaka next month, Sendai during December, and in 18 other cities during the first three months of next year.

On original equipment auto parts, MITI said foreign suppliers should "make use" of recent trends under which Japanese manufacturers are making their parts procurement processes more transparent. "For Japanese automakers, finding competitive parts suppliers, regardless of whether the suppliers is foreign or domestic, has therefore become a critical issue in order to secure their international competitiveness," MITI's non-paper said.

In addition, MITI's non-paper added that JETRO would support foreign aftermarket parts suppliers by subsidizing exhibition fees and interpreters in events sponsored by JETRO. This support could also be extended to foreign parts suppliers that hold their own exhibitions in Japan, as well as to supplier of parts that send missions to Japan as long as certain conditions are met.

Finally, MITI said it would hold a "reverse trade fair" next month in Chicago, where Japanese manufacturers show U.S. parts manufacturers the kinds of parts they need. The MITI paper added that JETRO is also prepared to support purchasing missions to the U.S.

U.S. officials said last week that while these steps are appreciated, promotional efforts alone are not enough. However, these officials said the U.S. will most likely participate in these efforts.

MOT's non-paper noted that Japan publicizes the requirements that have to be met in order for a garage to be certified to make certain auto repairs. The U.S. last week proposed that these regulations be made more transparent.

MOT also said it is about to draft a law that would deregulate disassembling repair requirements. This would allow individuals to repair critical parts on autos without having to subject them to government inspections, a move the U.S. hopes could lead to an increased use in foreign auto parts.

In response to another U.S. request, MOT said Japan is now constructing an information system that would give U.S. auto parts suppliers more information on the kinds of parts Japanese manufacturers need. And in response to another U.S. demand, MOT said it is supporting efforts to compile a list of vehicle registration data in Japan broken down by car model in order to aid foreign parts suppliers.

Finally, MOT noted that in response to a series of requests made by the U.S. industry in September, Japan "intend[s] to hold hearings in the presence of interested parties from Japan and foreign countries, including parties related to the U.S. parts supply industry to explore the possibility of further deregulation."

In a related development, some private-sector sources criticized the U.S. this week for blaming the reduction in sales of U.S. cars in Japan on the 1995 auto agreement. These sources said the agreement is working properly, and that sales of U.S. cars would have increased this year if other factors hadn't intervened.

For example, Japan's sales tax increased from three to five percent in April of this year, which, along with Japan's recently lagging economy, hurt sales of cars there.

These sources also noted that most of the decrease in sales of autos made in the U.S. are made by Honda, Toyota and other manufacturers with plants in the U.S. that decided to fill Japan's market with local production.

U.S. Proposals in Auto Sector

Proposed Action Items
U.S.-Japan Automotive Consultations

<u>Auto Parts</u>

1. Specialized/certified garages

• Adoption of a specialized automotive technician testing/certification system.

• Provision of data and information on new garages and new specialized certified garages, including English guidelines on establishment and approval process for these garages, and zoning and other regulations affecting their establishment.

2. Critical Parts List

• Elimination of brake systems from the critical parts list as a first step toward elimination of disassembly repair requirements.

3. Data Availability

• Development of Japan Automobile Service Promotion Association's Foreign Automotive Information Network System (FAINES).

• Provision of Japanese vehicle registration data to aftermarket users at a reasonable fee.

• Establishment of an active campaign to inform automotive repair and service facility owners, mechanics, consumers, and MOT Land Transport Offices of regulatory changes.

4. JETRO Support

• Establishment by MITI/JETRO of major auto parts aftermarket show in Japan.

• Provision of financial support by JETRO to suppliers and manufacturers participating in auto parts trade shows and other auto parts outreach programs.

• Provision of translation services, office space, and research assistance as well as other financial support to promote the establishment of relationships between Japanese manufacturers and foreign auto parts suppliers.

<u>Vehicles</u>

• Improvement of foreign access to Japanese dealerships.

• Elimination of concerns of Japanese dealers about consequences associated with carrying competing foreign vehicles.

MITI Proposals in Auto Sector

(Non-Paper)
October 1997

(A) Access to Japanese Automotive Market

Imported vehicles have already been firmly and widely accepted in the Japanese auto market. For instance, sales of imported vehicles in CY 1996 more than doubled over the sales in 1992, while total sales in the Japanese market grew by only 5% during the same period.

In part due to the increase in the consumption tax in April, automakers faced a tough domestic market during the first half period of 1997. The sales figures posted by foreign automakers reveal marked disparities during this period, with some reporting increases up to 82% and some posting declines up to 44% compared to the year earlier. The fact is that in the 14 major foreign automakers, 10 makers reported sales increase against 4 makers reporting decline.

This shows that Japanese auto market has been the scene of one of the most intensely competitive in the world with foreign and domestic players vying for sales. Success in the market depends upon the individual player's sales strategy and efforts.

1. Access to Auto Dealership

Dealers in Japan under Direct Franchise Agreements (DFAs) with Foreign Automakers has been steadily increasing. Still, in order to secure new auto dealers in Japan, it is vitally important for all parties to recognize the features on the Japanese auto market. The Japanese market is undergoing rapid change with an ongoing trend toward recreational vehicles especially centered on small minivans and small station wagons. Accordingly, foreign automakers are expected to inject competitive models into those market segments where demand is growing.

Government of Japan as well as each Japanese vehicle manufacturers have designated a contact person. The GOJ notes that these contact persons will upon request by a foreign automaker or Japanese dealer, reaffirm that Japanese dealers are free to sell vehicles of competing automakers as referred to in the paragraph II.A.7.a and b. of the "Measures by the Government of Japan and the Government of the United States of America regarding Autos and Auto Parts."

2. Support for Exhibition of Imported Motor Vehicles ("Import Automobile Show")

Japan External Trade Organization (JETRO) provides support for exhibitions of imported vehicles in an effort to enhance and update the public understanding of imported vehicles throughout Japan, including major cities and regional centers. From the beginning of FY 1997 (April 1997), JETRO has provided support for exhibitions of imported vehicles held in the following locations nationwide: Tochigi Pref. (April), Nagano Pref. (April), Aomori Pref. (April), Fukushima Pref. (April), Hokkaido (May), Kagawa Pref. (June), and Wakayama Pref. (August). JETRO will continue its financial support to exhibitions of imported vehicles according to the following schedule.

November 1997: Osaka
December 1997: Sendai
January 1998: Nagoya, Yokohama, Oita, Toyama, Shizuoka, Hiroshima
February 1998: Fukuoka, Ehime, Kanazawa, Kobe, Gifu, Kyoto, Okayama
March 1998: Hokkaido, Mie, Fukui, Morioka, Tokushima

To further enhance public interest in imported vehicles, JETRO is planning to conduct the following test drive sessions for the media.

November 1997: Hokkaido
February 1998: Tokyo
March 1998: Fukuoka

(B) Access to Japanese Auto Parts Market
Fundamental Points

Beset by intense international competition, Japanese automakers are increasingly purchasing OE (original equipment) parts under a "Global Optimum Procurement" policy based upon QCDDM (quality, cost, development, delivery, and management systems). For Japanese automakers, finding competitive parts suppliers, regardless of whether the supplier is foreign or domestic, has therefore become a critical issue in order to secure their international competitiveness. Japanese automakers expect to make active use of competitive foreign suppliers and are taking a variety of measures to achieve this. All of the automakers are, for instance, enhancing the transparency of their parts procurement process, designating contact points in order to establish a system that facilitates contacts with parts suppliers, and providing manuals that summarize their parts procurement procedures. Accordingly, foreign suppliers are encouraged to make use of these measures.

Many of the replacement parts and accessories suppliers are small and medium-sized enterprises. In view of this fact, as part of its efforts to implement the 1995 Measures, MITI is prepared to make a further effort to expand opportunities to provide information on the Japanese auto parts aftermarket to foreign parts suppliers, in a bid to find competitive replacement parts as well as to promote imports. MITI is also ready to give assistance to foreign suppliers to increase contacts with Japanese buyers.

1. Support by JETRO

(1) Support to Firms Participating from Abroad in Exhibitions and Business Discussions Held in Japan

1) JETRO is prepared to provide support to foreign suppliers that participate in auto parts aftermarket exhibitions and business discussions sponsored or co-sponsored by JETRO. The support (within its budget) may include subsidy funds for exhibition fees and assistance for business discussions (such as the provisions of interpreters).

2) JETRO is also prepared to provide some support when foreign auto parts suppliers hold their own exhibitions and business discussions in Japan. The support (within its budget) may include travel expenses to Japan, expenses for business discussions (fees for interpreters and supplemental funds for local activities), based upon JETRO's support initiatives described below in 1) of (2).

(2) Support to Foreign Firms for Business Activities in

Japan

1) JETRO is prepared to provide support to missions for promoting exports of auto parts to Japan organized by public institutions or industry organizations. Such missions are to meet certain criteria, such as the inclusion of more than a specified number of private firms in the mission. The support (within its budget) may include travel expenses to Japan and expenses for business discussions (such as fees for interpreters).

2) JETRO is able to provide assistance from its six nationwide JETRO Business Support Centers (located in Tokyo, Yokohama, Nagoya, etc.) to foreign firms and business persons who are at the initial stage of activities for exporting products to Japan. This assistance includes the provision of offices with business equipment and meeting rooms for a period of up to two months, the introduction of interpreters, and consulting and assistance to carry out office work and surveys (the recipient will be expected to cover part of expenses).

2. "Reverse Trade Fairs" Abroad

JETRO holds exhibitions and business discussion meetings abroad at which the buyer firms exhibit sample parts for the parts suppliers to view.

A "Reverse Trade Fair" will be held in Chicago in November 1997. (At present, several dozen Japanese automakers and other firms setting up operations in the United States are scheduled to exhibit.) In order to make this program a success, it will be essential for many local suppliers to attend this exhibit. The cooperation of related government agencies will also be crucial. Previous exhibitions in such cities as Shanghai (September 1997) and Kuala Lumpur, Malaysia (October 1996) yielded favorable results.

3. Support for Japanese Parts Missions Abroad

JETRO is prepared to provide support (within its budget) to parts and accessories purchasing missions sent abroad by concerned Japanese trade organizations.

With JETRO's support, three trade organizations will send missions to the replacement parts trade exhibition AAIW (Automotive Aftermarket Industry Week) to be held in Las Vegas in November this year. (Support was provided to a mission to Germany in September last year.)

MOT Proposals in Auto Sector

Aftermarket Parts

- Provision of data and information on garages
- Establishment of campaign to inform regulatory changes

The requirements covering the acquisition of certification is being clarified in legislation and other documentation. When changes take place, affected parties are notified of the content of the changes and announcements are made to the media.

For examples when the specialized certification garage system established, this measure were publicly announced in the media and reported to industry observers abroad through publication in the Ministry's newsletter MOT News. In addition, relevant organization such as the Japan Automobile Service Promotion Association (JASPA) were notified. Upon notification, these organizations published the content of the measure in their newsletters. Moreover, articles about specialized certified garages system frequently appear in newspapers or magazines and so on recently. In addition, statistics on the number of garages, etc are open to the public.

- Deregulation of disassembling repair requirements including brake systems

Based on the second revision of the Deregulation Promotion Plan in March 1997, the Transport Technology Council started to study disassembling repair inspection by government in regard to all equipment including brake systems. Subsequently, the Transport Technology Council submitted a report in June 1997 advising the elimination of the disassembling repair inspection, under the precondition of maintaining other inspections, including periodical inspection, and the certification system for repair garages.

MOT is at present preparing to submit a draft revision of the law to the regular session of the National Diet next year.

- Foreign-Made Automobile components Information Network System (FAINES)

The FAINES system is currently under construction with the participation of related foreign parts suppliers and is scheduled to go into operation in spring 1998. We wish large numbers of foreign parts suppliers to take part in FAINES and to make the best use of the system. MOT has made a variety of efforts to present this network system. MOT presented this network system at the International Automobile Parts Symposium held in Las Vegas in November 1996 and to the U.S. parts industry mission that visited Japan in June 1997. "MOT News," also carried articles on the network system.

Participant in the Information Network System as of September 1997

[Registration completed]

USA company: 3, German company: 1, UK company: 1

[Registration scheduled]

USA company: 3, French company: 1

- Vehicle registration data

The U.S. parts supply industry is currently wishing to motor vehicle registration data broken down by car model, etc in order to develop its production and marketing plans.

MOT is providing all necessary support for the smooth progress.

- Qualification system of mechanics

Approximately 30,000 newly qualified automobile mechanics come into the world annually in Japan. There is no shortage of mechanics.

Number of newly qualified Class-2 mechanics

FY 1993: 27,355; FY 1994: 28,673; FY 1995: 30,967; FY 1996: 28,949

Having received a statement of the requests of the U.S. industry on September 22, 1997, we do intend to hold hearings in the presence of interested parties from Japan and foreign countries, including parties related to the U.S. parts supply industry to explore the possibility of further deregulation.

U.S. OFFICIAL SEES HOUSE FAST-TRACK VOTE SOON . . . begins page one

also hinted that there may be little support from House Democrats for fast track. He told business representatives on Oct. 9 that solid support for the bill is largely represented by the Democratic whip group on fast track which has roughly 14 members, informed sources said. Matsui also said that about half of the Democratic caucus in the House is firmly committed to opposing fast track, these sources said.

But one source said his comment was "kind of tongue-in-cheek," and another added that there are "unquestionably" more than 14 Democratic supporters. Another congressional source said that the potential Democratic support for the pending fast-track bill has been hovering around 40 members for several weeks, with about one half solidly in favor and the other half leaning in favor of support.

Rep. Phil Crane (R-IL), the chairman of the trade subcommittee, has said that fast track needs 70 Democrats to pass.

Supporters are unlikely to come out publicly in favor of fast track for fear of attracting the attention of opponents, one source said, adding that not enough time has passed after the Ways & Means vote on Oct. 8 to get an accurate picture of the full House vote.

"The momentum is not there in either direction," one congressional source said. "All this gloom and doom is a little premature," another said.

Berman on Oct. 15 said that it would take "about a week" after the Columbus Day recess to get a clear picture of the House vote.

Berman also harshly criticized the business community lobbying effort on fast track as "pathetic," but said he was "hopeful" that it would be more effective now that Ways & Means has passed a bill.

House members have told business groups that their lobbying should focus on countering the number of anti-fast track calls and letters which members have already received from organized labor, informed sources said. Labor groups are "extremely good" at generating a large number of communications to members of Congress, one source said.

At the Oct. 9 meeting, the business coalition formed to lobby for fast track, America Leads on Trade, circulated to its companies a list of 168 members who should be the target of "grassroots" lobbying during this week's recess. The list is reprinted below.

Republican members are "just getting started" whipping the fast-track issue, a congressional source said. The Republican effort will be headed up by Reps. Jim Kolbe (R-AZ), David Dreier (R-CA), Crane, Thomas Ewing (R-IL) "and others" who are part of the bipartisan whip group on fast track, the source said. One source said Republicans are looking for a vote count on their side of the aisle in the "140-160 range."

The House leadership currently has no plans yet for scheduling a vote, congressional sources said. Part of the uncertainty stems from the fact that it is unclear when the House will adjourn for the year, these sources said.

It is now possible that the House will stay in session through the second week in November, and not leave after the first week, as originally expected, congressional sources said. One source predicted that fast track would be "one of the last votes" and that it could happen with only a day's notice.

Berman also signalled that the Clinton Administration is open to legislation aimed at softening the adverse impact of free trade in the U.S. domestically. Negotiations on this issue are currently focused on the Hispanic Caucus in general, and Rep. Esteban Torres (D-CA), according to congressional sources. Possible measures in this area have focused on extending effective Trade Adjustment Assistance and the North American Development Bank, these sources said.

Possible changes to the TAA program and its counterpart for NAFTA would address "questions of operational efficiency," Berman said. The Administration has suggested $500 million in funding, which could be used to cover a larger number of workers or increase the benefits, a congressional source said.

In addition, the Dept. of Labor has started a review of TAA and NAFTA-TAA to determine "how they can work better," Berman said.

TAA already has adequate funding through early 1998, and provisions in both fast-track bills would fund it through the year 2000.

Changes to the NADBank program would be "for most members by and large a money issue," Berman said. In particular, members have called for changes which would improve the functioning of the community assistance programs run by the NADBank in coordination with the Dept. of Agriculture and the Small Business Administration.

Another Administration official said the efforts regarding the bank are more focused on dislodging projects that have been scheduled for financing than supporting new ones.

The Administration has also discussed with some members the possibility of an adjustment program modelled on those created to assist communities where military bases have closed, congressional sources said. One source added that this idea has not been fleshed out into a detailed proposal.

A congressional source noted that changes to the programs which would require legislation would boost outlays beyond what is already paid for in legislation passed by the House Ways & Means and Senate Finance committees. The source added that Republican support for such a plan would be difficult to come by because they perceive they have already made concessions to attract Democratic votes, and that most Republicans "especially hate" the NADBank.

ALOT Fast-Track Target List for Grassroots Lobbying

Priority Grassroots Contact List

Bob Riley (R-AL-03)
Spencer Bachus (R-AL-06)
Ed Pastor (D-AZ-02)
Vic Snyder (D-AR-02)
Asa Hutchinson (R-AR-03)
Jay Dickey (R-AR-04)
Nancy Pelosi (D-CA-08)
Anna Eshoo (D-CA-14)
Zoe Lofgren (D-CA 16)
George Radanovich (R-CA-19)
Brad Sherman (D-CA-24)
Xavier Becerra (D-CA-30)**
Jane Frank Harman (D-CA-36)
Juanita Millender-McDonald (D-CA-37)
Ken Calvert (R-CA-43)
Christopher Cox (R-CA-47)
Brian Bilbray (R-CA-49)
Robert Filner (D-CA-50)
Scott McInnis (R-CO-03)
Joel Hefley (R-CO-05)
Nancy Johnson (R-CT-06)*
Corrine Brown (D-FL-03)
Tillie Fowler (R-FL-04)
Bill McCollum (R-FL-08)
Charles Canady (R-FL-12)
Dan Miller (R-FL-13)
Dave Weldon (R-FL-15)
Carrie Meek (D-FL-17)
Robert Wexler (D-FL-19)
Peter Deutsch (D-FL-20)
Ray LaHood (R-IL-18)
John Shimkus (R-IL-20)
Steve Buyer (R-IN-05)
Edward Pease (R-IN-07)
Jim Nussle (R-IA-02)*
Leonard Boswell (D-IA-03)
Jim Ryun (R-KS-02)
Vince Snowbarger (R-KS-03)
Edward Whitfield (R-KY-01)
Chris John (D-LA-07)
Thomas Allen (D-ME-01)
John Baldacci (D-ME-02)
Steny Hoyer (D-MD-05)
Roscoe Bartlett (R-MD-06)
Martin Meehan (D-MA-05)
Edward Markey (D-MA-07)
John D. Dingell (D-MI-16)
Gil Gutknecht (R-MN-01)
Bill Luther (D-MN-06)
Charles Pickering (R-MS-03)
William Clay (D-MO-01)
James M. Talent (R-MO-02)
Ike Skelton (D-MO-04)
Karen McCarthy (D-MO-05)
Roy Blunt (R-MO-07)
JoAnn Emerson (R-MO-08)
Rick Hill (R-MT-01)
Jim Gibbons (R-NV-02)
John E. Sununu (R-NH-01)
Charles Bass (R-NH-02)
Jim Saxton (R-NJ-03)
Mike Pappas (R-NJ-12)
Robert Menendez (D-NJ-13)
Joe Skeen (R-NM-02)
Bill Redmond (R-NM-03)
Rick Lazio (R-NY-02)
Gary Ackerman (D-NY-05)
Thomas Manton (D-NY-07)
Charles Schumer (D-NY-09)
Edolphus Towns (D-NY-10)
Nita Lowey (D-NY-18)
Sue Kelly (R-NY-19)
James T. Walsh (R-NY-25)
Louise Slaughter (D-NY-28)
John LaFalce (D-NY-29)
Bob Etheridge (D-NC-02)
David Price (D-NC-04)
Howard Coble (D-NC-06)
Bill Hefner (D-NC-08)
Sue Myrick (R-NC-09)
Earl Pomeroy (D-NC-08)
Steve Chabot (R-OH-01)
David Hobson (R-OH-07)
Thomas Sawyer (D-OH-14)
Ralph Regula (R-OH-16)
J.C. Watts (R-OK-04)
Ernest Istook (R-OK-05)
Darlene Hooley (D-OR-05)
Thomas Foglietta (D-PA-01)
Chaka Fattah (D-PA-02)
Curt Weldon (R-PA-07)
Paul Kanjorski (D-PA-11)
Jon Fox (R-PA-13)
Frank Mascara (D-PA-20)
Phil English (R-PA-21)**
William Jenkins (R-TN-01)
John Duncan (R-TN-02)
Van Hilleary (R-TN-04)
Bob Clement (D-TN-05)
Bart Gordon (D-TN-06)
Ed Bryant (R-TN-07)
Harold Ford, Jr. (D-TN-09)
Max Sandlin (D-TX-01)
Jim Turner (D-TX-02)
Sam Johnson (R-TX-03)*
Ralph Hall (D-TX-04)
Lloyd Doggett (D-TX-10)
Chet Edwards (D-TX-11)
Ron Paul (R-TX-14)
Ruben Hinojosa (D-TX-15)
Silvestre Reyes (D-TX-16)
Sheila Jackson Lee (D-TX-18)
Solomon Ortiz (D-TX-27)
Ciro Rodriguez (D-TX-28)
Gene Green (D-TX-29)
Eddie Bernice Johnson (D-TX-30)
Merrill Cook (R-UT-02)
Owen Pickett (D-VA-02)
Robert Scott (D-VA-03)
Rick Boucher (D-VA-09)
Jack Metcalf (R-WA-02)
Doc Hastings (R-WA-04)
Adam Smith (D-WA-09)
Mark Neumann (R-WI-01)
Ron Kind (D-WI-03)
Thomas Barrett (D-WI-05)
Jim Sensenbrenner (R-WI-09)
Barbara Cubin (R-WY-01)

* Ways & Means Committee Member — voted "Yes" in committee, buts still needs contact

** Ways & Means Committee Member — voted "No" in committee, needs contact

HUMAN RIGHTS, DEVELOPMENT GROUPS OPPOSE PENDING FAST-TRACK BILLS

Groups of human rights and development activists last week urged President Clinton and a key House member to reject pending fast-track legislation that would limit the extent to which trade agreements could cover environmental and core labor standards. Instead, they pressed for a framework for trade agreements that strengthens standards in both areas by permitting their enforcement through trade measures.

"The protection of internationally recognized labor rights must be a central component of any trade regime," Human Rights Watch said in an Oct. 7 letter to Clinton and House Ways & Means Committee Chairman Bill Archer (R-TX). Failure to include labor rights in trade agreements would encourage countries to have little or no labor rights enforcement in order to attract foreign investment, according to the letter.

"Absent authority to ensure that governments enforce international labor standards, for instance, companies may seek to take advantage of the artificially low wages and poor working conditions that may result if unions are not able to organize freely," Human Rights Watch said.

Similar opposition to pending fast-track bills was expressed by 21 groups of religious, human rights, development and grass roots activists in an October 9 letter and accompanying policy statement to the full Congress. "We believe that U.S. trade policy must include a vigorous defense of the rights of labor and protection of the environment and that these principles must be in the core of trade agreements," the groups said.

The groups' letter rejected pending fast-track bills as undermining wages and working conditions in the United States and abroad, and charged that they would lead to trade agreements that contribute to environmental degradation. The groups criticized the negotiating objectives on agriculture, investment and intellectual property rights as pursuing policies that would ultimately lead to increased poverty and landlessness in developing countries.

For example, indigenous small farmers in developing countries that have trade agreements with the U.S. have found it difficult to compete with low priced agricultural imports, a private-sector source said. As a result, they are being placed at increased risk of losing their land, according to the source.

Alternatively, these groups pressed Congress to develop a policy framework for considering trade agreements that allows greater participation of religious, environmental, and development groups currently excluded from the process. "Major trade negotiations should include broad-based citizen participation and agreements should be ratified through genuinely democratic processes," they said in the policy statement accompanying the letter.

This debate would ensure a framework for trade agreements that recognizes workers' rights, environmental protections, and the rights and needs of local communities, the letter said. It emphasized the groups' recognition of the importance of economic interdependence and the positive role international trade can play if it promotes rising standards of wages, working conditions, sustainable development, and environmental protection.

In its Oct. 7 letter, Human Rights Watch pointed out the limits of multilateral efforts to strengthen core labor rights without the use of trade agreements to provide enforcement mechanisms. Current fast track legislation calls for the U.S. to channel all efforts to promote labor rights through the World Trade Organization (WTO) and the International Labor Organization (ILO).

However, the WTO has rejected playing a role on the issue of labor rights and trade, and expressly insists that labor rights protections should not jeopardize the comparative advantage of low-wage countries, the letter pointed out. During the WTO's December 1996 ministerial in Singapore, the WTO declined to establish a working group to examine the linkage between trade and labor, "reaffirming its belief that the ILO is the competent body to set and deal with these standards."

The ILO has developed a mechanism for examining certain labor rights violations, but according to the Oct. 7 letter, it has no authority to enforce compliance with its decisions.

According to Human Rights Watch, it is "wrong" to insist that there is no link between trade and labor. "The violation of internationally recognized labor rights may have an important impact on trade through the artificial suppression of costs," its letter said.

The group cited employment discrimination of pregnant women in the Mexican *maquiladoras* industry as an example of its claim. In these factories, U.S.-owned multinational corporations barred pregnant women from the work place through mandatory testing, firing, and harassment in order to avoid paying maternity benefits. The companies told Human Rights Watch that they practiced this discrimination to remain competitive, the letter said.

In addition, Human Rights Watch said that a link between trade and labor was recognized in the Trade Act of 1974 as amended, where the denial of internationally recognized labor rights was defined "as an unfair trade practice" under Section 301 of the trade law.

The Oct. 9 letter was signed by the Development GAP; Lutheran Office for Governmental Affairs; Evangelical Lutheran Church in America; Fellowship on Reconciliation/Task Force on Latin America and the Caribbean; Interhemispheric Resource Center; International Labor Rights Fund; Maryknoll Justice and Peace Office; NETWORK; Nicaragua Network; Nicaragua-U.S. Friendship Office; Office for Church in Society/United Church of Christ; Presbyterian Church, Washington Office; Quixote Center/Quest for Peace; Religious Task Force on Central America and Mexico; Sister Parish; RESULTS; U.S./Guatemala Labor Education Project; Washington Office on Latin America; Witness for Peace; Voices on the Border; Women's Division, United Methodist Church.

EU, U.S. DISCARD HELMS-BURTON DEADLINE . . . begins page one

official said. It is also an effort by the EU to put pressure on the U.S. and to indicate that "this can't go on forever," the official said.

But the official said it is clear that the EU will not return to its World Trade Organization challenge of the Helms-Burton law for now, and that the EU will meet with U.S. negotiators in the near future.

U.S. officials said they would have to take this week's recommendation to extend the negotiations "back to Washington" for approval. White House and State Dept. officials, as well as members of Congress, are expected to consider the proposed extension of the talks, sources said.

Meanwhile, U.S. officials said the differences between the two sides "narrowed" this week, and that they are looking forward to continuing the negotiations in Paris later this month on the fringes of talks on the Multilateral Agreement on Investment. The two sides are hoping the MAI being negotiated under the auspices of the Organization for Economic Cooperation & Development can be used to establish multilateral investment disciplines as a way of settling their fight over Helms-Burton.

Sources this week added the agreement to extend the talks is partially a reflection of the sentiment on both sides that they should avoid having the WTO settle the dispute. The U.S. has hinted it might argue that Helms-Burton should be exempt from WTO rules and be considered a national security measure, which would undermine the credibility of the organization.

At press time, the two sides had not released a formal statement or any details of the progress they made during this week's meeting in Brussels. U.S. officials last week said they had hoped to release a status report of the talks by this week, but that had also not been released at press time.

A senior U.S. official said earlier this week that the U.S. is hoping to use the U.S.-EU summit in December as a marker for concluding the negotiations.

"We clearly will not have a finished product by October 15th, but what we're hoping for is that we'll have such significant progress that we can continue...with the goal of reaching an agreement by the time of the U.S.-EU summit," Undersecretary of State for Economics, Business and Agricultural Affairs Stuart Eizenstat told reporters Oct. 14.

U.S. and EU officials this week called the original Oct. 15 deadline a "target date" that helped focus the two sides in the negotiations.

Specifically, the U.S. and EU have been trying to negotiate disciplines that deter investment in expropriated property and disciplines that restrict the use of secondary boycotts. The two sides are hoping that an agreement in these areas will allow the EU to withdraw its threatened WTO complaint over Helms-Burton and allow Congress to amend the law so that Title IV can be waived. Title IV now requires the U.S. to ban foreign executives that traffic in former U.S. property in Cuba.

Also as part of the deal, the EU wants the U.S. to waive the application of the Iran-Libya Sanctions Act to European companies.

The two sides have been split on the issues in the Helms-Burton negotiations in recent weeks, with the U.S. insisting that the disciplines cover property that has been expropriated in the past. The U.S. has also argued that no language be written into the MAI that limits the ability of the U.S. to enact secondary boycotts (*Inside U.S. Trade*, Oct. 10, p. 1).

In a related development, Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) earlier this month requested the State Department to provide all available information regarding the implementation of Title IV. Helms and others have charged that State is deliberately slowing the enforcement of Title IV because the EU has threatened to return to its WTO challenge of Helms-Burton if a European company is targeted by it.

Helms made his request in an Oct. 3 letter to Secretary of State Madeleine Albright after an Aug. 14 letter from President Clinton to Helms asserted that Title IV is being fully implemented.

"The President did not even try to address my concern that the Administration was pulling its punches by failing to deny U.S. visas to these traffickers [of expropriated property]," Helms wrote in the letter, reprinted below. "His letter asserted simply, 'I assure you that the United States will continue enforcing Title IV' -- ignoring my specific complaint that only two foreign companies had been cited under the Helms-Burton Act in 16 months."

"Since the President failed to address my questions about enforcement of the LIBERTAD Act, we are obliged to find out for ourselves whether this U.S. law is indeed being applied vigorously," Helms wrote to Albright.

Specifically, Helms requested all memos, cables, minutes, mail and other documents relating to past and pending investigations under Title IV, and a list of all State personnel who have participated in these investigations since the law took effect March 12, 1996. Helms also asked for all communications and papers from the EU and other trading partners relating to the policies these countries have on Cuba.

Helms also criticized Clinton for responding in his Aug. 14 letter that Title III of the law has been waived due to "unprecedented international cooperation" aimed at promoting democracy in Cuba. "Madam Secretary, that's news to me," Helms wrote. Title III, which Clinton has suspended three times, would allow U.S. entities to sue foreign companies that traffic in former U.S. property in Cuba.

Helms wrote Clinton in July, when he requested an explanation as to why more foreign companies have not been targeted under Helms-Burton (*Inside U.S. Trade*, Aug. 1, p. 1).

State responded by letter last July to a similar request by House International Relations Committee Chairman Ben Gilman (R-NY). That letter said that 45 Title IV investigations were underway (*Inside U.S. Trade*, July 18, p. 1).

Helms Letter on Title IV

October 3, 1997

The Honorable Madeleine Albright
Secretary of State
Washington, D.C. 20520

Dear Madam Secretary:

I will genuinely appreciate your helping our Committee's efforts to ensure that U.S. laws designed and intended to put pressure on the Castro regime are enforced fully and vigorously.

On August 14, the President responded to an earlier letter from me regarding his decision to suspend Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act which (as you know) would allow Americans to sue foreigners found to be "trafficking" in their stolen property in Cuba. In that letter, the President stated that he had based his decision on "unprecedented international cooperation" by other countries to "promote a peaceful democratic transition in Cuba." Madam Secretary, that's news to me.

The President did not even try to address my concern that the Administration was pulling its punches by failing to deny U.S. visas to these traffickers. His letter asserted simply, "I assure you that the United States will continue enforcing Title IV" – ignoring my specific complaint that only two foreign companies had been cited under the Helms-Burton Act in 16 months.

Since the President failed to address my questions about enforcement of the LIBERTAD Act, we are obliged to find out for ourselves whether this U.S. law is indeed being applied vigorously. To that end, I ask that the Department of State provide the Foreign Relations Committee with the following information (including classified documents) as soon as possible:

1. All memoranda, cables, minutes, electronic mail messages, telefaxes, or other documents, and drafts thereof, relating to past or pending investigations or decisions under Title IV of the LIBERTAD Act.

2. A list (indicating current assignments) of all State Department personnel who have participated directly in investigations and decisions under Title IV of the LIBERTAD Act, since March 12, 1996.

3. All memoranda, cables, electronic mail messages, telefaxes, or other documents, and drafts thereof, relating to the policies of third countries or international organizations (including, but not limited to, the European Union and each of its member states) toward the regime of Fidel Castro in Cuba, since March 12, 1996.

Kindest personal regards.

Sincerely,

Sen. Jesse Helms (R-NC)

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