

FOIA MARKER

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Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Policy Development

Series/Staff Member: Jason Berman

Subseries:

OA/ID Number: 10603

FolderID:

Folder Title:

Trade Publications [Fast Track] [2]

Stack:

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Row:

100

Section:

2

Shelf:

3

Position:

1

July 1997

* Presidential Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday																																																	
June <table> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td></tr> <tr><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td></tr> <tr><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td></tr> <tr><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td></tr> <tr><td>29</td><td>30</td><td></td><td></td><td></td><td></td><td></td></tr> </table>	S	M	T	W	T	F	S	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30							1 Down until 1:00pm Mil. Aide Promotion Ceremony Electronic Commerce Event Down at 3:30pm Evening Off	2 MIVPPD Departure Photos Hold 1 Hour Lunch PSAs at Orioles Game. Camden Yards Evening Off	3 Briefing for Foreign Trip (1 Hour) VP Lunch Tape Radio Address Veterans Event Evening Off	4 Day & Evening Off Depart for Mallorca, Spain Independence Day	5 Mallorca, Spain Down Time RON Mallorca, Spain							
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6 Mallorca, Spain Down Time RON Mallorca, Spain	7 Mallorca, Spain Down Time RON Madrid, Spain	8 NATO Summit, Madrid RON Madrid, Spain	9 NATO Summit, Madrid RON Madrid, Spain	10 Warsaw, Poland RON Warsaw, Poland	11 Bucharest, Romania Tape Radio Address RON Copenhagen, Denmark	12 Copenhagen, Denmark RON DC Gore Wedding																																																	
13 Day & Evening Off	14 Down until 1:00pm Genetic Screening Event Down at 3:30pm Evening Off	15 Congressional Meeting (T) WEB Hispanic Outreach Meeting	16 Intern Photo VP Lunch E-Chip Announcement Hold 1 Hour	17 Depart AM for Pittsburgh, PA Address NAACP Convention Multi-Racial Roundtable, Chicago, IL (T) Address Nat'l Assn. of Black Journalists, Chicago, IL RON DC TWA Flight 800 Crash Anniversary	18 Working Visit with President Shevardnadze of Georgia (30 minutes) Hold 1 Hour (MM) Girls Nation Event Evening Off	19 Live Radio Address Evening Off																																																	
20 Day & Evening Off	21 Day & Evening Off Message Event (T)	22 Message Event (T) Asian Outreach Meeting DCCC Dinner, DC (T)	23 Hold 30 Minutes (SS) WEB Immunization/Childcare Event VP Lunch Hold 1 Hour Castnet <u>with</u>	24 ~~Fast Track~~ Working Lunch with President Herzog of Germany Climate Change Event (T) Exhibit/Private Dinner, DC	25 Address Nat'l Assn. of Elementary School Principals Hold 1 Hour (MM) Tape Radio Address w/ Boys Nation Evening Off	26 Lake Tahoe Summit RON Los Angeles, CA American Disabilities Act Signing ...																																																	
27 Church (T) DCCC Fundraiser, Los Angeles, CA RON Los Angeles, CA	28 NGA Speech, Las Vegas, NV RON DC	29 Day & Evening Off Anniv. of Children's TV Summit	30 Hold 2 Hours (SS) Drop-by Briefing for Regional Appointees Meeting w/ South African Deputy PM Mbeki Boy Scout Jamboree, Fort AP Hill, VA (7:30pm)	31 ~~Fast Track~~ WEB Religious Freedom Event VP Lunch Hold 1 Hour	August <table> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> <tr><td>31</td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table>		S	M	T	W	T	F	S						1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31						
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August 1997

* Presidential Calendar

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					1 Official Working Visit with President Aliyev of Azerbaijan (No Press Conference/ Duration TBD) Mil. Aide Promotion Ceremony (T) Hold 1 Hour (MM) Evening Off	2 Live Radio Address Day & Evening Off																																																																																				
					8 Message Event TBD (RI) Tape Radio Address Evening Off Hold for Family Time	9 Day & Evening Off																																																																																				
3 Day & Evening Off	4 Address National Urban League, DC Congressional Recess (8/4 - 9/3)	5 WEB Hold 1-1/4 Hour (ME) National Night Out Crime Event (T)	6 Videos Hold 1 Hour Evening Off	7 VP Lunch Hold 1 Hour (MM) DNC Dinner, DC (Arkansas)																																																																																						
10 Day & Evening Off Hold for Family Time Budget Anniv.	11 Evening Off	12 WEB DNC Dinner, DC (Mayors)	13 Working Visit w/ Amir Sheikh Khalifa of Bahrain (T) Hold 1 Hour	14 VP Lunch Hold 1-1/4 Hour (ME) Evening Off	15 Hold 1 Hour (MM) Evening Off	16 Live Radio Address Evening Off																																																																																				
17	18	19 POTUS B-day	20 Minimum Wage Bill Anniv.	21 Kennedy-Kassebaum Bill Anniv.	22 Tape Radio Address Welfare Bill Anniv.	23																																																																																				
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31 Vacation	July <table> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td></td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td></tr> </table> September <table> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td></tr> <tr><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td></tr> <tr><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td></tr> <tr><td>28</td><td>29</td><td>30</td><td></td><td></td><td></td><td></td></tr> </table>						S	M	T	W	T	F	S		1	2	3	4	5		6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31			S	M	T	W	T	F	S		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30				
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September 1997
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	1 Labor Day	2	3 Congress Returns	4	5 Tape Radio Address	6																																																																																											
7 Vacation	8 Evening Off	9 Hold for Possible Official Visit	10 Hold 1-1/4 Hour (ME) Evening Off	11 VP Lunch Hold for Possible Picnic	12 Hold for Possible Picnic Rain Date	13 Live Radio Address Day & Evening Off Crime Bill Anniv.																																																																																											
14 Day & Evening Off	15 Evening Off	16 Evening Off	17 Day & Evening Off	18	19 Tape Radio Address USTA Davis Cup, Washington, DC	20																																																																																											
21 RON New York, NY (T) Hold for Possible Travel/Family ... USTA Davis Cup, Washington, DC	22 Speech to Opening Session of UNGA, NY Bilals (T) Reception (T) Opening of Metropolitan Opera (T) RON DC (T) UNGA Opening Session, New Y... First Day of Autumn	23 Day & Evening Off	24 AFL-CIO Convention, Pittsburgh, PA (T) Fundraising Lunch, Pittsburgh, PA (T) Fundraising Event, Little Rock, AR (T) RON Little Rock, AR (T)	25 40th Anniversary of Little Rock Central High Desegregation Down Time RON Little Rock, AR (T)	26 Dallas Message Event (T) Dallas \$ Lunch (T) Tape Radio Address Houston \$ Dinner (T) RON DC 50th Anniversary of the NSC	27 Day & Evening Off																																																																																											
28 Day & Evening Off	29 Hold 1-1/4 Hour (ME) Arts & Humanities Ceremony (T) Arts & Humanities Dinner (T)	30 Shalikhshvili Farewell Ceremony (T) Evening Off	August <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> <tr><td>31</td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table> October <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td></tr> </table>				S	M	T	W	T	F	S						1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31							S	M	T	W	T	F	S					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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October 1997

* Presidential Calendar

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5	6 Climate Change Conference in DC (T)	7 Hold 1-1/4 Hour (ME)	8 NAPO Top Cop Dinner (T)	9	10	11 POTUS & FLOTUS Anniversary Yom Kippur																																																																																														
12 Hold for Foreign Travel	13 Hold for Foreign Travel Columbus Day	14 Hold for Foreign Travel	15 Hold for Foreign Travel	16 Hold for Foreign Travel	17 Hold for Foreign Travel Yom Kippur (begins at sundown)	18 Hold for Foreign Travel																																																																																														
19 Hold for Foreign Travel	20 Day Off DLC Gala, DC (T)	21 DSCC Gala (T)	22 Mtg. w/ Ecumenical Patriarch Bartholomew I Northern Lights at Kennedy Center (T)	23 White House Conference on Child Care (T) Hold 1-1/4 Hour (ME) Evening Off	24 Working Visit with President Arzu of Guatemala (30 minutes) (T) Concert Hall Opening, Kennedy Center (T)	25 Day & Evening Off																																																																																														
26 Day & Evening Off HRC's B-day Daylight Savings Time Ends	27	28	29 Chinese State Visit	30	31																																																																																															

November 1997

* Presidential Calendar

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2	3	4 Election Day	5 Working Visit with President Nazarbayev of Kazakhstan (30 minutes) (T)	6 Travel to Texas Dedication of the George Bush Presidential Library, Texas A&M	7 Day & Evening Off	8																																																																																				
9	10 WH Conference on Hate Crimes (T)	11 Veteran's Day	12 Hold 1-1/4 Hour (ME)	13	14 Official Working Visit of President Zedillo of Mexico (4 hours) (T)	15																																																																																				
16	17	18	19 Working Visit of President Chissano of Mozambique (30 minutes) (T)	20 Hold 1-1/4 Hour (ME)	21	22 APEC Meeting, Vancouver, British Columbia																																																																																				
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30	APEC Meeting, Vancouver, British Columbia																																																																																									
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December 1997

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	1	2	3 Hold 1-1/4 Hour (ME)	4 Lighting of the National Christmas Tree	5 USEU Summit at the WH	6 Anniv. of NAFTA																																																																																				
7 Kennedy Center Honors Pearl Harbor Day	8 Anniv. of GATT	9	10	11 Hold 1-1/4 Hour (ME)	12 Official Working Visit with Prime Minister Prodi of Italy (4 hours) (T)	13																																																																																				
14 Christmas in Washington	15	16	17 Hold 1-1/4 Hour (ME)	18	19	20																																																																																				
21 First Day of Winter	22	23 Hanukkah (begins at sundown)	24 Christmas Eve Call to Troops	25 Christmas Day	26	27																																																																																				
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CLINTON HINTS AT WTO, UNILATERAL ACTION AGAINST EU ON BOEING MERGER

President Clinton yesterday (July 17) held out the possibility that the U.S. would fight a decision by the European Union to block a merger of the Boeing Co. and McDonnell Douglas Corp. (MDC) either in the World Trade Organization or with unilateral actions. At the same time, the President predicted that the two sides would avoid a trade war over the merger, which has already been approved by U.S. antitrust authorities.

"Let me say, I'm concerned about what appear to be the reasons for the objection to the Boeing-McDonnell Douglas merger by the European Union, and I think that it would be unfortunate if we had a trade standoff with them," Clinton told reporters on July 17. "But we have a system for managing this through the World Trade Organization and we have some options ourselves when actions are taken by Europe in this regard."

Clinton said he had "quite a lot of concern" about EU comments on the pending merger. "But I think there is

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HOUSE POISED TO RETALIATE AGAINST HELMS-BURTON TITLE III SUSPENSION

President Clinton's decision to suspend a key element of the Helms-Burton law this week prompted House supporters of the law to introduce legislation that would terminate the president's ability to suspend that provision in the future.

The bill, titled the Libertad Enforcement Act, would repeal the president's authority to waive Title III of Helms-Burton. Title III, if allowed to take effect, would allow U.S. parties to sue foreign companies for damages resulting from the use of confiscated U.S. property in Cuba. The President has been waiving Title III in six-month intervals since the law took effect.

Rep. Bill McCollum (R-FL) introduced his bill on July 16, just hours after the Administration announced the third suspension of Title III of Helms-Burton.

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AAMA CALLS FOR SUPER 301 CASE AGAINST KOREA, MONITORING OF JAPAN

The Big Three U.S. automakers this week asked the Clinton Administration to initiate a Super 301 case against Korea for its failure to open its automobile market consistent with a 1995 bilateral agreement. They also urged the U.S. to closely monitor Japan because it has been slow in opening up dealerships to foreign cars, which are critical to increasing their sales.

"The trends in U.S.-Japan automotive trade are all headed in the wrong direction," American Automobile Manufacturers Assn. President Andrew Card told reporters in Tokyo on July 17. "The Japanese government seems to be sliding effortlessly into its old pattern of pursuing export-led growth and appears unwilling or unable to take seriously its commitment to pro-active market opening which was expected under the 1995 [U.S.-Japan] agreement," he said.

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U.S., EU REACH TENTATIVE DEAL SETTLING TEXTILES RULES OF ORIGIN FIGHT

U.S. and European Union negotiators this week reached a tentative agreement to settle their fight over determining the origin of fabrics printed and dyed in the EU by partially rolling back a 1996 rule of origin law, according to informed sources. The rollback would be negotiated as part of an initiative in the World Trade Organization to harmonize rules of origin by July 1998, and then approved with a legislative change in the U.S., they said.

In the interim, the U.S. will exempt imported EU silk fabric and scarves from its marking requirements that would identify them as a product of China, the sources said.

In addition, the U.S. will ensure the free flow of cotton and man-made fiber fabrics printed in the EU that are now considered the product of the country that produced the grey fabric, these sources said. This will be achieved

continued on next page

by exempting specified categories of cotton and man-made fabric from the bilateral trade agreements of countries that produce the fabric: Egypt, Turkey, Thailand and Indonesia.

As a result of the tentative agreement reached during negotiations in Geneva, the two sides agreed to suspend for the time being the formal WTO consultations requested by the EU, sources said. The formal consultations were set for July 16.

The EU is soliciting a response from member states on the tentative deal through a written procedure being conducted by the trade barriers committee, under which the Italian textile industry first raised its complaint against the U.S. rules of origin change, according to an EU official.

"The European Community reserves the right to revive those consultations in the event that the United States does not introduce, and thereafter timeously enact, the legislative amendments as proposed above or in the event that, during the period prior to the implementation of such legislative amendments, trade in those products that are the subject of the European Community's concern is disturbed, or access to the U.S. market diminished, in comparison with trade prior to July 1, 1996," according to a summary of the understanding reached on July 15.

The July 1, 1996 date marks the day the U.S. implemented the rules of origin change that caused problems for fabrics dyed and printed in the EU by making them the product of the countries that produced the grey fabric.

Under the agreement reached on July 15, the U.S. promised to propose changing its rule of origin for silk accessories, silk fabrics, dyed and printed cotton fabrics, dyed and printed man-made fiber fabrics, and dyed and printed vegetable fiber fabric in the context of the WTO negotiations harmonizing rules of origin worldwide, sources said.

Not later than two months from July 20, 1998, the Administration will propose to Congress an amendment to the U.S. rules of origin for these products that would make them conform to the results of the negotiations, unless the EU and the U.S. agree on a different arrangement in the context of cooperation in the sector, these sources said.

Both sides also agree to consult on "any other issues" on textiles rules of origin with the intent of reaching mutually satisfactory solutions, sources said.

As an interim solution for cotton fabrics, the U.S. will create breakouts for discharge printed fabrics, and will ensure that these provisions are exempted from quotas and visa requirements laid out in U.S. textiles agreements with Egypt, Turkey, Thailand and Indonesia. Discharge printing is a type of fabric printing process.

These carveouts affect Harmonized Tariff Schedule numbers 5208.52.30.40, 5208.52.40.40, 5209.51.60.30 (Category 313-Sheeting); 5208.52.40.60 (Category 315-Printcloth); 5208.59.20.20, 5209.59.00.20, and 5211.59.00.20 (Category 326--Sateen); 5208.59.20.90 (Category 317-Twill); and 5209.51.60.20 (Category 314-Poplin/Broadcloth).

The interim solution for printed man-made fibers will be removing the quota coverage for discharge printed fabrics in Category 611 for Malaysia, Categories 611, 618 and 629 for Indonesia, and Category 611 for Thailand, sources said.

For silk scarves and fabric, the U.S. will immediately begin the process of amending its marking law to create an exemption for imported silk scarves identified under HTS number 6214.10.10, and silk fabric. This means silk scarves and fabric dyed and printed in the European Union on imported fabric will not have to be marked as "made in China."

Instead, they may be marked in a number of different ways that also satisfy the consumer information requirement. Options include "designed in [EU member state], dyed and printed in [EU member state], crafted in [EU member state] or fashioned in [EU member state]," according an annex to the agreement.

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EU DEMANDS NEW APPROACH TO BILATERAL AIRCRAFT SUBSIDIES DEAL

European Union officials last week demanded that the U.S. either substantially increase the level of transparency in its reporting of U.S.-funded research that benefits the U.S. civil aircraft industry, or let EU subsidiaries in the U.S. bid for the right to conduct government funded research. This would give them access to the results and technology arising from any such research, sources said.

In addition to those demands, the EU warned in a July 10-11 meeting in Washington that failure to agree to one of those options could prompt the EU to withdraw from the agreement altogether, these sources said. EU negotiators also left their U.S. counterparts with the impression that they would decide this week whether or not to withdraw immediately from the 1992 bilateral aircraft agreement.

At press time, U.S. officials were still waiting for the EU to convey its decision on the latter point, informed sources said. Some sources speculated that the EU may want to pull out from the bilateral agreement, which limits direct production subsidies to 33 percent of the cost of the product line, because Airbus Industrie will need more government subsidies to build the next generation of aircraft.

But an EU source insisted this week that the EU had made no threat to walk away from the agreement, and that EU officials were simply going to brief member states on last week's talks.

In either case, sources said it is unlikely that the EU will leave the agreement, mostly because the U.S. could "win the press war" if it did happen. If the EU withdraws, the U.S. could claim that the EU did so after giving the U.S. less than one week to examine its proposals, which is "not enough time" in which to respond, one source said.

Sources said the U.S. is unlikely to formulate a specific response to the EU demands until the EU tells the U.S. whether or not it will give notice that it is withdrawing from the agreement.

The EU has warned previously that it could withdraw from the agreement because it feels the U.S. is not living up to its obligations. The EU has charged that the U.S. has refused to deal seriously with complaints that it is not accurately reporting the level of indirect government subsidies that benefit the U.S. industry. The bilateral agreement limits the amount of indirect U.S. subsidies that the U.S. industry can benefit from.

The EU raised the same complaint in last week's talks, and demanded in a written proposal that it be allowed access to a large range of data on U.S. government funded research so that it can assess for itself which projects are benefitting the U.S. industry. One informed source said it is unlikely that the U.S. would "go far" on that demand, while another said the demand is completely outside the scope of the 1992 agreement.

"The bottom line is the EU thinks we're not providing information on what we do and when," he said. "But the U.S. reports [government research] as zero unless it has a derived benefit [to the commercial industry]."

For example, he said, the U.S. government believes that research done under the National Aeronautics and Space Administration (NASA) does not benefit the U.S. commercial aircraft industry, so the U.S. does not report that research as an indirect subsidy under the agreement. But the EU proposal shows that the EU "wants to be the judge on what has an impact."

The U.S. used last week's meeting to provide the EU with a written explanation of how the U.S. determines which government research programs have a bearing on the commercial industry, an informed source said. In addition, the U.S. provided the EU with an explanation of government research done under NASA in order to show that such research generally has no effect on the U.S. industry. The U.S. paper also argued that even research that is relevant to the industry will not affect the industry for years to come.

"Research happens five to 10 years before it's applied, so there is no benefit today," the source said. "The benefit is tomorrow." The source added that the U.S. is therefore living up to the agreement, and has in fact reported an increase in indirect U.S. support through government research under the agreement as that research slowly becomes relevant to the development of commercial planes.

In addition, the U.S. paper warned that the U.S. wants to examine whether the EU has violated its obligations on direct subsidies under the agreement through recent equity infusions into the companies that make up Airbus Industrie, sources said.

Last week's talks amounted to a "rather testy" two-day meeting, one source said. The negotiators ended the meeting July 11 without setting a specific follow-up meeting, although sources said one would likely be arranged after they fully examine each others' papers.

ADMINISTRATION NAMES RIAA CHAIRMAN TO BE FAST TRACK COORDINATOR

The Clinton Administration this week decided to appoint Recording Industry Assn. of America Chairman Jason Berman as its point person in the upcoming fast track battle, according to an Administration official.

A U.S. trade official said Berman is well situated to help in the fast track debate because he has "very direct" personal relationships with Republican and Democratic members of Congress, is "close to" U.S. Trade Representative Charlene Barshefsky, and is respected by business groups.

JAPANESE FINANCIAL SERVICES OFFER FALLS SHORT OF U.S., EU DEMANDS

A Japanese offer presented in the international financial services negotiations this week falls short of U.S. and European Union demands because it does not offer to extend on a multilateral basis the benefits of two insurance agreements and a financial services agreement between the U.S. and Japan, according to U.S. and foreign officials.

The U.S. had asked Japan to offer the benefits of the 1994 and 1996 bilateral insurance agreements on a multilateral basis, according to an Administration official. In addition, the U.S. asked that Japan multilateralize the benefits of a bilateral banking agreement struck in February 1995, the official said.

From the U.S. perspective, including these benefits in a WTO agreement on financial services would make it harder for Japan to renege on its commitments. From the EU perspective, the inclusion would ensure "clarity and transparency" so that Japan would not discriminate against EU firms in favor of U.S. companies, an EU official said. The EU is interested in securing the benefits of these agreements for the U.S. and other WTO members, he said.

Deputy U.S. Trade Representative Jeff Lang said this week that the U.S. had "some concerns" regarding the Japanese offer. "We have pretty good bilateral arrangements in both banking and insurance with Japan and our ambition is that those should be bound in the multilateral system," he said in a July 14 press conference in Brussels. "I have the impression that my Japanese counterparts have some reservations about doing that...," he said.

But the EU official praised Japan's offer for lifting restrictions on foreign currency dealings, which make a number of capital transactions the exclusive domain of specified Japanese banks. The EU had pressed Japan for this concession, he said. In its offer, Japan also raised the yen limit above which firms have to obtain prior authorization for overseas deposits and trust contracts denominated in foreign currencies, according to the EU official.

Japan's proposal to abolish its foreign exchange controls is a "frontrunner" for the liberalization of Japanese financial markets proposed by Prime Minister Hashimoto, a Japanese official said. These changes will take effect in April 1998 as amendments to Japan's Foreign Exchange and Trade Control Law, he said.

One Japanese official defended the offer against the criticism that it does not make multilateral commitments on the bilateral insurance and financial services agreements. Japan implements the commitments of those agreements on an MFN basis, he said. "Therefore, the benefits are open to everyone," he said.

Japanese officials this week emphasized the quality of their initial offer, and pointed out that their 1995 commitments contained a minimum of reservations. "As a result of the initial offer, only the minimal and peripheral reservations will remain, and the level of liberalization commitments by Japan will be by far the highest among industrial countries," an official said.

He also pointed out that Japan's offer included changes in the insurance sector as a result of the country's implementation of a revised Insurance Business Law in April 1996. These include an offer for cross border insurance on ships of Japanese registration which are used for international maritime and on aircraft of Japanese registration which are used for commercial aviation. In addition, Japan offered to eliminate the yen-denominated asset holding requirements imposed on foreign life insurance branches.

Trading partners did not criticize each other's offers in a July 17 meeting held in the WTO, which was largely taken up by countries presenting their own offers or discussing their future offers. In that meeting, the U.S. emphasized that it is submitting a new and comprehensive MFN-based offer, promising substantially full market access and national treatment to foreign banking, securities, and insurance service suppliers in the largest market in the world, sources said.

On banking, the U.S. is offering to extend to foreign firms the benefits of recent liberalization regarding banks' ability to do business across state lines and to establish interstate branches, U.S. officials said. In addition, the U.S. is offering to extend on a national treatment basis any future liberalization, such as easing the restrictions on banks entering the securities business.

On the insurance side, the U.S. is prepared to remove state residency and citizenship requirements for foreign insurers in seven states, including New York, an Administration official said. In addition, the U.S. is offering to eliminate restrictions on the issuance of insurance licenses in these states, according to the offer released by the Office of the U.S. Trade Representative.

The U.S. is also offering to remove the current charge it levies on foreign banks for Federal Reserve Board examinations, sources said. But an EU official said that the U.S. offer still included a lot of state reservations, and pointed out that the U.S. seems to have added some new reservations on state practices.

The U.S. offer does include "some state measures that were inadvertently omitted" from the 1995 offer, according to an Administration official. "For the most part," these state restrictions were in place when the U.S. made its 1995 offer, the official said.

The Canadian offer presented this week largely binds in place the country's interim offer made in 1995, according to Canadian officials. But it does offer to permanently suspend the reciprocity provisions in domestic

Canadian legislation that Canada offered to temporarily suspend until December 1997 in its 1995 offer, they said.

The offer does not include any commitments to ease restrictions on foreign banks' ability to operate in Canada without establishing a subsidiary. That issue has been raised by the EU to Canada, an EU official said. But it has not been pressed by the U.S., according to an Administration official.

Nevertheless, the Canadian government will go through with its commitment announced in February 1997 to pass legislation by the end of the year that would allow foreign banks to branch directly in Canada, a Canadian official said.

FINANCIAL SERVICES TALKS KICK OFF WITH PROMISING OFFERS IN WTO

Financial services negotiations in the World Trade Organization this week kicked off to a promising start as a several major countries presented their offers for opening their markets across the board, and countries in Asia and Latin America held out the promise of new offers before a mid-September negotiating session, according to government sources.

In a July 17 meeting of the WTO negotiating group, Thailand promised on behalf of the Assn. of Southeast Asian nations that "some, if not all" members would present new offers after the summer break, according to informed sources. Thailand said members are now studying and considering improvements of their 1995 offers based on the market access requests they have received, they said.

In addition, the Czech Republic, Egypt, Israel, Korea, Macau, New Zealand, Peru, Poland and Romania promised to present offers in time for the Sept. 18 meeting, these sources said. Brazil said it hoped to do so as well, they said.

Korea promised to make a "substantially improved offer" and Thailand, speaking for its own government, also signalled that its current banking crisis would not deter it from participating in the negotiations. The Thai representative said he saw the benefits of liberalization greatly outweighing the costs, but emphasized the need for transition periods to give countries time to adjust, sources said.

The WTO meeting was held after the European Union, the U.S., Japan and Canada tabled offers to open their financial services market in time for a July 15 deadline set by quad trading partners (*Inside U.S. Trade*, July 4, p. 11). In addition, Switzerland, Hong Kong, Norway, Bahrain, Hungary, Turkey, the Slovak Republic and Australia filed offers before the July 17 meeting, with Venezuela promising to do so on July 17 or 18, sources said.

"The signs are more positive than expected," one official close to the talks said. But he warned that it was much too early to assess the substance of these offers and whether they would lead to a satisfactory conclusion of the financial services talks in December.

Deputy U.S. Trade Representative Jeff Lang this week said it is "absolutely critical" to secure improved offers from countries in Asia and Latin America. "We are simply unable to make ambitious MFN-based commitments like the one we are putting on the table in Geneva today [July 14] without substantial commitments from the major emerging markets in Latin America and Asia and a few other parts of the world, including, I might say, in the countries of Central Europe," he said.

He and other Administration officials this week highlighted that the U.S. is making an offer to open its financial services markets on a full MFN basis for new investments as well as existing investment now covered by U.S. commitments in the WTO's interim agreement. It was struck in 1995 after WTO members failed to reach a final financial services because of insufficient concessions by dynamic developing countries. In addition, the U.S. offer extends national treatment with respect to recent U.S. liberalization offers, making it easier for banks to do business across state lines.

The offer reflects the fact that the U.S. "remains committed to an ambitious result" of the negotiations, Lang said.

But he warned that the offer is "conditional on achieving a critical mass of offers" from trading partners. He also emphasized the importance of moving forward quickly given the December 12 deadline for concluding the negotiations. "The most serious concern in the negotiations for me as the head of U.S. delegation now is time," he said. "That [December deadline] is a very short period of time to work through this rather technical set of negotiations."

Lang signalled U.S. flexibility towards developing countries when he said it will work with developing countries on phasing in commitments over "reasonable" periods of time, just as it did in the negotiations for the liberalization of basic telecommunications services.

"I know how difficult it will be for our trading partners [to make good offers]," Lang said in a July 14 press conference in Brussels. He also emphasized that liberalization does not threaten a country's authorities to supervise its financial system.

"[W]e feel very strongly that the provision of this [interim 1995 financial services] agreement that has been called the prudential carve-out, that is a provision that assures countries may maintain adequate regulatory and

supervisory responsibility over banks and other financial institutions, should remain in the agreement," he said. "We think this is an important element of the agreement and I think they will appreciate that assurance."

Lang said he would lead a U.S. delegation to Asia in mid-August to discuss the negotiations with "at least seven or eight countries." The trip will likely lead to Japan, South Korea, Malaysia, Indonesia, Philippines, Thailand and India, an Administration official said.

Lang said one of the "most favorable developments" since the interim financial services agreement in June 1995 has been that some countries, particularly in Asia, have been unilaterally opening their financial services markets and creating more competition from foreigners. He said this indicates some countries believe open financial services markets are an important element of their further development.

But Lang said he would be able to assess the situation better during his trip in August.

CLINTON NAFTA REPORT BLASTED AS 'MISLEADING' BY AFL-CIO, OTHER CRITICS

The methodology used in the report released by the Clinton Administration last week on the economic effects of the North American Free Trade Agreement has come under attack from organized labor and other critics of trade liberalization.

The AFL-CIO and other opponents of expanding trade agreements say the 140-page report's conclusion that NAFTA has had a "modest positive effect" on the U.S. economy during its first three years is based on a one-sided jobs-impact analysis. It stresses employment supported by expanded U.S. exports while ignoring the loss of job opportunities caused by increased U.S. imports of Mexican and Canadian goods, they charge.

Moreover, they argue, the Administration report sets up an artificial separation which credits NAFTA for all the positive phenomena which occurred from 1994-1996 while placing the blame for all negative economic factors on fallout from the Mexican peso crisis.

But several other economic analysts defended the Administration's attempt to distinguish NAFTA's effects from other factors, although they said it was difficult to do so with only three years of data with which to work. The congressional mandate for the study required that the Administration make an effort to determine what impacts were due to NAFTA as compared to other causes.

"It's important to try to parse out the effects or changes caused by NAFTA from other factors," said Institute for International Economics Senior Fellow Jeffrey Schott. "But you don't know the assumptions they have made in doing that."

"It's premature," agreed Economic Strategy Institute Chief Economist Lawrence Chimerine. "It will take years before we know the full impact" of NAFTA.

But AFL-CIO President John Sweeney, in a July 11 statement, charged that the Administration's "incomplete and misleading" study "attributes all positive economic developments in the United States, Canada, and Mexico since 1993 to NAFTA, while stubbornly insisting that any negative outcomes were unrelated."

"The report fundamentally is misleading because there is no explanation for what happened over the last three and one-half years except to say that anything good that came from exports is due to NAFTA, and anything bad that came from imports came from the peso collapse," said Jeffrey Faux, president of the Economic Policy Institute. In his own analysis, released two weeks ago, Faux said over 400,000 jobs had been lost because of NAFTA.

The Administration report attributes most of the increase in Mexican exports to the U.S. to the devaluation of the peso in 1994, which made Mexican goods cheaper to buy. At the same time, it gives NAFTA most of the credit for boosting U.S. exports to Mexico in the face of the decline in Mexican domestic demand caused by the financial crisis.

The Administration released its report on July 11. It said that two "outside" studies demonstrated that NAFTA had boosted jobs associated with exports to Mexico between 90,000 and 160,000. The high-end estimate was based on a DRI/McGraw Hill study commissioned by the Office of the U.S. Trade Representative. It reached the conclusion that NAFTA boosted net exports (exports minus imports) over the period by \$7 billion once the Mexican financial crisis is controlled for.

The low-end estimate was based on a Dallas Federal Reserve study that found that NAFTA raised net exports by \$3 billion.

"The relatively greater effect on exports partly reflects the fact that under NAFTA Mexico reduced its tariffs roughly 5 times more than the United States," the Administration report states.

The report was presented at a press conference attended by six cabinet-level members of Clinton's economic team. They were Treasury Secretary Robert Rubin, USTR Charlene Barshefsky, Commerce Secretary William Daley, Chief of the Council of Economic Advisers Janet Yellen, Special Envoy to the Americas Thomas "Mack" McLarty, and Assistant to the President for Economic Policy Gene Sperling.

In his comments, Rubin said "it is almost inarguable" that NAFTA was even more important to the U.S.

during the peso crisis that it is in normal times. It kept Mexico from raising tariffs on U.S. and Canadian exports and encouraged Mexico to stay on its economic reform path, he said. This allowed Mexico to return to the international financial markets in only seven months as compared to the seven years it took after the 1982 debt crisis.

The Administration report shows that U.S. market share in Mexico has risen during 1994-1996 from 69.3 percent to 75.5 percent. At the same time, Mexico's share of the U.S. market has risen from 6.9 percent to 9.3 percent.

Barshefsky stressed that the modest level of the benefits attributed to NAFTA at this point is due to the fact that the analysis is being made only three years into what is a 15-year "market-opening" agreement.

The Administration report also contains a chapter that details NAFTA's impact on 11 goods sectors, and separate chapters on developments under NAFTA's labor and environmental side agreements.

Organized labor's case against NAFTA "does not depend on challenging the Administration's statistical manipulations of the job figures," Sweeney said.

"The real problem with NAFTA is that it represents precisely the wrong development strategy...," he said. "[It] rewards and encourages companies that abandon their U.S. production facilities in order to take advantage of low wages and lax enforcement of labor and environmental standards in Mexico."

But Sperling made the point at the Administration briefing that the report showed that foreign direct investment from the U.S. in Mexico had risen only marginally since NAFTA entered into effect. It rose from an average of \$2.8 billion during the three years prior to NAFTA to \$3.1 billion on average in the three subsequent years, he said.

Those figures demonstrate, Sperling added, that "there is very little, if any, overall evidence to suggest that [NAFTA] in any way accelerated shifts of production to Mexico."

Under the mandate provided by Congress in the 1993 NAFTA implementing legislation, the Administration report was not required to explore NAFTA's impact on U.S. wages. But in response to a question, Sperling denied that NAFTA had put downward pressure on U.S. wages. He said that median U.S. family income rose \$1,631 between 1994 and 1995, and that real per capita income has risen by 8.4 percent under the Clinton presidency after having been stagnant during the four years before he took office.

However, average real wages in manufacturing have been "flat" since NAFTA was approved, said Schott.

"What [Administration critics] are legitimately talking about is... what [trade liberalization] means for the lowest paid workers in manufacturing," he said. Those U.S. workers face the toughest competition from low-wage countries, but "that's not just a Mexico problem," he stressed.

The solution for low-wage workers lies in domestic policy rather than trade policy, he said. Boosting U.S. spending on education dedicated to providing workers with the skills necessary to move up the wage scale, which is part of the long-term solution, "has to do with domestic priorities in the budget... [and] has almost nothing to do with the terms of a trade agreement."

House Minority Leader Richard Gephardt (D-MO), "can rip up NAFTA tomorrow, and the situation will be the same [for low-wage workers]," Schott said. "The imports will just come from Southeast Asia..."

In addition, Hispanic legislators led by Rep. Esteban Torres (D-CA) released a report this week which said NAFTA's impact has been "modestly negative," and that job losses caused by the pact had fallen disproportionately on Latinos, Blacks and women. The study, prepared by UCLA economist Raul Hinojosa and two colleagues, said that Latino, Black and women job losses are much more linked to trade and investment with Mexico than are white male job losses, which are more linked to trade and investment with Canada.

Torres and 13 House colleagues urged Clinton in a July 16 letter to improve the NAFTA trade adjustment assistance program, to improve the functioning of the North American Development Bank and the Border Environment Cooperation Commission, and to improve the enforcement of labor and environmental measures via trade agreements.

"... [U]ntil the flaws in the structure and implementation of NAFTA are addressed, we simply cannot support [fast-track trade negotiating authority] extension," they wrote.

At the same time, U.S. farm groups with the exception of growers of horticultural products this week announced their backing for passage of fast track negotiating authority when they released a study they said showed NAFTA's positive impact on U.S. agriculture.

"Overall, NAFTA has been significant net gain for U.S. agriculture," says the 62-page report prepared by PROMAR International, a Virginia-based consulting firm. "U.S. agricultural trade with Canada and Mexico has increased, and the U.S. has generally had a positive trade balance with both countries."

Among the groups who spoke at the July 15 press conference releasing the report were the American Farm Bureau Federation; the National Pork Producers Council; the International Dairy Foods Assn.; Farmland Industries, Inc.; the National Cattlemen's Beef Assn.; and the National Grain and Feed Assn.

need to explain

In a related development, the U.S. International Trade Commission this week released its June 1997 report on NAFTA's impact, which had been one of the studies used by the Administration in its analysis. The publication is entitled, *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review*. By Scott Otteman

U.S., JAPAN AGREE TO CIVIL AVIATION TALKS DESPITE MAJOR DIFFERENCES

U.S. and Japanese officials last week agreed to begin formal negotiations aimed at partially liberalizing the civil aviation sector in both countries, and further agreed to make best efforts to conclude the talks by September, according to U.S. and Japanese officials. But other sources noted that the two sides are still "far apart" from an agreement, and signaled that striking a deal is not assured.

In addition, U.S. and Japanese officials said Japan continues to oppose an "open skies" agreement, which would fully liberalize the sector. Instead, Japan has proposed reaching a less-ambitious interim deal, after which another agreement might be reached in four years, a senior U.S. official said. The U.S. has proposed a three-year interim deal, although the U.S. is not "hung up" on an exact number of years right now, he said.

Sources added that Japan is unlikely to accept an open skies arrangement even after the expiration of an interim deal, and that Japan has only talked about the possibility of moving toward "something else." The U.S. will explore this possibility when the two sides meet in formal talks, the official said.

"We're continuing to take the stance that the approach that best serves U.S.-Japan interests would be open skies, and a transition to open skies is what we advocate," the official said. "But the Japanese delegation did repeat that this was not acceptable to them."

Despite these differences, the two sides agreed in a July 8-10 meeting in Portland, Oregon, to hold a first round of negotiations in Tokyo from August 4-6, these sources said.

"In my view, we made enough progress there to warrant a decision to move into a formal negotiations stage," Assistant Secretary of State for Economic and Business Affairs Alan Larson told reporters last week. A U.S. official added that the decision to enter formal negotiations was prompted by Japanese officials, who "flashed us some flexibility" during the Portland meeting.

"They showed us some glimpses of flexibility in all of the areas that are important to us," the official said. "In view of that, and given the fact that we have some practical issues that we want discussed, it's appropriate to move to negotiations."

But absent any specific Japanese proposals, the official warned that it is still unclear whether Japan can be flexible enough for the U.S.

"If we're in a formal negotiation environment, [Japan's] approach is not going to be sufficient," he said. "We're going to need to sit down to some very specific discussions about specific aspects of the agreement...and we'll have to find out whether these glimpses of flexibility are real or not."

For example, Japanese officials from the Ministry of Transportation proposed in Portland that the two countries consider a "fully liberalized market" as a goal in the air services sector, the official said. But the proposal was "too vague" in terms of content and timing, and therefore the U.S. does not have an understanding of exactly what it might mean. He added that Japan's proposals were generally "too small in number and too restrictive."

A Japanese official said Japan is likely to offer "almost totally" unrestricted landing rights to carriers with incumbent status under a 1952 civil aviation agreement, and that All Nippon Airways be granted incumbent status under the deal along with the current Japanese incumbent carrier, Japan Air Lines. But the official would not comment on whether Japan would make an offer to expand so-called "beyond rights," which entitle carriers to pick up passengers in Japan and carry them to third country destinations.

In contrast, the U.S. used the Portland meeting to propose that U.S. and Japanese passenger carriers be granted unrestricted landing rights in "non-major gateways" in the U.S. and Japan, the U.S. official said. This would exclude such destinations as New York, Los Angeles, Tokyo and Osaka, the official said.

The U.S. also proposed increased passenger service between Japan and Hawaii, as well as a "substantial increase" in direct flights from the U.S. to Japan. At press time, Japan had not formally responded to these proposals, U.S. and Japanese officials said.

Regarding beyond rights, the U.S. will also seek the ability of U.S. carriers to take "full commercial advantage" of markets beyond Japan. The official added that the U.S. is "not prepared" to accept an agreement in which U.S. carriers are granted more direct flights to Japan if they agree to give up some of their existing beyond rights.

But other sources have said the U.S. may be willing to pursue this course because Japan has refused to grant U.S. carriers these beyond rights, which means they exist only "on paper" (*Inside U.S. Trade*, July 4, p. 1).

In the cargo area, the U.S. wants its incumbent carriers -- Federal Express, Northwest Airlines, and United Airlines -- to enjoy unrestricted access to Japan as well as access to third countries from Japan. While Japan

"understands that position," the official said Japan is still trying to "respond constructively" to that demand.

In addition, the U.S. warned Japan that while it would agree to negotiate cargo and passenger rights at the same time, the U.S. could move toward sanctions against Japan if the cargo issue were not resolved by the end of September. In response to a complaint by Northwest, the Department of Transportation was in a position to invoke sanctions against Japan earlier this year, but declined to do so while the two sides continued to meet informally in the hopes that an agreement could be worked out (*Inside U.S. Trade*, March 14, p. 21).

At this point, the U.S. believes that the only way to solve the cargo complaint is for Japan to abandon its non-derogation clause, the U.S. official said. The non-derogation clause allows carriers to serve only those destinations they had been serving before 1989, when Japan adopted the clause.

The U.S. would also be against a proposal floated by Japan under which the two sides would closely monitor bilateral cargo traffic and limit U.S. access to Japan based on factors such as tonnage and final destination, the official said.

CBI PARITY MAY BE STRUCK FROM BUDGET BILL AS VIOLATING SENATE RULES

A bill to expand trade benefits for Caribbean Basin Initiative countries included in the budget bill pending before Congress faces an uncertain future after an opinion by the Senate Parliamentarian that its inclusion violates Senate rules. Under the so-called Byrd rule, a measure does not belong in a budget bill if its budgetary effect is merely incidental to its policy changes.

In the opinion of the Senate Parliamentarian, expanding CBI benefits would have "enormous policy implications," and therefore violates the Byrd rule, an informed source said. A Senate source added that the "policy implications outweigh the revenue implications" of the measure.

This assessment strengthens the hand of Senate opponents of the bill, which would extend to CBI countries for one year the same benefits in the textile and apparel sector that the U.S. negotiated with Mexico in the North American Free Trade Agreement. Thirteen senators warned conferees last week that inclusion of the CBI parity measure would lead them to reconsider their support for the overall budget deal and would lead to a floor fight to remove the provision.

"If these provisions, which would unilaterally reduce tariffs on Caribbean textile and apparel products, are in the final package, we would have to seriously consider withholding our support for the final product," the senators said in a July 10 letter. "Moreover, we will vigorously avail ourselves of any and all procedural opportunities to remove the offending provisions."

The letter pointed out that the CBI parity measure is controversial and was included in the House-passed legislation without the benefit of hearings in either body. "It would be inappropriate to include this ill-conceived measure at this point in time, and we urge you to support the Senate position by excluding NAFTA parity from the final conference report," the letter said.

The letter was signed by Sens. Fritz Hollings (D-SC), Wendell Ford (D-KY), Jesse Helms (R-NC), Paul Coverdell (R-GA), Richard Shelby (R-AL), Robert Byrd (D-WV), Byron Dorgan (D-ND), Paul Wellstone (D-MN), Olympia Snowe (R-ME), Strom Thurmond (R-SC), Dale Bumpers (D-AR), Jeff Sessions (R-AL) and Max Cleland (D-GA). Senate conferees for the trade provisions of the tax bill are Senate Majority Leader Trent Lott (R-MS), Senate Finance Committee Chairman Bill Roth (R-DE) and Sen. Pat Moynihan (D-NY).

On the House side, the relevant conferees are House Ways & Means Chairman Bill Archer (R-TX), trade subcommittee Chairman Phil Crane (R-IL) and Reps. Charles Rangel (D-NY), Bob Matsui (D-CA) and Bill Thomas (R-CA). Congressional sources said this week that the Administration has spoken out in favor of including the CBI parity measure in the final version of the budget bill.

Meanwhile, staff members representing Lott, Roth, Crane and Rangel discussed on July 15 the NAFTA parity measure as part of the conference. Also invited to the meeting in an advisory capacity were Office of the U.S. Trade Representative officials Peter Allgeier and Caroyl Miller, an informed source said.

Sens. Bob Graham (D-FL) and John McCain (R-AZ) this week expressed support for the CBI bill, which they said would help stem the trade diversion created by the NAFTA for the CBI region. In a July 16 letter to Roth, Graham and McCain said American factories located in the CBI region are suffering from this diversion, and that failure to pass the bill would hurt the legal economy of the region. This is particularly true since the U.S. is pressing Caribbean countries to give up their preferential access to the European Union market for bananas, the letter said.

"It is important that the people of the Caribbean Basin have real opportunities in the legal economy so that they are not forced to turn to drug trafficking to feed their family," the letter said. "In addition, the recent WTO decision on bananas could have a devastating effect on the economies or several countries in the region, thereby exacerbating the potential for people to turn to illegal activities," the letter said.

Separately, seven environmental groups called on the conferees last week to drop the CBI parity bill out of the budget bill because it gives Caribbean countries trade benefits without requiring them to adhere to environ-

mental provisions in the NAFTA. The letter was signed by Friends of the Earth, the National Audubon Society, Community Nutrition Institute, World Wildlife Fund U.S., the National Wildlife Federation, the Sierra Club, and Defenders of Wildlife.

U.S. PROPOSES AUTOS, FIVE OTHER SECTORS AS TARGETS OF APEC ACTION

The Clinton Administration this week proposed increased liberalization in the automotive sector as one of six possible initiatives to be launched later this year in the Asia Pacific Economic Cooperation forum, according to an Administration official.

The U.S. proposal was submitted July 15 to the APEC Secretariat, and will be examined by senior officials in late August to determine which sectors should be new targets for additional trade and investment liberalization in APEC. Officials hope to launching work on those sectors at the November APEC summit.

In its paper, the U.S. proposed that the auto initiative could start with trade facilitation measures such as the harmonization of standards and improvements of customs procedures, the U.S. official said. In the longer term, APEC efforts in the automotive sector could move to trade and investment measures, the official said.

Aside from autos, the Administration also proposed pressing ahead with liberalization in the telecommunications sector by pursuing a mutual recognition agreement, which would ease barriers for exports by having countries accept each other's standards and testing procedures for equipment. By highlighting a telecommunications MRA, the U.S. wants to build on the work already started in APEC on that issue, according to the Administration official.

The U.S. also proposed liberalizing medical equipment and related services, which could cover testing, maintenance and repair of equipment, and the ownership of a hospital or its management by contract, he said. The U.S. request does not extend to professional services, according to the official.

And the U.S. also is proposing sectoral liberalization for energy equipment, chemicals and oilseeds, the official said. In most cases, initial steps would focus on tariffs, and then move to non-tariff measures, he said. On chemicals, the U.S. wants more countries to sign on to the harmonization initiative and to broaden the country coverage of countries that have already signed on, he said. And in the energy sector, the U.S. wants liberalization to cover mining equipment, natural gas extraction, equipment for renewable energy, such as windmills, and other power production, he said.

The U.S. focus is largely on areas where it has residual authority to negotiate from the Uruguay Round agreement, except for energy equipment, sources said. The U.S. wanted to identify sectors of greatest interest to U.S. industry, and not be limited to those for which it had residual authority.

The U.S. is also backing a Canadian proposal to seek liberalization for environmental goods and services, these sources said. There is no existing U.S. authority to negotiate tariff reductions in that sector if it were pursued in APEC, sources said.

The U.S. proposal does not propose a time period in which these steps should be implemented, sources said. Instead, the U.S. proposal says proposed steps should be take in a "short period of time," or in a "relatively short period of time," they said.

The U.S. proposal is one of several that were submitted to APEC officials on July 15. It does not include liberalization for wood and paper, a sector which will be proposed by New Zealand and Canada in their respective offers to APEC, sources said. New Zealand, which will also propose free trade in fish, will propose a shorter phaseout period than Canada for wood and paper, they said.

USTR INVITES MASSACHUSETTS OFFICIALS TO WTO CONSULTATIONS ON BURMA

The Clinton Administration this week invited officials from the state of Massachusetts to attend next week's World Trade Organization consultations with the European Union and Japan over their state law that restricts foreign companies doing business in Burma from entering into state contracts, according to informed sources.

The first consultation is tentatively scheduled for July 22 after a meeting of the WTO's government procurement committee, sources said. In preparations for the international consultations, USTR met with officials from the Massachusetts Attorney General's office and the office of Governor William Weld (R) on July 14-15.

"We explained how the consultation worked, and invited them to attend," a U.S. official said. "We see no reason not to let them in." The official added that participation is not limited to officials from the executive branch. USTR would likely approve requests from state legislators to join the delegation if they so requested, he said.

Informed sources said at press time that Nicholas Rostow, director of the Massachusetts office of international trade and investment, would likely be the only state official joining the delegation next week. An EU official added that it is "up to the U.S. government" to decide who is in the U.S. delegation next week.

Aside from discussing possible defenses of the state law in the WTO, officials this week also discussed possible ways to amend the law in order to avoid a WTO confrontation, sources said. But a state official said that

USTR has yet to make a formal determination that the Burma law is a violation of the WTO's government procurement agreement (GPA), as the EU and Japan have charged.

In a related development, informed sources said the U.S. last week accepted Japan's request to join the consultations in Geneva.

Separately, Public Citizen and the International Labor Rights Fund have each submitted Freedom of Information Act requests to USTR asking for copies of correspondence between USTR and the 37 states that agreed to voluntarily be covered under the GPA. The requests also ask for memos, opinions and other findings detailing how USTR determined that such correspondence actually binds the states to the GPA.

While USTR was supposed to respond to the ILRF earlier this year, a U.S. official said a response would likely be released to the group in the next few weeks.

A source at Public Citizen said the groups are studying the subfederal provisions of the GPA in order to try to defend the Massachusetts law. One specific goal of Public Citizen's Global Trade Watch is to determine the intentions of the Administration, and discover how it will defend the law in the WTO, he said.

Other goals include working to ensure that the law survives, that other state and local laws are allowed to flourish, that Europe and Japan do not retaliate against Massachusetts companies, and that any negotiated settlement is transparent and does not cost U.S. consumers in other ways.

The source added that Public Citizen warned before the Uruguay Round that the WTO would usurp the right of sovereign nations to pursue their own policies, and that it would put at risk local control. The dispute over Massachusetts' Burma law shows that "our predictions are coming true," he said.

JAPAN PROPOSES TALKS ON NTT PROCUREMENT DEAL, SEES REVIEW ONLY

The Japanese government has taken the first step to open talks on telecommunications equipment procurement with the U.S. by offering to review the implementation of a bilateral accord covering Nippon Telephone and Telegraph, according to U.S. and Japanese officials. But Japan cast the talks only as the regular annual review stipulated by the NTT procurement agreement, not as negotiations to extend the accord, which expires in September.

Japan proposed that the talks take place during the week of July 28 or August 4, but the U.S. has not "decided yet how to respond," according to an Administration official. Private-sector sources this week speculated that the Administration will simply raise the extension of the NTT agreement in the upcoming talks even if they are billed as a review of the agreement's implementation during fiscal year 1996.

"The important thing is we are back at the table," one private-sector source said. The extension of the NTT agreement will be "one item" on the agenda of the upcoming meeting, the source said.

The Japanese government maintains that negotiations to extend the agreement would be "very difficult" to conduct while two licenses for NTT and KDD to provide service from the U.S. to Europe and other points outside Japan are being held up at the Federal Communications Commission. Japan has signalled for several weeks that it cannot negotiate the extension of the NTT agreement while the licenses are being "held hostage."

The Office of the U.S. Trade Representative placed a hold on the licenses in the hope that it would motivate Japan to eliminate its restrictions on foreign ownership in NTT and KDD. In the World Trade Organization telecommunications negotiations, Japan committed to allow full foreign ownership of new and existing firms other than NTT and KDD.

The decision to link the upcoming negotiations with the license is controversial among members of the U.S. telecommunications industry, where some firms are arguing that such linkage will ultimately hurt the U.S., a private-sector source said.

In preparation for the upcoming talks, two U.S. industry groups have developed recommendations for extending the NTT procurement agreement. The American Electronics Assn. and the Telecommunications Industry Assn. are urging that any future deal cover all subsidiaries of NTT and increase transparency for procurement opportunities. U.S. companies currently do not get access to the documents necessary to respond to requests for proposals on the same terms as Japanese suppliers, one industry source said.

The two groups also urge more use of international standards in equipment specifications by NTT, the source said. This would allow companies that manufacture for the international market to avoid modifying equipment for sale in Japan only. In the existing NTT agreement, Japan agreed to use international standards where they exist and to use the standards that are prevalent in the international market, the source said. But there are many instances where NTT uses Japan-specific standards or NTT proprietary standards, according to the source.

AEA and ITA also want NTT to lower its costs of interconnections, which are "still fairly high," the source said. Interconnection is the ability of one service provider to connect to another firm's network, which is critical to offering services in a market.

KOLBE WARNS NEW COALITION TO FOCUS ON SENATE FOR FAST-TRACK BILL

Rep. Jim Kolbe (R-AZ) this week warned business groups that a lobbying campaign for fast-track negotiating authority may face more problems in the Senate than in the House, according to informed sources. On July 16, Kolbe told members of America Leads on Trade, a business coalition formed to fight for fast track, that there is not as clear a leadership on trade in the Senate as there is in the House, sources said.

In a related development, some Senate Finance Committee staff have made it clear they are very pessimistic about the chances for fast-track passage, according to these sources.

In contrast to the Senate, Kolbe said, the House Republican leadership is fairly solid in its support for free trade, even though individual members may not be in favor of fast track, these sources said.

On the Democratic side, Kolbe pointed out that House Democratic Leader Richard Gephardt (D-MO) has not been able to sway a large number of members against the President on the budget deal or on Most Favored Nation status for China, these sources said. Kolbe predicted that a similar outcome may be achieved on fast track if the President takes a leadership role on the issue, according to these sources.

Kolbe also warned the Administration against beginning its September initiative on fast-track authority with a proposal that would lead to a delay in congressional action, sources said. He said there is no time to begin the process by presenting a bill that would leave open negotiating objectives on labor and environmental issues, sources said.

House Republicans have made it clear that such an open-ended fast track is not acceptable, Kolbe said in his remarks. He said Gephardt and labor leaders, who want labor and environment rules on par with other trade provisions in an agreement, also rejected an open-ended approach, sources said. Kolbe added that if the Administration proposes an open-ended fast-track, it will demonstrate a lack of commitment on its part.

America Leads on Trade was initiated by the Business Roundtable, and now has twenty members in addition to the BRT. The group has begun a campaign to assess support for fast track among approximately 100 members of Congress, sources said.

Participants at a July 8 organizational meeting signed up to contact the 100 plus members about their position on trade and to report back on the result of their meetings to The Wexler Group, which has been hired by the coalition, sources said. Companies are trying to get as much of that work done before the August recess as possible, sources said.

The list of congressmen is a "mixture" of newer members who have not had a recorded trade vote, and some members that have cast conflicting votes on trade agreements, according to a coalition source. In addition to lobbying in Washington, the coalition plans to focus on the districts, sources said.

Among the activities members are expected to perform are writing to the president, writing and meeting with members of Congress, hosting congressional visits, and participating in various media activities.

The BRT and twenty members of the coalition this week called on other trade associations and companies to join the effort for fast track.

"By joining America Leads on Trade, you can help communicate the need for the President to propose and the Congress to enact fast-track legislation for purposes directly related to trade as swiftly as possible," the July 15 letter said.

The letter emphasized that becoming a member of the coalition will not mean paying a membership fee. Private-sector sources said that the cost of the coalition's lobbying effort in Congress and the states is being absorbed largely by BRT member companies, not by the associations that signed the letter. The group is planning on hiring a polling firm, and a firm to conduct grass roots lobbying, they said.

The letter emphasized that the group is formed solely to support renewal of fast-track negotiating authority for new multilateral, sectoral and regional trade agreements. These agreements are necessary to ensure that the U.S. is not standing on the sidelines while trading partners actively negotiate preferential market access deals, the letter said.

The letter is accompanied by a mission statement, which opposes including labor and environment provisions in fast track. "As members of the America Leads on Trade Coalition, we call upon the President to propose and the Congress to enact fast track for purposes directly related to trade as swiftly as possible." This wording was adopted after at least one trade association objected to the original wording that called on Congress to enact and the President to sign "necessary fast-track trade legislation as swiftly as possible."

Members are hoping to secure a statement of support for fast track from the National Governors' Assn. and the National Council of State Legislators similar to one made recently by the National Conference of Mayors, sources said.

Members of the coalition that signed the July 15 letter are the National Assn. of Manufacturers, the National Foreign Trade Council, the American Farm Bureau Federation, the American Business Conference, the Small Business Exporters Assn., National Retail Federation, Computer & Communications Industry Assn., the United

States Council for International Business, the U.S. Chamber of Commerce, the National Cattlemen's Beef Assn., the National Corn Growers Assn., the Aerospace Industries Assn., Chemical Manufacturers Assn., American Electronics Assn., Pharmaceutical Research and Manufacturers of America, Electronic Industries Assn., Emergency Committee on American Trade, Telecommunications Industry Assn., Motor & Equipment Manufacturers Assn., and The Aluminum Assn. Inc.

The letter was not signed by the American Iron & Steel Institute, which announced on July 10 that it has become a founding member of the coalition. This signals AISI's commitment to "free and fair" trade, the announcement said. "This support is based on the fact that highly competitive, world class U.S. steel producers and their U.S. manufacturing customers now stand to benefit from further trade liberalization and truly open world markets," the statement said.

USCIB WARNS AGAINST ADDING ENVIRONMENT PROVISIONS TO MAI

The U.S. Council for International Business last week warned senior Administration officials against including environmental provisions in the multilateral investment agreement (MAI). Including such measures patterned after the North American Free Trade Agreement and the Rio Declaration could result in a loss of support for the MAI among international industry groups, as well as countries that are not members of the Organization for Economic Cooperation & Development, according to USCIB.

"The cumulative effect of these provisions would turn the MAI into a vehicle to promote environmental and labor objectives unrelated to (and possibly inconsistent with) the goals originally outlined by the Agreement," USCIB said in its July 11 letter, reprinted below. "By introducing language from other instruments into the MAI and subjecting the new provisions to a consultation provision, the MAI would impose new obligations on both governments and investors, and create the possibility of discriminatory administrative delays and obstacles to investors."

Specifically, the USCIB would object to four provisions the U.S. is considering adding to the MAI, including three that are similar to those found in the North American Free Trade Agreement, and another from the Rio Declaration, which urges parties to use environmental impact assessments.

These proposals are redundant in that they overlap with existing provisions in other international agreements, and may also conflict with provisions being negotiated elsewhere, the letter said. In addition, it does not make sense to apply these provisions outside the NAFTA and Rio Declaration, it said.

Instead, the letter said USCIB members would "probably" accept language in the MAI preamble "referring to the positive role investment should play in encouraging sustainable development" as long as it does not affect "any substantive provision of the MAI." Also possible is language stating that the MAI does not prohibit non-discriminatory environmental measures, that environmental rules should not be relaxed in order to attract investment, or language that references the voluntary and non-binding OECD Guidelines for Multinational Enterprises, the letter said.

USCIB Letter on MAI

11 July 1997

The Honorable Jeffrey Lang
Deputy Trade Representative
Office of the USTR
600 17th St., NW
Washington, DC 20508-4801

Dear Ambassador Lang:

I am writing on behalf of members of the U.S. Council for International Business (USCIB) to express our concern over new environmental provisions for the Multilateral Agreement on Investment (MAI) now under consideration by the United States. By separate letter, I have also written to Secretaries Albright, Rubin, Daley, and Ambassador Barshefsky to underscore these concerns.

As you know, USCIB advocates a high standards agreement on investment in the OECD, and we lead the efforts of the business community in the United States in support of this initiative. Further, through our chairmanship of the experts

group on the OECD's Business and Industry Advisory Committee, we provide participants in the negotiations our views on important issues.

We have recently been advised that the U.S. is considering tabling four additional provisions on the environment: 1) the addition of NAFTA 1114.1; 2) a provision indicating parties should institute protective standards for toxic chemicals and hazardous waste; 3) adoption of language similar to articles 3 and 5.1 of the NAFTA environmental side agreement, which suggests parties should provide for high levels of environmental protection and effective enforcement of such laws; and 4) a provision based on Principle 17 of the Rio Declaration suggesting parties should use environmental impact assessments. Further, we have learned that the U.S. tabled additional preambular language on the environment and labor. While we have not seen this language, we have the impression that it may also be troublesome.

The cumulative effect of these provisions would turn the MAI into a vehicle to promote environmental and labor objectives unrelated to (and possibly inconsistent with) the goals

originally outlined by the Agreement. By introducing language from other instruments into the MAI and subjecting the new provisions to a consultation provision, the MAI would impose new obligations on both governments and investors, and create the possibility of discriminatory administrative delays and obstacles to investors. We fear that the result would be a loss of business support for domestic and international approval of the MAI. Moreover, we are concerned that loading-up this agreement with environmental and labor objectives would also deter non-OECD members from adhering to this free standing agreement.

Our specific reasons for questioning these provisions are as follows:

- * The scope of the four new provisions overlap, are redundant, and as a result introduce uncertainty into provisions which will be subject to consultation and may result in disputes where parties use the new language as an excuse for administrative delays or outright discrimination against foreign investors.

- * Some provisions duplicate, pre-empt and may possibly conflict with ongoing international negotiations. Chemical management issues are currently being addressed within UNEP, the OECD, the IFCS, the IPCS, and the IOMC as well as in a number of regional forums such as the CEC. Similarly, issues related to the sound management of hazardous wastes are being addressed under the Basel Convention and within the OECD.

- * The proposed provision based on Articles 3 and 5.1 of the NAFTA environmental side agreement is inappropriate for the MAI. These two articles are applicable only to the unique circumstances resulting from our common border with Mexico. Moreover, the cited NAFTA articles comprise the core obligations of parties to the North American Agreement on Environmental Cooperation (NAAEC) and are the sole subject of its dispute settlement procedures.

- * Specific reference to selected environmental issues (chemicals and wastes) and one environmental policy tool (impact assessments) is ill-advised in that it detracts from the comprehensive approach to environmental issues that is required for effective environmental protection.

- * With reference to Principle 17 of the Rio Declaration, which calls for the use of environmental impact assessments, it is important to recognize that the Rio Declaration was negotiated

as a package. Bringing this particular requirement into MAI removes it from that context and loses the balance with other provisions, a position taken by the U.S. delegation at the U.N. General Assembly meeting. As a substantive matter, we are not in agreement with this proposed provision. The use of environmental impact statements is a very complicated matter as the volumes of litigation and regulation indicate. A flat statement that countries should require environmental impact statements is simplistic. Unlike the Rio Declaration, the MAI is a binding instrument. Adding environmental impact assessments to the agreement could be a deal-breaker for a number of countries, especially non-OECD members.

Our members will judge the MAI in its totality when it is completed. Regarding labor and the environment, we can probably accept the following:

- * preambular language referring to the positive role investment should play in encouraging sustainable development, drawing from NAFTA and WTO preambles as long as the language does not affect any substantive provision of the MAI.

- * a single NAFTA 1114-type provision stating that the MAI does not prohibit countries from taking non-discriminatory environmental measures and that environmental standards should not be relaxed in order to attract investment. Such a paragraph should make clear that these provisions apply to domestic as well as international investors and are non-binding and not subject to dispute settlement. Furthermore, these provisions should not be used by a party in a discriminatory fashion to delay or deter foreign investment.

- * an appropriate reference which takes note of the OECD Guidelines for Multinational Enterprises and associates them with the final act of the MAI as long as it is clear that the Guidelines remain voluntary and non-binding and do not in any way affect the interpretation of the MAI.

We would welcome the opportunity to discuss these issues further with you in an effort to avoid a failure in these important negotiations.

I am sending similar letters to Stuart Eizenstat, Al Larson, and David Lipton.

Sincerely,
Abraham Katz

U.S. REQUESTS WTO CONSULTATIONS OVER INDIA'S BOP RESTRICTIONS

The Clinton Administration this week stepped up pressure on India to open its market to imports by requesting formal consultations in the World Trade Organization on that country's balance-of-payment (BOP) restrictions.

In a July 15 statement, U.S. Trade Representative Charlene Barshefsky said recent WTO consultations aimed at agreeing to a schedule of phasing-out India's quantitative restrictions on over 2,700 consumer and agricultural products had failed. She said the "next logical step" is to request WTO consultations.

"The United States is committed to seeing India prosper, but this cannot be achieved if India continues to maintain a closed market," Barshefsky said. "We sincerely regret the inability of the Indian Government to propose a resolution satisfactory to its major trading partners during the WTO BOP Committee consultations June 30 to July 1."

The Committee announced July 1 that despite India's offer in June, there was no consensus on the details of a phase-out plan for India. India has maintained BOP restrictions for four decades.

During the talks, developed countries were unsatisfied with India's offer, which suggested a seven-year phaseout of restrictions on most of the 2,700 products. These countries complained that the proposal would have phased out restrictions on high-priced items such as automobiles and agriculture products only in the

last year of the plan.

In its announcement, USTR said it had requested consultations under Article XXII of the General Agreement on Tariffs & Trade, which foresees other WTO members joining in the talks. The statement added that the U.S. expects other countries to make "similar requests of India for consultations" in the coming days.

A USTR official said this could include trading partners that were closely involved in the BOP Committee talks, such as the European Union, Japan, Switzerland, Australia, New Zealand, Canada and Norway.

Countries are permitted under the WTO to temporarily invoke BOP restrictions in order to ameliorate potential balance-of-payments emergencies. But in a report in January and an update in June, the International Monetary Fund, which is required to work with the WTO in assessing the need for BOP measures, ruled that India's restrictions are no longer necessary. The country's level of its foreign exchange reserves has been steadily increasing, sources said.

HOUSE THREATENS CHANGES TO HELMS-BURTON . . . begins page one

Helms-Burton supporters have long threatened to introduce such a bill as a way of threatening the Administration (*Inside U.S. Trade*, May 16, p. 1). But sources said this week that their intent now is to move the bill "as quickly as possible."

"[House International Relations Chairman Ben] Gilman (R-NY) said he intended to mark it up quickly," McCollum said in a telephone interview this week. "I got the impression it would move, not languish in the House." McCollum said that the bill would likely be referred to International Relations by the end of the week, and said it is "possible" that the House Judiciary Committee would have jurisdiction over the bill.

At press time, cosponsors of the legislation included Gilman, House Government Reform and Oversight Committee Chairman Dan Burton (R-IN), House Rules Committee Chairman Gerald Solomon (R-NY), and House Appropriations Committee Chairman Bob Livingston (R-LA). Other cosponsors are Reps. Lincoln Diaz-Balart (R-FL), Ileana Ros-Lehtinen (R-FL), Porter Goss (R-FL), Christopher Cox (R-CA), and Cass Ballenger (R-NC).

"By renewing his suspension of Title III today the President has purposely misconstrued the very narrow 'suspension' authority approved by Congress last March," Gilman said in a July 16 statement. "Congress gave him the authority to 'suspend' Title III only if it is 'necessary to the national interests of the United States and will expedite a transition to the democracy in Cuba.' I believe the President's decision today meets neither of these narrow conditions."

A congressional source added that Helms-Burton supporters are angry that Clinton has continued to suspend Title III even though there is "little he can point to" showing that U.S. trading partners are making real efforts to promote a democratic transition in Cuba. Through the suspensions, therefore, Clinton is effectively choosing to not implement U.S. law, he said.

Congressional sources also criticized Undersecretary of State for Economic, Business and Agricultural Affairs Stuart Eizenstat's July 16 statement that sought to justify continuing the Title III suspension.

"Nothing Eizenstat has done has helped a democratic transition in Cuba," one source said. "There is nothing going on in the negotiations." He said that to justify the suspension, Eizenstat has pointed to statements by foreign officials calling for democratic elections in Cuba, but cannot point to any "enforceable mechanisms."

The McCollum bill, reprinted below, would not affect any suspension of Title III announced before the bill is signed into law. This means that any suspension already in effect when the bill is enacted would be permitted to expire, after which the ability to implement future six-month suspensions would be revoked, sources said.

In his July 16 statement, Eizenstat insisted that progress had been made, and that more progress depends on support from U.S. allies, which can be gained by suspending Title III.

"The president has reviewed these developments and believes that this multilateral effort would not be strengthened by the initiation of lawsuits under Title III," he said. "To make additional progress, we must continue to have the cooperation of our allies."

As justification for the move, Eizenstat pointed to the EU's recently renewed common position, which ties increased economic activity with Cuba to improvements in its worker rights record and steps toward a democratic transition. Eizenstat also pointed to statements by leaders in Argentina, Nicaragua, and El Salvador, who have called for the beginning of a democratic transition in Cuba.

He also said non-government organizations and business groups have also urged changes in Cuba.

Finally, he pledged to continue working with the EU to negotiate disciplines governing investment in expropriated property, which the U.S. hopes would settle the bilateral dispute over the law. A successful negotiation would allow the EU to drop its World Trade Organization complaint over the law, and prompt the U.S. to seek changes in Helms-Burton that would allow Title IV to be waived. Title IV now requires the U.S. to deny entry visas to foreign executives of companies that traffic in former U.S. property in Cuba.

Sources said last week that the two sides are still at odds over key points in the negotiations (*Inside U.S. Trade*, July 11, p. 4).

Meanwhile, Gilman also pointed to new evidence that the Administration is not fully enforcing Title IV in light of threats from EU member states that they might withdraw from the bilateral negotiations if either Title III or IV are enforced against EU companies. In his July 16 statement, Gilman said he has evidence that the Administration is purposely "dragging its feet" in enforcing Title IV, and said the decision to do so is an "evasion" of U.S. law.

"Despite ample available evidence, the Administration has failed to cite a single 'trafficker' under this law [Title IV] since August," Gilman said. "They told me in a letter just last week that they have been withholding a decision against a 'trafficker' for months to give them more time to ask the U.S. owner for permission to use their stolen property. This is not a serious effort to enforce this provision."

In the letter received by Gilman last week, which is reprinted below, Assistant Secretary of State for Legislative Affairs Barbara Larkin said State believes that delaying an inquiry into STET, an Italian telecommunications firm, is appropriate under the circumstances. Earlier this year, STET tried to settle the dispute arising from its investment in property formerly owned by International Telephone and Telegraph.

"We believe that allowing the parties a reasonable period to see whether their initial contacts might lead to serious negotiations is fully consistent with Title IV," Larkin wrote. "We believe that a settlement would have a further chilling impact on those contemplating investment in Cuba."

Larkin said waiting is consistent with Title IV because Helms-Burton defines trafficking as benefitting from former U.S. property without authorization from its former owner. If the two parties could negotiate a settlement, that would remain consistent with the law, she said.

The letter noted that most Title IV investigations are being hindered by laws enacted by trading partners aimed at preventing companies from complying with the U.S. requests for information. The letter also responded to questions Gilman and other House members asked about Title IV implementation (*Inside U.S. Trade*, June 27, p. 11).

But Gilman rejected State's assertion that waiting for STET to settle with ITT was a valid decision under Helms-Burton.

"The President's oath of office says nothing about ignoring some laws or 'splitting the difference' on others," Gilman said. "My colleagues and I will be taking several initiatives in the days ahead to remind President Clinton of his duty to enforce the law of the land."

Aside from moving on McCollum's bill, House supporters of Helms-Burton have said they are considering hearings that will seek further explanations as to why few companies have been cited under Title IV.

While U.S. officials say publicly that only about 12 companies are being examined under Title IV, the State letter says that 45 are currently being examined. 23 foreign company executives, all from the only two companies to be formally cited under Title IV, have been excluded from the U.S. so far, according to the letter.

McCollum Bill on Helms-Burton

In the House of Representatives

Mr. McCollum (for himself, Mr. Burton, Mr. Gilman, Mr. Diaz-Balart, Mrs. Ros-Lehtinen, Mr. Solomon, Mr. Livingston, Mr. Cox and Mr. Ballenger); introduced the following bill; which was referred to the Committee on _____

A Bill

To repeal the authority of the President to suspend the effective date of title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.

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

Section 1. Short Title.

This Act may be cited as the "LIBERTAD Enforcement Act".

Sec. 2 Repeal of Suspension Authority.

(a) REPEAL. -- Section 306 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6085) and the item relating to that section in the table of contents of that Act, are repealed.

(b) EFFECT ON PREVIOUS SUSPENSIONS. -- The repeal made by subsection (a) shall not affect any suspension by the President, under subsection (b) of section 306 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, before date of the enactment of this Act.

Sec. 3. Effective Date of Title III.

Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6081 and following) and the amendments made by that title shall take effect upon the expiration of any suspension by the President, under subsection (b) of section 306 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, in effect on the date of the enactment of this Act.

Sec. 4. Conforming Amendments.

Section 302(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6082(a)) is amended --

(1) in paragraph (1)(A), by striking "after the end of the 3-month period beginning on the effective date of this title" and inserting "on or after the effective date of this title"; and

(2) in paragraph (3)(B), by striking ", after the end of the 3-month period described in paragraph (1)".

State Letter to Gilman on Helms-Burton

The Honorable Benjamin A. Gilman
Chairman
Committee on International Relations
House of Representatives

Dear Mr. Chairman:

Thank you for your letter of June 19, 1997, to Assistant Secretary Jeffrey Davidow, expressing your concerns and the concerns of several of your Congressional colleagues regarding our implementation of Title IV of the Cuban Liberty and Democratic Solidarity (Libertad) Act.

The Department of State is moving as quickly as possible to investigate cases in which we have information that foreign individuals and companies may be "trafficking" in property confiscated in Cuba to which U.S. nationals own claims. The investigative process is extremely complex and therefore requires time to conclude. It is made more difficult by some companies using every means possible to obscure their activities in Cuba. In addition, the European Union (EU), Canada and Mexico have enacted "blocking" legislation to prohibit enforcement of the Libertad Act within their jurisdictions, bar their nationals from cooperating with U.S. authorities seeking to implement the Act, and allow their nationals to file countersuits for damages resulting from the Act, thus increasing the difficulty of obtaining necessary information. At the same time, we must proceed deliberately in order to be as certain as possible about the facts before we issue final determination letters notifying individual foreign nationals that they will be excluded from the U.S., effective 45 days after the date of the letter. There is no way to predict when any particular investigation will be completed and a determination made. Responsibility for making such determinations has been delegated to Assistant Secretary Davidow and he takes that responsibility very seriously.

In the matter of STET International, we issued an advisory letter to the company on May 29, 1996, informing the company that we were reviewing its activities in Cuba under Title IV. That review is on-going. It was complicated by major new developments just a few months ago when STET International, according to press and other reports, made a substantial investment of new funds in the project. We have taken steps to verify this new information and evaluate the implications. The investigative results are reviewed by an interagency working group which determines whether the evidence of trafficking is sufficient to warrant a recommendation for possible action to exclude foreign nationals. Once the investigation is concluded, we will ask for interagency review of the case.

We understand that there have been exploratory contacts between ITT and STET International. It remains unclear whether those contacts will lead to negotiations to allow STET International to use ITT's claimed property in Cuba. The Libertad Act in section 401(b)(2) provides, in effect, that "trafficking" consists of using or benefiting from confiscated property "without the authorization of any United States national who holds a claim to the property." Thus, a settlement with the U.S. national claimant authorizing use of the claimed property would mean that the transaction would fall outside the definition of "trafficking". We

believe that allowing the parties a reasonable period to see whether their initial contacts might lead to serious negotiations is fully consistent with Title IV. We believe that a settlement would have a further chilling impact on those contemplating investment in Cuba.

The recent "Understanding between the U.S. and the European Union" on the Libertad Act does not affect our continuing efforts on Title IV. The Understanding does, however, launch a process to work with our friends and allies in an effort to globalize strong protections against expropriations in contravention of international law. Developing binding disciplines in this regard would be a major step forward and would clearly have a profound impact in stopping investment in such confiscated property, which is, of course, also a key objective of Title IV. Discussions with the European Union on such disciplines are continuing.

As to the five additional questions listed in your letter, I am pleased to advise you:

(1) Number of entities currently under Title IV review, by economic sector: Agriculture (includes sugar and tobacco), 15; tourism infrastructure, 7; mining, 6; power, 5; oil, 4; real estate, 3; basic industry, 3; telecommunications, 2.

(2) Entities determined under Title IV: Sherritt International and Grupo Domos. We can provide you separately, under appropriate safeguards, the names of the 23 persons who have been found excludable from admission to the U.S. under Title IV. As you know, these names are protected by the confidentiality requirements under section 222(f) of the Immigration and Nationality Act.

(3) No persons or entities who have been determined as excludable have been found no longer subject to exclusion.

(4) The cases in paragraph one are in various stages of review, some more advanced than others. In several cases, we are relatively close to sending advisory letters. In others, we are intensively collecting the evaluating data. Because of the extreme difficulty in finding information on companies that use every means possible to hide their Cuban activities from us, we have not been able to develop sufficient data on some other cases to allow us to open full-scale inquiries on them.

(5) Of the 23 people found excludable under Title IV and ineligible for U.S. visas, each was a corporate officer or board member, along with their spouses and minor children, if known, of Sherritt International or Grupo Domos, the two companies so far determined to be "traffickers" as defined in Title IV.

We look forward to a continued dialogue on these issues. We have kept the Congress informed through a number of briefings of Congressional staff and members, and we assure you that we will continue to do so. If we can be of further assistance to you in this or any other matter, please feel free to call on us.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

U.S. BRACING FOR EU DECISION ON BOEING MERGER . . . begins page one

an orderly process for our handling this and I think we had better let the orderly process play itself out before we talk ourselves into a trade war," he said. "I think we're a long way from that and I think we'll probably avoid it."

His comments follow a July 15 meeting by members of the Clinton cabinet on the merger standoff with the EU, which included a "very cursory" discussion of possible U.S. retaliation options should the EU block the deal, according to an Administration official. It was much more a discussion about the status of the EU merger review and an attempt to assess the "real timetable" for a U.S. response to an EU decision to block the merger, he said.

The meeting brought together U.S. Trade Representative Charlene Barshefsky, Commerce Secretary Bill Daley, State Dept. Undersecretary Stuart Eizenstat, and White House official Dan Tarullo, he said.

A potential U.S. response would depend on the exact nature of the EU action against the merger if it were to go ahead despite EU objections, sources said. For example, if the EU rejected the merger and levied a surcharge on Boeing's worldwide sales, which is an option under the EU merger regulations, the U.S. could initiate a Section 301 proceeding, and then begin the process of defining retaliation options, they said.

"At this point they're tossing ideas out, and it's hard to tell how serious they are," one source said. He added that at this point, "the very fact that a cabinet-level meeting happened" is an important signal to the EU that a negative decision on the merger would have repercussions.

But the EU seems likely to reject the merger next week, after the two sides failed to reach agreement by an EU-imposed July 15 deadline, sources said. One informed source said it will be "very difficult" for the EU to examine any improved offers Boeing might make between now and the July 23 deadline for an EU decision.

Richard Albrecht, an executive vice president for Boeing Commercial Airplane Group, spent July 11 to July 14 negotiating a package of remedies designed to address the EU's major problems with the merger, according to a Boeing spokesman. Sources said progress was made on "one issue," but EU competition authorities, led by Competition Commissioner Karel Van Miert, ultimately rejected Boeing's remedies, sources said.

EU Commissioners in a July 15 meeting "fully supported" the position taken by Van Miert, according to a commission spokesman.

"Unless the legitimate competition concerns of the Commission can be met and genuine choice maintained for purchasers of aircraft worldwide, the Commission could not approve the merger," the spokesman said. "Boeing has so far not agreed to measures which would meet these concerns and achieve that objective."

An advisory panel made up of competition experts from the 15 EU member states similarly rejected Boeing's latest offer in a July 16 meeting. The panel "unanimously supported the Commission's position, i.e., that these undertakings do not adequately address the competition concerns identified by the Commission," according to an EU source.

Despite the passage of the EU deadline, industry sources said Boeing would still be given until next week to table a final offer. "It is our hope that once our remedies are reviewed by the full Commission, prior to July 23, that the Commission will find in favor of the merger and in favor of free and fair competition," Boeing President and CEO Phil Condit added in a July 16 statement.

Condit said in the statement that Boeing is "extremely disappointed" in this week's EU action because Boeing submitted a series of "significant remedies designed to address all the Commission's concerns." The statement said particular issues that have yet to be resolved include the EU's concern that the merger would give Boeing access to MDC's commercial aircraft fleet and would significantly broaden its customer base. Similarly, the EU complaints about Boeing's sole-source supplier arrangements, which the company has with three U.S. airlines, have not been addressed, according to the statement.

Regarding Boeing's proposed remedies, informed sources rejected as incorrect earlier reports that Boeing and EU officials are discussing the possibility of licensing a third party to make parts for MDC aircraft. While this would seem to partially address EU complaints, informed sources said this specific remedy is not being discussed by the two parties.

Some sources have suggested that Boeing would have to completely divest from the civil aircraft division of MDC in order to win EU approval, while others have said this solution is unworkable because it has been tried unsuccessfully in the past. Other sources said EU approval may also hinge on Boeing's willingness to completely drop its sole-source supplier contracts with three U.S. airlines (*Inside U.S. Trade*, July 11, p. 1).

Another informed source said that, as a condition of having the merger approved by the EU, Boeing may also offer to provide the EU with more information on U.S. government research that aids the U.S. commercial aircraft industry. As the U.S. seems unwilling to renegotiate a bilateral 1992 agreement that includes some disciplines on indirect supports, Boeing could offer more transparency in this area outside the agreement, the source said.

But a source familiar with Boeing's remedy proposal said at press time that Boeing had made no such offer. Boeing last week conducted a telephone survey of over 1,000 U.S. residents about the merger, which found

that most interviewees believed that the merger should not be subject to an EU review. The respondents also said it would be wrong for the EU to interfere with the merger, that the EU is mostly interested in protecting Airbus from Boeing's improved position after the merger, and that the U.S. government should "protest vigorously" if the EU moves to penalize Boeing, according to industry sources.

The Senate this week approved a resolution calling on the President to fight for U.S. interests in the merger dispute as part of the foreign operations appropriations bill. The amendment, which was sponsored by Sens. Slade Gorton (R-WA) and Dianne Feinstein (D-CA), was introduced July 16 and included in the foreign operations appropriations bill the same day.

It states that an EU disapproval of the merger would be an "unwarranted and unprecedented interference" in a U.S. business transaction and calls on the President to take "such actions as he deems appropriate" to protect U.S. interests.

In a related development, sources said the House Transportation Committee is tentatively scheduled to hold a July 23 hearing on the proposed merger. Expected to testify are Condit, as well as a yet-to-be-named EU official, sources said.

AAMA URGES ACTION AGAINST KOREA, JAPAN . . . begins page one

He accused the Japanese government and automakers of not supporting increased market access for foreign cars. Therefore, AAMA asked the Office of the U.S. Trade Representative to cite Japan on the Watch List provisions of the Super 301 law in a July 10 submission, he said.

The AAMA submission charged that Japan is falling short of the U.S. expectation that the bilateral auto agreement lead to 200 new high-quality dealerships by the end of 1996. "The slow pace of new dealer additions, due to a lack of action by the Japanese, undermines the hard-fought market gains made by AAMA members, increases the bilateral automotive trade deficit, and threatens to reignite the trade tensions that the Agreement was meant to resolve," AAMA wrote.

At this point, Japan has added 127 new dealerships, but few are affiliated with Japan's top automakers, Stephen Collins, AAMA's Director of Economic and International Affairs, said in a telephone interview.

But he acknowledged that the dealership benchmark is not part of the U.S.-Japan auto agreement and is "not recognized as an official goal on the Japanese side." U.S. manufacturers have said they want 400 new dealerships by the end of 1997, and Collins insisted that this goal has been endorsed by the U.S. government.

"We don't feel that, beyond some very basic statements that were contained in the agreement, there has been any evidence of an active or proactive effort by the [Japanese] government to strongly encourage the creation of a more competitive environment in Japan," Collins said.

In the case of Korea, the AAMA submission charged that the country has violated a 1995 Memorandum of Understanding with the U.S. by introducing new measures that restrict imports and not implementing all its commitments.

"[T]hese policies represent a pattern of officially sanctioned trade restrictions aimed at keeping Korea's domestic auto market closed to imports," AAMA in July 10 comments to USTR. Thus, U.S. automakers have asked Korea "to be designated as a priority country maintaining unfair trade practices."

Collins said AAMA President Andrew Card and representatives of the European Auto Manufacturers Assn. this week unsuccessfully tried to make their case for a more open market to Korean officials. But their efforts were rebuffed by officials from five different Korean ministries, who were "very dogmatic and indicated no flexibility" in addressing the problems identified by the U.S. and EU industry representatives, Collins said.

"Both U.S. and European automakers are disturbed that Korea continues to enjoy the benefits of the world's open trading system, while maintaining a sanctuary market at home," Card said in his July 17 comments in Tokyo. He said both groups want Korea to live up its obligations under the World Trade Organization and the Organization for Economic Cooperation & Development.

According to the AAMA submission, Korea has violated its commitment under the MOU not to introduce new measures that would hurt market access for imported vehicles. In addition, Korea agreed "to liberalize standards and certification practices, reduce certain taxes, permit foreign advertisers equal access to television advertising time, and improve consumers' perception of auto imports in Korea," the AAMA said.

But AAMA charged that the Korean government announced its intention to introduce new standards in violation of the standstill provision. The submission also cites the Korean decision to reclassify certain sport utility vehicles under tax law as damaging foreign sales and charged that the Korean tax system continues to serve as a trade barrier by placing a higher tax burden on imports.

AAMA also said the Korean "frugality" campaign has damaged sales of imports.

In his comments, Card offered a pessimistic assessment of U.S.-Japan auto trade. He said that "by nearly every measure...U.S.-Japan automotive trade patterns are sharply deteriorating."

U.S. company sales in Japan are down 13.6 percent in the first half of 1997, he said. Import share of the market has dropped from 6 percent at the end of 1996 to 5.76 percent in the first half of 1997, he said. In addition, Japan's trade and current account surplus is growing, he said.

Card pointed out that he had warned during a November 1996 visit to Japan that an "excessively weak yen" and the lack of action by Japan to open vehicle distribution channels would undermine recent gains in vehicle imports to Japan.

But Card acknowledged that the yen-dollar relationship has improved as a result of commitments by Japanese Prime Minister Hashimoto to stimulate domestic Japanese growth. "The currency markets have responded to that commitment and, as a result, there has been a strengthening of the yen to the Y115 level today," he said. "Given what I view as the completely unjustifiable level at which the yen was trading just a few months ago, this realignment of the yen-dollar exchange rate is at least a slightly more realistic reflection of economic and financial realities," he said.

Card urged the Japanese government to open up the distribution system to foreign cars. "The Japanese Government should be proactive in changing the current limited system, just as the U.S. government played a role in ensuring more choices for consumers in the U.S.," he said. This will increase consumer choice and in the "longer term, should lead to a more balanced relationship in auto trade between the U.S. and Japan," according to Card.

Card and other AAMA representatives were also set to meet with U.S. embassy officials and the Japanese Automobile Manufacturers Association on July 17.

AAMA comments are one of fourteen submissions sent to USTR for possible action under Super 301.

Among them, U.S. pharmaceutical companies urged action against Taiwan for its discriminatory pricing policies either under Super 301 or through other channels. The Pharmaceutical Research and Manufacturers of America previously called on USTR to oppose Taiwanese accession to the World Trade Organization until Taiwan brings its reimbursement policies for foreign-made drugs in line with international rules on intellectual property protection and national treatment (*Inside U.S. Trade*, April 18, p. 22).

The USA Rice Federation cited several countries, including China, Brazil, Japan, Korea, and Taiwan, and the European Union as maintaining systematic barriers to U.S. rice.

Other organizations which submitted comments to USTR included the Cosmetic, Toiletry and Fragrance Association against Korea and the American Forest and Paper Association against the EU for its ecolabeling requirements.

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Toll-free 800-424-9068

NEWS OFFICE
703-416-8539

FAX: 703-416-8543

Publisher: Joe Burey
Chief Editor: Jutta Hennig
Associate Editors: Carter Dougherty, Peter Kasperowicz, Craig Updyke
Contributing Editors: Scott Otteman, Janice Hughes
Production: Justin Goudreau, Wendy Tull, Wendell Alcorn, Lori Nicholson

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Shrimp Dispute Tests U.S. Use Of Trade to Protect Environment

WSJ 7/15/97
By CHANA R. SCHOENBERGER

Staff Reporter of THE WALL STREET JOURNAL

How far can a country go to restrict international trade in the name of saving endangered species or protecting the environment?

That question is at the heart of a case now before a World Trade Organization panel. The WTO is deciding whether a U.S. ban on shrimp caught without special devices to protect endangered sea turtles violates international trade rules. If the three-member panel decides the U.S. ban is discriminatory, the U.S. and other countries will have to reconsider the practice of imposing trade restrictions to try to prevent environmental damage.

Several international-law experts expect the U.S. to lose, just as it did in two earlier cases in which the U.S. sought to ban Mexican tuna caught in nets that trap and kill dolphins. "The limited history of earlier cases does not bode well for the U.S. position," says Harvard Law School Professor William Alford. "There just isn't a good historical foundation of granting jurisprudence for this sort of environmental legislation."

The WTO is expected to issue a finding in January. If it rules against the U.S., the Clinton administration could still keep the shrimp ban on the books. But the countries that brought the case — Thailand, Malaysia, India and Pakistan — could then retaliate, says University of Minnesota Law School Professor Robert E. Hudec, an expert on international trade law. "Such a ruling would be binding as a matter of international law, but such a legal obligation does not have the force of law within the U.S.," Mr. Hudec says.

The U.S. View of the Ban

State Department officials contend the shrimp ban, which Congress passed in 1989 as part of an appropriations bill and which went into full effect in 1995, doesn't violate international trade rules. Because of the law's conservationist motives, says Mary Beth West, deputy assistant secretary for oceans, science and technology, the State Department believes it conforms to international free-trade rules that carve out exceptions for environmental protection. Ms. West's office, along with the U.S. Trade Representative, began arguing the case last month in Geneva.

The dispute centers around both conservation efforts and the wording of world-trade regulations. The U.S. position, Ms. West said, is that under the General Agreement on Tariffs and Trade, the predecessor of the WTO, nations are permitted "to take measures to protect animal life and health" and "protect natural resources." Thailand and the other plaintiffs contend that sea turtles cannot be classi-

fied as a natural resource, and therefore cannot be protected under international trade rules.

Shrimp fishermen in the U.S. have long been required to use turtle-excluder devices, or TEDs, on their trawl nets to prevent turtle drownings, the largest cause of sea-turtle deaths. The devices cost \$75 to \$500 each.

An Exemption for Thailand

Thailand has passed a law mandating TEDs on shrimp-trawl nets used by its fishermen, and thus the country is exempt from the U.S. ban. And the ban doesn't cover most shrimp imports to the U.S.; it exempts shrimp raised in aquaculture farms, caught in hand nets or taken from cold-water habitats where the endangered turtles don't live. But Thailand and other countries are pursuing the case anyway. "Our shrimp can enter the U.S. market,

'Our shrimp can enter the U.S. market, but it's a matter of principle, because we think that the shrimp ban is not consistent' with international-trade rules, the Thai Embassy's commercial minister says.

but it's a matter of principle, because we think that the shrimp ban is not consistent" with international-trade rules, says Kanissorn Navanugraha, commercial minister at the Thai Embassy in Washington.

The U.S. shrimp industry is split over the ban. Businesses that deal with imported shrimp — including the processors and marketers of the National Fisheries Institute, a trade group — complain the law discriminates against some countries. "If the WTO says that this type of restriction is legitimate under the trade rules, I think it would be rather precedential and would set the stage for other unilateral trade restrictions," says the NFT's executive vice president, Lee Leddig.

Legal scholars say a defeat for the U.S. in the shrimp case, coupled with the two tuna cases, would make it harder for countries to attempt to impose their environmental views on others.

"In the past, we've been able to ignore it when other nations tell us how to govern our economy," says Susan A. Aaronson, an economic historian at George Mason University and the Brookings Institution, a Washington think tank. Now, under trade laws, she says, "we can't."

PHOTOCOPY
PRESERVATION

NAFTA Redux: Both Sides Gear Up For 'Fast Track' Fight

While taxes, Medicare, and scandal probes dominate Washington's summer agenda, the White House and its adversaries are gearing up for a bruising fight this fall over trade legislation.

The Clinton Administration sees Congressional approval of fast-track authority to negotiate new free-trade agreements as a major part of both its foreign policy and its domestic agenda.

Lining up against the White House is an odd coalition of organized labor, some environmental and consumer groups, and Ross Perot and Pat Buchanan, who want to use

US trade power to influence other countries' domestic policies or, failing that, deny Clinton power to negotiate new pacts.

Politically, the battle over fast-track trade authority will be a major test of strength between "old Democrats" led by House Minority Leader Dick Gephardt (Mo) and "new Democrats" led by President Clinton and his would-be successor, Vice President Al Gore.

It also will be a test of whether nationalist-isolationist sentiment is gaining in the Republican party.

"Fast track" gives the President authority to negotiate trade deals, which then can only be voted up or down by Congress, not endlessly amended. Having won fights over NAFTA and GATT, Clinton intends to seek free-trade pacts with Chile and South Africa, as well as so-called "sectoral" market-opening agreements on in-

formation technology, biotechnology, agriculture, and professional services with Asian countries and at the World Trade Organization.

The Administration argues that open trade is partly responsible for America's current economic boom and low inflation and that, without renewed fast-track authority, the US will lose out as other nations rush to negotiate trade deals.

Labor unions and Gephardt counter that free trade also is responsible for stagnant wages among the poor and unskilled, who can't compete with foreign workers.

Gephardt insisted in a recent interview that he and labor unions are not "protectionist," but want it written into trade pacts that the US will close its markets if other countries do not live up to their own labor, environmental, human rights, and anti-drug laws.

Gephardt said that the aim is to gradually

bring other nations up to US standards, reducing the chances that American companies will flee to low-wage nations where environmental enforcement is weak.

Congressional Republicans, however, adamantly oppose any effort to weigh down trade pacts with labor or other restrictions except when they are "directly related" to trade — as when a foreign country uses environmental regulations to keep US products out.

The Administration, arguing that foreign countries won't stand for Gephardt-like invasions of their sovereignty, wants a "clean bill" authorizing fast track.

Gephardt's staff complains that the Administration has been unwilling even to negotiate. "They want a fight," said one aide. "They want to establish Clinton as an international leader or to isolate one part of the Democratic party. It's a testosterone test."

Clinton aides confirm that they aren't negotiating with Gephardt or labor because "nothing we could give them would win their support. They've never supported a free-trade deal."

Formally, the trade fight begins in mid-September, when Clinton and Gore roll out their fast-track proposal. In fact, however, the fight is already on. US Trade Representative Charlene Barshefsky has held 170 briefings with Members, and the Administration is getting ready to hire Jay Berman, president of the Recording Industries Association of America, to spearhead the fast-track sales effort.

The AFL-CIO also has brought on a chief fast-track strategist, Mike Tiner, and is planning

The battle over trade authority will be a major test of strength between two party factions: Gephardt's 'old Democrats' versus the Administration's 'new Democrats.'

to spend several million dollars during Congress's August recess on local TV advertising.

Simultaneously, the Business Roundtable is planning its own TV blitz, to be supplemented by invitations for Members to visit industries prospering because of foreign trade. The "new Democrat" Democratic Leadership Council also plans to weigh in on the Clinton/Gore side, mobilizing state and local government officials.

Early vote-counting suggests that Clinton faces a tough fight, but one he ought to win if he wages an all-out effort. Clinton pollster Mark Penn has told White House aides that 62 percent of Americans support "free trade" and 82 percent, "fair trade" — suggesting that the White House campaign will promise that Clinton will seek "tough, fair trade agreements."

Penn's polls also show a significant gender gap on trade, with 73 percent of men and 55 percent of women in favor of free trade, including 54 percent of male Democrats and 39 percent of female Democrats.

Trade lobbyist and vote-counter Phil Potter says that the likely winning majorities for fast track will be 150 to 160 Republicans and 60 to 70 Democrats in the House, and 40-plus Republicans and 20 Democrats in the Senate.

Gore and Clinton will want to maximize Democratic support — with Senate Minority Leader Tom Daschle (D-SD) as a crucial player — but they also can't risk offending Republicans. In 1993, only 43 House Republicans voted against NAFTA, but 56 voted in 1994 against the GATT trade agreement and 79 voted this year against MFN for China.

Clinton has been a big winner so far this year in Congress on the budget, chemical weapons, and MFN. But trade will be a big test, not just for him, but also for Gephardt, Gore, and GOP leaders. It's NAFTA redux — a helluva fight.

PHOTOCOPY
PRESERVATION

McDonnell Douglas," said Boeing Chairman Phil Condit. The issues that the Commission has raised already were analyzed in an extensive review by the Federal Trade Commission, which approved the merger, without conditions, on July 1, the aircraft executive noted.

"It is our hope," Mr. Condit added, "that once our remedies are reviewed by the full Commission, prior to July 23, that the Commission will find in favor of the merger and in favor of free and fair competition."

A final EU decision on the merger is due July 23.

Around the Globe

- A senior White House adviser yesterday expressed US hope to negotiate an agreement with other nations within a year on cross-border electronic commerce (WTD, 7/8/97), Jiji press reported from Tokyo. The United States aims to complete an international accord concerning the overall framework for the on-line marketplace by 2000, Ira Magaziner told a group of reporters at the US embassy. But it hopes to conclude a pact within 12 months on the six priority items of tariff elimination, electronic signatures, copyright protection, privacy protection, regulation of harmful information and allocation of domains for Internet addresses.

- Japan's trade surplus in June was up 27.7 percent from a year earlier at 934.2 billion yen - \$8.1 billion, the finance ministry said yesterday according to an Agence France-Presse report from Tokyo. Exports in the month increased 12.5 percent year-on-year to 4,119,423 billion yen while imports rose 8.7 percent to 3,185,214 billion yen, the ministry said.

In the first half of 1997, Japan's trade surplus jumped 28.4 percent from the same period last year to 3,981.9 billion yen with exports up 15.1 percent at 24,729.4 billion yen and imports up 12.9 percent at 20,747.5 billion yen. In June alone, the politically sensitive trade surplus with the United States was up 26.8 percent to 373.1 billion yen, with exports growing 14.2 percent to 1,127.3 billion yen and imports increasing 8.8 percent to 754.2 billion yen. The June surplus with the rest of Asia edged up 4.2 percent to 600.5 billion yen as exports rose 8.6 percent to 1,763.4 billion yen and imports expanded 11.0 percent to 1,163.0 billion yen. With the European Union, the surplus surged 101.1 percent to 187.5 billion yen. Exports to EU countries swelled 15.8 percent to 625.7 billion yen while imports dropped 1.9 percent to 438.3 billion yen.

Eisuke Sakakibara, vice Japanese finance minister for international affairs, said yesterday that the growth of Japan's trade surplus appears to be slowing, Jiji press reported from Tokyo. After the announcement of preliminary June trade statistics, Mr. Sakakibara told Jiji press that the growth rate sharply slowed compared with the previous two months.

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FAST TRACK: WHY WE NEED IT

NOW, MORE THAN EVER, THE U.S. NEEDS AUTHORITY TO OPEN NEW MARKETS AND BREAK DOWN BARRIERS TO U.S. EXPORTS.

Trade negotiating authority is essential. Every President since Ford has had fast track authority for key periods with bipartisan support. President Clinton needs fast track authority to open markets and ensure that U.S. workers and companies have the same access to foreign markets as our competitors.

Fast track authority is more important today than ever. The rapidly expanding global economy presents enormous opportunities for our companies and workers. Over the next decade, the global economy is expected to grow at three times the rate of the U.S. economy. Growth will be particularly powerful in the emerging markets - the fastest growing markets of the world. Our economic future will increasingly depend on tapping into these global opportunities. In a world where over 95 percent of the world's consumers live outside the United States, we must export to sustain economic growth at home.

Leadership in trade is critical to global leadership. The United States is now the most competitive economy in the world. We export more products and services than any other country in the world, and trade provided more than one-fourth of our economic growth over the past four years. Europe, China, Japan and others are forging preferential commercial alliances with emerging markets, which put American exports at a disadvantage. Those trade alliances also play a vital role in defining strategic relationships between countries and regions. Our commercial competitiveness is at stake, but so is our leadership role in the world.

Our trade agenda is built around areas where we are most competitive. In the just the last eight months the United States led the world to complete trade agreements in telecommunications and information technology products -- a trillion dollars worth of trade in areas where we lead the world. We are now building on this agenda with an internet trade initiative. We are working with our trading partners to open-up trade in agriculture, biotechnology, services, and energy. Over the last four years, our manufactured exports are up 42%, high technology exports jumped 46%, service exports climbed 26% and farm exports rose 43%. Fast track will strengthen our hand at opening foreign markets in all these areas.

Exports create American jobs. Today, more than 11 million American jobs are supported by exports, including one in five manufacturing jobs -- good jobs, paying 13-16 percent more than non-trade-related jobs. Over the last four years, one-quarter of our economic growth came from trade -- and exports created 1.4 million new jobs. If we are to raise our standard of living, we must continue creating jobs through exports.

THE U.S. IS PERFECTLY POSITIONED TO SEIZE THESE OPPORTUNITIES.

The United States is the world's strongest competitor. We have enjoyed the longest period of sustained growth of all of our G-7 partners. Over the last four years, we have created 12 million new jobs, more than all of the other G-7 countries combined. We have the lowest budget deficit as a percent of GDP of all the G-7 nations. We are once again the world's largest exporter, the largest producer of semiconductors, the largest producer of automobiles. Independent studies, including the Institute for Management Development in Switzerland, have found America to be the most competitive economy in the world for the past five years. No country in the world is better positioned to compete.

Our market is already open. Others are not. The United States is the most open, major market in the world. When we reach trade agreements, we give up very little, while other countries give up far more. When the Uruguay Round is phased in, our tariffs will average 2.8 percent. Other countries are far higher: India (31%); Thailand and Turkey (26%); Chile and Indonesia (11%). It is not difficult to see that these deals make sense. It is difficult to understand why we should let these barriers stand.

THE POTENTIAL GAINS ARE GREAT, IF WE SEIZE THEM.

Multilateral. For over 50 years, the U.S. has led the world in opening global markets. Our persistent leadership has helped bring global tariffs down from an average of 40 percent at the end of World War II to about 5 percent today, leading to a 90-fold increase in global trade. We can continue that progress today. Because of our leadership, new WTO negotiations present the opportunity to reduce trade barriers further in key sectors, such as:

- **Agriculture:** Negotiations to cut barriers in the \$526 billion global agriculture market will attack such practices as export subsidies and domestic support programs.
- **Services:** A \$1.2 trillion global market - where U.S. firms exported more than \$220 billion in 1996 with a surplus of \$74 billion. Talks will address a wide range of service sectors including health care, education, entertainment, tourism, business consulting and advertising.

Global negotiations will address other key areas like intellectual property, customs and government procurement rules. Talks in the OECD will ensure fair treatment for U.S. investors.

Sectoral. We would also use fast track to negotiate agreements in sectors where the U.S. is most competitive. The recent Information Technology Agreement, for example, eliminated tariffs and unshackled \$500 billion of trade in semiconductors, computers, telecommunications equipment and software, amounting to a \$5 billion tax cut in tariffs on American exports. With fast track authority, we can tear down more barriers in areas like medical equipment, environmental technology, and computer software, areas where America leads the world.

Regional. Continuing regional initiatives present vast opportunities.

- **Latin America and the Caribbean.** This area was the fastest growing market for U.S. exports in 1996. If trends continue, Latin America and the Caribbean will exceed the EU as a destination for U.S. exports by 2000 and exceed Japan and the EU combined by 2010. We remain committed to conclude the Free Trade Area of the Americas by 2005. Chile would be our first step in this process.
- **Asia.** Contains the fastest growing economies in the world, with nearly 3 billion people. Independent forecasters put 1996 GDP for the region at \$2.8 trillion and expect real growth of 6% to 7% annually for the next 15 years.

We will also continue efforts with Europe, Africa and other regions.

IF WE DON'T ACT, OUR COMPETITORS WILL.

Other countries are breaking down barriers for their companies and workers. We talk a lot about leveling the playing field, but our competitors are leveling the field, while we sit on the sidelines. Since 1992, our competitors have negotiated 20 regional trade pacts in Asia and the Western Hemisphere. In every region of the

world, this process will continue. MERCOSUR is a developing customs union with ambitions to expand to all of South America; the EU has begun a process to reach free trade with MERCOSUR (President Chirac recently declared "the future of the region rests with Europe, not the United States"); China's "strategic priorities" include Mexico, Argentina, Brazil, Chile and Venezuela; Japan has undertaken high-level efforts in Asia and Latin America. Five years ago, the question was whether countries would reach regional trading agreements. Today, the only question is whether the U.S. will be part of that process - or whether it will sit on the sidelines.

The costs of inaction are high. For example, Canada has reached a free trade agreement with Chile that will eliminate Canada's across-the-board 11 percent tariff for Canadian products. Every time an American company competes to sell to Chile, it will face an immediate 11 percent cost disadvantage vis-a-vis its Canadian competitors. The costs are already being felt. Canada's Northern Telecom just won a \$180 million telecommunications contract over three U.S. companies in part because it could avoid paying \$20 million worth of duties. **(Are there more examples in this genre?)**

AS WE DEVELOP A FAST TRACK BILL, WE MUST DEVELOP A BIPARTISAN APPROACH TO THE ISSUES OF LABOR AND THE ENVIRONMENT.

We must address these issues. We cannot sustain support among American people for market opening policies without also addressing concerns about the effects of these agreements on labor and the environment. That is also necessary to build a bipartisan coalition for passage. The President has asked Ambassador Barshefsky to consult with both parties in Congress -- and the relevant interest groups -- to develop a bipartisan consensus. That process continues.

Sitting on the sidelines does not help workers or promote a cleaner environment. Opening foreign markets does not mean retreating from our commitment to labor and the environment. In fact, it makes it easier to engage these countries on these issues. Denying the President authority to negotiate trade agreements with them will not help advance their labor or environmental protections. It will simply make it more likely that these countries will remain oblivious to environmental issues, while crippling our export performance and denying job growth here at home.

WE FACE A CRITICAL CHOICE: WHETHER TO SEIZE THE INITIATIVE OR HAVE OTHERS SEIZE IT FROM US.

The choice is clear. We can recognize that the American economy is the model for the world, continue to open foreign markets and seize the initiative when it comes to international competition. Or we can convince ourselves - against the evidence - that we are on the wrong track, that we cannot succeed and that we should not move forward. Four years from now, we will either proudly recognize that we saw our opportunities and we took them. Or, we will have become paralyzed by indecision, squandered our strong competitive advantage and let others seize the initiative. The choice is that clear - and that important.

THE WHITE HOUSE
WASHINGTON

July 14, 1997

Mr. Jason S. Berman
Chief Executive Officer
Recording Industry Association of America
1330 Connecticut Avenue, NW, #300
Washington, DC 20036

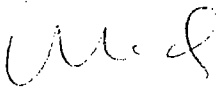
Dear Jay:

I am pleased, encouraged and, indeed, relieved, that you are coming on board to lead the President's fast track effort. I am confident that you will provide the strong and vigorous leadership that is needed on this important effort. Please know you have my full support in that regard.

While our hemispheric trade agenda is quite important, I fully appreciate that the need for fast track authority is a much broader issue. However, I did think you would find of interest and relevant the enclosed memorandum that I sent to Secretary Albright and Sandy.

Again, I am delighted that you are aboard, and I look forward to working with you.

Personally,




Enclosure

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THE WHITE HOUSE
WASHINGTON

July 11, 1997

MEMORANDUM FOR MADELEINE ALBRIGHT
SAMUEL BERGER
CHARLENE BARSHEFSKY

FROM: MACK MCLARTY *Mack*
SUBJECT: HEMISPHERIC WISE PERSON OUTREACH

I wanted you to be aware of several interesting points made during two "wise person" breakfasts I hosted at the White House July 10 and 11. The purpose of these meetings was to provide a brief overview of our hemispheric policy and significant actions taken in the first six months of this year (a so-called "Year of the Americas" mid-term review), while probing the thinking of recognized hemispheric experts as we head toward an active autumn agenda in Latin America and the Caribbean.

Foremost on everyone's mind seemed to be trade issues, specifically fast track. The consensus is that now is the time for the Administration to show seriousness of purpose, with the President and Vice President personally engaged. Mexico's recent elections, reform of the narcotics certification process, and the agenda for the upcoming Santiago Summit of the Americas were also recurring themes.

Carla Hills

- Fast track is the key to hemispheric policy. It's highly symbolic, particularly in the region. The President must be directly involved, defining it as a "top, top, top" priority. Business is anxious to support, but is waiting to fall in behind the President. Fast track is wrapped up with NAFTA in the public mind; a strong defense of NAFTA is needed to support our fast track efforts.

Sidney Weintraub

- The key point to selling fast track is that open markets encourage strong democracies. Mexico is perhaps the best example. The July 6 elections were a true watershed in Mexico's attempts to modernize. We should use this to sell our overall trade strategy.

Ted Briggs

- The U.S. should take credit for NAFTA, but be careful not to take credit for Mexico's transition to democratic pluralism. On fast track, business wants to help, but will be reluctant to move until POTUS and VPOTUS have raised the profile of fast track and made it a public priority.
- We face "reform fatigue" in the region; this should inform but not paralyze our efforts.

Paula Stern

- Fast track is a symbol of US leadership; even if a bill is introduced in September, it's important we share our intentions with Congress well before actual introduction so as to give our allies ammunition and garner early support.
- We should be careful not to "demonize" MERCOSUR or other regional trade groupings. If we ensure we have the tools we need to maintain our leadership in Latin America and the Caribbean, the "threat" of MERCOSUR begins to melt away.

Alec Watson

- The Administration is making good progress on issues of importance to the region, particularly CBI enhancement and immigration (the two key items for Central America).
- A successful Summit in Santiago in April, where we have agreed to begin FTAA negotiations, will require fast track. We should also begin to move on the certification issue. With recently-introduced Dodd/McCain legislation, political momentum for change is building.

Joe Tulchin

- Certification is one of the key negatives in current hemispheric relations. We need more active cooperation from the hemisphere, and should look for a "core group" of countries which may be willing to work with us to formulate a better way to fight illegal narcotics.
- There's a real opportunity for the Administration to take more credit than we have in terms of democracy expansion and reform in the hemisphere. We should seek more aggressively to set rules of the game--from customs procedures to accounting regulations to financial markets coordination--as the hemisphere continues to privatize.

Al Fishlow

- We're right to focus on education as the centerpiece of the Santiago Summit. But education must be coupled with a focus on income distribution and poverty alleviation. Not all education resources should go to higher education. Primary school provides the greatest marginal benefit of each education dollar spent.

Riordan Roett

- Lack of an Ambassador in Mexico is having a negative effect, given swift changes there.
- Regarding Presidential travel, the energy sector is booming across the hemisphere, and a trip to Venezuela should take this into account. We should consider a meeting with MERCOSUR presidents in South America. And we should begin to think of a "plan B" in case we can't get fast track authority in time for Santiago.

Arturo Valenzuela

- Mexico's recent election represents a historical advance. For the first time in history the legitimacy of Mexico's political leadership is not in question.

Wise Person Attendees

Ted Briggs
Council of the Americas

Albert Fishlow
Council on Foreign Relations

Carla Hills
Hills and Company

Abe Lowenthal
Pacific Institute

Lillian Pubillones Nolan
Inter-American Dialogue

William Pryce
Council of the Americas

Riordan Roett
Johns Hopkins University/SAIS

Dan Sharp
American Assembly

Paula Stern
The Stern Group

Joe Tulchin
Woodrow Wilson Center

Arturo Valenzuela
Georgetown University

Alec Watson
Nature Conservancy

Sidney Weintraub
CSIS

Pennsylvania Avenue

Free-Trade Fight Threatens to Split Clinton, Hill Dems

By Morton M. Kondracke

Worried about a split with labor and top Congressional Democrats, the White House plans to delay action on its fast-track trade proposal until after a budget deal, possibly endangering its chances of passage.

If budget negotiations drag into the fall, according to free-trade advocates in Congress, the delay will give opponents time to organize and, possibly, doom fast-track to defeat as an election year looms.

Fast-track is one of a series of issues, including Medicare savings; cost-of-living adjustments; and Mexico, China, and NATO policy, on which Clinton is in conflict with liberal Democrats and their organized labor allies.

At a top-level meeting of Clinton Cabinet members and White House staff on Tuesday, sources said there was near-unanimous agreement that, against labor's wishes, Clinton should recommend a "clean" fast-track bill in order to negotiate new agreements to expand worldwide free trade.

Clinton, his Cabinet, and most of his top staff all are convinced -- correctly -- that free trade is one key to future US prosperity and that failure to reach new agreements will put the US at a disadvantage as Latin America and Asia form their own trading blocs.

But liberals are just as convinced that free trade costs US jobs and pushes down wages, so House Democratic leaders Dick Gephardt (Mo) and David Bonior (Mich) are adamant that any new trade bill require Clinton to include fair-labor and environmental standards in future trade agreements. That, in turn, will be unpalatable to majority Republicans.

The Administration needs authority from Congress to negotiate new trade agreements. "Fast track" is Congress's commitment that any agreements will be voted up or down without amendment.

Clinton plans to buck Gephardt and Bonior, White House aides say, but officials at the Tuesday meeting want the fight postponed until after Clinton has reached a budget deal with Republicans, which chief of staff Erskine Bowles reported might come as early as June 1.

One participant at the meeting said "the plan is for Clinton to show what he's for, but we have to figure out the sequencing." Clinton, this aide says, "wants to have an ample number of Democrats voting with him on the budget."

Rep. Bob Matsui (Calif), the chief Democratic backer of Administration trade legislation, said that, if asked, he would recommend that fast-track and the budget be pushed on parallel tracks.

"I understand the importance of a balanced budget," he said, "but if you delay [fast track], it'll make it much more difficult to pass."

The fast-track issue is caught up not only in budget politics, but also in the already bubbling 2000 Democratic presidential race between Gephardt and Vice President Al Gore. Also having an impact on the policy debate are White House worries about how Democrats will respond during Congressional investigation of the 1996 fundraising scandal.

Gephardt is laying down hard markers to secure the support of the AFL-CIO and the seniors' lobby, while Gore tries to repeat Clinton's previously successful strategy of holding liberal support while also occupying the political center.

Gephardt's insistence that new trade agreements contain strong environmental standards is a foray onto Gore's home turf, the environmental movement. That movement split during the 1993 fight over the North American Free Trade Agreement, which Gore supported and Gephardt opposed.

This year, Gephardt has opposed the Administration's certification of Mexico's drug enforcement program, warned that he might oppose Clinton's proposed \$100 billion reduction in Medicare growth, and indicated that he will seek to block Clinton's plans to expand NATO and continue most-favored-nation trade status for China.

Gephardt also joined other pro-Israel Members in criticizing Administration attendance at an Arab conclave held in the Gaza Strip to strategize on Israeli land grabs, and he forced Clinton to back away from Senate GOP Leader Trent Lott's (Miss) plan to create a bipartisan commission on the Consumer Price Index.

Clinton aides acknowledge there is concern in the White House that drifting too far away from liberal policy might weaken Democratic support amid upcoming GOP scandal probes.

While public polls indicate that Clinton's popular support remains strong despite scandal stories in the newspapers, private White House "push polls" indicate that his support falls the more voters are told about the scandals.

A study by the non-partisan Center for Media and Public Affairs indicates that Clinton's approval rating might be holding in the mid-50s because network TV newscasts have carried only a fifth of the number of scandal stories per week as the major daily newspapers.

With the exception of the CPI adjustment -- anathema to the AARP and AFL-CIO -- Clinton so far has stood up to liberal pressure reasonably well this year on such issues as Medicare, NATO, Mexico, and MFN.

The scheduling delay on fast-track indicates another possible wobble, however. Already, Clinton's leg injury has caused his trip to Argentina, Brazil, and Paraguay to be rescheduled from May until the fall, reducing pressure for action on fast-track.

Delay into 1998 could kill fast-track and damage the government's ability to open up job-creating overseas markets for US products and services. Clinton has to wage a fight for free trade sometime. It might as well be now.

More Information about Morton Kondracke

Fax Transmittal Form

Date: Jul 16, 97 2:06

TO: MR BERMAN

From:

FAX number:

Pages to follow : 3

...Washington Trade Daily...

Volume 6, Number 141
Trade Reports International Group

Wednesday, July 16, 1997

Fast Track Off Track?

By the time President Clinton gets around to discussing the form of new fast-track trade negotiating authority with the House leadership, Congress may well be out of session for the year (WTD, 7/10/97), House Ways and Means trade subcommittee chairman Rep. Philip M. Crane (R-Ill) commented to WTD yesterday.

Mr. Crane said there has been no activity from either the White House or the US Trade Representative's office on preparations for fast trade legislation and suggested that the White House may not get involved until mid-September or October. Current plans call for Congress to adjourn for the year by early November.

Meanwhile, the House Ways and Means Committee made its first offer in its conference meetings with the Senate Finance Committee on the massive budget reconciliation and tax bill (HR 2014), and called on the Senate committee to keep provisions reauthorizing the Generalized System of Preferences Program and establishing a new one-year Caribbean Basin market access program (WTD, 6/30/97). Mr. Crane told WTD he expected the Senate to accept both trade provisions in the final version of the bill.

But a move has started among some powerful senators to delete the CBI Parity bill. Sens. Ernest Hollings (D-SC) and Jesse Helms (R-NC) – although not conferees – have both strongly protested its inclusion. In separate letters to the Senate leadership this week, the senators charged that the textile preferences in the CBI bill would unbalance a carefully crafted agreement with the US industry. Both also pointed out that there has been no hearings on the Senate side.

Africa

On another trade bill, Rep. Jim McDermott (D-Wash) told WTD not to expect Ways and Means Committee action on his subSaharan Africa trade promotion bill (HR 1432) until after the summer recess (WTD, 6/26/97). The committee – as well as the full House – will be busy with the budget/tax bill right up until early August.

US Talking to Germany About Proposed Iran Loan

US officials are talking quietly with their German counterparts about reports of a proposed \$90 million bank loan to Iran to help develop its Soroush off-shore oil field (WTD, 6/27/97), State Department spokesperson Nicholas Burns told reporters yesterday.

If such a loan were to go through, Mr. Burns said, it would likely trigger US sanctions under the Iran/Libya sanction law against the lending institution – identified as Ouest Deutschland Bank.

Up until now, Mr. Burns continued, Washington is not aware that the loan has been made.

The US law would force sanctions on foreign firms that significantly invest in the Iranian oil sector. Sanctions would include two of six options – a ban on US Export-Import Bank assistance; a ban on loans from private US financial institutions; prohibitions on designation as a primary dealer of US government debt instruments or as a repository of US government funds; ineligibility to provide goods or services for US government procurement; and import sanctions.

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E-mail address: trigtrig@aol.com

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US Wants WTO Consultation With India Over Access

The United States has requested World Trade Organization dispute settlement consultations with India to address concerns regarding the phase-out of Indian quantitative restrictions on more than 2,700 consumer and agricultural products (WTD, 6/16/97), the US Trade Representative said yesterday.

USTR said it regrets the inability of the Indian government to propose a resolution satisfactory to its major trading partners during the most recent WTO Balance of Payment Committee consultations June 30 to July 1.

WTO BOP provisions allow countries to temporarily impose measures that would normally be forbidden – such as import surcharges and quantitative restrictions – to respond to a legitimate balance of payments crisis. India has maintained import restrictions imposed on BOP grounds for decades, USTR pointed out. Under current circumstances, India no longer meets WTO criteria for use of those provisions, thus the measures are no longer justified.

Over the last two years, the United States and other WTO members have sought to reach accommodation with India on the phase-out of the measures within a reasonably short period. On July 1, the BOP Committee concluded that there was no consensus on an appropriate phase-out plan.

House Trade Panel Okays MFN for Laos, Mongolia

The House Ways and Means trade subcommittee yesterday unanimously approved two bills (HR 2132 and HR 2133) granting permanent most-favored-nation treatment for Laos and Mongolia (WTD, 5/14/97; 1/15/96).

Laos is currently negotiating a bilateral trade agreement with the United States, and MFN treatment will help in formally normalizing trade relations, commented subcommittee chairman Rep. Philip M. Crane (R-Ill).

Since the mid-1980s, the government of Laos has adopted a number of market-oriented principles to move its economy away from centralized control, including privatization, freeing most price controls, reducing government subsidies and lifting trade barriers.

Last year, President Clinton informed Congress that the once communist dominated Mongolia has free emigration policies and no longer should fall under the strictures of the Jackson/Vanik trade law. Mongolia recently joined the World Trade Organization.

The full committee is slated to consider the two bills on Thursday before moving them to the full House for a vote.

Outreach Is Priority at Harmon's Ex-Im Bank

The highest priority for the new President of the US Export-Import Bank – James A Harmon – is to have better small business outreach programs at the official export lending institution (WTD, 6/16/97).

Mr. Harmon told a House Small Business export subcommittee yesterday that recent efforts to delegate lending authority to private banks and state and local government-affiliated financing bodies – as well as a simplification of the Bank's loan applications – have gone a long way toward making Ex-Im more accessible to small business. Those efforts have not been enough, however.

Bank officials will take a look at the most active Ex-Im affiliated lenders to see what works best and try to replicate that across the country, Mr. Harmon said. Of the 80 banks that participate in the delegated lending program, only about 20 are active. He said the city/state program could use some improvement as well.

The trick to reaching small business customers, Mr. Harmon went on, is to see to it that

Ex-Im personnel attend as many international trade conferences and gatherings as possible. Given the Bank's shrinking resources, however, the new President suggested that Bank personnel in Washington should seek "sponsors" for their participation.

Ongoing efforts by Ex-Im to participate in trade conferences and seminars have been successful in sparking interest, but have only scratched the surface of the huge small business population that is capable of exporting, Mr. Harmon said.

The new Ex-Im chief – a former Wall Street investment banker – said he and his board members will visit with small businesses across the country in the months ahead to drum up interest in exporting and business for the Bank.

Mr. Harmon testified to the Small Business subcommittee on tax, finance and exports along with chiefs of four US small firms active in exporting and familiar with Ex-Im's programs. Ex-Im help has been crucial for a number of their foreign sales, the executives told the panel.

On another issue, Mr. Harmon told the subcommittee that the Bank will be in big trouble starting in October if Congress approves a budget request that falls below its current funding (WTD, 7/14/97). Expectations at the Bank are that pending loan applications amounting to some \$300 million will have to be deferred until the next fiscal year. That will handicap Bank activities next year in effect by reducing overall lending authority again by 15 percent.

One way out of the budget conundrum, Mr. Harmon suggested, is to more aggressively seek risk-sharing participation from the borrower and exporter. Bank officials will discuss that and other options over the next several weeks, he told the panel.

Around the Globe

- The European Union Commission said it will not accept the Boeing Corporation's proposed \$14 billion acquisition of McDonnell Douglas because of fears that it would increase the firm's clout in the commercial aircraft market (WTD, 7/15/97), United Press International reported from Strasbourg yesterday. A Commission statement said even with changes offered by Boeing, the merger would bar competition for aircraft buyers around the world.

US regulators have approved the merger and Boeing earlier announced it expects to close the deal August 4. It would make Boeing the world's largest aerospace company. The EU statement followed a meeting of 20 commissioners in Strasbourg yesterday. They were unanimously against the merger. The European regulators had said earlier that they would not negotiate after July 15. A final EU decision on the case is set for July 23. The EU could fine Boeing if the deal goes forward and limit its access to Western Europe's markets. But Boeing earlier warned that any roadblock by the Europeans would touch off a trade war, since the US government has said the merger would not violate antitrust laws.

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EU PRESSING FOR FINAL REMEDIES ON BOEING MERGER AS EARLY AS TODAY

European Union competition authorities have set a tight deadline by which the Boeing Co. needs to offer more changes to its pending merger with McDonnell Douglas Corp. (MDC) if the EU is to have a realistic chance at approving the merger by July 23, according to informed sources. Sources indicated this week that the EU may only approve the merger if Boeing's commitments include dropping its sole-supplier arrangements with three U.S. airlines and divesting the civil aircraft division of MDC.

The EU has decided it needs Boeing's final remedy proposal by today (July 11) or next Monday (July 14) "at the latest" in order for it to be circulated to and examined by Commission and Council officials, sources said. The Commission wants to issue its final ruling on the merger by July 23, an informed source said.

"It has to be done this week or the EU can't inform people quickly enough," he said. "[The EU] needs

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SENATE JUDICIARY MEMBERS BACK LAW ENFORCEMENT ANGLE ON ENCRYPTION

Three members of the Senate Judiciary Committee this week signalled their strong desire to ensure that legislation governing the use and export of encryption technology allows law enforcement officials broad access to encrypted information on the basis of standard judicial procedures. Their comments in a July 9 hearing suggest that Judiciary may seek changes to an encryption bill passed by the Commerce Committee that could further harden the opposition of the high-technology industry to the legislation.

A private-sector source said that changing the Commerce Committee bill in a way which would pay close attention to the needs of law enforcement suggests that the gap between the various parties to the encryption debate "is getting wider, not narrower."

In the hearing, Sens. Jon Kyl (R-AZ), Charles Grassley (R-IA) and Dianne Feinstein (D-CA) all argued that

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OECD MEMBERS LEANING IN FAVOR OF LABOR, ENVIRONMENT RULES IN MAI

Members of the Organization for Economic Cooperation & Development are increasingly likely to include labor and environmental rules in a Multilateral Agreement on Investment, government officials said this week. The U.S. has shown an increased interest in addressing these issues, as have France and the United Kingdom after their recent elections, although it is unclear how binding any rules would be, these officials said.

"Labor and environment will have to be addressed very carefully in the MAI," one negotiator said. "There has been a remarkable shift."

The change of governments in the United Kingdom and France has made those OECD members, as well as the European Commission, more open to the inclusion of labor and environment rules in the MAI, informed sources said. Some of the Nordic countries and Switzerland already supported rules in these areas, these sources said.

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U.S., EU FAIL TO REACH DEAL SETTLING TEXTILES RULES OF ORIGIN FIGHT

European Union and U.S. negotiators this week failed to settle a dispute that has arisen over a 1996 U.S. rules of origin change that makes fabric dyed and printed in the EU the product of the country that produced the grey fabric, according to informed sources.

The talks were based on an informal agreement between the U.S. and European industries worked out last week, under which the U.S. would roll back part of the rules of origin change relevant for fabrics. This change would be incorporated into international negotiations to harmonize rules of origin now taking place in the World Customs Organization and the World Trade Organization.

Informal negotiations on July 10 were meant to avoid formal consultations under the World Trade Organization scheduled for July 16, but ended without resolution, an EU official said. The official held out the hope that the

continued on next page

U.S. would make an additional offer before the formal talks, and said the EU is open to settling the case without going to a panel.

In industry-to-industry talks, the American Textiles Manufacturers Institute (ATMI) "intimated" that it could live with a partial rollback of the rules of origin demanded by the EU industry for fabrics, an informed source said. But it was unclear how long it would take to implement this change and what transitional approach the U.S. would put into place to ensure the free flow of EU fabric, informed sources said.

The Uruguay Round implementing bill changed the origin of dyed and printed fabric from the country in which it was processed to the country that produced the grey fabric, and it was this change that caused the most controversy among industrialized countries. The U.S. legislation also changed the rules to assign origin of a product to the place where it is assembled instead of the place where it is cut.

This latter change put the U.S. rules of origin in step with those of most major trading partners, and would not be changed under the U.S.-EU agreement, informed sources said.

The rules of origin harmonization negotiations in the WCO are to conclude in December 1997, but there are significant doubts that this deadline can be met. However, WCO members last week decided to move up its consideration of the textiles rules of origin to September and to have the subject moved to the WTO in November (see related story). The WTO effort on harmonization is to conclude in July 1998.

The U.S.-EU negotiations this week tried to work out a transitional arrangement that would stay in place until the permanent change is made. That arrangement will likely be based on an approach that exempts certain fabric categories from bilateral textile agreements the U.S. has with producers of grey fabric, thereby eliminating restraints on finished fabric dyed and printed in Europe.

This approach was the basis of earlier U.S. proposal for allowing the free flow of three synthetic fabric categories and cotton fabrics.

American textile and apparel industry associations issued a statement on July 10 that calls on their respective governments to reach a "quick resolution of the dispute on the U.S. rule of origin regarding certain fabrics and silk products." Much of the two-page statement focused on the conditions for China's accession to the WTO.

The appeal was issued by ATMI, the American Apparel Manufacturers Assn., and the Euratex after member states last week told the Commission they considered the existing U.S. offers inadequate to settle the dispute.

The Commission late last month made a preliminary assessment that the U.S. proposals for settling the rules of origin dispute over silk scarves, discharged printed synthetic and cotton material as inadequate (*Inside U.S. Trade*, June 27, p. 13). The EU sees the U.S. offer falling short most significantly on cotton fabrics, but is more acceptable for synthetic materials and silk scarves, informed sources said.

The EU criticized that the U.S. proposals for solutions did not cover all dyed and printed fabric, but only fabric that is discharge printed. The EU also criticized that U.S. proposals did not cover bed sheets and table cloths.

The industry groups prefer a solution outside the WTO dispute settlement process because a formal proceeding would take a long time, and could lead the U.S. to withdraw the offers it now has on the table, informed sources said. A WTO dispute also might poison the U.S.-EU relationship on textiles in other areas. In addition, the outcome of the case would be uncertain, they said.

In a related development, the U.S. last month removed an obstacle created for Canadian quilts by the 1996 rules of origin change when it announced that exports of cotton textile products in categories 362 and 369 entered into the U.S. on or after Sept. 9, 1997 will no longer require a visa to enter the U.S. Under the rules, the quilts were considered the product of Pakistan and needed a visa.

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SENATE TURNS BACK EFFORT TO TIGHTEN 1995 COMPUTER EXPORT DECONTROL

The Senate yesterday (July 10) overwhelmingly defeated a bipartisan effort to partially roll back the Clinton Administration's 1995 relaxation of export controls on high-performance computers to countries including China and Russia. An amendment to the Dept. of Defense authorization bill, which would have re-imposed licensing requirements on the exports of one class of computers, was effectively defeated when the Senate approved an alternative proposed by Sen. Rod Grams (R-MN) by a 72-27 vote.

The amendment, sponsored by Thad Cochran (R-MS), which was ultimately co-sponsored by Sens. Richard Durbin (D-IL), Strom Thurmond (R-SC) and John Glenn (D-OH), would have required individual validated licenses for exports of computers performing in the 2000-7000 Million Theoretical Operations Per Second (MTOPS) range to so-called "Tier Three" countries. This group includes Russia, China, Israel, India and Pakistan.

The Grams amendment approved by the Senate, which was also sponsored by Sen. Barbara Boxer (D-CA) and endorsed by Senate Minority Leader Tom Daschle (D-SD), calls for a study by the General Accounting Office on the national security implications of exports in the 2000-7000 MTOPS range to Tier Three countries. The provision would also require the publication of a list of military and nuclear end-users and the establishment of "a procedure by which exporters may seek information on questionable end-users."

The vote followed heavy lobbying by both the computer industry and the Administration, private-sector and congressional sources said. Particularly important in this respect was a letter from Secretary of Defense William Cohen, a former Republican senator from Maine, to Senate Majority Leader Trent Lott (R-MS), which emphasized his support for export controls but rejected the need for the Cochran amendment.

"[I]n order to best serve our security interests, we need to maintain a system that allows us to adjust our controls when technology advances and when technology becomes widely available," Cohen wrote in a July 9 letter. "Putting specific control levels into statute is not an appropriate means to meet these often fast-changing challenges."

The failure of the Cochran amendment in the Senate follows overwhelming House approval of a virtually identical provision in the DoD bill sponsored by House National Security Committee Floyd Spence (R-SC) and Ranking Member Ronald Dellums (D-CA) last month (*Inside U.S. Trade*, June 20, p. 1).

The prospects for the provision in the House-Senate conference on the DoD bill were unclear at press time, and a possible veto of the bill for reasons unrelated to export controls could make the entire issue moot, informed sources said. One source argued that the Administration's influence was not felt at all in the House vote, and now that they are engaged in the debate the provision will die in conference.

But another source argued that success or failure of the provision in conference will depend on the "level of commitment" of Spence and Dellums on the issue. The source added that the influence of the Administration may not count that much with the National Security members who will be on the conference committee.

U.S., EU STILL SPLIT IN HELMS-BURTON NEGOTIATIONS AFTER PARIS MEETING

U.S. and European Union negotiators are still facing substantial hurdles in their efforts to negotiate a solution to their dispute over the Helms-Burton law after a second meeting, according to informed sources. Specifically, the two sides are struggling over whether yet-to-be-negotiated investment disciplines should only be invoked to discourage investments in property seized after the disciplines take effect, or whether they could be also be used to deter investments in property that was expropriated in the past.

At the same time, sources agreed that last week's meeting in Paris represented progress in that the two sides are now discussing substantive issues. The meeting was held on the margins of negotiations to conclude a multilateral agreement on investment in the Organization for Economic Development & Cooperation.

The two sides face an October 15 deadline to negotiate disciplines to avoid an EU resumption of its challenge of Helms-Burton in the World Trade Organization.

In the June 30-July 1 meeting, the EU tabled a discussion paper calling for the disciplines to be used only to deter investment in property confiscated after the disciplines take effect, according to informed sources.

"The essential [EU] point on retroactivity is that [the disciplines] should be forward-looking, not backward-looking," one source said.

But this is in direct contrast to a U.S. paper tabled during a meeting in Washington last month, sources said. In that paper, the U.S. argued that the disciplines should be used to deter investment in property that has been expropriated in the past. Even further, the U.S. is seeking to use the disciplines to prevent companies that are currently invested in expropriated property from reselling that property to other companies, informed sources said.

This split is significant because the U.S. has signalled to EU officials that it will soon become "very difficult" to continue talking unless the EU makes concessions in this area. Since the U.S. Congress is likely to only approve disciplines that can be used to deter investment in expropriated property in Cuba, the U.S. needs to have the disciplines apply to past expropriations, sources said.

The U.S. paper specifically called for the disciplines to apply to expropriations that take place "in the late 50s

or later," which corresponds with when most U.S. property in Cuba was nationalized by the Castro regime (*Inside U.S. Trade*, June 20, p. 22).

Despite the split, an informed source said that neither side has "boxed itself into a corner," while other sources predicted that the two sides might still be able to reach a compromise.

"I detect a willingness in the EU to work with this," one source said. The EU could be open to allowing "limited retroactivity" in the disciplines in a way that is not so "clearly linked to Cuba," he said. Mentioning a specific date that is tied to Cuba will likely be difficult for the EU to accept, he said.

A European source also signalled that such an approach could be used to bridge the gap between the two sides. But sources said neither side has proposed such a compromise, and that the details of how such an agreement could be reached are still unclear.

The two sides are hoping that a successful conclusion to the talks will allow the EU to drop its pending challenge of Helms-Burton in the WTO, and convince Congress to change the law to allow Title IV to be waived by the president. Title IV, which now cannot be waived, requires the U.S. to deny entry visas to foreign executives whose companies traffic in expropriated U.S. property.

Meanwhile, congressional Helms-Burton supporters have not received a response from the State Department regarding their request for an update on the implementation of Title IV. Five congressmen charged last month that State is deliberately slowing Title IV investigations into EU companies to avoid disrupting the ongoing U.S.-EU talks, and demanded a full accounting of the companies being investigated and the reasons for not citing them under Title IV (*Inside U.S. Trade*, June 27, p. 11).

But a congressional source said State is likely to respond by claiming that there is no deliberate slowdown in its efforts, and that European companies such as STET, an Italian telecommunications firm that has invested in property formerly owned by International Telephone and Telegraph, are still being investigated and cannot yet be cited under Title IV. The source also said State is unlikely to reply to the letter until after the August recess.

Congressional sources also added that Helms-Burton supporters may decide to examine whether AT&T has violated U.S. law by entering into an agreement with STET to upgrade the telephone cables that lie between Florida to Cuba. AT&T announced that deal last week.

Finally, sources this week said President Clinton could decide as early as today (July 11) to again suspend Title III of Helms-Burton, which, if allowed to take effect, would permit U.S. parties to sue foreign companies for damages accrued through the use of former U.S. property expropriated in Cuba. Clinton's decision to suspend or invoke Title III is due July 15, and will take effect August 1.

Clinton has said he would continue suspending Title III for the remainder of his term as long as U.S. trading partners continue to demonstrate their commitment to a democratic transition in Cuba.

TRADING PARTNERS TO STEP UP WORK ON RULES OF ORIGIN HARMONIZATION

The U.S. and its trading partners have decided to step up their negotiations on harmonizing the rules that determine the origin of a product in both the World Trade Organization (WTO) and the World Customs Organization (WCO), according to government officials. As part of that intensified work, the WTO in early October will begin negotiations on issues unresolved by the WCO, and the WCO will tackle rules for the sensitive textile sector earlier than initially scheduled, these officials said.

A new schedule of activities and negotiations in the WTO was laid out in a July 8 informal meeting of the WTO Committee on Rules of Origin. Members decided that they would try to resolve in a Sept. 30-Oct. 3 meeting those issues left unsettled by the WCO in selected sections of the Harmonized Tariff Schedule (HTS), and to endorse the rules approved by the WCO in those chapters, according to these officials.

In the WCO, the decision to step up work was made in a two-week meeting ending on July 4, in which members made significant progress in resolving their differences in selected chapters. They also set up a new process for managing the negotiations by agreeing to longer negotiating sessions and by asking member countries to give technical experts more leeway in negotiating an issue, one official said. For example, it was agreed that experts from one country should be able to decide on technical proposals made by another member's experts upon presentation, he said.

Trading partners developed the new agenda partially under pressure from the U.S., which insisted late last month that controversial areas of the WCO work that are unlikely to be resolved there be moved to the WTO (*Inside U.S. Trade*, June 27, p. 16). The U.S. argued that work in the WCO had dragged on so slowly that negotiators were unlikely to reach a July 1998 deadline for completing their work, but some foreign diplomats said this week that it is premature to say negotiators will miss the deadline.

Trading partners did not decide to move all controversial issues which are unlikely to be immediately settled in the WCO into the WTO, informed sources said. Instead, they agreed to first tackle them in the WCO, but in some cases on an accelerated schedule. For example, the WCO will consider textiles rules of origin in its Septem-

ber meeting instead of in November as initially scheduled, officials said. Textiles rules for HTS chapters 50 to 63 will then be discussed in the WTO during a Nov. 10 to 21 meeting.

Textiles will be considered in an informal WTO committee meeting on Nov. 13 and are slated for plurilateral and multilateral discussions from Nov. 14 to 17. From Nov. 10 to 12, countries will focus on chapters 44-49, 64-71 and 92-97 in the WTO. From Nov. 18 to 20, the WTO group will focus on Chapters 72-81, 28-40 and other outstanding issues, sources said. The WTO work will conclude with a formal meeting on Nov. 21, they said.

Chapter 44 covers wood and articles of wood, 45 covers cork and articles of cork, 46 covers manufactured articles of straw, 47 covers wood pulp and other materials for making paper, 48 covers paper and paperboard, and 49 covers printed matter. The grouping of chapters 64-71 covers footwear, headwear, miscellaneous products such as umbrellas and walking sticks, hair and wigs, articles of minerals, ceramics, glass and precious metals.

Chapters 92-97 cover manufactured goods, such as musical instruments, arms and ammunition, furniture and lighting equipments, toys, games, sporting goods, and works of art.

But U.S. demands for a quick consideration of agricultural issues did not lead to having the issue moved up on the WCO agenda, officials said. The WCO will consider rules for agriculture in November to December, they said.

Some of the U.S. demands for quick WTO action on controversial issues were tempered by the fact that the WCO work session ending on July 4 made significant progress in settling disagreements, officials said. Several officials said it was hard to quantify that success, but one said parties resolved about 60 outstanding issues, and that this consensus will be reflected in a new paper now being written.

Nevertheless, the U.S. insisted in this week's WTO session that there be sufficient time for bilateral and plurilateral meetings at the next WTO meeting, officials said. But one foreign official said it is "difficult to forecast" whether these negotiations would actually take place. Instead, he said that the parties will meet in an informal plenary session, which can give guidance on disputed issues.

The next WCO meeting will be held from Sept. 8-26 and will tackle textiles as well as chemicals, officials said. The U.S. is set to present new ideas for rules of origin on chemicals that reflect a change from its initial negotiating position, one official said.

In its Sept. 30-Oct. 3 meeting, the WTO committee will focus on mineral products listed in chapters 25-27 of the HTS, as well as raw hides, skins, leather and furskins covered by chapters 41-43. It will also focus on Chapter 91 watches and clock movements.

The WTO Committee on Rules of Origin will begin its session with an informal meeting, leading to bilateral and plurilateral negotiations on Oct. 1-2 to be followed by a formal session on Oct. 3.

Outstanding issues are marked by different opinions of whether a tariff shift represents enough of a transformation to confer a origin on a product. If the tariff shift does not represent a substantial enough transformation to confer origin, countries will have to develop supplemental rules to define what activity does.

Some of the issues left unresolved by the WCO in chapters 25-27 include whether the production of cement from clinker is a substantial enough transformation to confer origin, and whether the conversion of metal ores into concentrates does the same, officials said. In the raw skins and leather sections, officials will have to decide whether de-hairing of lamb or sheep skins constitutes an origin change or whether assembly of fur skins confers origin, they said.

In Chapter 91, members have to bridge their differences on whether assembly of watches from clock movements is substantial transformation or simple assembly, as the U.S. has argued. Another unresolved issue is whether making a watch case from blank forms by means of stamping constitutes substantial transformation.

ADMINISTRATION NAFTA REPORT TO ASSERT JOB GAINS FROM MEXICO TRADE

The Clinton Administration is preparing to release today (July 11) its much-awaited report on NAFTA's three-year economic impact after a week-long delay largely dedicated to "tightening and shortening" the nearly 200-page document, informed U.S. officials said. Key Administration officials, including U.S. Trade Representative Charlene Barshefsky and Commerce Secretary William Daley, were scheduled to release the report early this morning.

The executive summary and the conclusions were reworked, said one Administration official, to ensure that they "remain true to the facts but put them in a way people can understand."

The report will say there was a net gain of U.S. jobs from trade with Mexico over the 1994-1996 period, U.S. officials said. The reports estimates are based on calculations made by the Massachusetts-based DRI/McGraw Hill consulting firm and the Dallas Federal Reserve Bank, they said.

DRI/McGraw Hill found \$7 billion in net U.S. exports to Mexico over the period, whereas the Dallas Federal Reserve produced a figure of \$12 billion, according to the U.S. trade official. If those estimates are multiplied by the projected 15,000 jobs the Administration says are created by each \$1 billion of U.S. exports, the resulting number of jobs created by U.S. trade with Mexico ranges from 105,000 to 180,000.

This type of estimation is unlikely to quell critics of the pact, who argue that when the impact of increased

U.S. imports is calculated in, trade with Mexico and Canada together during NAFTA's first three years cost over 400,000 U.S. jobs. That calculation was produced by the Economic Policy Institute as part of a critique of NAFTA released by the Citizens Trade Campaign on July 27.

But the Administration report, which was originally supposed to be sent to Congress on July 1, will show that NAFTA has been an overall benefit to the U.S., White House Spokesman Mike McCurry said in a July 1 press briefing.

Given the size of the Mexican economy as compared to that of the U.S. or Canada, the impact of NAFTA is small compared to that of an initiative such as the Uruguay Round global trade pact, an Administration official noted. The positive role NAFTA has played in keeping Mexico's economy open and in keeping Mexico on a reform path despite the peso crisis will also be noted in the report, he said. But there will be "no great revelations or bombshells going off" because of the document, he predicted.

Separately, senior U.S. officials told Chile's National Coordinator for the Second Summit of the Americas, Juan Martabit, that the Administration expects to secure approval of fast-track trade negotiating authority in at least one house of the U.S. Congress before Clinton visits Argentina and Brazil in mid-October, an informed source said.

They also strongly assured the Chilean official on July 8 that Clinton will fight hard for fast-track passage in September, and that the authority will be approved before the Santiago summit, which is now scheduled to take place on April 18-19, 1998, according to the source.

Martabit met with U.S. Special Envoy for the Americas Thomas "Mack" McLarty and Assistant Secretary of State for Inter-American Affairs Jeffrey Davidow, among others, as part of a Washington, DC visit to discuss the four "baskets" of agenda items for the summit. They are: economic integration and free trade; education; eradication of poverty and discrimination; and preserving and strengthening democracy and human rights. McLarty wants to ensure that the number of agenda items and follow-up actions remain compact enough so that enough attention can be paid to the initiatives by even the smallest countries of the hemisphere, in order to result in actions that can directly impact citizens' lives, a U.S. official said.

About five weeks ago, McLarty set up a three-person inter-agency policy working group in the new executive office building. The group will make sure McLarty stays abreast of the progress of Summit and Latin America-related issues inside the Administration so that he can "weigh in" at the appropriate time, a U.S. official said. It also is used to make sure the various U.S. agencies follow up on commitments made during the President's trips to Latin America and the Caribbean, he added.

Making up the working group are Senior Policy Advisor Eric Farnsworth, Policy Advisor Dan Lesnez and Policy Advisor Ana Maria Salazar.

In a related development, House Ways & Means trade subcommittee Chairman Phil Crane (R-IL) this week announced that his panel will hold a hearing on the Free Trade Area of the Americas on July 22. One of the invited witnesses is Deputy U.S. Trade Representative Jeffrey Lang, according to a July 7 release.

It said the hearings would focus on progress in the FTAA negotiations, and whether and under what conditions these talks are in the national economic and security interest of the U.S. Testimony will be sought on specific negotiating objectives, the results of the mid-May Belo Horizonte, Brazil FTAA ministerial, and the "anticipated impact of expanding trade in the hemisphere on U.S. workers, industries and other affected parties," it said.

Sources said the hearing might have been canceled if the Administration had delayed the release of the NAFTA report beyond today.

BARSHEFSKY SAYS EU DEMANDS ON FUR TRAPPING MAY LEAD TO TRADE FIGHT

U.S. Trade Representative Charlene Barshefsky last month warned that efforts by the European Union to expand the scope of negotiations for a bilateral fur trapping agreement could result in a trade dispute that "no one wants."

In a June letter to EU External Relations Commissioner Leon Brittan, Barshefsky said demands that the U.S. agree to ban steel-jawed leghold traps, regardless of whether they conform to negotiated "humane" trapping standards, is the "only substantive difference" that is keeping the two sides from concluding a deal. Barshefsky said this "additional hurdle" goes beyond the Commission's mandate from EU member states, and is also not required under an EU regulation that would exempt countries from an EU fur ban once they reach a humane trapping standards agreement with the EU.

"Continued EU insistence on an arbitrary ban on certain traps will very likely lead to a breakdown in our search for a negotiated solution," Barshefsky said in the letter, reprinted below. "Rejection of a deal with the United States because of a demand that has nothing to do with the standards themselves will do nothing to advance the welfare of trapped animals and could result in a confrontation no one wants."

In response to the EU's final demand, Barshefsky assured Brittan that U.S. state authorities have said they are prepared, on an accelerated basis, to phase out steel-jawed leghold traps that do not meet the criteria negotiated in the agreement. She said states are also prepared to accelerate the testing of traps that are "of most concern to the

EU" so traps that do not meet the standards can be phased out sooner.

But the EU has sought an explicit ban on all steel-jawed leghold traps, which it believes are inhumane, and has repeatedly threatened to ban fur caught with these traps. The U.S. has warned previously that it would challenge any EU fur ban in the World Trade Organization.

Barshefsky also noted in the letter that the U.S. has "gone to great lengths" to negotiate a settlement with the EU, even though the U.S. has had "serious concerns" over the threatened EU ban on fur caught with leghold traps. She also warned in the letter that EU efforts to implement a ban against the U.S. could prompt interested U.S. parties to challenge the measure.

"Indeed, the production -- as we have heard the Commission is contemplating -- of a list of countries eligible to continue fur exports to the EU that excludes the United States will almost certainly result in rapidly escalating pressure from industry, the States and the Congress for strong counteraction," Barshefsky wrote.

Brittan is expected to respond to Barshefsky's letter in the coming weeks, according to an EU official.

The letter seemed to indicate that the U.S. and EU have all but agreed that the U.S. government will not be bound by the final agreement, and that instead, the authority for implementing the deal will be left with state officials, sources said.

An EU official agreed that the EU believes that this problem is "something that can be solved" through the negotiation of an "agreed minute," which would be attached to the final agreement. Sources have said that the agreed minute would essentially require the U.S. only to make an effort to ensure the deal is adhered to by state officials.

Barshefsky also used the letter to assure Brittan that state authorities are increasing their efforts to enact a "nationwide, accelerated humane trap development program." She said this effort will be based on a best management practices program, which will test traps based on humaneness, safety, effectiveness and selectivity, and will eventually go beyond the standards in the bilateral agreement.

As currently drafted, the bilateral agreement is similar to deals already initialled between the EU, Canada, and Russia, in which parties agreed to ban, after a number of years, traps that fail to meet a series of criteria. These criteria are aimed at minimizing animal injury in restraining traps and speeding the time to death in killing traps.

While EU environment ministers were scheduled to approve the Canadian and Russian agreement and take steps to invoke the ban against countries that had not finalized a deal, including the U.S., EU member states massed enough votes to block that step last month. Those states argued that the agreements were not tough enough, and that a deal with the U.S. would be needed in order to avoid having the fur ban challenged in the WTO (*Inside U.S. Trade*, June 27, p. 14).

As a result, the vote will be held after officials from Luxembourg, which now holds the EU Council presidency, decide when to schedule it. Sources said this week that a new vote could be rescheduled around July 22 at the next meeting of the foreign affairs council, but at press time noted that no formal decision had been made.

Barshefsky Letter on Leghold Traps

The Right Honorable Sir Leon Brittan, QC
Vice President of the European Commission
Rue de la Loi 200
1049 Brussels, Belgium

Dear Sir Leon:

I am writing with regard to the negotiations on international humane trapping standards.

After eighteen months of intensive discussions, I am pleased to note that U.S. and EU negotiators in the week of May 12 resolved most remaining issues in their efforts to finalize a set of international humane trapping standards. As you know, such standards have been embodied in an agreement initialed between the EU, Canada and Russia. While we are disappointed with the EU's unwillingness to apply the standards to additional furbearing species, nonetheless our negotiators have reached provisional agreement on the same set of technical standards contained in the Canada/Russia agreement. I enclose a copy of those standards and of the schedule for their implementation worked out by the U.S. and EU sides for your

reference.

Consensus on the standards means that the United States has complied with the requirements of Article 3 of Council Regulation 3254/91, which explicitly provides for an exemption from any ban on fur imports for countries whose trapping methods "meet internationally agreed humane trapping standards." As you know, the United States from the beginning has had serious concerns regarding the trade-related provisions of Regulation 3254/91. Nonetheless, we have gone to great lengths to accommodate the EU's requirements in order to resolve this matter.

As we have emphasized many times, authority for the regulation of traps and trapping methods for the taking of the furbearing species covered by our negotiations rests primarily in the state and tribal authorities. Authorities in the individual States have informed me that the discussions between the EU, Canada, Russia and the United States have led them to intensify their efforts to put in place a nationwide, accelerated humane trap development program. The States' program aims to establish Best Management Practices (BMPs) for traps and trapping

methods that will rely on evolving technical and scientific information and data and that will consider humaneness, safety, effectiveness and selectivity. The States also inform me that the BMP program will ultimately go beyond the standards developed through the quadrilateral process to encompass trapping of all furbearing species in the United States. The BMP program, which the States tell me will involve identifying the most effective and practicable method or combination of methods that will reduce or prevent problems associated with trapping, will be based on the standards referenced above.

Though we have now reached the point where our satisfying the requirements of Regulation 3254/91 should resolve this contentious issue, I was distressed to hear that there are those in the EU who continue to insist that we leap an additional hurdle in order to reach a final understanding. Specifically, we have been told that, quite beyond the requirements of Regulation 3254/91 and the Council's mandate to the Commission to conduct these negotiations, the Commission insists on a phase out by our competent authorities of the use of a certain class of traps irrespective of whether they conform to the humane trapping standards. Indeed, this issue was the only substantive difference that prevented the United States and the EU from reaching an overall settlement earlier this month. Our State authorities have told us that they are prepared to phase out traps that, based on objective evaluation of trap performance, do not meet the standards. They have indicated that they are prepared

to accelerate the testing against those standards of traps that appear of most concern to the EU. They have even informed us that they are prepared to phase out conventional steel-jawed leghold restraining traps that do not meet the standards by an accelerated schedule.

A demand by the EU for more than this has no basis in the Regulation or in the Council's negotiating mandate to the Commission. Continued EU insistence on an arbitrary ban on certain traps will very likely lead to a breakdown in our search for a negotiated solution. Rejection of a deal with the United States because of a demand that has nothing to do with the standards themselves will do nothing to advance the welfare of trapped animals and could result in a confrontation no one wants. Indeed, the production -- as we have heard the Commission is contemplating -- of a list of countries eligible to continue fur exports to the EU that excludes the United States will almost certainly result in rapidly escalating pressure from industry, the States and the Congress for strong counteraction.

I know you will support and argue for a resolution of this matter consistent with EU law, international law, and the standards-setting process we have both labored so long to bring to conclusion.

Sincerely,

Charlene Barshefsky

LUGAR, HAMILTON CONSIDERING BILLS TO REFORM UNILATERAL SANCTIONS PROCESS

Sen. Richard Lugar (R-IN) and Rep. Lee Hamilton (D-IN) are considering introducing legislation aimed at reforming the process by which the U.S. imposes unilateral trade sanctions to achieve foreign policy goals, according to congressional and private-sector sources. Such legislation has been strongly pushed by USA-Engage, the industry lobbying group which is seeking to curb the use of unilateral measures, these sources said.

"Some members are interested in putting into place a thoughtful process for imposing unilateral sanctions," one informed source said.

Lugar is already in "the drawing board stage" and legislative counsels are drafting actual bill text, according to a congressional source. Hamilton "hasn't decided what role he wants to play," another source said.

Ways & Means Chairman Bill Archer (R-TX) and trade subcommittee Chairman Phil Crane (R-IL) are also "interested in exploring" the possibility of legislation on this issue, a congressional source said.

USA-Engage has floated with interested members a "concept paper," which outlines a bill aimed at reforming the process by which sanctions are imposed, according to congressional sources. The concepts in this paper would likely form the core of any legislation which is eventually introduced, these sources said.

The bill would make sanctions measures subject to a point of order on the House and Senate floors unless several specific steps had already been taken. The President would have to make a report to Congress providing information on the particular situation, and Congress would have to consult with the Executive Branch, under the USA-Engage proposal. The International Trade Commission would also be required to make a report on the economic impact of such sanctions, and the measure would be subject to a public comment period.

Before imposing any new sanctions, the Executive Branch would be required to consult with the appropriate congressional committees, and with U.S. allies. The USA-Engage bill also calls for extensive consultation among the U.S. agencies. The President would then have to make a number of certifications, including that he had made all possible efforts to multilateralize sanctions, consulted with U.S. allies, and determined that the sanction is likely to achieve its stated goals and that it does not conflict with U.S. obligations.

The bill would also establish a Sanctions Review Committee to coordinate U.S. policy, and it would ensure that existing contracts are not interrupted by new sanctions. It would also seek to prevent state and local governments from imposing unilateral measures.

Any legislation on unilateral sanctions could draw at least four separate House committees into the process, one congressional source pointed out. International Relations, Ways & Means, Commerce and Rules could

all have a legitimate claim to play a part in any such legislation, the source said.

Even if it were not enacted, the debate generated by introducing a bill would be "a useful educative exercise," one congressional source argued. Another source said that this legislation would not be likely to pass this year and would require a significant "gestation period" before it would have a chance.

Depending on how quickly work progresses, legislation could be introduced at the beginning of August or sometime in September, congressional sources said.

CANADIAN TRADE MINISTER AGREES TO CONTINUED GRAIN TALKS WITH U.S.

Canadian Minister of International Trade Sergio Marchi announced this week that he has agreed to a proposal by U.S. Trade Representative Charlene Barshefsky for continuing bilateral talks on grain trade as a way to prevent a major blowup over Canadian wheat exports to the U.S. But Canada does not see the talks leading to negotiations for a cap on its grain exports to the U.S., which he said are entirely market-driven and in accordance with international trade rules.

"She suggested that the engagement of officials be allowed to continue, that we allow the situation to be monitored," Marchi told reporters in a July 9 press conference. "We both are of the view that we want to maintain vigilance in terms of engagement of our officials."

The continued talks are a way to prevent "altercations" and "heightened activity" that could make the controversy over Canada's increased wheat exports "uncontrollable," he said. "If there are things we can do at the margins to try to better the relationship between the farming community in both the U.S. and Canada, we should consider the options," he added.

Marchi said he was aware that Barshefsky is under "considerable pressure" from members of the U.S. House and Senate over Canadian wheat exports. "I told her while I am appreciative of the kind of political pressure points she has to face, the wheat exports from Canada simply are market-driven, and certainly in keeping with trading rights under the WTO," he said.

Marchi said that he was warned by Sen. Byron Dorgan (D-ND) in a separate conversation that there may be possible protest by U.S. farmers on the Canadian border in mid-July. He said he told Dorgan that such a step would not be helpful to either side.

Marchi also pointed out that U.S. wheat sales to Canada have "quadrupled" this year compared to last, so that there is now a "very healthy, vibrant" two-way trade in wheat. Canadian officials said after the press conference that U.S. wheat sales to Canada are estimated at 120,000 tons for the 1997 crop year ending on July 31. In contrast, Canada had shipped 1.3 million tons of wheat by this June, and expects to exceed the 1.5 million ton mark that was set by a quota that expired in 1995, the officials said.

The wheat issue was one of several bilateral issues raised by the trade ministers in their meeting that lasted a little more than an hour. The meeting was billed largely as a "get acquainted" session for the two officials since Marchi took office as Canada's trade minister last month. It amounted to a "very gentle" review of issues, a Canadian official said.

During his one-day visit, Marchi also met with House Ways & Means trade subcommittee chairman Phil Crane (R-IL), Sen. Charles Grassley (R-IA), the chairman of the Senate Finance trade subcommittee, and Thomas L. "Mack" McLarty, Counsellor to the President and Special Envoy for the Americas.

In addition to bilateral trade issues, the two sides discussed fast-track negotiating authority, as well as the continued controversy over the Cuba sanctions law. They also touched on the upcoming summit of the Asia-Pacific Economic Cooperation forum, and the Free Trade Area of the Americas.

Marchi said that he leaves Washington with the conviction that the Administration will seek fast-track negotiating authority in September. On the Helms-Burton law, he said Barshefsky did not say whether the President would continue to suspend Title III of the law, under which U.S. companies could sue foreign firms that traffic in expropriated property in Cuba. "I would be surprised if he [President Clinton] does not follow through as he has before [on the suspension]," he said.

The two ministers also spoke about the ongoing efforts by the U.S. and European Union to settle a dispute over Helms-Burton with a set of disciplines governing investment in expropriated property, according to Marchi. He said that he hoped a settlement can be reached, but that this has not been achieved. "I think it is the same kind of stalemate that we have seen over the last few months," Marchi said.

In addition to wheat, the two ministers discussed an on-going fight over Canada's sugar access to the U.S., in which Canada has rejected the latest U.S. market access to settle the dispute (*Inside U.S. Trade*, July 4, p. 12). Canadian officials conveyed the message that their patience is not inexhaustible in waiting for a new U.S. offer and that they would examine the possibility of a NAFTA dispute settlement case against a U.S. reexport program on sugar-containing products if there is not a "significant improvement."

Barshefsky held out the possibility that the two sides could still reach a deal in the dispute that would be good

for both sides, giving Canada more access to the U.S. and keeping in place the U.S. reexport program.

Barshefsky also raised the U.S. desire to shift the composition of Canadian wool apparel exports from three key categories of wool suits, slacks and sportcoats to a broader range, he said. But he responded "quite firmly" that Canada is not interested in renegotiating NAFTA and is simply doing what it is entitled to do under the agreement.

Marchi also raised with Barshefsky the need to have a bilateral dispute over salmon fishing made subject to binding arbitration, even though the issue is not directly under her jurisdiction. The issue is being handled by the Foreign Affairs section of the Department of Foreign Affairs and International Trade in Canada and the State Dept. in the U.S.

He said that the controversy over distributing the proceeds of a Canadian levy on blank tapes did not come up "in any detail." Marchi said both sides repeated their well known positions on the issue. But a U.S. official said the ministers did discuss cultural issues.

Similarly, the two sides only talked briefly about Canadian dairy policy in "general terms," and agreed that officials would continue to discuss the issue, Marchi said. The U.S. has long pressed Canada to open its market for U.S. exports and is critical of Canada's pricing milk pricing policy that, which it charges acts like an export subsidy (*Inside U.S. Trade*, July 4, p. 19).

CONFIDENTIAL EU NON-PAPER REVEALS THREE OPTIONS FOR HANDLING GMOS

A confidential non-paper prepared for EU Commission President Jacques Santer reveals that the European Commission will initially consider three options for dealing with the labeling of agricultural products that contain genetically modified organisms (GMOs), according to a copy reprinted below.

The most restrictive option outlined by the June 19 paper would be to require the labeling of all products that are somehow derived from GMOs even if "no trace of genetic modification can be detected scientifically" in the final product. The paper said this "production technology" method would amount to "detach[ing] labeling from the science base." It would not be conditioned on being able to show that the final product contains GMOs or that it has been significantly changed due to how it is grown or produced.

As an alternative to that approach, the paper suggested that the EU could implement a less-strict regime, under which only those products that contain or may contain traces of GMOs would have to be labeled. As a third option, the EU could simply allow the current labeling regime to remain in effect until its results can be assessed at a later date.

But an informed source said the debate in the EU has moved somewhat beyond the paper in that the Commission is unlikely to seriously consider a production technology approach to labeling of GMO products. Instead, the EU is likely to pursue efforts to increase labeling of products actually containing traces of GMOs, the source said.

The paper is aimed at providing EU commissioners with a framework for discussing whether the various EU labeling regulations should be somehow consolidated, and whether any changes should be made to these regulations, sources said. While that debate has been postponed, sources said commissioners could meet this month to take up the debate again.

But the paper noted that the production technology approach to the labeling of agricultural products would likely be supported by EU consumers.

"Many consumers have indeed voiced their desire to know more about the way in which food products are being produced, irrespective of whether there remain traces of the production method in the final product," the paper said. "The advocates of production technology labeling see the lack of scientific basis even as an advantage, as, for the consumer, this would visibly dissociate the labeling from the scientific assessment of the health effects [of the product]."

Such a regime would result in labels indicating that products "have" or "may have" been obtained by genetic modification techniques, the paper said. It also added that mandatory segregation of GMO from non-GMO products might be required if the EU were to decide against using the "may have" label.

But the paper acknowledged that there would be at least two problems with such a proposal. The first question would be "how far to go," it said.

"In the area of food for final consumption, for example: Would meat from cows that have been fed (at least some quantities of) GMO feed have to be labelled? Would bread that has been produced with eggs from chicken that have been fed GMO maize have to be labelled?"

Second, the paper acknowledged that it would be difficult to verify whether GMOs were involved in the production process, and could lead to a situation in which two otherwise identical products would have to be labelled differently. "[T]he truthfulness of a label could in many cases no longer be verified by analyzing the product itself as a specific production method does not necessarily leave physical traces," the report said.

The second, less restrictive option would be to maintain the EU's "science-based approach" and extend EU regulations to require that any product that contains or may contain GMOs be labelled appropriately. Under this

option, the EU would require labels "whenever traces of genetic modification can be scientifically established in products derived from, but no longer containing GMOs."

The paper added that the purpose of this option would be to require labeling for "a high proportion of products derived from GMOs," while at the same time ensuring that labeling is required only for those products that are scientifically shown to be different from non-GMO products.

This option would likely involve broadening the novel foods directive, which now only requires labeling for food products destined for final consumption, so that products not destined for final consumption can be included. This would be needed to help the EU trace these products as they are used in the EU, the paper said.

In addition, changes to Directive 90/220, which governs labelling of GMO products for environmental purposes, may also have to be made in order to ensure that "derived products" are included.

As for the treatment of bulk commodities under this option, the EU will initially consider two choices. First, it could continue to require labels indicating that they "may" contain GMOs, or possibly move to mandatory testing, which would result in a more definitive label.

Second, the EU could move to a "threshold system." This would entail requiring labels for bulk products that have a small percentage content of GMOs, and not requiring labels for products below that threshold.

As an aside, the paper said that continuing the "may contain" labeling requirement for bulk commodities seems to be the "most appropriate solution" since EU trading partners, notably the U.S., has warned that it is strongly opposed to the mandatory segregation of GMOs. EU trading partners have noted that segregation of GMOs would be costly, difficult to achieve, and is likely to violate international trade rules. The paper acknowledged the fact that it could lose a challenge to such a requirement in the World Trade Organization.

"According to WTO rules, technical barriers to trade are allowed only if they have a legitimate objective (e.g. health or environmental protection) and if they are proportional to the objective," it said. "According to the available analysis of trade experts, these conditions would not be fulfilled in the present case: such products have only been approved because scientific analysis has demonstrated that there is no risk to human health or the environment and the costs of mandatory segregation would be significant."

Finally, a third option would be to allow the novel foods regulation a period of implementation before imposing any further labeling requirements. This would allow planned labeling regulations for animal feeds and seeds to take place, and allow recent changes to 90/220, which require labeling for environmental products, to stand (*Inside U.S. Trade*, April 4, p. 13).

EU Paper on GMO Labeling

On the labelling of products consisting of, containing or derived from genetically modified organisms (GMOs) (non-paper)

The recent emergence on the European market of food products containing genetically modified organisms has raised concerns, among others, of consumer groups and the European Parliament. Some Member States have gone so far as to prohibit the import of such products, thereby threatening the integrity of the Internal Market. The labelling of products consisting of or derived from GMOs could be an important way to strengthen consumer choice and thereby consumer confidence. The questions addressed in this note concern the form and modalities of any such future labelling policy.

It is important to stress at the outset that the issue in this note is exclusively the question of labelling. Safety concerns are, and have to be, addressed in the form of a rigorous scientific assessment during the product approval process. They can never be dealt with through any form of labelling.

I. The existing labelling framework

At this point in time, there are already several pieces of legislation in place that determine labelling rules.

a) The Novel Foods Regulation:

This regulation covers food products for final consumption and has only come into force on 15 May. After many years of discussion, it was adopted unanimously by the Council and

with a large majority by the European Parliament. According to this regulation, the presence of GMOs in the food or food ingredient has to be indicated on the label. If the food has been derived from a GMO, but not longer contains a GMO, this has to be labelled if the product is "no longer equivalent" to a traditional product. These rules will apply to food and food ingredients now entering the approval process.

b) Directive 79/112:

In order to cover the two products containing GMOs that have been approved by the Commission last year (Giba Geigy soy bean and Monsanto maize) and that are already on the market to a significant extent (i.e., are not "novel"), the Commission has recently proposed to use Directive 79/112 to impose that same labelling requirements that would have resulted if these two products had been approved under the Novel Foods Regulation. This proposal is presently discussed with Member States in the relevant committee and no significant resistance to the idea is expected.

c) Directive 90/220:

The Commission has recently proposed to introduce mandatory labelling for the presence of GMOs in products approved under Directive 90/220 for the first placing on the market through a revision of Annex III of this directive. This proposal has received the support from Member States in the appropriate committee and will apply to all future products being submitted for approval under Directive 90/220.

d) Voluntary labelling:

There are very few restrictions on voluntary labelling, either to indicate the presence or the absence of GMOs. Many companies have already started to label voluntarily and the Commission has encouraged such initiatives. As the above-mentioned revision of Annex III of Directive 90/220 does not apply retroactively to products that are presently in the approval process, Mrs. Bjerregard has recently written to the companies concerned, inviting them to apply voluntary labelling. Already now the nine out of the eleven companies have answered positively (such a positive reply is also expected from the remaining two companies).

Conclusion: There is already a significant body of labelling rules, both referring to "up-stream" products (raw materials/ first placing on the market) and to "down-stream" products (food products for final consumption). It is generally acknowledged, however, that the existing legislation is deliberately targeted to specific product categories. There is, therefore, room for broadening the product coverage of the labelling rules and for removing present uncertainties of interpretation.

II. Broadly agreed direction of a future labelling policy

Although there may not necessarily be unanimity, there are a number of elements of a future, reinforced labelling policy where there seems a large degree of agreement, at least on the broad direction of the policy. The discussion here is mainly on some of the modalities and less on the principle.

a) A revision of Directive 90/220

The College is expected to be presented with a proposal for a full revision of the directive before the summer break. It is undisputed that this proposal will also include mandatory labelling requirements, even though the precise modalities will have to be discussed.

b) A clarification of the working of the Novel Foods Regulation

The functioning of this regulation has been intended to be based on a case-by-case analysis. Moreover, there are at present no implementing provisions.

This situation has recently been criticised both by operators and observers as leading to a situation of uncertainty and to the risk of slow and complicated approval procedures if Member States disagree significantly about the interpretation of the Regulation. For this reason, a broad consensus seems to be emerging as to the desirability of clarifying the interpretation the Commission and Member States are giving to the different articles of the Regulation.

c) Additional sector-specific legislation

Following the existing policy approach, it is foreseen to complement the existing sectoral legislation (for food products) by other sector-specific legislation, in particular in the agriculture sector (animal feeds; seeds). While the principle of such additional legislation appears to be undisputed, there is still some disagreement concerning the precise modalities.

d) Regulatory coherence

It seems to be broadly accepted that the overall regulatory framework should be consistent. This implies in particular that the basic labelling philosophy should be the same for food and for agricultural products.

III. Unresolved issues

In order for the Commission to be able to present concrete proposals in the above-mentioned areas, it is necessary to

take a decision on the following three issues:

a) Product characteristics or production technology labelling?

Until now, labelling for consumer information has mainly focused on product characteristics. It was considered that this is what consumers are foremost interested in. For this reason, the Novel Foods Regulation stipulates that a food product for final consumption only has to be labelled

- either if it contains ("live") GMOs,
- or if it (no longer contains, but) has been derived from a GMO product and is no longer equivalent to a traditional product.

Although this product characteristic labelling approach has also been endorsed by the Commission's Group of Advisors on the Ethical Implications of Biotechnology in their opinion on the labelling of foods derived from modern biotechnology, it has attracted some criticism recently. It is argued that consumers would like to know whether genetic modification techniques have been used in the production process of a product, even if such a modification is not longer detectable in the product itself. It is proposed that all such products would have to be labelled, stating that "this product has been produced using genetic modification techniques".

Such a production technology labelling approach has a certain appeal from the point of view of present consumer sentiment. Many consumers have indeed voiced their desire to know more about the way in which food products are being produced, irrespective of whether there remain traces of the production method in the final product. The advocates of production technology labelling see the lack of scientific basis even as an advantage, as, for the consumer, this would visibly dissociate the labelling from the scientific assessment of the health effects. Moreover, to the extent that such a labelling approach would merely be based on a relatively simple document-based tracing system, it also have certain attractions from the point of view of operators.

However, production technology labelling raises at least two issues:

- Firstly, the practical question arises of how far to go. While the labelling of raw materials would seem to be relatively straightforward (but this would be the same in the case of product characteristics labelling), the issue becomes the more complicated, the more highly processed the product becomes. In the area of food for final consumption, for example: Would meat from cows that have been fed (at least some quantities of) GMO feed have to be labelled? Would bread that has been produced with eggs from chicken that have been fed GMO maize have to be labelled? Would honey produced in regions where GMO plants are grown have to be labelled?

In order to be coherent, wouldn't products during the production of which genetically modified production aids (enzymes, colourings, etc.) have been used have to be labelled? Shouldn't products outside the food chain, like pharmaceuticals or textiles, be labelled? As there are no objective criteria, arbitrary choices of what has and what has not to be labelled seem difficult to avoid.

- Secondly, the truthfulness of a label could in many cases no longer be verified by analyzing the product itself as a specific production method does not necessarily leave physical traces. It would in fact likely to be the case that of two physically identical products one has to be labelled as being produced by genetic

modification techniques while the other would not have to be labelled at all. A verification could only be based on documentary evidence. This could facilitate fraud and therefore potentially affect the credibility of the entire labelling scheme. At present, for example, shipments to the EU on non-GMO soybeans fetch a higher price (market premium) than GMO soybeans. If, as it can be expected, the same will be observed in consumer product markets, a dishonest producer could make an extra profit when buying and using (at least a certain amount of) GMO products without nevertheless labelling this fact when selling his derived products. The verification would in particular be complicated for imports from countries which do not have (or wish to have) similar tracing and labelling systems.

When labelling requirements are extended to products where no scientific verification is possible, reliable tracing systems throughout the production chain are needed. This would certainly increase the relevance of labelling in the production chain as well as require institutions being responsible for the verification.

b) The labelling and tracing of GMO products through the production chain

The existing regulatory framework for product approval is designed such as to apply the so-called "one-door, one-key" principle. This implies that a product with a given intended use has to pass only one approval procedure, where all aspects are dealt with simultaneously. This is intended to avoid costly and time consuming consecutive approval processes. For instance, a product intended for human consumption will require approval under the Novel Foods Regulation which also incorporates the content of the evaluation requirements included in Directive 90/220.

GMOs with multiple uses, such as maize and soybeans, will in future require approval under several pieces of legislation, notably Novel Foods, seeds, animal feeds as well as Directive 90/220 if the GMO is foreseen for any other uses. Whenever a product is placed on the market, operators must respect the labelling requirements corresponding to the intended use.

However, the existing regulatory framework has been criticized by some for not guaranteeing sufficient transparency and circulation of information. Two points are of particular concern:

- Firstly, while the labelling of food products and food ingredients for final consumption is assured through Novel Foods, this regulation does presently not contain any "up-stream" labelling requirements, i.e. (mandatory) labelling for GMO products marketed for intermediate products. In fact, the Novel Foods Regulation deliberately rests on a system where it is up to the producers of food products for final consumption to ensure that they have all the information necessary for a correct execution of their own labelling requirements. Such information can also be passed on in the form of accompanying documents.

If one wanted to introduce mandatory labelling requirements prior to the stage where the product reaches the stage of final consumption this could either be done by modifying the Novel Foods Regulation of perhaps through implementing provisions.

- Secondly, existing labelling provisions have not been designed such as to provide a systematic coverage across all sectors and uses for tracing purposes. Although it could be argued that the Novel Foods labelling rules, in combination with the labelling rules newly introduced into Directive 90/220 and

future key sector-specific legislation in the area of agriculture (animal feeds; seeds) would cover the overwhelming part of GMO products on the market, the fact remains that a 100% coverage could not be guaranteed. This could only be ensured through new, horizontal legislation.

c) Mandatory or voluntary segregation of GMO from non-GMO products?

The Novel Foods Regulation, as well as the recently revised Annex III of Directive 90/220, allows the labelling formula "this product may contain genetically modified organisms". This possibility has been introduced in view of the fact that the delivery of bulk products does not foresee a deliberate separation of GMO and non-GMO products. The labelling formula nevertheless allows consumers to avoid products containing GMOs if they so desire. On the other hand, the 'may' labelling formula may lead to a situation where more products will be labelled as potentially containing GMOs than if the formula 'this contains' were used.

Three main objections have been raised against the idea of mandatory segregation:

- costs: as there is no experience yet with large-scale segregation, no authoritative costs estimates are available. Based on limited experiences with small quantities an extra cost of between 10-15% of the product value has been put forward. Some industry sources claim that costs would be much higher for large scale segregation, quoting cost increases between 50-100%. Part of the difference in cost estimates is likely to be explained by the strictness of the separation. If a 100% segregation were required, the costs would be significant as a parallel production and distribution chain would have to be set up, with different equipment on the farm and during transportation, processing and storage. If, on the other hand, one were to allow that a product may contain, say, up to 1% of GMO products without having to be labelled as GMO product, the associated cost increases are likely to be more modest.

- practical feasibility: the industry concerned argues that a strict segregation would in fact not be feasible in practice. Three arguments are put forward in this context. Firstly, when growing, for example, totally GMO-free colza or maize, such a field would have to be a significant distance away from a GMO-maize field in order to avoid that the wind leads to cross-pollination. (As a matter of fact, while GMO products are cheaper to grow due to a reduced need for pesticides and herbicides, GMO seeds are more expensive to buy than traditional seeds. Some farmers therefore appear to deliberately mix planting of GMO and conventional crops). Secondly, unless parallel processing and transport equipment were used, some traces of GMO products could practically not be avoided. Thirdly, as an estimated 50-80% of food products contains soybean ingredients, shelf storage room in shops and supermarkets would have to be increased significantly if consumers were to be offered a comparable choice of GMO and GMO-free products.

- International trade rules: According to WTO rules, technical barriers to trade are allowed only if they have a legitimate objective (e.g., health or environmental protection) and if they are proportional to the objective. According to the available analysis of trade experts, these conditions would not be fulfilled in the present case: such products have only been approved because scientific analysis has demonstrated that there is no risk to human health or the environment and the costs of mandatory segregation would be significant. The United States, the main exporters of GMO products to the EU has

already clearly indicated that, while accepting the "may" labelling formula, it would challenge mandatory segregation requirements in EU law.

Assuming that, for whatever reason, bulk products arrive in the EU without being segregated, and to the extent that a comprehensive and exhaustive testing for the presence of GMOs is not practically feasible, the "may" formula would seem to be the most appropriate solution. Removing the "may" would indeed imply that some products would have to be labelled as containing GMOs without this actually being the case. This would clearly not be useful information for the consumer.

In this context, it has to be stressed that a distinction has to be made between mandatory segregation, on the one hand, and voluntary or market-driven segregation, on the other hand. As a matter of fact, wherever there is a significant market premium for clearly distinguishable GMO or GMO-free products, respectively, and when the costs of segregation are smaller than the market premium, market operators will try to segregate products for purely commercial reasons. A genetically modified tomato, for example, which perishes much more slowly than traditional tomatoes will clearly not be mixed up with traditional tomatoes. Similarly, if consumers prefer GMO-free food and therefore are willing to pay a higher price for such food products, market operators will ensure segregation in order to reap this market premium. However, as mentioned above, if the products are no longer physically distinguishable, the economic incentive for fraud is likely to be significant.

IV. Main options for discussion

1. Continue with the present labelling approach.

In view of the fact that GMO products are only now coming onto the market in significant quantities and taking into account that there is no experience yet with the Novel Foods Regulation, the Commission could:

- await the experience with the implementation of Novel Foods before taking new initiatives in the field of food labelling;
- propose sectoral legislation for feeds and seeds in line with existing labelling principles;

The labelling provisions recently introduced into Directive 90/220 through the revision of Annex III could be maintained.

2. Shift to an extended, science-based labelling system

The Commission could maintain the science-based approach, while significantly extending it by taking the following initiatives:

- propose an as wide as possible interpretation of the "non-equivalence" criterion under Novel Foods in order to require labelling whenever traces of genetic modification can be scientifically established in products derived from, but no longer containing GMOs. The objective would be to identify and label a high proportion of products derived from GMOs, thus moving in the direction of production technology labelling while, for practical reasons basing it on science. (Further analysis is required for assessing the impact of technological progress in analytical methods on the functioning of the labelling system over time);

- propose implementing provisions for the Novel Foods Regulation that introduce, for tracing purposes, mandatory labelling of (or equivalent document-based detailed information on) genetically modified food and food ingredients not destined for final consumption. Such labelling would comple-

ment/replace the present "voluntary" document-based tracing philosophy underlying the Novel Foods Regulation. It could either be limited to "live" GMOs or also include products derived from GMOs (as long as this can be scientifically established). In the latter case, Directive 90/220 might also have to be adapted as derived products are presently not covered by that directive.

In case such an "up-stream" labelling requirement could not be introduced through the Novel Foods Regulation, the Commission could consider proposing a new, horizontal legal instrument.

- propose, following the recent positive response of companies with respect to voluntary labelling, voluntary labelling of production technologies for non-food products, where this is practically feasible and informative when selling products to final consumers (e.g., Bt-cotton).

With respect to the labelling formula for bulk products, there seem to be two main options:

- (a) Either maintain the present "may contain" formula for bulk products. This would have the effect that all products containing GMOs would have to be labelled, but that more products would probably be labelled as potentially containing GMOs than there are products actually containing GMOs. It could in principle be envisaged to require a mandatory testing, somewhere in the production chain, for the presence of GMOs before a product is sold for final consumption. In this case, it would be established whether the product does or does not contain GMOs, thereby rendering the 'may' formula obsolete.

- (b) Or move to a threshold system. In such a system, bulk products containing less than a certain percentage of GMO products (e.g., 1-4%), and products derived from such products, would not have to be labelled. On the other hand, product shipments containing a higher share of GMO products would have to use a stricter labelling formula ("this contains"). Such a systems would probably facilitate market-driven, voluntary segregation and would in all likelihood require a change in the Novel Foods Regulation as well as in Annex III of Directive 90/220. However, the practical feasibility of such a system needs further examination.

It is not a priori clear which of the two options would be better for consumers. In any event, both options are compatible with (voluntary) negative labelling ("this does not contain") for products guaranteed without GMOs.

3. Shift to a genuine production technology labelling philosophy

The Commission could decide to propose a move towards genuine production technology labelling, i.e., to detach labelling from the science base and label also products where no trace of genetic modification can be detected scientifically. This would imply a change of the labelling provisions of the Novel Foods Regulation. If such an approach were to be followed, consumers would probably expect that the same principles are applied to all uses of genetic modification techniques, i.e., also to production aids, pharmaceuticals, textiles, etc.

A compulsory labelling of the type "this product has been obtained by genetic modification techniques" (excluding the "may" formula) necessitates an extensive system of administrative checks in order to reach an acceptable level of accuracy. It might therefore be logical to require mandatory segregation of GMO- from non-GMO chains of production. On the other hand, if the "may" formula were to be allowed for production technology labelling, no mandatory segregation would seem to be required.

WTO MEMBERS HAMMER OUT INITIAL WORK PROGRAM ON COMPETITION POLICY

Members of the World Trade Organization this week hammered out an initial work program of a group examining the relationship between trade and competition policy without decisively settling a dispute over whether trade remedy law is part of the agenda. The four-point program does not explicitly include the trade remedy law, but does not exclude it either.

The program outlines work in four broad areas calling for a study of competition policy itself, a stocktaking of existing competition rules, the interaction between trade and competition and a consideration of further WTO work in this area.

"We have gotten going as well as could possibly be hoped," one trade official said. "There was a possibility that we could not agree on anything," another official added.

The "checklist of issues for study" was issued by the chairman of the group, Frederique Jenny of France, as a non-paper of which the group then "took note" but did not formally adopt, according to informed sources. The checklist is reprinted below.

WTO members developed the checklist after informal consultations following the first formal meeting of the competition group on July 6-7 in Geneva. During the formal sessions, members heard presentations from officials of the Organization for Economic Cooperation & Development, the United Nations Committee on Trade and Development and the WTO Secretariat.

The U.S. presentation to the group was "largely positive," although it did say the working group "would have to draw some lines" as to what it covered, one official said. The official characterized the U.S. attitude as constructive, considering it could have used the opportunity to draw a hard line against any consideration of trade remedy law by the group.

Countries also outlined the submissions they circulated to other WTO members in mid-June which outlined their proposals for what the group should address. The European Union has called for a process leading to a negotiation on an international competition regime, while the U.S. has argued for an educational process without prejudice to future work in this area (*Inside U.S. Trade*, July 4, p. 14 & June 27, p. 13).

A number of WTO members have made their case for including trade remedy law in the working group, including Hong Kong, Japan, Korea, the Philippines on behalf of the Assn. of Southeast Asia Nations and Norway. All these countries, whose submissions on the subject are reprinted below, argued that WTO members should not immediately move to limit the scope of work in this area. Members should look at trade measures which affect competition, according to these countries.

Hong Kong took the most direct approach, called for an examination of "potential inconsistencies" between existing trade and competition policies and outlined a lengthy list of potentially anticompetitive trade practices, according to its paper. Korea went so far as to suggest that WTO members might want to consider addressing competition-related measures in a single competition agreement, while Japan called for analysis of cases in which trade remedy law restricts competition.

ASEAN mentioned the importance of considering trade measures affecting competition, particularly in the effect of "trade defense measures" on competition in the domestic market of WTO members who use such measures, according to the paper.

In a very brief paper, Norway called for looking at how trade policies affect competition and to what extent these policies are covered by WTO rules, according to its paper.

The WTO competition group is likely to meet at least two more times before the end of the year, trade officials said. The next meeting is tentatively scheduled for Sept. 16, and another could take place sometime in November, these official said.

Chairman's Paper on Competition Policy

Checklist Of Issues Suggested For Study

Non-Paper by the Chair

Revision

It was widely recognized that the Working Group's work programme should be open, non-prejudicial and capable of evolution as the work proceeds. It was also emphasized that all elements should be permeated by the development dimension. Particular attention should be paid to the situation of least-developed countries. In pursuing the items of its work programme, the Working Group should draw upon and avoid unnecessary duplication of the work of other WTO bodies concerned with specific trade measures as well as the work under way in UNCTAD and other organizations.

I. Relationship between the objectives, principles, concepts, scope and instruments of trade and competition policy.

Their relationship to development and economic growth.

II. Stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policy, including of experience with their application.

-- national competition policies, laws and instruments as they relate to trade;

-- existing WTO provisions;

-- bilateral, regional, plurilateral and multilateral agreements and initiatives.

- III. Interaction between trade and competition policy.
- the impact of anti-competitive practices of enterprises and associations on international trade;
 - the impact of state monopolies, exclusive rights and regulatory policies on competition and international trade;
 - the relationship between the trade-related aspects

- of intellectual property rights and competition policy;
- the relationship between investment and competition policy;
 - the impact of trade policy on competition.
- IV. Identification of any areas that may merit further consideration in the WTO framework.

Japanese Paper on Competition Policy

Given the complicated nature of the interaction between trade and competition policy, the initial work of the WTO on this issue should have comprehensive coverage of all the relevant issues raised by the Members, for the following reasons:

(a) The market structure within the border is becoming more and more relevant to trade flows, as the border barriers have dramatically reduced as the result of a series of trade negotiations, including the Uruguay Round.

(b) The lack of common international rules or of convergence of competition policies could motivate some countries to take unilateral measures.

(c) The trade measures designed to protect domestic industries could affect fair competitive conditions. This may be an issue which may not be effectively addressed within the limited framework of trade measures, but could be more appropriately addressed in a wider framework of interaction of trade and competition.

(d) As liberalization of investment progresses and investment rules are being made clear, a greater number of issues are emerging with regard to the market structure within the boundaries.

Members may clarify, when necessary, what they mean by:

- (a) competition/competition policy;
- (b) competition policies which affect trade;
- (c) anti-competitive practices which affect trade;
- (d) restrictive trade measures/practices which affect competitive conditions.

Suggested work programme and issues to be considered

1. Stocktaking of existing rules related to trade and competition policy:

(a) WTO rules, including:

(i) Articles VIII and IX of the GATS, as well as the Reference Paper (concerning basic telecommunications), of the Fourth Protocol to the General Agreement on Trade in Services (which states that appropriate measures shall be maintained for the purpose of preventing major suppliers from engaging in or continuing anti-competitive practices);

(ii) competition policy-related provisions in the WTO agreements including the GATT 1994 (particularly the Agreement on the implementation of Article VI of GATT 1994, the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards).

(b) Competition policy-related provisions in regional and bilateral agreements (e.g. consultations agreements between competition authorities).

(c) Domestic rules:

(i) competition policies and their enforcement by WTO Members;

(ii) domestic regulations for competition-related trade measures including the conditions for public interest and definition of injury.

2. Analysis on the interaction between trade and competition policy:

(a) To analyse the economic effects on trade caused by anti-competitive practices as well as competition policy:

(i) how anti-competitive practices such as cartels, boycott, vertical restrictions and abuse of a dominant position restrict market access opportunities of foreign goods and services, and undermine the benefits of trade liberalization/tariff concessions;

(ii) how to deal with predatory pricing as a response to counter foreign firms entering the domestic market;

(iii) how (intra-nation/international) merger would affect trade flows. What are the effects of merger policies?

(iv) whether the rules including exemptions currently in place governing anti-competitive practices are adequate to deal with them;

(v) whether the enforcement of competition policies, including extraterritorial application of competition law, could distort flows of trade;

(vi) what are the effects of the harmonization of competition policy over trade measures/practices;

(vii) how the restricted business practices would affect trade flows.

(b) To analyse the economic effects on competition caused by trade measures/practices:

(i) what will be the effect of trade remedies such as anti-dumping measures, safeguard measures, subsidies and countervailing measures over the competitive conditions of foreign and domestic goods and services;

It may be worthwhile to look into different circumstances and conditions in different markets such as:

- markets in different competitive conditions (e.g. monopoly, oligopoly, competitive markets);

- markets of different products (e.g. raw materials, components, finished products); and

- markets of different industry type (e.g. mature industries, new industries, high-tech industries, industries with significant economies of scale).

(ii) what are the cases in which trade measures which are originally of provisional nature could excessively restrict or distort competition?

3. Case studies on interaction between trade measures and competition policies:

(a) To conduct case studies on the treatment of trade measures and competition policies in regional agreements, and bilateral agreements such as the EU, ANZCER (Australia-New

Zealand), and Canada-Chile Free Trade Agreement.

(b) To conduct case studies on how competition policy perspective is currently taken into account when invoking trade measures, including the involvement of competition authorities and implementation of a public interest clause.

Korean Paper on Competition Policy

I. INTRODUCTION

1. The Working Group on Trade and Competition is mandated by the Singapore Ministerial Declaration, *inter alia*, to study issues raised by Members relating to the interaction between trade and competition policy.

2. To accomplish this mandate, it is important to ensure that the activities of the Working Group adhere to the following:

(a) A gradual and educational approach:

(i) the growing linkages between trade and competition policies in the globalizing economy have rendered obsolete the conventional distinctions based on the applicable market-place (i.e. trade policy's traditional emphasis on transborder competition and competition policy's emphasis on domestic competition);

(ii) however, given the fact that trade and competition policies have evolved differently, the Working Group should adopt a gradual and educational approach to allow for WTO Members' various levels of experience in these fields.

(b) A comprehensive and balanced approach:

(i) to have an overall and balanced perspective of the interaction between trade and competition, no aspect of related policies should be excluded a priori from the scope of the study to be undertaken;

(ii) the Working Group should study the impact of competition policies on trade (including their anti-trade bias), as well as the impact of trade measures on domestic competition (including their anti-competitive bias).

II. SUGGESTED WORK PROGRAMME AND ISSUES FOR DISCUSSION

1. Stocktaking

(a) To conduct a survey of the domestic laws and policies of WTO Members pertaining to trade and competition, with a particular emphasis on¹:

(i) how consumer welfare and economic efficiency are reflected therein:

(ii) how the major concepts (e.g. injury) have been reflected in competition laws and competition-related trade laws.

(b) To take stock of existing international rules related to trade and competition, as reflected in:

(i) competition-related WTO provisions;

(ii) the results of rule-making efforts in other intergovernmental bodies, including UNCTAD;

(iii) bilateral and regional agreements.

(c) To take stock of academic work on the interaction

between trade and competition policies.

2. Economic and legal analysis (major issues to be explored)

(a) Effect of anti-competitive practices on trade:

(i) to identify anti-competitive practices with anti-trade bias, and analyse how these practices undermine the effect of trade liberalization²:

(ii) to examine how such trade-restricting effects of anti-competitive practices are addressed in national competition policies and rules;

(iii) to examine the effect of the enforcement of competition policies/rules on trade (e.g. extraterritoriality of competition laws).

(b) Effect of trade policies and measures on competition:

(i) to identify trade policies and measures with an anti-competitive bias, and to analyse how such policies and measures restrain competition in the domestic market-place;

(ii) to examine how such anti-competitive effects of trade policies and measures have been addressed in WTO rules.

(c) Interrelations between competition policy/rules and trade policy/rules:

(i) to explore the desirability of developing a multi-lateral framework of competition rules, and to examine the legal problems, if any, of developing such a framework, with particular emphasis on the existing competition-related rules of the WTO;

(ii) to analyse the hypothetical relationship between such an international code of competition and the multilateral trading system under the WTO (e.g. whether competition-related WTO rules would remain relevant if national competition policies are harmonized under an international competition regime);

(iii) to compare the relative desirability in terms of promotion of overall competition between the current system of placing competition-related trade rules under general WTO rules and the option of placing them under a separate international regime governing competition policy.

Footnotes:

¹It is expected that such a survey may initially focus on aspects of competition policy, such as the current status and role of the competition laws of WTO Members, which is an area yet unfamiliar to the WTO. Successful case studies, in particular regarding developing countries, would be useful in this regard.

²The effect of restrictive business practices on the part of international cartels may be examined under this topic.

Hong Kong Paper on Competition Policy

Introduction

1. The purpose of this paper is to assist in the implementation of the Singapore Ministerial mandate on Trade and Competition. Ministers in 1996 "[h]aving regard to the existing WTO provisions on matters related to ... competition policy and the built-in agenda in these areas, including under the TRIMs Agreement, and on the understanding that the work undertaken shall not prejudice whether negotiations will be initiated in the future" agreed to "establish a working group to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework". The mandate is comprehensive and should be used for a balanced analysis of interaction policy issues, such as mutually supportive as well as distortive interrelationships between trade and competition.

2. The recent interest in the trade and competition interface can partly be attributed to the globalization of the world economy. Economies are becoming increasingly interdependent. Continuing liberalization of governmental trade barriers through the successive rounds of multilateral trade negotiations, increased cross-border investment, advanced technology in telecommunications, enhanced accessibility to information, improved infrastructure and transport, and increased mobility of persons and companies have all contributed to that phenomenon known as "globalization". Trade liberalization is no longer a relatively "simple" exercise of tariff reductions. Many other aspects of governmental measures and policies have become highly relevant. Trade and competition are two most pertinent examples. It is therefore important that the WTO has embarked upon an exercise to bring more clarity to their interrelationships.

Programme of work

3. Hong Kong proposes that the Working Group look into the following aspects of work.

I. TO STUDY THE OBJECTIVES OF TRADE POLICIES AND COMPETITION POLICIES/LAWS AND THEIR INTERRELATIONSHIPS

Some objectives of trade policy and competition policy appear to be in part complementary ...

4. Trade policy, in a broad sense, encompasses the whole range of government policies and measures regulating trade across national boundaries. Major objectives of trade policy, as reflected in the preamble of the WTO Agreement which is the cornerstone of the multilateral trading system, are "raising of standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of trade in goods and services, while allowing for optimal use of the world's resources". To contribute to these objectives, the WTO Agreement restrains governmental intervention that would impede market access. Impediments to market access, or distortion of trade, are themselves a distortion of competition. Indeed, GATT/WTO provisions have been consistently interpreted by dispute settlement panels and Members to protect "competitive opportunities" (as opposed to actual trade flows) and non-discriminatory "condi-

tions of competition".

5. Broadly speaking, competition policy covers practices within the domestic economy which affect competition and is implemented through government intervention. Its basic objectives are to promote economic efficiency, prevent anti-competitive practices, give free access to markets, and maximize the benefits of consumers.

6. Trade policy and competition policy therefore have some objectives in common: they aim to enhance economic welfare through market access and competition. They also seek to provide remedies for dealing with anti-competitive behavior. Progressive trade liberalization serves to sharpen domestic competition, and thus reinforce the broad objectives of competition policy. Trade policy and competition policy should be mutually consistent and complementary to each other. Governments should promote the general interest of their citizens through undistorted competition and consumer welfare in both policy areas.

Some trade policy and competition policy objectives however appear contradictory ...

7. WTO provisions differ, however, from competition policy in many ways. For instance:

(a) Some WTO provisions (such as GATT Articles VI, XVI and XIX) are aimed at protecting import-competing producers rather than competition and consumer welfare; notably the safeguards, anti-dumping and countervailing duty rules are often used for restricting import-competition without sufficient regard to the competition policy objectives of open markets, undistorted competition and consumer welfare.

(b) Competition policy, in some instances, may also impede market access and the competitive process, thus nullifying the objectives of trade policy. For instance, competition policy focuses on domestic consumer welfare and often permits restraints of trade and competition which may be competition-neutral domestically but which may adversely affect international trade and foreign consumer welfare (e.g. export cartels).

II. TO TAKE STOCK OF AND STUDY EXISTING WTO PROVISIONS RELEVANT TO COMPETITION AND COMPETITION ISSUES WHICH MIGHT AFFECT TRADE

Existing trade provisions relevant to competition

8. Apart from fundamental provisions of GATT Articles I (MFN treatment), III (national treatment) and X (transparency) and the corresponding provisions in Articles II, XVII and III of GATS, there are numerous specific WTO provisions which are relevant in varying degrees to competition. For instance:

(a) GATT Article VI and the WTO Agreement on Anti-dumping (e.g. concept of injury, treatment of price discrimination, public interest etc.);

(b) GATT Article XVI and the WTO Agreement on Subsidies and Countervailing Measures (e.g. concept of injury);

(c) GATT Article XVII and the Understanding on State Trading Enterprises (e.g. monopolies and government actions);

(d) GATT Article XIX and WTO Agreement on Safeguards (e.g. concept of injury, VERs, export restraints, OMAs and any other "public or private" similar measures etc.);

- (e) Agreement on TRIMs;
- (f) Agreement on Pre-shipment Inspection;
- (g) Agreement on Rules of Origin;
- (h) GATS provisions (e.g. Article IX);
- (i) Services Schedules such as those on Basic Telecommunications containing regulatory principles;
- (j) Agreement on TRIPS (e.g. anti-competitive practices in contractual licenses); and
- (k) Annex IV Agreement on Government Procurement.

9. The Working Group should draw up a comprehensive list of relevant WTO provisions and examine further their interaction with competition policies. In this regard, the Secretariat has helpfully circulated an informal note "Competition-related provisions in existing WTO Agreements" which will provide a good basis for further work of the Working Group.

Existing competition policy/law relevant to trade

10. Some GATT/WTO provisions are concerned with anti-competitive business behaviour. Indeed, GATT recognizes "that business practices which restrict competition in international trade may hamper the expansion of world trade and the economic development in individual countries and thereby frustrate the benefits of tariff reduction and removal of quantitative restrictions or may otherwise interfere with the objectives of the General Agreement on Tariffs and Trade".¹ Likewise, GATS Article IX, TRIPS Articles 6 and 40 include provisions on anti-competitive business practices. Given the distorting effects of such business practices, there is a need for the Working Group to conduct an examination of this area.

11. Furthermore, there continue to exist some areas of competition policy/laws where the rules may permit measures which are inconsistent vis-a-vis the objectives of the WTO Agreement and which might undermine the economic efficiency brought about through consecutive rounds of trade liberalization. The results could underline the legal security of the multilateral trading system and put into doubt the credibility of governments in pursuance of the system. Such examples include:

- (a) certain exemptions from competition policies/laws (sectoral exemptions, government actions, government-sanctioned monopolies, export cartels etc.); and
- (b) treatment of dominant market position (abuse of market power, mergers and acquisitions).

12. It is also noted that some customs unions and free-trade areas pursue their objectives of free trade and undistorted completion through prohibitions on both governmental as well as private trade restrictions and competitive distortions. In particular, some have replaced their trade protection rules by competition rules and procedures. There may be scope for the Working Group to take stock and draw on the experience of such arrangements with the aim of enhancing the complementarity of trade and competition.

III. TO EXAMINE AREAS OF POTENTIAL INCONSISTENCIES BETWEEN TRADE AND COMPETITION POLICIES

13. Relevant economic literature often points to incoherences between trade and competition policies, leading to economic inefficiencies, legal insecurity and power-oriented income redistribution at the national level for the benefit of protectionist

interest groups. Without wishing to preempt the conclusions which the Working Group might draw from its studies, it would occur to Hong Kong that such problematic areas could include the following:

- (a) anti-dumping duties on low-priced imports even if the duties reduce consumer welfare and import competition. Different standards are applied by the anti-dumping regime and competition policy/law to the allegedly low-priced imports, e.g. on the concept of injury;
- (b) countervailing duties on subsidized imports even if the competing domestic industries benefit from similar subsidies;
- (c) the concept of origin which prevails in the WTO Agreement although competition policy tends to ignore the "nationality" of competitors. Further distortion may also arise from preferential rules of origin in regional trade agreements, which can result in less than optimal use of resources;
- (d) "voluntary export restraints" and government-supported "crisis cartels", monopolies or vertical restraints of distribution systems;
- (e) abuses of intellectual property rights;
- (f) competition-distorting production subsidies;
- (g) certain exemptions in competition laws (e.g. export cartels, import cartels, vertical restraints, etc.).

IV. TO EXAMINE THE RELATIONSHIP BETWEEN COMPETITION AND DEVELOPMENT

14. Competition policy can be seen as helping to enhance the international competitiveness of domestic industries. It can also help to eliminate economic inefficiencies that might arise from certain market failures such as monopolies. On the other hand, concerns have been expressed about the potential conflict between competition policy and other development-related policies such as those which support "national champions". It may be useful for the Working Group to examine in detail how competition policies may relate to development.

Conclusion

15. Hong Kong, in line with its long-standing policy to practice and promote free trade, believes that trade and competition policies should be mutually supportive and complementary in the pursuit of global economic efficiency and the welfare of people. We support a comprehensive and balanced work programme for the Working Group which would be constructive in the pursuit of that objective. To that end, we recommend to the Working Group to study issues such as those identified in the preceding paragraphs of this paper. We propose that the Working Group approach those issues by adopting the following broad framework:

- (a) to study the objectives and principles of trade policy and competition policy and their interrelationship;
- (b) to take stock of and study existing WTO provisions which are relevant to competition and competition issues which might affect trade;
- (c) to identify and examine areas of potential inconsistencies between trade policy and competition policy; and
- (d) to examine the relationship between competition and development.

16. We believe that a work programme along these lines would facilitate a decision by the General Council at an appropriate time on how the work of this Working Group should proceed.

17. Hong Kong also wishes to recall that the Ministerial Deci-

sion in Singapore instructed, *inter alia*, the Working Groups on investment and competition to draw upon each other's work as necessary. We urge that modalities be devised to enable this to take place.

ASEAN Paper on Competition Policy

1. ASEAN participates in the Working Group on Trade and Competition Policy in accordance with the mandate of the Singapore Ministerial Declaration. According to this mandate, our task is, in part, to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices. The process is thus necessarily educative and, as such, a gradual one.

2. ASEAN also wishes to stress that the Declaration provides that the development dimension is taken fully into account throughout our consideration of the issues. We will look at competition policy - being the broad topic that it is and encompassing the government regulation of public and private practices to promote competition - in that light.

3. As a way of proceeding with our work in the Working Group, ASEAN initially proposes the phased consideration of the following elements:

- (a) the scope of competition policy;
- (b) the interaction between competition policy and trade policy;
- (c) anti-competitive practices of both the public and private sectors.

ASEAN reserves the right to submit further thoughts on these elements, or to propose additional elements, as we carry out our work in the Working Group.

4. With respect to the scope of competition policy:

(a) Considering that WTO Members will not engage in the Working Group with a common understanding of the term competition policy, it will be necessary to identify what Members believe as the scope and objectives of competition policy as a starting point. This will lay out the landscape of competition policy.

It will be important to approach this exercise with an open mind without limiting *a priori* the landscape. To do otherwise would be a disservice to the educative process mandated in the Declaration. The Working Group should then be able to compile an inventory on Members' views on the scope of competition policy not as a matter of national policy, but as a matter of definition.

(b) It will be inevitable that in the process of laying out the landscape of competition policy, the Working Group will also need to take stock of the following:

- (i) existing competition-related provisions in the WTO Agreements and GATT 1994;
- (ii) an inventory and discussion of work in other inter-governmental bodies such as the UNCTAD, including, for example, the "Set of Multilaterally Agreed Rules and Principles for the Control of Restrictive Business Practices";
- (iii) existing competition laws and policies in WTO Members, including those that may exist in bilateral and regional agreements.

This will perhaps require a survey across WTO Members, and voluntary presentations by WTO Members in a position to do so.

It would also be important to look at the state-of-

Footnote:

'Decision of the GATT CONTRACTING PARTIES of 18 November 1960 on "Restrictive Business Practices - Arrangements for Consultations", in: BISD 9S/28-29.

play with respect to competition law and policy, or its absence, in developing countries, and determine the reasons for such situation.

5. The above will constitute an essential first phase in the educative process that will allow WTO Members, who may not be equals in terms of experience in competition law and policy, to at least start on an equal footing in participating in the important task ahead of the Working Group.

6. The Working Group can then proceed to examine the interaction between competition policy and trade policy, with a view to identifying not only areas where they might be in conflict, but as well as where they are complementary and supportive of each other. In the latter case, the Working Group should look at means to enhance such complementarity. This phase will invariably require the following:

(a) an examination of the effects of competition policy on trade, including the extraterritorial application of one WTO Member of its competition law and policy and the influence this exerts on the trade performance, and trade policy-setting, of another WTO Member. Special emphasis should be devoted to the situation and experience of developing countries;

(b) an examination of the effects of trade policy (e.g. trade defence measures) on competition, in particular in the domestic market of a WTO Member implementing such trade policy or measures. Again, particular emphasis should be given to the situation and experience of developing countries.

7. Work on the issue of anti-competitive practices of both the private and public sectors could overlap with the second phase on "interaction". But the focus on this third phase will be on anti-competitive practices and not on competition-creating law and policy.

8. Anti-competitive practices, in ASEAN's view, may encompass actions which are or which are not necessarily disciplined by existing competition law, and which enhance the competitive position of companies at the expense of others, and which undermine the very essence of competition, stifle efficient resource allocation, and encumber economic growth. This phenomenon is also known, in a narrow sense, as restrictive business practices. Particular emphasis should be placed on the impact of anti-competitive practices on developing countries.

9. The Singapore Declaration also mentions (in the second subparagraph of paragraph 20) that the WG shall draw upon the work of the Working Group on Trade and Investment if necessary. This is an endeavor that the Working Group will need to carry out in the longer-term future.

10. Since the process in the Working Group envisioned above must be educative and gradual, ASEAN does not suggest specific timetables for the completion of work in each phase. Work in each phase should be pushed as far as possible before proceeding to the next phase.

11. Furthermore, the Declaration provides that the General Council will keep the work of this Working Group under review, and will determine after two years how the work of the Working Group should proceed. In this regard, ASEAN wishes to stress

that the Working Group does not need to report completion of its work to the General Council in two years.

12. Members of the Working Group, especially the developing country Members, cannot be rushed into conclusions or commit-

ments. Any idea therefore that the Working Group should eventually be able to consider developing a multilateral framework on competition, or for Members to commit to adopting competition laws, prejudices the outcome of the work of the Working Group.

Norwegian Paper on Competition Policy

Introduction

The Working Group on the Interaction between Trade and Competition Policy is mandated "to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework".

The present submission raises a number of important issues which ought to be discussed in the Working Group on the basis of the above.

The relationship between trade and competition policies

It is widely acknowledged that trade and competition policies are interrelated and partially overlapping. Illustrations of this can be found in a number of WTO agreements. Competition rules have become an increasingly important complement to international trade rules, for example in regional trading arrangements. Both competition and trade policies affect access to markets. As traditional market access barriers fall, other types of trade barriers may emerge, such as private restrictive practices. There is a case for examining the potential for using competition instruments to address these other types of trade barriers. The globalization of the economy calls for a clearer extension of the scope of competition policy into the realm of the multilateral trading system.

Norway considers that the Working Group's mandate requires a broad approach. The discussion in the Working Group should therefore encompass:

- (a) the effects of restrictive practices on trade and competition; and
- (b) the effects on competition of trade measures and practices.

Consideration of both these factors is required if the close and complex interaction between trade and competition is to be clarified.

Issues to be considered

1. What are the main anti-competitive practices that may restrict international trade?
2. What are the possible restrictive effects of trade measures and practices on international competition?
3. To what extent are the above trade and competition factors covered by existing WTO provisions?
4. Which are the common features of competition rules that are currently in force, both nationally and regionally?
5. Would it be feasible under the WTO umbrella to identify a core of common competition principles, possible accompanied by provisions relating to such principles as transparent and non-discriminatory treatment?

MATSUI CALLS ON CHINA MFN SUPPORTERS TO PASS PORTER-DREIER BILL

A prominent House supporter of most-favored nation status for China this week called on other MFN backers to help pass a package of China-related legislation developed by Reps. John Porter (R-IL) and David Dreier (R-CA). Rep. Robert Matsui (D-CA) warned that backing alternatives to outright MFN revocation without actually voting on them threatens to erode support for MFN in future years.

Offering alternatives to MFN revocation without legislative action "is going to catch up with us," Matsui told the American League of Lobbyists on July 9. "We start to lose votes when members think we are not being sincere [about enacting an alternative]."

"Those of us who supported MFN need to engage the Administration...and our colleagues" to pursue passage of the Porter-Dreier legislation, Matsui said.

The bill developed by Porter and Dreier, the China Human Rights and Democracy Act (H.R. 2095), is co-sponsored by 34 other members, including Matsui. It includes a code of conduct for U.S. businesses in China, visa denials for human rights violators and proliferators, increased funding for Radio Free Asia and the National Endowment for Democracy, and regular reports on Chinese human rights and intelligence activities (*Inside U.S. Trade*, July 4, p. 18).

While the code of conduct would be voluntary under the bill, the Commerce Dept. could take adherence to the code into consideration when deciding whether companies can participate trade missions to China.

But Matsui cautioned that finishing the "normal legislation" related to the budget process would be "extremely difficult" in any case. In addition, possible plans by the House leadership to pursue "social legislation" in the fall could further complicate efforts to move other bills, he said.

Nevertheless, Matsui argued that "pieces" of the bill, such as increased funding for Radio Free Asia, could be incorporated into other legislation.

In a related development, the U.S. Council for International Business this week expressed its belief that the code of conduct provisions of the Porter-Dreier bill would be "a step in the wrong direction." USCIB argued in

a July 9 letter to Rep. Douglas Bereuter (R-NE), chairman of the Asia and the Pacific subcommittee of the House International Relations Committee, that the codes could run afoul of existing voluntary codes and could place U.S. citizens in violation of other countries' laws.

"Such efforts would duplicate existing voluntary company, industry, national and international codes of conduct," USCIB President Abraham Katz wrote. "They could also prove counterproductive since they may contradict established principles of conduct long agreed by businesses and governments, and place American citizens and companies in jeopardy of violating national laws in the countries in which they do business."

For example, the provisions of the Porter-Dreier bill calling on U.S. firms to ensure political and reproductive freedom for its employees in China could force the companies to violate Chinese law, "conduct that could entail serious personal risk to employees and threaten the viability of legitimate business activities," USCIB said. Provisions calling for the identification of prison labor goods could impose "burdensome information gathering obligations that are in some cases beyond the legitimate scope of business activities."

Katz argued that the Guidelines on Multinational Enterprises of the Organization for Economic Cooperation & Development and the Tripartite Declaration of the International Labor Organization already sufficiently govern the conduct of transnational corporations.

Matsui also said that this year's China MFN vote showed that the freshmen and sophomore classes of House members "appear to be free traders." Republicans and Democrats in both classes voted in favor of MFN in a greater proportions than their respective caucuses, he pointed out.

At the same time, Matsui argued that "the numbers do not characterize the difficulty of the debate." In the past, House MFN supporters discussed the issue for "five minutes" with other members and secured their votes. This year they ended up in "15 to 20 minute conversations," an illustration of the large number of China-related issues that the MFN vote raises.

He also called on U.S. businesses with a stake in China policy to help find ways to stabilize U.S.-China relations on all issues, including human rights. "It will be incumbent on the business community to come up with a strategy" for helping to address problems in the U.S.-China relationship," he told his audience. "You will have to move the Chinese in the right direction."

FOREIGN GOVERNMENTS CALL ON COMMERCE TO CHANGE CVD POLICY

Foreign governments have called on the Commerce Dept. to change its current policy that assumes that a large portion of subsidies extended to government-owned companies continue to benefit them even after they are sold to private owners at market value. This rule makes the companies subject to countervailing duty cases even after the sale.

The governments also called on Commerce to ensure that equity infusions made on a commercial basis should not be subject to CVD challenges.

The European Union, the United Kingdom, Canada and the government of Quebec all argued that the privatization of a company extinguishes any benefits which accrued as a result of a prior subsidy provided the sale reflects the existing market value of its assets and liabilities. "There is no benefit conferred on the privatized company by previously bestowed subsidies, since the market price takes account of such subsidies and any benefit conferred is consequently eliminated," the EU wrote in its submission.

The submissions were made in response to proposed CVD rules meant to implement the Uruguay Round rules on subsidies. In the proposed rules, Commerce solicited comments on its current practice but did not offer to change it. Supporters of the existing policy have interpreted this as a sign that Commerce is under pressure from other agencies in the Clinton Administration to make changes that would ensure that privatized companies in the former Soviet Union, Eastern and Central Europe would not be subject to countervailing duty cases.

The issue of privatization and equity infusion are likely to be discussed in detail in a Commerce hearing on the proposed CVD regulations that may be held in September, sources said.

The UK comments argued that the CVD rules should not have the effect of discouraging "restructuring" in the industries of Eastern Europe, which are currently in the process of privatizing many key industries. "[I]t would be counter-productive if the ensuing rules, either by design or default...inhibited restructuring of and foreign investment in countries such as Eastern Europe," the UK wrote.

"This is not just a matter of concern for the UK or the EU, but also for U.S. investors and the U.S.'s wider economic and political interests," the UK added.

Commerce had come under fire from some sectors of the domestic industry and their congressional allies for allegedly considering looser rules on how CVD orders apply once a company is privatized (*Inside U.S. Trade*, Dec. 20, p. 18).

The UK submission also pointed out that it "may well be relevant" for Commerce to consider a number of

issues in determining whether a given privatization meets the standard of an "arm's length transaction." The openness of the sales process and the number of entities interested in a sale would be two factors relevant in this context, the UK wrote.

The EU emphasized that the Uruguay Round Agreement on Subsidies and Countervailing Measures (ASCM) requires that a concrete "benefit" be conferred on a company before it can be subject to a CVD order. "[T]he privatized company has not received a subsidy so that a benefit cannot be conferred on it unless the purchaser does not pay full value for the privatized entity," the EU wrote.

The current Commerce practice of continuing CVD order after privatization extends the notion of a benefit "unreasonably," the EU argued.

Canada also reiterated its position that "financial contribution" – the term used in the Uruguay Round subsidies agreement to describe countervailable benefits -- should be defined "as narrowly as possible" in the U.S. regulations implementing it. Noting that Commerce said in the draft regulations that it intends to define the precise meaning of "financial contribution" on a case-by-case basis, Canada argued that regulatory measures should not fall into the U.S. definition.

The subsidies agreement's list of practices which can be considered a financial contribution involves "government use of financial resources to provide a benefit in cash or a case equivalent to recipients," Canada said. "These measures do not include, however, government regulatory measures, even though such measures may benefit or disadvantage a specific group," Canada wrote.

A Court of International Trade case involving the British steel industry held that export restraints were not countervailable, even though they adversely affected some companies and benefitted others, Canada pointed out.

These governments also argued that equity infusions made by governments in a manner consistent with that of private parties should not be subject to CVD orders. "The government which provides an equity infusion should not be punished for being a normal market player," the EU argued.

The Commerce standards for determining whether a company is worthy of an equity infusion are "reasonable," the EU said. But preferable to a Commerce determination would be an "independent study" of the firm in question. "In our view, an independent study will provide a full and dispassionate analysis of all economic factors which may influence the equityworthiness of a company, and enable the Government to arrive at a decision on the same way that a reasonable private investor would," the EU wrote.

In addition to these four governments, the following groups submitted comments on the CVD regulations: the Ad Hoc Committee of Domestic Nitrogen Producers; the American Institute for International Steel; Collier, Shannon, Rill & Scott; Dewey Ballantine; the European Confederation of Iron & Steel Industries; Hale & Dorr on behalf of Micron Technology; Gary Hufbauer and Brian Russell of the International Institute for Economics; the Labor/Industry Coalition for International Trade; Milton Truss Company; National Ass. of Home Builders; National Lumber and Building Material Dealer Association; Schagrin Associates; Skadden, Arps, Slate, Meagher & Flom; Steptoe & Johnson; Stewart & Stewart; Standard Structures, Inc.; and Thompson & Coburn.

CLINTON NOMINATES HAYES AS DEPUTY U.S. TRADE REPRESENTATIVE AT WTO

President Clinton last week announced his intention to nominate Chief Textile Negotiator Rita Hayes to be the chief representative of the U.S. to the World Trade Organization. In that position, with the rank of a Deputy U.S. Trade Representative, Hayes will be responsible for conducting trade negotiations as well as assisting in the development and implementation of U.S. trade policy, Clinton announced on July 3.

In her current capacity, Hayes acts as the principal advisor on international trade policies and negotiations for textiles and apparel. Before coming to USTR, Hayes served as Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods for the Department of Commerce, and in that position chaired the Committee for the Implementation of Textile Agreements.

With this announcement, the Administration has filled one of two vacant deputy slots. Administration sources said that USTR Charlene Barshefsky is close to announcing the nominee for the USTR deputy position that will be in charge of the Asia portfolio.

If Barshefsky fails to do that in the near future, it could be possible that the nominee would not be approved before Congress goes out this year, one informed source said. In that case, USTR could ultimately be without a second deputy for a year and a half, the source said.

Separately, Recording Industry Assn. of America Chairman Jason S. (Jay) Berman is under consideration to be the Administration's point person for the upcoming fast-track debate, according to informed sources. A formal offer for the job may be pending a formal background check, these sources said.

ACCJ URGES JAPAN TO FULLY IMPLEMENT INSURANCE DEREGULATION PACT

The American Chamber of Commerce in Japan (ACCJ) last week called on Japan to fully implement its commitment to deregulate its insurance market, and warned that a private-sector advisory council's suggestions on how to do so might not go far enough.

The ACCJ made the demand in a July 2 statement responding to the release of a report of the Insurance Council on the reform of Japan's rating organization system, which sets the premiums that insurers can charge their customers and is not subject to Japanese antitrust laws. As part of the 1996 U.S.-Japan insurance agreement, Japan agreed to end this practice in the automobile and fire insurance sectors.

The Insurance Council is the private-sector body charged with making official recommendations to the Ministry of Finance on the deregulation of Japan's insurance market.

But the ACCJ warned that the council's "vague" recommendation that the Ministry of Finance maintain some supervisory authority to set insurance rates could negate that commitment.

"Such supervisory role should be kept to a minimum, should be fair and transparent, and should not be used as an excuse to maintain traditional regulatory approaches," the ACCJ said. "Most important, it should in no way inhibit the development of a sound, innovative market that allows insurers to provide consumers with new, differentiated products at a competitive prices and through multiple distribution channels."

The ACCJ also urged Japan to allow the rating organizations to only collect risk premium data, which are the statistical figures detailing the risks associated with certain factors, which in turn allow insurers to calculate rates. But the organizations should not be allowed to collect data relating to the operating expenses of insurance companies, which foreign insurers have argued amounts to revealing competitive information, the ACCJ argued.

Denying the rating organizations access to operating expense data will also ensure that they are unable to set real insurance rates, since that information is also needed to set up rate structures, according to informed sources. At most, the rating organizations should "only issue purely advisory rates and should have no role, either officially or unofficially, in setting premium rates," the ACCJ said. The statement also recommended that rating organizations be renamed "insurance statistical centers" to reflect this new role.

Japan has committed to reforming the ratings organization system by the middle of 1998 as part of the 1996 agreement.

Finally, the ACCJ complained that there are no foreign members on the Insurance Council, which drafted the report, even though the 1994 insurance agreement called on the advisory group to include foreign insurers. "The ACCJ therefore requests that the government of Japan help ensure that the foreign insurance industry has the opportunity to become full members in these important bodies deciding the nature and pace of insurance deregulation," it said.

Sources said the first big test of the 1996 bilateral insurance agreement will be this September, by which time Japan has committed to allow foreign insurers to sell automobile insurance at different prices based on a range of risk criteria such as age, gender, driving history, geography and vehicle usage.

JAPAN LIKELY TO JOIN EU WTO CONSULTATIONS ON MASSACHUSETTS LAW

The government of Japan last week requested of the U.S. and the European Union that it be allowed to join World Trade Organization consultations initiated by the EU to pursue its complaints about a controversial Massachusetts sanctions law. The U.S. and EU have not replied, but government officials this week said Japan will likely be permitted to join the consultations on the law, which penalizes companies doing business in Burma.

The first consultation could take place as early as this month, on the margins of the WTO's government procurement committee meeting scheduled for the week of July 21. That meeting will be attended by the relevant officials that could also conduct the consultations.

In addition, officials from the U.S. Trade Representative's office and Massachusetts are tentatively scheduled to meet in Washington next week to discuss the sanctions law, sources said. While those meetings are expected to address the upcoming WTO consultations, sources said it is unclear whether they will address the possibility of amending the law before a WTO panel is requested.

Both Japan and the EU have registered their opposition to the Massachusetts law, which restricts foreign companies from winning state contracts if they do business in Burma. The EU requested WTO consultations late last month (*Inside U.S. Trade*, June 27, p. 5).

MAI LIKELY TO INCLUDE LABOR, ENVIRONMENT RULES . . . begins page one

New Zealand has generally been the most vocal opponent of labor and environment provisions. Australia and Mexico have also expressed opposition, as has Japan, informed sources said.

At a June 31-July 3 negotiating session in Paris, Assistant Secretary of State for Economic and Business Affairs Alan Larson informally discussed with other OECD members proposals on labor and environment beyond what is already included in the latest draft text of the MAI, informed sources said. These new proposals will likely be distributed to OECD members later this month and debated at an October negotiating session, these sources said.

The proposals discussed last week largely mirrored the ideas the Administration floated with business and non-governmental organizations late last month. The Administration is planning additional consultation with private-sector groups before it tables new language, an informed source said (*Inside U.S. Trade*, July 4, p. 9).

Despite the relative convergence of positions on the labor and environment issues, it remains unclear how binding any provisions in this area would be, informed sources said. To the extent that these issues are addressed in the MAI, they are likely to be based on the principle that countries should not deviate from their own national standards, one source predicted.

The prospect of additional labor and environment provisions is already drawing criticism from U.S. business groups, informed sources said. The U.S. Council for International Business was preparing a letter to the Administration arguing that the new proposals are unrelated and possibly inconsistent with the original goals of the MAI, these sources said.

OECD members also wrestled last week with the general exceptions which will be included in the MAI, informed sources said. The chairman of the negotiating group floated several texts in an effort to make progress on possible exemptions in the area of national security and public order. His text on national security would provide for an exemption that individual MAI signatories could invoke at their discretion. But under the chairman's text, the exemption could not be invoked for the purpose of derogating from a number of MAI disciplines.

The U.S. has argued that creating exceptions to any national security exemption will "need a lot more work" and are "completely precedent-setting" because no other agreements which have national security carveouts in this area have ever placed restrictions on their use, an informed source said.

France has called for an exception to MAI disciplines for measures taken to preserve public order, but continues to run into opposition from the U.S., informed source said. Since the chairman's text for the public order exception would subject its invocation to dispute settlement and contains an anti-abuse clause, the U.S. considers it "generally a step forward," one source said. But additional work will be necessary, the source said.

France also quashed suggestions that concessions by the U.S. on the public order issue would pave the way for concessions on its part in the much more controversial area of a carveout for measures taken to preserve national cultures, informed sources said. France has argued that it cannot scale back its demands for a broad exception for culture because it needs to protect its freedom to take measures in the future that might violate the MAI, these sources said.

There was no formal discussion of a general exception proposed by the European Union which would allow members of regional economic integration organizations (REIOs) to discriminate against non-members, and which has run into strong opposition from the U.S., informed sources said. The EU is discussing internally how to make the case that the REIO carveout would "not be a big hole" in MAI disciplines, one source said. But it is not currently considering changes to the broad exception it tabled in January, the source said.

Although the EU tabled the broadly-worded language, the traditional north-south split among EU members states has emerged regarding how broad any carveout should be, informed sources said. The Netherlands, Finland, Denmark, Sweden and the United Kingdom have sought a narrower exception, but France especially has argued for a more sweeping REIO clause, these sources said.

Negotiators also resumed the process of developing the country-specific reservations from MAI rules that will help define the extent to which the agreement rolls back existing investment restrictions, informed sources said. The chairman will issue a set of guidelines on what measures countries should include in their initial lists of country-specific reservations, informed sources said. He also called for revisions by October of the lists which all OECD members have already submitted, these sources said.

The negotiation of country-specific reservations is likely to be a largely bilaterally-driven process in which countries concentrate on the areas of most commercial significance to their domestic industries, informed sources said. As a result, OECD members are likely to place a strong emphasis on binding the U.S. states under the MAI and scaling back existing state and local measures which restrict investment, these sources said. The U.S. will likely also face pressure to adhere to the national treatment principle in federal investment incentives programs.

The U.S. is likely to focus on ensuring that other OECD members do not enjoy broad authority to discriminate

against U.S. investors on the basis of general exceptions in the areas of culture and regional groupings, but will also look at specific sectors in other countries, an informed source said.

There will also be a specific clause in the MAI which will govern the relationship of the country-specific annexes to the agreement itself. But reaching agreement on this provision has already proved difficult because of demands by some members to put in place procedures to report new exceptions to MAI disciplines, informed sources said. New exceptions could come about if a country seeks to privatize state-owned enterprises on a discriminatory basis, some countries have argued.

OECD members are "fairly evenly split" between three possible solutions. One would impose a virtual standstill and allow no new exceptions, while another would allow "some flexibility" to notify new exceptions in specific sectors, an informed source said. A third option would allow for fuller flexibility.

Japan has already tabled one text based on Art. 21 of the General Agreement on Trade in Services, which outlines the conditions for notifying exceptions to existing schedules, informed sources said.

The next negotiating session will be held on Sept. 15-19, when negotiators will focus once again on the liberalization process as it relates to general exemptions and country-specific reservations, informed sources said. They will also take up tax and financial matters, as well as the relationship of the OECD Guidelines on Multinational Enterprises to the MAI. Some dispute settlement issues may also be discussion.

In addition, beginning in September the first non-OECD members will become full-fledged observers to the negotiation as a way of laying the groundwork for their eventual accession to the MAI, informed sources said. Hong Kong, Argentina, Brazil and the Slovak Republic will be the first observers, and have been encouraged to bring capital-based experts to Paris for an extensive briefing on the negotiation on Sept. 17, these sources said.

EU PRESSING FOR NEW BOEING REMEDIES TO MERGER . . . begins page one

something binding and real this week, and Boeing knows that." The source said the EU "can't afford this luxury" of striking a deal one day before the deadline.

But another source close to the issue said that while there would be "activity" today, Boeing would still have until at least next week to improve its offer of proposed remedies. Another source speculated that the EU's deadline pressure may be an effort to "try to get to the bottom line quickly."

Boeing's initial remedy proposal was unanimously rejected last week by an advisory group of competition officials from the 15 EU member states. Sources said the proposal failed to satisfy EU officials on each of the EU's three main problems with the deal: that Boeing's access to MDC aircraft and existing customer base would be anticompetitive, that Boeing's sole-supplier arrangements with three major airlines would exacerbate that situation, and that U.S. government research benefitting the defense aerospace industry would "spill over" and help Boeing's commercial division.

One EU source said EU member states believed that the merger would "lead to the strengthening of Boeing's existing dominant position, and therefore should be prohibited." Boeing executives were meeting this week to discuss possible improvements to their package of remedies already floated to the EU, informed sources said.

In order to win EU approval of the merger, Boeing may have to agree to sell off the commercial aircraft component of MDC, informed sources said. One source, who said the EU has only "expressed its worries" to Boeing and is allowing the company to arrive at suggestions on how to alleviate the effects of the merger, said that partially divesting from MDC "might be an offer Boeing might make."

Another source argued that the EU is effectively making its demands known to Boeing, and has warned the company that it must partially divest from MDC in order for the merger to be approved.

However, a Boeing spokesman this week said such a proposal would be ineffective because efforts have been made in the past to sell Douglas Aircraft Co., and "no one wants to buy it." The spokesman also pointed to the Federal Trade Commission's (FTC) conclusion that Douglas Aircraft is not a significant competitor, and that selling it would therefore have little effect on competition.

"The FTC has found after an exhaustive investigation that Douglas Aircraft Co. is no longer a meaningful competitive force in the commercial aircraft market," the spokesman said. "Boeing believes [requiring Boeing to divest from Douglas] would be a futile gesture with profound, long-lasting and damaging consequences for Douglas Aircraft Co., its employees, suppliers and customers."

The FTC approved the merger unconditionally in a four-to-one vote last week (*Inside U.S. Trade*, July 4, p. 1).

Another step Boeing may have to take to get EU approval of the deal is to completely terminate its exclusive supplier deals, a concession the company had not yet made at press time, informed sources said this week. Such a concession would "solve that area," one informed source said, adding that there are few other less drastic solutions that the EU would be likely to accept.

While the FTC warned last week that it would monitor Boeing's existing and future exclusivity agreements to

ensure that they do not hinder competition, the EU's merger regulation does not foresee the possibility of monitoring the company, according to an informed source. For that reason, the EU will likely require a more substantial, up-front commitment in the area of exclusive deals than the FTC did, he said.

The EU has warned that Boeing's failure to offer an acceptable remedy to the problems identified by the EU could result in a fine equaling up to 10 percent of Boeing's worldwide turnover. But officials have been optimistic that an agreement can be reached.

Separately, U.S. and EU officials were expected to meet yesterday and today (July 10-11) to discuss the bilateral civil aviation agreement. The EU is considering whether it should drop out of the deal because the U.S. has ignored its complaints that the U.S. industry is benefitting from indirect subsidies at a level prohibited by the agreement (*Inside U.S. Trade*, June 27, p. 1).

U.S. officials discussed the bilateral aircraft agreement in a White House meeting, according to an informed source.

U.S. Trade Representative Charlene Barshefsky has said the U.S. will use the meeting to complain that EU member states are directly subsidizing the European aircraft consortium, Airbus Industrie, at higher levels than is allowed under the 1992 agreement.

SENATORS SIGNAL NEED TO TIGHTEN ENCRYPTION CONTROLS . . . begins page one

the development of a so-called "key recovery system" covering as many encryption users as possible is crucial to ensuring that the government can adequately protect public safety and national security.

In contrast, Ranking Member Patrick Leahy (D-VT) and Sen. John Ashcroft (R-MO) were strongly critical of the key recovery approach, and stressed the need to liberalize export controls on encryption technology. This position has been backed by Senate Majority Leader Trent Lott (R-MS) who has called on Ashcroft to fight for relaxing encryption export controls when Judiciary considers the measure (*Inside U.S. Trade*, July 4, p. 3).

Judiciary Chairman Orrin Hatch (R-UT) did not take a clear position on the substance of possible legislation even as he warned that failure to pass a bill would result in damage to U.S. security and economic interests. "Should this Congress fail to take action on this issue, I am fearful that the end result will be U.S. companies moving production off-shore and foreign business interests engaging in greater proliferation of robust encryption in an effort to wrestle control of the international hardware and software markets from U.S. business," Hatch said.

"The end result of either of these developments is a greater proliferation of encryption abroad posing a direct threat to our national security as well as both domestic and international law enforcement."

Hatch said that "some form of key recovery is inevitable." He noted that government has the option of mandating key recovery, allowing the market to dictate the form of key recovery which exists, or finding "a true middle ground whereby government and industry can work together in a manner that strikes a reasonable compromise between competing interests."

Director of the Federal Bureau of Investigation Louis Freeh called for changes to S. 909, the bill passed by the Commerce Committee last month and sponsored by Sens. John McCain (R-AZ), Ernest Hollings (D-SC) and Robert Kerrey (D-NE). Judiciary has requested sequential referral of the bill, which has been tentatively endorsed by the Clinton Administration as a basis for discussion (*Inside U.S. Trade*, July 4, p. 3 & June 20, p. 1).

Kyl in particular took a strong line in favor of ensuring that encryption policy does not impede effective law enforcement. He criticized privacy groups for assuming that "law enforcement is a greater threat to civil liberties than criminals" and harshly criticized the U.S. industry goal of eliminating export controls.

"Free export of U.S. encryption beyond a certain level would seriously hurt U.S. foreign intelligence capabilities," Kyl said in his opening statement. "Any further weakening of export controls would have a deeply debilitating impact on national security."

Grassley gave several examples of cases in which strong encryption impeded law enforcement in the prevention of child sex offenses and other crimes. "Any proposal that does not deal with situations like these is unacceptable," he said.

Feinstein as well argued in favor of a broad key recovery system, which she called "important for the future of the world." She urged Freeh to take a strong lead in ensuring that law enforcement needs can be met. "I urge you to be as dominant as possible, rather than companies that have their own interests, and not those of the nation," she said.

Leahy and Ashcroft used the hearing to criticize the key recovery concept, as well as criticize the McCain bill. Leahy, who has introduced the Encrypted Communications Privacy Act to liberalize encryption exports, expressed his fear that S. 909 gives unduly broad authority to the Secretary of Commerce to write regulations on the use of encryption, the violation of which would result in severe criminal penalties.

Freeh suggested that S. 909 could be changed to ensure a wider application of the key recovery concept and therefore better prospects for law enforcement authorities to get access to encrypted information within the U.S. He called the bill "the best single balanced approach that I have seen." Section 402 of the bill imposes a strictly voluntary obligation to store an encryption key with so-called "certificate authorities," Freeh pointed out.

Certificate authorities are entities who certify that a user of a particular encryption key holds exclusive access to the key, and is therefore the only user who can unscramble encrypted information. Certificate authorities help give confidence to the users of encryption technology that they are communicating exclusively with the holder of a particular key, and will be widely used regardless of what steps Congress takes on key recovery, a private-sector source said.

S. 909 does not require certificate authorities to be licensed by the government, but if they are, they must keep a copy of the key and make it available to law enforcement authorities who obtain proper judicial authorization. The voluntary nature of licensing under the bill would therefore likely ensure that much encrypted information could not be unscrambled because not all certificate authorities would be licensed and therefore required to keep a copy of the key.

Freeh suggested "one way to better implement" a key recovery system would be to impose mandatory licensing requirements on certificate authorities, and require that the encryption key be stored with a third party. Such a rule would likely dramatically broaden the scope of key recovery owing to the necessity for using certificate authorities, a private-sector source said. Users of encryption could still forgo certification by certificate authorities, which would "strictly speaking" make the use of the system voluntary, the source added.

Kerrey, an original co-sponsor of S. 909, also testified before Judiciary and repeated comments that the sponsors of S. 909 are willing to consider any suggestions for improving it. "Anyone who has concerns should bring them forward," he said.

On the House side, the encryption bill sponsored by Rep. Bob Goodlatte (R-VA), which would largely eliminate controls on encryption products, has until July 25 to be marked up by the full House International Relations Committee under the terms of its sequential referral. The Intelligence and National Security Committees have also been approved for referral and must mark up the bill by early September, informed sources said.

LIMITED'S MOTION TO DISMISS ATMI CUSTOMS FRAUD CASE DELAYED

Efforts by a major U.S. apparel importer to dismiss a customs fraud case brought by the American Textile Manufacturers Institute (ATMI) were delayed last week after it won the right to transfer the proceedings of the case from the U.S. District Court in Los Angeles to the District Court in Columbus, Ohio.

Oral arguments by The Limited, Inc. to dismiss the case, which were scheduled on June 30, will now take place once the case resumes in Ohio.

"The judge who is going to handle the case should rule on the motions to dismiss," U.S. District Court Judge Harry L. Hupp wrote in his June 30 order. "For that reason, the motions to dismiss are placed off calendar subject to being renoticed in the transferee court."

The case was due to reach Ohio late this week, and naming of a new judge would soon follow, sources said.

ATMI, which filed the False Claims Act suit on behalf of the U.S. government, has alleged that The Limited deliberately defrauded the Customs Service by falsely labelling apparel made in China to indicate that it was made in Hong Kong (*Inside U.S. Trade*, June 20, p. 21).

Hupp allowed the change of venue because The Limited and eleven of its subsidiaries are headquartered in Columbus, where most of the goods allegedly falsely labeled as to their origin cleared customs.

"[A]ll of the witnesses connected to the Limited and its subsidiaries are located in Columbus [and the] massive amount of records which must go with massive purchases of goods are located in Columbus, either with the defendants or with customs," Hupp wrote. "Virtually none [of the evidence] will come from Los Angeles."

The Limited was "gratified by...the decision to transfer the case," according to John J. Quinn, counsel for The Limited. "We are confident that we will prevail," he said in a June 30 statement.

ATMI had opposed moving the case from the central district of California to the southern district of Ohio on the grounds that it would delay bringing the case to trial. But ATMI counsel Paul Cullen said after the decision that the change of venue "throws the timing off by a few weeks, but in a case of this type a few weeks is nothing."

ATMI Executive Vice President Carlos Moore said in a June 30 written statement that the group is "confident about the merits of our case and that it will receive a fair hearing in Columbus." According to a June brief in which it argued against The Limited's motion to transfer, ATMI originally filed the case in Los Angeles because the merchandise concerned entered the United States through the Port of Los Angeles/Long Beach.

CORN REFINERS REJECT MEXICAN JUSTIFICATION OF PRELIMINARY AD MARGINS

U.S. corn refiners have rejected the justification offered by the Mexican Commerce Dept. (SECOFI) late last week of its decision to impose high preliminary dumping margins on U.S. high fructose corn syrup (HFCS). The preliminary margins are imposed at levels that force the HFCS price above that of sugar, which HFCS partially or wholly replaces in the production of soft drinks.

"SECOFI's goal is to attempt to price HFCS higher than sugar to keep U.S. HFCS out [of Mexico] and prevent any more conversion by Mexican manufacturers from sugar to HFCS," said Charles Conner, President of the Corn Refiners Association (CRA). "Under NAFTA, we have the right to sell and compete in Mexico."

The preliminary margins range from \$63 to \$175 per ton, according to informed sources.

The preliminary margins apply to four companies, Archer Daniels Midland Co. (ADM); Cargill, Inc.; A.E. Staley Manufacturing Co.; and CPC International, Inc. SECOFI's decision would also affect "any other U.S. company that would ever want to ship HFCS to Mexico" because it would be captured a duty applicable to "all other" exporters, Conner charged.

CRA charged that the Mexican antidumping case runs counter to Mexico's WTO obligations under the World Trade Organization and NAFTA. It does not follow the proper methodology for calculating margins and is based on a complaint by sugar producers represented by Mexican Sugar Chamber, according to CRA.

The Chamber does not have legal standing to bring the case because sugar and HFCS are not an identical product, according to Conner. His assessment was backed by an official at the U.S. International Trade Commission, who said HFCS and sugar are not like products because HFCS can only be used as a replacement for sugar in the sweetening of soft drinks.

Under this like product principle reflected in international trade rules, only the Mexican HFCS industry would have the right to bring a case, according to Conner.

In the July 4 meeting, SECOFI argued that it has the right to exclude the Mexican HFCS industry from consideration because of its close links to U.S. HFCS producers. SECOFI feels it is within its rights to base its action on the complaint from Mexican sugar as the closest competing industry, Conner said.

The Mexican HFCS industry is composed of two joint ventures between Mexican companies and U.S. firms, Conner said. The three U.S. partners involved in the two joint ventures are related to ADM, A.E. Staley, and CPC, some of the exporters targeted by the antidumping order, Conner said.

Following the July 4 meeting with SECOFI, CRA will express its opposition to the preliminary Mexican ruling in a reply brief due August 6 and plans to continue its opposition at a public hearing tentatively set for August 22 in Mexico City.

Should the Mexican preliminary ruling become final, CRA will "use all available avenues to fight these duties," including a possible request of a NAFTA review panel and pressure for a WTO dispute settlement proceeding, according to Conner.

The purpose of the July 4 meeting was to allow SECOFI to explain and defend the process by which the antidumping margins were determined, according to Conner. SECOFI representatives said at the meeting that they had used data that would result in the highest possible margins, Conner charged. Mexican officials could not be reached for comment this month.

CRA counsel protested that in using the highest and lowest recorded prices in the period of investigation to determine the margins, SECOFI had not followed fair and consistent procedures in making its determination.

"It was clear they used a hodge-podge of economics and a mix of company and trade journal sources for data," said Conner. "The margins they came up with are extremely high."

According to a U.S. official, the Mexican authorities used the period from January to December 1996 in order to come up with the preliminary margins imposed by the preliminary finding.

U.S. industry sources charge that the Mexican action is politically driven effort to protect the Mexican sugar industry by keeping U.S. HFCS out of Mexico.

"The Mexicans see that HFCS is now dominant in the U.S. and they fear that happening in Mexico," Conner said. "They don't want corn sweeteners taking up any more of the market."

With the antidumping action, SECOFI "is propping up a domestic industry that is on the ropes in comparison with HFCS," according to Conner.

According to Conner, Coca-Cola and Pepsi recently gave approval to their Mexican bottlers to begin partial substitution of HFCS for sugar in their soft drink production.

According to Commerce Department statistics, U.S. exports of HFCS to Mexico reached 190,610 metric tons in the 1996 calendar year, nearly three times the 1995 level of 67,423 metric tons.

GLICKMAN CALLS ON INDUSTRY TO MAKE STRONG CASE FOR BIOTECHNOLOGY

Secretary of Agriculture Dan Glickman this week warned that the U.S. could find itself in a major dispute with the European Union over genetically modified crops unless the U.S. biotechnology and agriculture industries make a strong case that these products allow expanded food production with little harm to the environment.

"This is really shaping up to be the battle royale of the 21st century," Glickman told a July 8 meeting of the Commodity Club. "The stakes for our world are simply too high -- we must be engaged to lead the debate in a positive way."

He said the industry must view the current debate over genetically altered crops as more than merely a trade issue. "If we approach it simply as [a] trade [issue], we will have a tough time changing the minds of European Parliamentary leaders and others, who do not see it our way and are not looking at the big picture," Glickman said. "If we look at it as a hunger, a sustainability, a soil protection issue, then I think it is one we can indeed win on."

These arguments will carry the day because Europe cares about environmental protection, Glickman said. U.S. industry must convince skeptics that biotechnology is not only good for them, but "good for the world," he said. To do so, it must speak out more forcefully on the environmental benefits of genetically modified products.

He said that biotechnology would allow farmers to expand world food supplies while protecting the environment and emphasized that "test after rigorous scientific test" has shown genetically altered crops to be safe. But he said the U.S. will continue to demand independent reviews of new products.

Glickman again expressed his opposition to EU proposals that genetically altered crops be separated from regular crops. "That's why as long as these products are safe, the United States will not tolerate segregation of these products."

He said the U.S. would fight against trade restraints on genetically altered crops with all "authorities" and "armaments" through the World Trade Organization and other groups, much as it fought against the EU's ban on the imports of beef raised with growth hormones.

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U.S. SEEKING BILATERAL DEAL WITH INDONESIA OVER NATIONAL AUTO POLICY

The Clinton Administration is actively seeking a bilateral settlement to a dispute with Indonesia over its trade and investment policies in the automobile sector, which the U.S., European Union and Japan have charged violate the rules of the World Trade Organization, according to informed sources. The U.S. wants Indonesia to dismantle its so-called "national auto policy," eliminate other conditions on foreign investment and ensure market access for U.S. vehicles, these sources said.

The U.S. and Indonesia had "intensive discussions" on the national auto policy early last week in Washington, according to a U.S. official. These talks produced "some progress" but "difficult issues" remain to be resolved, the official said.

The U.S. has charged that the Indonesian national car policy and other measures violate the General Agreement on Tariffs & Trade, the Agreement on Trade-Related Investment Measures agreement, the Agreement on Trade-Related Aspects of Intellectual Property and the Agreement on Subsidies and Countervailing Measures. The

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EU SIGNALS TOUGHER ROAD FOR APPROVAL OF BOEING-MD MERGER

The Federal Trade Commission's (FTC) approval of the proposed merger between the Boeing Co. and McDonnell Douglas Corp. (MDC) has not altered the EU's "serious concerns" over the merger, according to EU sources. And, signaling that EU approval of the merger may be much more difficult to secure, these sources warned that EU competition authorities will use different methods than the FTC in deciding whether to accept or reject the merger by the end of this month.

"The criteria laid down in the European merger regulation do not match in all their aspects the corresponding U.S. legislation," an EU source said. "Therefore it can never be excluded that two competition authorities reach a different conclusion in an individual case."

In a July 1 announcement, four of five FTC commissioners gave their unconditional approval to the merger.

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STATE MAY ABANDON JAPAN OPEN SKIES DEAL DESPITE PROMISES TO HELMS

The State Department last week told Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) that the U.S. is committed to reaching an "open skies" aviation agreement with Japan, which would obligate that country to lift all restrictions on the ability of foreign airlines to land in Japan and pick up passengers for third-country destinations.

But despite this commitment, the Clinton Administration is poised to accept an interim civil aviation agreement that does not require Japan to eventually move toward open skies, according to informed sources.

"Our goal is open skies, but sometimes people don't reach their goal," an informed source said. "The commitment [to Helms] doesn't mean we won't make another deal."

U.S. and Japanese negotiators are preparing to meet informally in Portland, Oregon, from July 8-9, according

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BARSHEFSKY PROMISES START OF FAST TRACK CAMPAIGN IN EARLY SEPTEMBER

U.S. Trade Representative Charlene Barshefsky late last week told business representatives that the Clinton Administration will launch a concerted effort to secure the passage of fast-track negotiating authority in early September. Barshefsky told members of the Business Roundtable (BRT) on June 27 that she would begin the campaign for fast track with a speech at the National Press Club in the second week of September.

Barshefsky's commitment did not specifically indicate whether the Administration would come forward with a concrete legislative proposal for fast-track renewal at that time, informed sources said. But an Administration official said her comments were intended to convey the point that a bill would be forthcoming in September.

The Administration push for fast track will get underway this summer with activities "across the cabinet"

continued on next page

intended to emphasize the importance of expanded trade, the Administration official said.

Industry sources said that it was impossible to gauge how committed the Administration is to expending the political capital necessary to pass fast track based on Barshefsky's comments. One source said that Barshefsky's speech was a clear signal that the pro-fast track forces within the Administration have won a clear mandate to move ahead.

But others noted that the Administration has said previously that it wants to move ahead on the issue. "I'm every bit as convinced that they'll do it in September as I was that they would do it in April or May," one private sector source said.

The Administration would seek to ensure that the duration of fast-track authority extended at least through Clinton's second term, and that fast track would expire in a non-election year, Barshefsky said.

Passing fast track will require a consensus bill that will attract both Republicans and Democrats, Barshefsky emphasized. She said she has met with 170 members on the issue, and there is some hostility among Democrats towards the business community. Barshefsky said they feel business made promises about the benefits of the North American Free Trade Agreement which were not kept, informed sources said.

Barshefsky said the key message of the Administration in the fast-track debate will be that it is not about the expansion of NAFTA but the development of agricultural trade, including with the European Union and trade with Asia. Although Chile is at the head of the line for negotiations, the U.S. should not forget about Asia, Barshefsky stressed.

Barshefsky did not specify how the Administration would seek to treat labor and environment issues, the most contentious issue between the Administration and House Republicans. She noted that the issue would be very difficult to resolve, but did not commit to a particular position, informed sources said. Barshefsky has previously testified that labor and environment issues do not necessarily have to be handled in trade agreements (Inside U.S. Trade, June 13, p. 7).

There has been relatively little discussion among business groups about how they should grapple with the labor and environment issue, and the question is not likely to come up until there is a concrete Administration proposal on the table, industry sources said. "There is nothing to be gained by the business community negotiating with itself," one source said.

Another source added that there have occasionally been hints that some companies might support the Administration position that labor and environment matters could be included in fast track, but the lack of a concrete proposal prevented the issue from coming to a head in the private sector.

The overall effort to pass fast track will be headed by the White House, Barshefsky said. But the Administration has not decided whether it will be run through the existing interagency process or whether there will be a "point person" who will coordinate the campaign on the model of the fight for NAFTA passage in 1993, an Administration official said.

Patrick J. Griffin, the White House legislative director during the first Clinton Administration, will not take the job of coordinating the Administration push on fast track, an Administration official said. Griffin had been under consideration for such a job, but was never formally offered the position, the official said (Inside U.S. Trade, June 27, p. 4).

The BRT is heading up the business campaign to secure fast track, and has formed a new coalition, America Leads on Trade (ALOT) to lobby the issue. Their work will include a media campaign, direct lobbying, grassroots work in the states and vote counts. The Wexler Group will also be part of the effort, informed sources said.

SUBSCRIPTIONS:
703-416-8500 or
Toll-free 800-424-9068

NEWS OFFICE
703-416-8539

FAX: 703-416-8543

Publisher: Joe Burey
Chief Editor: Jutta Hennig
Associate Editors: Carter Dougherty, Peter Kasperowicz, Craig Updyke
Contributing Editors: Scott Otteman, Janice Hughes
Production: Justin Goudreau, Wendy Tull, Wendell Alcorn, Lori Nicholson

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U.S., CHINA FACING UPHILL BATTLE TO FINISH WTO NEGOTIATIONS THIS YEAR

Following the latest bilateral session with China, a U.S. trade official hinted this week that it may not be possible to wrap up the negotiations for China's accession into the World Trade Organization with a market access package by a fall summit of President Clinton and President Jiang Zemin.

"I would not want to say it is not possible," the official said. "But it is going to be a tough battle." He emphasized that the issues that need to be addressed are so comprehensive and broad that wrapping up a market access package is a "lot of work."

The official said that China needs to make a new market offer that is considerably better than existing concessions to begin serious negotiations. "China is so far away [from acceptable concessions] that we need a new offer to begin substantive negotiations," the official said. This offer must be "substantially improved" from what is now

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U.S., JAPAN HAMMER OUT DETAILS OF DEREG PACT BUT DIFFER ON U.S. ROLE

The U.S. and Japan late last week hammered out the final details of a new plan aimed at reinvigorating efforts under the U.S.-Japan Framework Agreement on the deregulation of the Japanese economy. But the two sides immediately began offering substantially different interpretations of how strong the U.S. role will be in promoting specific deregulation initiatives.

"Obviously, the United States is not going to dictate to Japan what it should do, but we will have a series of negotiations to hammer out measures which we believe Japan should take to deregulate its markets in a manner that both promotes consumer choice and domestic prosperity in Japan while at the same time -- and this is the important point -- providing for increased market access for U.S. and foreign equipment and service providers," U.S. Trade Representative Charlene Barshefsky said on June 19.

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COMPUTER FIRMS FACING TOUGH SENATE FIGHT TO STALL NEW EXPORT CURBS

Major U.S. computer manufacturers are now facing the prospect that the Senate will follow the lead of the House in passing legislation that would partially roll back a 1995 initiative to decontrol certain high-performance computer exports to such countries as China. A specific amendment to the Dept. of Defense authorization bill to re-impose some controls has been delayed, but the measure stands a good chance of passage when Congress reconvenes next month, according to congressional and industry sources.

"It certainly seems like it has caught the same momentum as in the House," one industry source said. "There is a huge head of steam."

Late on June 19, Sen. Thad Cochran (R-MS) proposed an amendment to the Defense Authorization Act for fiscal year 1998 which would re-impose individual license requirements on exports of computers with a capability

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EU CONSIDERS WITHDRAWING FROM 1992 AIRCRAFT SUBSIDIES AGREEMENT

The European Union is considering withdrawing from a bilateral civil aircraft agreement aimed at curbing subsidies over allegations that the U.S. is not living up to its commitments on indirect government subsidies to the U.S. industry, according to informed sources. The two sides are scheduled to meet under the terms of the agreement in Washington July 10-11.

"There is strong pressure on the Commission... from individual governments and industry to walk away from the agreement or do something else with the same effect," a source in Brussels said.

"We have not reached the point where the EU [has] made up its mind."

At the same time, the source said it is important to have a "set of disciplines" in place that restrict direct and indirect subsidies, and that it would likely be "enough" to satisfy the EU if the two sides could agree on "the right

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way of interpreting the present agreement.”

That goal is in line with last week's statement by trade, transportation and economic ministers from the four governments supporting the Airbus Industrie consortium. The June 16 statement, released in Paris, said that bilateral U.S.-EU talks under the agreement should allow a “better implementation of the agreement.” The statement did not explicitly call for a renegotiation of the deal.

But U.S. industry sources warned that reinterpreting the agreement could have the same practical effect as renegotiating the deal, and that calling for a reinterpretation is politically easier than calling for a renegotiation.

There is “a great dissatisfaction in the [EU] member states and industry over the lopsided way the U.S. has been interpreting its obligations under the bilateral agreement,” according to the source in Brussels. But the U.S. has refuted EU claims that it is indirectly subsidizing the U.S. industry over the limits specified under the agreement through military research and development, as well as charges that it is not fully reporting those subsidies to the EU.

As a result, sources said, the EU is seriously considering withdrawing from the deal in order to “get the attention” of the U.S.

“They’ve been stringing us along with arguments that Boeing and McDonnell Douglas are receiving no benefits [through military research],” according to the source in Brussels. “This is virtually insulting in intellectual terms.”

The U.S. in a sense has already walked away from the agreement because it has ignored EU complaints over how it is implemented, he added.

He also said the EU is not considering leaving the agreement as a way of allowing EU member states to increase their direct subsidies to the companies that make up Airbus for the purpose of financing the start-up of a superjumbo passenger jet. “I have not heard any indications that any of the four governments want to spend more than is currently foreseen under the deal,” he said.

Under the 1992 agreement, direct government subsidies for the production of aircraft are limited to 33 percent, and indirect subsidies are limited to three percent of the industry's commercial turnover and to four percent of a company's commercial turnover.

The U.S. government believes that the U.S. is “scrupulously” following the spirit of the agreement, and that the EU's arguments that “any government research is going to Boeing” are “drivel,” an informed source said this week. He added that the U.S. has no reason to think the EU would withdraw from the agreement, but that if it did, financing Airbus' new superjumbo jet would be a likely motivation to do so.

“We would consider it to be in pretty bad faith that they would leave the deal to finance the first major program that has come along,” he said.

EU External Relations Commissioner Leon Brittan and U.S. Trade Representative Charlene Barshefsky clashed on the aircraft subsidies agreement at last month's meeting of trade officials in Toronto. At that meeting, Brittan said the reasons for renegotiating the agreement were “overwhelming,” while Barshefsky said the U.S. will not accept EU arguments that the deal is not being implemented by the U.S. (*Inside U.S. Trade*, May 9, p. 4).

Brittan has also warned that a proposed merger between Boeing and McDonnell Douglas threatens to throw the deal out of balance.

Regarding the EU review of that merger, an EU official said this week that Boeing will likely need to amend its sole-supplier contracts with several U.S. air carriers before the deal can be approved by EU competition authorities. But the official said a concession in this area is one of three or four that will have to be made to satisfy the EU.

Sources at Boeing this week said only the company has been in ongoing discussions with the EU, but would not discuss any specifics. One source said it would likely “take a little give on both sides” in order to permit the merger to take place, and that the company is confident the deal will go through after U.S. and EU investigations.

“Our feeling is very good at the FTC [Federal Trade Commission] level, and we still remain confident at the EU level,” a source at Boeing said this week.

Other sources added that it is unlikely that Boeing would offer substantial changes to its sole-supplier arrangements or elements of the merger until the FTC has first judged the merger. The FTC is expected to announce its decision on whether to approve the merger early next week, sources said.

On the EU side, competition authorities are expected to submit their draft decision to an advisory body made up of EU member states on July 4. This body will only give its advice on the decision, an EU official said. After that, the EU will announce its final decision on either July 23 or July 29.

Led by Competition Commissioner Karel Van Miert, the EU has warned that Boeing-McDonnell Douglas could be fined up to ten percent of the merged company's annual worldwide turnover unless substantial concessions were made to the EU. But sources have said such fines amount to a “doomsday scenario,” and that some compromise will likely be worked out.

BARSHEFSKY, BRITTAN AGREE TO EXPLORE POSSIBLE SOLUTION TO BANANA FIGHT

European Union Commissioner Leon Brittan this weekend agreed to explore a possible settlement to a long-standing dispute with the U.S. over EU import restrictions for Latin American bananas, according to informed sources. Brittan agreed to talks at the request of U.S. Trade Representative Charlene Barshefsky during a bilateral meeting at the Denver summit, these sources said.

But Brittan emphasized that he does not have a negotiating mandate from the EU member states, so that any future talks would have to be "exploratory," according to these sources. In addition, Brittan wants the talks to take place after the next step in the World Trade Organization dispute settlement process.

The WTO Appellate Body is now scheduled to review a ruling against the EU banana regime in the second or third week of July, and may make a decision as early as mid-September, informed sources said.

But an EU official warned there is no "clear agreement" between the U.S. and EU to discuss possible solutions, and that the EU would only be in a position to decide how to proceed after the Appellate Body report has issued a decision. Until then, the two sides do not know "what's good and what's not" about the EU banana regime, he said.

"The U.S. now realizes that they should have had pause before resorting to the WTO dispute settlement system," an EU official said.

Some observers believe that Barshefsky is under increasing pressure from the White House to settle the case, which fears it is a political liability because implementation of the ruling could cause a crisis in the Caribbean region. In contrast, the USTR wants to treat the case as a narrow legal trade issue, these observers said.

Barshefsky asked for the talks after the EU failed to respond to a request by President Clinton to EU Commission President Jacques Santer for negotiations (*Inside U.S. Trade*, June 13, p. 23). In a May 28 meeting, Santer did not respond directly to Clinton and his spokesman said afterwards that he did not recall Clinton even having asked for negotiations (*Inside U.S. Trade*, May 30, p. 29).

During their 45-minute meeting, Barshefsky and Brittan also discussed leghold traps, a Massachusetts law which sanctions companies which do business in Burma, and efforts to implement an international agreement curbing shipbuilding subsidies. They also discussed EU plans regarding the use of genetically modified organisms.

The EU this week filed its appeal to the ruling after it criticized every point on which the original panel ruled against the EU banana regime in its notice of appeal filed with the WTO last week (*Inside U.S. Trade*, June 20, p. 12). The EU will be supported in its attack on the panel by the Caribbean nations, which are likely to file their complaint in early July.

In a related development, House members are seeking support for a letter to President Clinton urging him to shield Caribbean nations from the negative effects of the WTO ruling, according to informed sources. The letter will likely call on President Clinton not to insist on implementing the WTO ruling, and instead letting stand the existing regime until its expiration in 2002, these sources said.

The U.S. should also exert pressure on the other complainants in the WTO proceeding not to insist on the implementation of the panel, the letter will argue. Instead, all parties should develop a workable option, which would not result in the destruction of the Caribbean banana industries.

The letter will likely repeat long-standing warnings by House members that overturning the EU regime will seriously erode U.S. national security interests by destabilizing Caribbean economies. These countries would then be more vulnerable to the aggressive overtures of international drug cartels, and the U.S. would face increased immigration from these countries, the letter is likely to argue.

The letter was initiated by Reps. Maxine Waters (D-CA), Ron Dellums (D-CA), and Marcy Kaptur (D-OH). It may be sent as early as this week.

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Contributing Editors: Scott Otteman, Janice Hughes
Production: Justin Goudreau, Wendy Tull, Wendell Alcorn, Lori Nicholson

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ADMINISTRATION CLOSE TO APPOINTING OFFICIAL TO WIN FAST-TRACK FIGHT

The Clinton Administration is gearing up for the fight to obtain fast-track trade negotiating authority this fall by preparing to nominate an official to coordinate efforts to win support for the measure in Congress. The job will be similar to the position held by now-Commerce Secretary William Daley in 1993 created to gain the congressional approval of the North American Free Trade Agreement, informed sources said.

Patrick J. Griffin, Clinton's legislative director during the initial stage of his first term, is close to being tapped for that role, these sources said. Although the final decision on Griffin has not been made, he is a top candidate, a White House official said on June 25.

Griffin has extensive ties in the Administration and good relations with Democrats on Capitol Hill, which would make him an ideal choice, several private-sector sources said.

The move to finalize the selection of a fast track coordinator comes as the Administration this week successfully cleared its other major legislative trade hurdle with the House vote extending China's most-favored nation status. Chances for progress on fast-track were boosted further this week when the U.S. Conference of Mayors endorsed fast track in a June 25 statement in Denver.

In addition, President Clinton last week stressed that renewal of fast-track authority and balancing the budget figure most prominently in the Administration's strategy to ensure that the U.S. is able to maintain its strong economy. Fast track, he said, is critical to allow the U.S. to forge trade accords with Chile and other Latin American countries.

"We are moving in the right direction," Clinton said on June 19. "In the weeks and months ahead, we have to finish the job. We've got to balance the budget. We have to give — I believe strongly — we have to persuade the Congress to give the President fast-track authority."

Clinton made his remarks in Denver, Colorado, where he was attending the Summit of the seven most industrialized countries and Russia. He said fast track must be secured to provide for easy congressional approval of free trade accords "with Chile or with Argentina or with Brazil."

Clinton said the U.S. has nothing to fear from those countries. "They are our partners in democracy," he said. "They are our partners in opportunity."

Meanwhile, Counselor to the President and Special Envoy for the Americas Thomas "Mack" McLarty, who also will play an important role in lobbying for fast track, said that the Administration should be held "accountable" to its promise to submit a bill to renew fast-track authority to the U.S. Congress by September.

"That's a specific, public timeline, to which we can, and should be, held accountable," McLarty said during a June 16 business forum.

Major U.S. business associations are also preparing to pursue fast track this fall, informed sources said. TRW CEO Joseph Gorman, who chairs the Business Roundtable's trade and investment committee, will be coordinating pro-fast track activities through his Washington, DC office representative James Christy, they said. Under Christy's coordination, the same associations which have pressed for passage of the NAFTA and the Uruguay Round agreement are expected to meet today (June 27) to discuss their strategy on fast track. The trade associations include the National Assn. of Manufacturers, the Emergency Committee for American Trade, the National Foreign Trade Council, the BRT and others.

The trade groups are expected to forge the fall campaign under the ad-hoc coalition title of America Leads On Trade (ALOT), although that name has not been given final approval, an industry source said.

At the same time, opponents of fast track also are stepping up their efforts to defeat the measure in Congress. The first battle ground is the debate over the impact of NAFTA's first three years, and the Citizens Trade Campaign kicked off the fight by releasing a critique of the regional trade accord on June 26.

Its 36-page report is titled *The Failed Experiment: NAFTA at Three Years*. It concludes that, before NAFTA is expanded, it "should be revised to include enforceable labor and environmental standards, effective adjustment assistance, financial market regulation, and protection of national safety nets for those left out of the benefits of trade."

The report says NAFTA contributed to declining U.S. wages, an expanded U.S. trade deficit and U.S. job losses. It also contains sections on NAFTA and Labor Rights, the Environment and Public Safety, and NAFTA and the Western Hemisphere.

In a related development, the Administration's congressionally mandated examination of NAFTA's first three years, due on Capitol Hill July 1, was sent in draft form from the Office of the U.S. Trade Representative, to the White House on June 24, according to a U.S. trade official. The report was being drafted by USTR with contributions from other agencies, he said.

McLarty stressed at last week's business forum that the Administration hopes to make "significant progress" on the U.S. trade agenda by the time of the Second Summit of the Americas in Santiago, Chile planned for March 1998. He called the crafting of a Free Trade Area of the Americas by the year 2005 a

"high-priority task."

Clinton is "convinced" that the U.S. must "seize the moment now" to make progress towards hemispheric integration, he said at the forum, which was sponsored by the U.S.-Venezuela program of the Johns Hopkins University's School of Advanced International Studies. A "logical stepping stone on the way" towards the FTAA is a comprehensive free trade accord with Chile, he said.

McLarty earlier this month said that the Administration is hoping not only to have secured congressional passage of fast track by year end, but to have begun free-trade discussions with Chile by the time of the Summit. "It is certainly our intent to have that legislation in place hopefully with discussion moved with Chile by the time the Santiago Summit is convened in March 1998," he told reporters June 4 in Lima, Peru.

But it is still too early to "prejudge" what kind of scenario will unfold in the coming months, he told reporters after the June 16 forum. He declined to say whether the Administration believes it needs fast track before Santiago to gain approval for a comprehensive approach to FTAA negotiations, or whether it can use any agreement reached at the Summit on a comprehensive approach to the FTAA to build support for fast track in the U.S.

"That is a few months off," McLarty said. "What is clearly before us now is we are committed to moving forward with broad fast track legislation," he said.

The Santiago summit will be organized around four primary initiatives for Western Hemispheric nations, McLarty said during the June 16 forum. Those four areas are: increasing trade and economic integration, alleviating poverty, strengthening democracy and human rights and — as the Summit's centerpiece — bolstering education, he said.

"The Summit will be a broad agenda, emphasizing education but clearly economics and trade will be at the heart of that," he told reporters after his speech. Foreign ministers of the region agreed during a June 1 meeting to an agenda outline for the Santiago gathering, said McLarty. He chaired the meeting with Chilean Foreign Affairs Minister Jose Miguel Insulza.

BRITTAN OFFERS FLEXIBILITY IN WTO ACTION ON MASSACHUSETTS LAW

A confidential letter from European Union External Relations Commissioner Leon Brittan to his U.S. counterpart announcing the EU decision to challenge a Massachusetts law on Burma sanctions in the World Trade Organization also reveals that the EU would rather settle the dispute bilaterally. The EU requested formal consultations on the law on June 20.

Brittan told U.S. Trade Representative Charlene Barshefsky in a June 19 letter, reprinted below, that the EU would drop its WTO challenge once changes are made to the Massachusetts law, which restricts foreign companies from winning certain state contracts if they do business in Burma.

"Let me stress that it remains the Community's objective to reach a mutually acceptable solution of this problem," Brittan said. "The Community will be prepared to suspend proceedings in the WTO as soon as the U.S. Administration takes appropriate steps to secure amendment of the Massachusetts legislation on Burma so that it conforms with U.S. international obligations."

Brittan added that he is "encouraged" by U.S. efforts that resulted in an amendment to a similar Massachusetts initiative aimed at preventing companies from doing business in Indonesia by restricting them from state contracts. That amendment exempted contracts above the value threshold set by the Government Procurement Agreement from the scope of the Massachusetts law.

"I hope to see similar exceptions made by other sub-federal authorities who have adopted or are considering adopting selective purchasing laws," Brittan said.

But despite that progress, Brittan emphasized that the EU has already put off a decision to seek formal WTO consultations for four weeks at the request of the U.S. in the expectation that this delay could lead to "tangible progress" in the dispute over the Massachusetts Burma law.

"On this issue it would not appear that progress has been made and there are no indications that Massachusetts is considering amending this law," Brittan wrote in the letter. "The Community therefore now considers that it has no option but to pursue this matter formally through the WTO."

The decision to go forward with the WTO challenge was made when EU member states unanimously backed the Commission's decision at a June 18 meeting of the 113 Committee, according to an EU official.

Brittan's letter was largely a response to a letter Barshefsky sent to him earlier this month, in which she outlined what steps the U.S. is taking to curb the proliferation of similar state sanctions laws and to work with Massachusetts officials to amend the law. Barshefsky also warned that taking the dispute to the WTO would complicate those efforts (*Inside U.S. Trade*, June 13, p. 4).

In a June 20 public statement, Barshefsky said she was "surprised and very disappointed" in the decision to request WTO consultations." The two sides have not yet set a date for consultations, sources said at press time.

"The decision to take this matter to the WTO will not help the situation at all," she said about the public statement. "This is a counterproductive step, particularly in light of efforts that the United States and the EC have both taken to exert pressure on the repressive Burma regime." Barshefsky also noted that in a June 12 resolution, the European Parliament urged the Commission not to request WTO consultations. The Parliament expressed support for measures penalizing Burma for its human rights abuses.

A U.S. official said this week that the U.S. has still not accepted EU assertions that the Massachusetts law violates the GPA, and would "certainly defend" the law if a negotiated settlement cannot be reached and the EU insists on a dispute settlement panel.

Sources have said that Massachusetts legislators are unlikely to agree to change the law unless they are forced to do so by the federal government. But the U.S. is hesitant to make demands of the state for fear of entering into a controversial dispute over state's rights (*Inside U.S. Trade*, May 23, p. 6).

In its consultation request to the U.S. officials, the EU argued that the Massachusetts law is a violation of the GPA because that state voluntarily agreed to be covered by that agreement in the Uruguay Round. Specifically, "though not necessarily exclusively," the EU charged that the law violates Art. VIII (b) because it imposes conditions on foreign companies not directly related to the contract, and Arts. X and XIII because it imposes criteria related to political considerations.

Specifically, the Massachusetts law penalizes U.S. and foreign companies doing business in Burma by adding a percentage of the value of the contract onto the bids those companies submit to the state.

The EU's notification letter added that the Massachusetts law appears to nullify and impair EU benefits under the GPA since it acts as a "de facto reduction of the U.S. sub-federal offer under the GPA." The letter also noted that the EU's request for consultations is "without prejudice to the potential pursuit of actions under the General Agreement for Trade in Services."

In a related development, sources said this week that USA Engage, an industry group formed to fight against the proliferation of U.S. unilateral sanctions, is in the midst of a legal analysis to determine whether it should mount a constitutional challenge to the Massachusetts law.

Brittan Letter on Massachusetts Burma Law

Dear Charlene,

Thank you for your letter of 5 June 1997 setting out the steps which the US Administration has taken and continues to take to seek to address the concerns the Community has raised about the Massachusetts law on Burma and other similar initiatives.

I emphasise that we share common concerns about the situation in Burma. This is demonstrated in the EU's Common Position on Burma adopted on 25 October 1996, and by the fact that the EU has withdrawn Burma's GSP preferences. Our objections to the Massachusetts law relate to what we consider to be a breach of US international obligations.

I am encouraged by the news, which we have also heard from other sources, that a Massachusetts legislative Committee has reported favourably on an amendment to the draft Massachusetts legislation on Indonesia which would exempt procurement contracts of values above the GPA thresholds from the scope of the legislation. This is a welcome development. I hope to see similar exceptions made by other sub-federal authorities who have adopted or are considering adopting selective purchasing laws.

Nevertheless, you will recall that in the Commission's letter of 26 March 1997 to your Geneva Delegation, we indicated that, in postponing by four weeks our request for WTO consultations, we expected "tangible progress" within that period on the issue of the Massachusetts legislation on

Burma. On this issue it would not appear that progress has been made and there are no indications that Massachusetts is considering amending this law, in spite of the efforts you have been making, which I greatly appreciate.

The Community therefore now considers that it has no option but to pursue this matter formally through the WTO. I have instructed my officials to make arrangements to launch a request for consultations in Geneva based on Article XXII of the Agreement on Government Procurement in conjunction with Article 4 of the Understanding on Dispute Settlement.

Let me stress that it remains the Community's objective to reach a mutually acceptable solution of this problem. The Community will be prepared to suspend proceedings in the WTO as soon as the US Administration takes the appropriate steps to secure amendment of the Massachusetts legislation on Burma so that it conforms with US international obligations. We would, of course, terminate the proceeding once the legislation is suitably amended.

Thank you for all the efforts you have made. I recognise that these are serious. I urge you to continue them and I trust that this much delayed decision will not have the adverse effects you fear.

Yours,
Leon

EU Request for WTO Consultations

Geneva 20/6/1997

Mr. Andrew Stoler
Deputy Head of Mission
Permanent Mission of the United States
Avenue de la Paix, 1-3
1202 GENEVA

Dear Mr. Stoler,

My authorities have instructed me to request consultations with the United States pursuant to Article XXII of the Government Procurement Agreement (GPA) and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes regarding the Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar) enacted by the Commonwealth of Massachusetts on 25 June 1996 (Chapter 130 of the Acts of 1996). This Act provides, in essence, that public authorities of the Commonwealth of Massachusetts are not allowed to procure goods or services from any persons, whether US or foreign, who do business with Burma (Myanmar).

The European Communities consider that, as Massachusetts is covered under the US offer to this Agreement, the measure described above violates the obligations of the US under the Government Procurement Agreement: specifically, the European Communities are of the view that the Massachusetts legislation contravenes, though not necessarily exclusively, the following provisions of the GPA: Article VIII (b), given that it imposes conditions on a tendering company which are not essential to ensure the firm's capability to fulfill the contract; Article X as it imposes qualification criteria based on political

rather than economic considerations, and Article XIII to the extent the statute allows the award of contracts to be based on political instead of economic considerations.

This measure also appears to nullify or impair the benefits accruing to the European Communities under this Agreement, particularly as it limits the access of EC suppliers to procurement by a sub-federal authority covered by the Government Procurement Agreement in such a way so as to result in a de facto reduction of the US sub-federal offer under the GPA.

The European Communities additionally consider that this measure has the effect of impeding the attainment of the objectives of the GPA, including that of maintaining a balance of rights and obligations.

The European Communities are also very concerned by the recent proliferation of similar initiatives taken or proposed by Massachusetts and other sub-federal authorities.

This request for consultations is without prejudice to the potential pursuit of actions under the General Agreement for Trade in Services.

I look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.

Yours Sincerely,
R.E. Abbott
Ambassador

cc: Mr. Celso Lafer, Chairman of the Dispute
Settlement Body
Mr. Otten, Director, Intellectual Property and
Investment Division, WTO

HOUSE GROUP UNVEILS BILL TO PROMOTE DEMOCRATIC CHANGE IN CHINA

Two key members of the House of Representatives this week unveiled a package of legislation aimed at developing non-trade measures that will promote the rule of law in China, including a "strictly voluntary" code of conduct for U.S. firms doing business in China. Companies adhering to such a code would receive preference for U.S. trade missions to China, according to the proposal.

It was developed by Reps. John Porter (R-IL) and David Dreier (R-CA) as an alternative to revoking China's most-favored nation status. The bill will go through normal committee action before the House can vote on it, congressional sources said.

"The annual MFN debate has become a catch-all for Congress to vent its anger and frustration about Chinese intransigence and Administration inattention to the serious human rights problems in China," Porter said in a June 23 statement. "The China Human Rights and Democracy Act offers members the opportunity to take a strong stand against the policies of the Chinese government and a strong stand in favor of increasing the rights and freedoms of the Chinese people."

The legislation, which had not been introduced at press time, will be co-sponsored by members including Reps. Jim Kolbe (R-AZ), Bob Matsui (D-CA) and Matt Salmon (R-AZ), congressional sources said. "We have strong bipartisan support for this legislation and we will make every effort to move it through the legislative process," Porter said.

The bill includes seven categories of measures, according to a summary reprinted below. The seven areas are expanding Chinese-language broadcasting to China, democracy building through increased funding of non-governmental organizations working in China, increased reporting on human rights, military and intelligence matters, stepped-up exchanges in many areas, and visa denials for human rights abusers and proliferators. It would also include a proposal to establish a Commission on Security and Cooperation in Asia which would be modelled on the Helsinki Commission for human rights, according to the summary.

The bill is likely to go through the normal legislative process, but events could change that scenario. One

congressional source cautioned that if China initiates a severe crackdown on Hong Kong following the transition to Chinese sovereignty on July 1, the Porter-Dreier legislation will be "on the floor in a second."

The House leadership has not offered an endorsement of any particular legislation, according to informed sources.

The legislation will likely be referred exclusively to the House International Relations subcommittee on Asia and the Pacific chaired by Rep. Doug Bereuter (R-NE). Congressional sources said the most likely scenario would be to have hearings in July followed by concrete action after the August recess. To keep to that timetable, members would have to have "a pretty good idea of where we are headed" in July, one source said.

One source added that the Clinton Administration would likely oppose any effort to move legislation in October or November around the time of Chinese President Jiang Zemin's visit to Washington. The Clinton Administration has indicated its willingness to consider the legislation but has not offered a firm commitment one way or the other. President Clinton has signalled his support for increased funding for Radio Free Asia (*Inside U.S. Trade*, June 20, p. 1).

Business groups are not likely to become heavily involved in the legislation unless it shows evidence of moving, according to informed private-sector sources. Companies involved in U.S.-China trade and investment strongly resisted the development of a non-binding code of conduct proposed by the Administration in 1993, several sources pointed out.

The unveiling of the bill came one day before the House voted decisively in support of Clinton's decision to extend MFN to China for an additional year. A resolution introduced by Rules Committee Chairman Gerald Solomon (R-NY) to disapprove the move failed by a 173-259 vote. The resolution of disapproval failed last year by an overwhelming 141-286 vote.

Among Republicans, 66 percent (147 members) voted in support of MFN, while 51 percent (112 members) of Democrats did so. Among members who voted last year, 24 Republicans and 11 Democrats changed their votes to support the anti-MFN forces this year. Freshmen members -- 76 percent of Republicans and 62 percent of Democrats -- supported MFN overwhelmingly.

The biggest surprise of the vote for MFN supporters was that so many Republicans supported the President's decision, congressional sources said. Lobbying by the religious right was "neutralized" in the final weeks by the emergence of Christian groups who support MFN for China, a development which business groups strongly supported. In particular, an open letter late last week by Rev. Billy Graham, a prominent Christian missionary, also helped "stem the tide," one source said.

Several sources argued that the straight up-or-down vote this year without any accompanying legislation or resolution deprived the pro-MFN side of votes it would otherwise have won.

Rep. Nancy Pelosi (D-CA), a longtime opponent of MFN, declared victory despite the final vote. Pelosi argued in a June 24 press release that MFN opponents have "increased the awareness in Congress and among the American people" about trade, proliferation, human rights and religious persecution, and that this year's debate was "a breakthrough" in a longer campaign.

"This is a long-term fight," Pelosi said. "We are emboldened by the sacrifice thousands have made to freedom and democracy in China and live to fight another day."

In a related development, House Minority Leader Richard Gephardt (D-MO) this week urged Secretary of State Madeleine Albright to raise the fate of Chinese dissident Wei Jingsheng during her upcoming visit to Hong Kong, after receiving reports that he was severely beaten in prison. "I urge you to personally raise this issue at the highest levels during your upcoming trip to Hong Kong and to use all diplomatic and other available resources to fight for Wei's safety and release," Gephardt said in a June 26 letter. "I look forward to being personally briefed by you on this matter."

Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) criticized the House vote in a June 24 floor statement as a missed opportunity to "send a strong signal" that the Administration's engagement policy has failed. He also said that his committee would hold hearings on alternative "legislation to deal with the serious problems in the United States-China relationship" and on the "commercial activities of the People's Liberation Army" in the U.S.

"I do hope that senators who have asserted that there is a better way to influence China than revoking MFN will work with the Foreign Relations Committee in finding that better way," Helms said.

Congressional sources expressed strong doubt that the vote would help pave the way for permanent MFN next year, a widely-held expectation following the vote for extension of MFN last year. "It all comes down to what China has done in the previous year," one congressional source said. "Every arms shipment and every dissident counts."

Permanent MFN is not likely to gain consideration until China completes the process of acceding to the World Trade Organization, congressional sources said. The "urgency" of permanent MFN will not be present without WTO accession, and the market access package that accompany WTO accession would be needed to convince members that permanent MFN is worthwhile, these sources said.

Summary of Porter-Dreier Bill

Porter/Dreier China Policy Legislation

Broadcasting to China

- The authorization level for international broadcasting would be increased by \$40 million by FY 1998, and \$30 million in FY 1999 in order to achieve 24-hour broadcasting into China in multiple languages.

Democracy Building in China

- The authorization for the National Endowment for Democracy would be increased by \$5 million, for the promotion of democracy, civil society and the development of the rule law in China.
- Funds from the East Asia-Pacific Regional Democracy Fund would be available to promote democracy, civil society, the development of the rule of law in China.

Reporting on human rights and other matters

- A new report on human rights conditions, including religious persecution, the development of democratic institutions, and the rule of law in China, would be produced annually.
- A Prisoner Information Registry would be created to compile information on all political prisoners, prisoners of conscience and prisoners of faith in China.
- Funds would be provided to non-governmental organizations presently engaged in monitoring activities.
- The number of human rights officers assigned to the U.S. Embassy in Beijing would be increased. Ideally, there would be one human rights officer in the embassy for every commercial/trade officer.
- An annual report regarding Chinese intelligence activities directed against U.S. interests would be required.
- The appropriate agency would publish and disseminate a

list of Chinese commercial enterprises or joint ventures affiliated with the People's Liberation Army.

Voluntary Code of Conduct for U.S. Business in China

- The Code of Conduct would be strictly voluntary. Companies adopting the code will be given preference for participation in trade missions to China.

Educational, Cultural, Scientific, Agricultural, Military, Legal, Political and Artistic Exchanges between the U.S. and China.

- Agencies of the U.S. Government which currently engage in such exchanges would initiate or expand these programs with regard to China.
- Congress would establish a legislative exchange program with the National Peoples Congress of China along the lines of the current exchange program with Mexico.
- Congress would encourage establishment of a federally chartered not-for-profit organization, funded by private donations, dedicated to funding exchanges between the U.S. and China.

No visas for persons implicated in human rights abuses and proliferation of weapons or other proprietary technologies

- Persons covered under this exclusion would include those involved in religious persecution, coercive family planning policies and the Tiananmen Square crackdown.

Propose the establishment of a Commission on Security and Cooperation in Asia, modelled on the Helsinki Commission

- Such a commission would serve to promote understanding among member nations and provide a clearinghouse for U.S. policy with regard to the region.

House China MFN Vote Results

AYES — 173

Abercrombie
Aderholt
Barcia
Barr
Bartlett
✓ Barton
✓ Berman
Bishop
Blunt
✓ Bonior
✓ Bono
Borski
Brown (OH)
Bunning
✓ Burr
✓ Burton
✓ Cardin
Carson
Chambliss

Chenoweth
Clay
Clayton
Clyburn
Coburn
Collins
Condit
Cook
Costello
Coyne
Crapo
Cubin
Cummings
Danner
Davis (IL)
Deal
✓ DeFazio
✓ Delahunt
DeLauro
Dellums
Diaz-Balart

Dickey
Doolittle
Duncan
Ehrlich
Engel
Ensign
Evans
Everett
Forbes
✓ Fowler
✓ Frank (MA)
✓ Ganske
✓ Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodling
Gordon

Graham
Gutierrez
Hall (OH)
Hastings (FL)
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hobson
Horn
Hostettler
Hoyer
Hunter
Hyde
Inglis
Jackson (IL)
Jones
Kaptur
Kasich
Kennedy (MA)

Kennedy (RI)	Molinari	Ros-Lehtinen	Stupak
Kildee	Mollohan	Rothman	Taylor (MS)
Kilpatrick	✓ Myrick	Royce	Thompson
King (NY)	✓ Nadler	Sabo	Tiahrt
Kingston	Norwood	Sanchez	Tierney
Klink	Obey	Sanders	Torres
Klug	Olver	Sanford	Traficant
Kucinich	Owens	Scarborough	Upton
Lantos	Pallone	Schaffer, Bob	Velazquez
Lewis (GA)	Pappas	Scott	Vento
Lewis (KY)	Parker	Sensenbrenner	Visclosky
Lipinski	Pascrell	Sisisky	Wamp
LoBiondo	Paxon	Smith (MI)	Waters
Maloney (CT)	Payne	Smith (NJ)	Watt (NC)
Markey	Pelosi	Smith, Linda	✓ Watts (OK)
Mascara	Pickering	Solomon	✓ Waxman
McCarthy (NY)	Pombo	Souder	Weldon (FL)
McInnis	Rahall	Spence	Wexler
McIntyre	Riley	Spratt	Weygand
McKinney	✓ Rivers	Stark	Wolf
Menendez	✓ Rogan	Stearns	Woolsey
Miller (CA)	Rogers	Stokes	Wynn
Mink	Rohrabacher	Strickland	

NOES — 259

Ackerman	Buyer	English	Herger
Allen	Callahan	Eshoo	Hill
Andrews	Calvert	Etheridge	Hinojosa
Archer	Camp	Ewing	Hoekstra
Armey	Campbell	Farr	Holden
Bachus	Canady	Fattah	Hooley
Baesler	Cannon	Fawell	Houghton
Baker	Capps	Fazio	Hulshof
Baldacci	Castle	Filner	Hutchinson
Ballenger	Chabot	Flake	Istook
Barrett (NE)	Christensen	Foglietta	Jackson-Lee (TX)
Barrett (WI)	Clement	Foley	Jefferson
Bass	Coble	Ford	Jenkins
Bateman	Combest	Fox	John
Becerra	Conyers	Franks (NJ)	Johnson (CT)
Bentsen	Cooksey	Frelinghuysen	Johnson (WI)
Bereuter	Cramer	Frost	Johnson, E. B.
Berry	Crane	Furse	Johnson, Sam
Bilbray	Cunningham	Gallegly	Kanjorski
Bilirakis	Davis (FL)	Gekas	Kelly
Blagojevich	Davis (VA)	Gilchrest	Kennelly
Bliley	DeGette	Gingrich	Kim
Blumenauer	DeLay	Goodlatte	Kind (WI)
Boehlert	Deutsch	Goss	Kleczka
Boehner	Dicks	Granger	Knollenberg
Bonilla	Dingell	Green	Kolbe
Boswell	Dixon	Greenwood	LaFalce
Boucher	Doggett	Gutknecht	LaHood
Boyd	Dooley	Hall (TX)	Lampson
Brady	Doyle	Hamilton	Largent
Brown (CA)	Dreier	Hansen	Latham
Brown (FL)	Dunn	Harman	LaTourette
Bryant	Edwards	Hastert	Lazio
	Ehlers	Hastings (WA)	Leach
	Emerson	Hayworth	Levin

Lewis (CA)	Moran (VA)	Regula	Stabenow
Linder	Morella	Reyes	Stenholm
Livingston	Murtha	Riggs	Stump
Lofgren	Neal	Rodriguez	Sununu
Lowey	Nethercutt	Roemer	Talent
Lucas	Neumann	Roukema	Tanner
Luther	Ney	Roybal-Allard	Tauscher
Maloney (NY)	Northup	Rush	Tauzin
Manton	Nussle	Ryun	Taylor (NC)
Manzullo	Oberstar	Salmon	Thomas
Martinez	Ortiz	Sandlin	Thornberry
Matsui	Oxley	Sawyer	Thune
McCarthy (MO)	Packard	Saxton	Thurman
McCollum	Pastor	Schaefer, Dan	Towns
McCrery	Paul	Schumer	Turner
McDade	Pease	Serrano	Walsh
McDermott	Peterson (MN)	Sessions	Watkins
McGovern	Peterson (PA)	Shadegg	Weldon (PA)
McHale	Petri	Shaw	Weller
McHugh	Pickett	Shays	White
McIntosh	Pitts	Sherman	Whitfield
McKeon	Pomeroy	Shinkus	Wicker
McNulty	Porter	Shuster	Wise
Meehan	Portman	Skaggs	Young (AK)
Meek	Poshard	Skeen	Young (FL)
Metcalf	Price (NC)	Skelton	
Mica	Pryce (OH)	Slaughter	NOT VOTING — 3
Millender-McDonald	Quinn	Smith (OR)	
Miller (FL)	Radanovich	Smith (TX)	Cox
Minge	Ramstad	Smith, Adam	Schiff
Moakley	Rangel	Snowbarger	Yates
Moran (KS)	Redmond	Snyder	

HOUSE REPUBLICANS DEMAND UPDATE ON HELMS-BURTON IMPLEMENTATION

Key House Republicans last week charged the Clinton Administration with delaying the implementation of the Helms-Burton law, and demanded that the State Dept. provide a detailed update to Congress on its progress in carrying out the controversial law.

In a June 19 letter to Assistant Secretary of State for Inter-American Affairs Jeffrey Davidow, reprinted below, five Republicans specifically demanded that State describe the status of the implementation of Title IV, which requires the U.S. to deny visas to executives of foreign companies found to be trafficking in U.S. property expropriated in Cuba.

The letter was signed by House International Relations Committee Chairman Ben Gilman (R-NY) and House Government Reform and Oversight Committee Chairman Dan Burton (R-IN). Chairman of the International Relations subcommittee on International Economic Policy and Trade Ileana Ros-Lehtinen (R-FL), and Reps. Lincoln Diaz-Balart (R-FL) and Bill McCollum (R-FL) also signed on.

Some members of Congress have charged that State has purposefully delayed the implementation of Title IV against EU companies in order to avoid prompting the EU to return to its challenge of Helms-Burton in the World Trade Organization. EU member states have said that if Title IV is implemented against an EU company, they would abandon a bilateral understanding aimed at arriving at disciplines on expropriated investments resolve the Helms-Burton dispute.

Specifically, the letter charges that implementation of Title IV against STET, an Italian telecommunications concern, was slowed while STET tried to work out a settlement by June 1 with the U.S. company that formerly owned property in Cuba now used by STET. That company is International Telephone and Telegraph (ITT), not American Telephone and Telegraph, as was incorrectly reported in *Inside U.S. Trade* (*Inside U.S. Trade*, May 30, p. 1).

"[I]t is not the intent of Title IV of the Cuban Liberty and Democratic Solidarity Act to extend grace periods or to make exceptions to foreign firms wishing to attempt to resolve property claims or negotiate deals with U.S.

claimants who lost property to the Castro dictatorship," the letter said. The letter also noted that State made "no reference to such a 'grace period'" in its guidelines for implementing Title IV last year.

The letter asked for a written response to questions regarding the status of the STET investigation, whether an interagency panel has been asked to review the case, and why Title IV has not yet been implemented against STET. The letter also asked for unclassified lists of each company being investigated under Title IV, as well as status reports and explanations of why those investigations are or are not advancing.

Finally, the letter warns that "exhaustive congressional oversight" is expected to follow this request for information. Sources said late last month that congressional frustration over the implementation of Title IV could lead to hearings and congressional subpoenas for any White House documents instructing State to slow the implementation of the law.

At press time, sources said State was still preparing a response to the letter.

McCollum has also warned that he might introduce a bill that would restrict the Administration's ability to suspend Title III of Helms-Burton if President Clinton again decides to suspend Title III next month. Clinton has until July 15 to suspend Title III or it take effect by August 1.

Members of Congress have criticized the Administration for not demanding increased effort from U.S. trading partners toward ceasing investment in Cuba and ending Castro's regime before agreeing to suspend Title III. If allowed to take effect, Title III would allow U.S. entities to claim damages in U.S. courts against foreign companies that traffic in expropriated property in Cuba (*Inside U.S. Trade*, May 16, p. 1).

House Letter on Helms-Burton

June 19, 1997

The Honorable Jeffrey Davidow
Assistant Secretary of State for InterAmerican Affairs
U.S. Department of State
Washington, D.C. 20520

Dear Secretary Davidow:

We are writing to ask of your plans to cite European firms under Title IV of the Cuban Liberty and Democratic Solidarity Act. We understand that cases against several European firms, including the Italian telecommunications firm STET, have been completely developed but are awaiting your determination.

We are concerned that the Department of State has delayed Title IV action against European firms. According to information provided by your Department, the STET investigation has been fully developed, yet STET has been quietly given a "grace period" to work out a deal with U.S. claimant ITT regarding the stolen property STET illegally acquired. We understand that the secret STET-ITT negotiations have not gone well, and the "grace period" was due to expire on June 1.

Mr. Secretary, as you are surely aware, it is not the intent of Title IV of the Cuban Liberty and Democratic Solidarity Act to extend grace periods or to make exceptions to foreign firms wishing to attempt to resolve property claims or negotiate deals with U.S. claimants who lost property to the Castro dictatorship. You made no reference to such a "grace period" in your notice, "Guidelines for Implementing Title IV of the Cuban Liberty and Democratic Solidarity Act," which was published by you in the Federal Register (Vol. 61, No. 117) on June 17, 1996.

Furthermore, Ambassador Stuart Eizenstat has assured us that the April 11 agreement deferring action at the WTO for six months does not preclude action against European firms under Title IV. The agreement specifically "notes the President's continuing obligation to enforce Title IV" while the bilateral US-European Union negotiations are proceeding.

As the official to whom the Secretary of State has delegated authority to implement this section, we consider you personally responsible for the faithful execution of U.S. law. With this in mind, we request that you provide us with a written response to the following questions:

1. What is the status of the Department's inquiry into "trafficking" in confiscated property by STET? Has an interagency panel been asked to review the information regarding this case? If so, what were the findings and rationale of the panel's decision? If not, why has such a review not been conducted, and when is such a review scheduled?

2. Referring to the standard set forth in paragraph 5 of the above mentioned "Guidelines," is it your determination that "facts or circumstances exist that would lead the Department reasonably to conclude that STET or any other firm have engaged in confiscation or trafficking after March 12, 1996"? If so, have each of these firms been duly notified of this determination, and have corporate officers, principals, or shareholders with a controlling interest (and the spouses, minor children, or agent of such persons) been excluded as required by law? Please provide detailed explanations of your reasons for failing to enforce the law in each such case under review by the Department.

In addition, we ask that you provide a written report that contains the following:

(1) an unclassified list, by economic sector, of the number of entities under review pursuant to this section as of June 1, 1997;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to exclusion under Title IV as of June 1, 1997;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to this section as of June 1, 1997;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each exclusion under Title IV.

We appreciate your prompt personal attention to this matter. We expect that this request will be followed by exhaustive congressional oversight.

Sincerely,
Rep. Lincoln Diaz-Balart (R-FL)
Rep. Bill McCollum (R-FL)
Rep. Benjamin A. Gilman (R-NY)
Rep. Ileana Ros-Lehtinen (R-FL)
Rep. Dan Burton (R-IN)

EU MEMBERS TO EVALUATE U.S. OFFERS FOR SETTling RULES OF ORIGIN FIGHT

The European Commission has asked member states to assess by July 4 several U.S. proposals to settle a dispute over changes in the U.S. rules of origin that impair EU exports to the U.S. market, according to EU sources. If member states accept the U.S. offers for settling the dispute, the EU would not press its threatened case before the World Trade Organization, these sources said.

In addition to seeking comments from member states, the Commission is conducting its own analysis of various parts of the U.S. offers, according to an EU source.

Until that process is complete, the EU does not have the "full picture" on how it will respond to the U.S. offers, he said. But he did say that the U.S. offers only attempt to deal with the problems caused by the 1996 change in rules of origin, not with the cause of the problem, i.e. the rules themselves. It offers merely "ad hoc" solutions, not a approach to the entire problem, he said.

"This approach is inappropriate for the difficulties faced by the Community," an informed EU source said. "What was free trade has passed into an area of difficulty and complication caused by labelling requirements, quota requirements, etc. which Community exports to the U.S. simply should not face."

For example, under the 1996 U.S. rules of origin change, fabric printed and dyed in the EU is considered the product of the country in which the grey fabric is woven. As such it is subject to the quota restraints that this country has negotiated with the U.S. Similarly, silk scarves designed and printed in the EU have to be labeled as the product of China, which the EU charges damages consumer perception about the value of the product.

Earlier this month, the U.S. offered to remove restraints on grey fabric from Egypt and Turkey that is printed and dyed in the EU with a special discharge printed process (*Inside U.S. Trade*, June 13, p. 5). The offer did not extend to printed and dyed fabrics generally, informed sources pointed out.

In addition, the offer covered only three categories of cotton fabrics, and not flat goods such as bed sheets and tablecloths, they said.

In addition, the U.S. has offered the EU to push for a narrow legislative change in marking requirements that would allow silk scarves to be labeled as a product dyed and printed in Italy without having to mention China (*Inside U.S. Trade*, May 30, p. 7). Before the 1996 rules of origin change, the scarves were labeled Made in Italy.

To allow the free flow of certain synthetic fabrics discharge printed in the EU, the U.S. has offered to strike quota restraints from the bilateral textiles agreements the U.S. has with three Asian suppliers.

These proposals offer a "degree of movement" but do not address important issues adequately or at all, the EU source said. In addition, they are not broad enough in scope, he said.

Under the marking proposal, EU companies have to kinds of labeling requirements for products that sell in the U.S. and elsewhere, the source said. They also do not have the same option as the U.S. industry under the same circumstances, which can label products Made in the USA from imported fabrics, sources said.

Moreover, the U.S. approach does not give EU products adequate protection if the U.S. chose to take safeguard or antidumping actions against countries where the fabric originated in the future, the source said.

The U.S. and EU are scheduled to meet in mid-July for formal consultations in the WTO and several countries have requested to join the consultations. They include Japan, India, Pakistan, Hong Kong, Honduras and Switzerland, the Dominican Republic, Canada and Costa Rica, the EU source said.

WTO MEMBERS POISED FOR FIGHT OVER AD/CVD LAW IN COMPETITION GROUP

Members of the World Trade Organization are poised for a fight over whether a working group on competition policy set up at last year's Singapore ministerial will include the contentious issue of trade remedy law, according to informed sources. The group's mandate is to explore the relationship between trade and competition policy, but key trading partners this month made vastly different proposals for the work program of the group scheduled to meet for the first time in July.

In proposals circulated to WTO members, countries including Japan and Korea have pressed to include an examination of antidumping and countervailing duty law in the group's work program, according to these sources. In its paper, the EU has called for work that would lead to the adoption of WTO rules on competition policy, these sources said.

The U.S. has maintained its stance that any WTO work on competition issues should be strictly "educational," informed sources said. In a paper distributed to WTO members in advance of the first group's first meeting on July 7-8, the U.S. called for first reviewing existing WTO rules that address competition and then looking at national competition laws covering cartels, distribution system, monopolization and mergers.

The international dimension of competition policy could be addressed by looking at existing agreements and cooperative mechanisms as well as areas in which domestic deregulation might be important for further trade liberalization. These steps would "lay the groundwork for a discussion" of the trade competition link, the U.S. wrote in its paper.

"The Americans have moved very little from the pre-Singapore era," one trade official said.

Other submissions for the WTO group came from the European Union, Japan, Canada, Korea, Pakistan, Peru and Nigeria, according to informed sources.

WTO members who favor discussing trade remedy law in the group have been meeting informally in Geneva to consolidate support for this approach, according to informed sources. This group includes Japan, Korea, Hong Kong and some other Asian and African countries. The "basic point" of the meetings has been to ensure that as many members as possible express support for looking at trade measures which affect competition, including antidumping and countervailing duty law, as well as safeguards.

The Japanese submission calls for a stocktaking of existing rules in the WTO and a broad analysis on the interaction between trade and competition policy. It also suggests "case studies" on how trade and competition issues are handled in regional trade agreements.

Under the Japanese plan, looking at the interaction between trade and competition would "inevitably" turn to the question of trade remedy law, a Japanese official said. Trade remedy measures are "not a peripheral issue" because competition policy is devoted to consumer interest, whereas trade remedy addresses producer interests, the official argued.

"We want to make sure the educational process will be a complete one," a Japanese official said. "We are not trying to rush into a treaty-making exercise."

Korea tackled the trade remedy law issue more directly in its submission, and called for an analysis of trade measures with an "anticompetitive bias," according to informed sources. It also suggested that WTO members compare the desirability of covering the issues in Article VI of the General Agreement on Tariffs & Trade, which lays out antidumping rules, to dealing with them as part of competition rules.

The EU emphasized in its paper the desirability of considering WTO rules on competition policy. It suggested that the working group focus first on identifying the main anti-competitive practices that restrict trade and examine the feasibility of having all WTO members adopt national competition laws.

Then, the WTO group could identify common principles that could serve as the core of an international agreement, and consider how WTO dispute settlement provisions could be applied to any new competition rules, the EU argued.

Members of Congress are currently considering ways in which they might give "guidance" to the Clinton Administration on how to approach WTO competition work so that it does not impinge on trade remedy law, according to a congressional source. Options being considered include a non-binding resolution or a congressionally mandated study on private anticompetitive practices, the source suggested.

"The U.S. needs to spell out what it believes private anticompetitive practices are," he said.

One private-sector source following the issue expressed the fear that the U.S. does not have a "coherent exit strategy" if the working group ever opens the question of changes to WTO rules. The U.S. "may not have the stomach" to push through rules attacking private anticompetitive practices, but countries who want to curb U.S. use of trade remedy law "definitely have the stomach" to press for changes in that area, he charged.

EU BLOCKING MINORITY FORCES DELAY OF VOTE ON FUR BAN, LEGHOLD TRAP DEAL

Environment ministers from European Union member states last week effectively delayed a vote on a Commission proposal to begin banning fur caught with leghold traps from countries such as the U.S. that have not reached a trapping agreement with the EU, informed sources said. Ministers also declined to vote on whether to approve trapping agreements reached with Canada and Russia, which, if approved, would exempt these two countries from any fur ban.

The scheduled June 19 vote on each of these Commission proposals was postponed after it became clear that the United Kingdom, France, Belgium and Austria would oppose the Canadian and Russian agreements, informed sources said. These four states represent 29 votes, and member states would have needed only 26 votes to prevent a qualified majority from approving the deals, they said.

The UK and Austria argued that the agreements reached with Canada and Russia do not go far enough in banning traps that the EU believes are inhumane, according to an informed source. Meanwhile, France and Belgium are arguing that those agreements are "not global enough," and that the U.S. and EU must first reach a similar agreement before the Canadian and Russian agreement can be approved.

"Their objection was 'where is the U.S.?'", one informed source said of France and Belgium. "The idea of the agreement was to avoid a World Trade Organization dispute, so without the U.S., what have they achieved?"

The U.S. has said it would challenge a ban on fur caught with leghold traps in the WTO if it were implemented. The EU had hoped to reach a trapping agreement with the U.S. by now, which would remove the need for the ban on U.S. fur. But efforts to reach a U.S.-EU deal have been stalled over U.S. demands that it cannot require U.S. states to abide by the deal, and that traps banned under the agreement can still be used in certain circum-

stances (*Inside U.S. Trade*, May 30, p. 18).

The agreements would set an acceptable level of animal injury for restraining traps and a ceiling on the time it takes for killing traps to kill their intended prey, and would also ban traps that do not meet those thresholds. The agreements would also phase out the use of steel-jawed leghold traps, which the EU considers inhumane, and would call for other traps to be tested against injury thresholds over several years.

As a result of the June 19 meeting, efforts to implement the fur ban and approve the Canadian and Russian agreements will be frozen until Luxembourg takes over the Council Presidency July 1 from the Netherlands, sources said. Officials from the Netherlands said at the meeting that they would turn the issue over to the next Presidency.

"That was a gift of the Dutch Presidency to Luxembourg," an EU official said. An official in Brussels said Luxembourg has not given any sign how it might proceed after it assumes the Presidency next week, but added that the issue will be discussed this week.

One of Luxembourg's options is to simply try to vote on the two issues again at the next environment minister's meeting in the middle of October. That decision would give the U.S. and EU time to try to conclude an agreement. Another option would be to allow a different Council to vote on the two issues before October, but that would likely require that member states reach a consensus on them.

After the June 19 decision to delay the vote, member states did not discuss the current situation, sources said. Therefore, member states did not have a chance to debate whether they would support extending the negotiating deadline for the U.S. and EU, whether the ban should simply take effect as soon as possible, or whether additional improvements need to be made to the Canadian and Russian agreements before they can be approved.

Animal welfare activists interpreted the delay as a sign that the Canadian and Russian agreements would ultimately be rejected by EU members, and that the fur ban would be implemented against those countries as well as the U.S.

EU External Relations Commissioner Leon Brittan last week called on environment ministers before their meeting to approve the Canadian and Russian agreements, and argued that they would encompass all traps, where the ban would only affect fur caught with leghold traps. Brittan also acknowledged that implementing the ban would put the EU at risk of losing a WTO dispute settlement panel.

"An import ban would almost certainly be attacked as illegal under world trade rules," Brittan said June 19. "This may cut little ice with animal activists, but if the European Union was accused at the World Trade Organization of restricting imports unfairly and it lost the case, as past jurisprudence suggests could well happen, we would have to repeal the ban."

In that case, the credibility of the EU's campaign to "stop other countries penalizing our trade on spurious grounds would be severely impaired," and animal welfare activists would have won "nothing," Brittan said.

G-7 ENDORSES RUSSIA WTO MEMBERSHIP BUT SETS NO ACCESSION TIMETABLE

Leaders from the world's major industrial democracies last weekend expressed strong support for the accession of Russia to the World Trade Organization, but declined to offer that country a concrete timetable as to when it could become a WTO member.

"We support the goal of early Russian accession to the WTO on the basis of conditions generally acceptable to newly acceding members," the Group of Eight wrote in its June 22 communique.

But the U.S. consistently offered a much more positive assessment of Russia's prospects for WTO than Japan. "I think you will see continuing integration of Russia into full partnership," Clinton said in a June 22 press conference. "The next thing I want to see is Russia into the WTO, and we're working on that."

Deputy Director of the National Security Council James Steinberg said in Denver that Clinton emphasized to Russian President Boris Yeltsin that Russia's accession to the Paris Club for public debt "really provided momentum to move forward towards a WTO agreement, [and] that there was a real need for our negotiators to get together to intensify their efforts." Yeltsin indicated that he shared the desire to move as quickly as possible on a WTO agreement, Steinberg said.

The U.S. has previously expressed its support for Russian WTO accession in 1998, a goal not explicitly endorsed by the Group of Eight (*Inside U.S. Trade*, March 28, p. 10).

Japan expressed strong reservations that Russian WTO membership would be considered on anything but commercial grounds. "[W]e have got to start serious negotiations with Russia if Russia really wants to participate in the WTO," a Japanese spokesman said on June 20. "We do not want to talk about this issue from a political point of view. It has nothing to do with political considerations."

But the spokesman also said that Japan has already been extending "technical assistance" to Russia in order to facilitate the WTO negotiation.

One trade official pointed out that negotiations on Russia's WTO accession are in a very preliminary stage. No draft protocol has been drawn up, and Russia has yet to make a market access offer on either goods or services, the official pointed out.

European Union Commissioner for External Relations Leon Brittan was in Moscow last week to discuss, among other things, the WTO accession, according to informed sources. Although he did not address the issue in detail, Brittan stressed that the EU would want to apply a non-market economy methodology to Russian products in dumping investigations until Russia becomes a full market economy.

Summit participants also expressed support for the improvement of market access for products from sub-Saharan African countries. "Access to our markets is a crucial tool for fostering economic growth in sub-Saharan Africa," they wrote in the communique. "We each will continue to improve through various means, access to our markets for African exports."

But they also emphasized that economic growth in the region "ultimately depends upon creating an environment for domestic capital formation, private sector-led growth and successful integration into global markets." The communique also called on international financial institutions to "play an important role in supporting reform" in the sub-Saharan African countries.

Clinton also met with Japanese Prime Minister Ryutaro Hashimoto on the fringes of the summit, but broke little new ground on trade issues. Most generally, Clinton repeated the U.S. line on the importance of reducing Japan's external surplus through a domestic demand-led recovery. He also expressed hope for "early progress" from the deregulation agreement, according to Director for National Economic Policy Daniel Tarullo.

Although he too said a domestic recovery was important, Hashimoto defended the Japanese position on the Japanese surplus. Although the Japanese surplus has been increasing, temporary factors also contributed to the recent rise, he said in a June 22 press conference. Hashimoto cited strikes at the Big Three U.S. automakers as one cause in particular.

Clinton did raise civil aviation in particular with Hashimoto, noting that there have been "problems with our cargo operations" and said it is very important that these problems "be resolved expeditiously," Tarullo said. Federal Express has been the only one of many U.S. cargo carriers to secure a significant level of operating rights in Japan.

Clinton told Hashimoto that the U.S. still believes in the "open skies" policy, but noted that Japan is not prepared to move toward this goal, Tarullo said. But Clinton emphasized that the U.S. is willing to consider "interim or transitional measures," he said.

Over the last few months, the Administration has moved toward considering an agreement that falls short of open skies and instead would reduce the rights of U.S. carriers to carry passengers from Japan to third-country destinations in exchange for additional direct flights between the U.S. and Japan (*Inside U.S. Trade*, June 6, p. 1).

The summit did not produce an endorsement of current and future WTO negotiations on a variety of issues, such as financial services and agriculture. Tarullo had cited an expression of G-7 support for the talks as one likely outcome of the meeting (*Inside U.S. Trade*, June 20, p. 7). *is this a sign?*

U.S. PRESSES FOR RULES OF ORIGIN WORK TO BE HANDLED IN WTO

The U.S. government is urging trading partners to step up work on the harmonization of rules that determine the origin of a product by partially taking the negotiations out of the hands of technical experts in the World Customs Organization. Trade policy officials must immediately become more involved in the negotiations, which should take place simultaneously in the WCO and the World Trade Organization in order to meet a July 1998 deadline, the U.S. said in a diplomatic note sent to trading partners this month.

"The origin harmonization work is an important WTO negotiation -- not simply a technical customs matter," the U.S. said in the statement. "After almost two years of work under the harmonization program, it is apparent that a 'technical' solution for certain sectors will not be reached at the WCO, and deliberations at the WTO will have to take place."

The U.S. emphasized that deliberations should begin in the WTO now on sensitive sectors such as textiles and agricultural products, where it is apparent that agreement will not be reached by technical experts in the WCO. On textiles, the U.S. and European Union are fighting about whether the origin of fabric is the country in which grey fabric is woven, sources said.

On agricultural products such as coffee, countries disagree whether roasting confers origin, a private-sector source said. On grapes, there is disagreement whether wine is made in the country where the grapes are processed or where they are grown, he said. In addition, the issue of how to determine the origin of watches should also be addressed in the WTO as a broad review of chapter 91 of the Harmonized Tariff Schedule, the U.S. argued in its diplomatic note.

Under the Uruguay Round rules, a technical committee in the WCO is to work on harmonization until the end

of 1997, when the work would be turned over to the WTO. Trade policy officials are to examine the results of the technical negotiations for six months before concluding negotiations by July 1998, according to the timetable set in the Uruguay Round.

But the U.S. has been pressing for an increased role of trade policy experts in the talks now as trading partners have failed to make progress in the WCO, according to informed sources.

A draft integrated text on the harmonization shows that countries have only reached agreement on five to 10 percent of the products, they said.

Countries cannot agree among themselves on such issues as whether a tariff shift constitutes substantial transformation and thereby confers origin, according to these sources. If countries agree that the shift in tariff classification does not bring about the substantial transformation of a product, they need to decide what other activities must take place to confer origin. This could include additional processing, or other work to add value, they said.

But much of the disagreement may be due to the fact that the many countries have not begun to negotiate seriously, sources said.

"The work is increasingly behind schedule, particularly at the TCRO [technical committee on rules of origin in the WCO]..." the U.S. said in its representation to trading partners. The U.S. is keeping up the pressure to work as fast as possible, but officials informally concede they have little hope that the negotiations can be concluded by the July 1998 deadline, informed sources said.

The U.S. message seeking more involvement of trade officials has been expressed in the diplomatic note as well as in informal comments in Geneva and to industry advisors in Washington, sources said. But in its effort to move the work from the WCO, the U.S. may face opposition from such trading partners as the EU, observers said. The EU is more comfortable with the WCO than the U.S. is, partially because the WCO work is more driven by the secretariat than by the members, sources speculated.

The issue may come to a head in the WTO committee on rules of origin, which will hold an informal meeting on July 8 & 9 for the sole purpose of assessing the progress of the negotiations, according to U.S. officials. Officials will then consider what further steps to take to ensure the completion of the negotiations by the July 1998, they said.

U.S., CANADA TO EXPLORE SOLUTION TO DISPUTE OVER SUGAR EXPORTS

U.S. and Canadian negotiators today (June 27) plan to consult on possible negotiated solutions to a dispute over sugar exports to their respective markets, according to government officials. The two sides are exploring a country-specific allocation for Canada in the U.S. quota for refined sugar and also securing Canadian access under a U.S. quota for sugar-containing products in an effort to diffuse Canadian complaints over a U.S. reexport program for sugar-containing products, they said.

A satisfactory settlement of the Canadian demands would lead Canada to drop its threat of a complaint under the North American Free Trade Agreement about the U.S. reexport program, which increases exports of sugar-containing products to Canada, officials said. They said both sides are committed to negotiating a solution to the dispute rather than have it taken before a NAFTA dispute settlement panel.

Canada has argued over U.S. objections since last year that the reexport program violates NAFTA because it acts as a duty-drawback program. Duty drawback programs generally refund a customs duty or tax that companies pay on an imported product that they subsequently export. Under the NAFTA, the U.S. agreed to phase out duty-drawback programs on Jan. 1, 1996 for products sent to Canada. The U.S. has argued that the government does not refund any duties through the program.

The reexport program allows U.S. companies access to cheap sugar outside of a U.S. tariff-rate quota, which enables them to export sugar-containing products into Canada and compete with products containing higher-priced sugar.

Canada so far is not satisfied with an informal U.S. offer on a country-specific quota allocation for refined sugar, according to Canadian officials. They have rejected informal proposals that Canada should accept a share of 8,000 tons in an overall quota of 22,000 tons. In quota year 1997, Canada shipped 5,000 tons to the U.S. because the refined sugar quota was oversubscribed the day it opened, Canadian officials said. In the 1996 quota year, Canada shipped 15,000 tons of refined sugar to the U.S., they said.

Canada wants an allocation that is "fairly close" to the entire 22,000 tons of the total U.S. refined sugar quota, a Canadian official said. In the last years in which Canada exported sugar to the U.S. without any restraints, it annually shipped almost twice the amount of the total refined sugar quota, he said.

Regarding sugar-containing products, Canada wants to lock in its access to a basket quota of about 64.7 million tons covering such products as crystal drink mixes and ice tea mixes, a Canadian official said. Securing access to "close to all" of the quota would protect Canada from having other countries erode its position, he said.

Canada now holds about 95 percent of the basket quota, he said.

The U.S. has insisted that the reexport program is not a duty-drawback program because it offers no refunds and does not serve to evade the tariff imposed for sugar imported to the U.S. in excess of an existing tariff-rate quota. Instead, the U.S. has pointed out, the sugar in question enters the U.S. under a specific tariff heading separate from the quota under the condition that an equivalent amount of sugar is reexported from the U.S.

Canada has pressed the U.S. to deliver data on the destination of products reexported under the program, officials said. Canada is "a little frustrated" that the U.S. has not delivered the requested information yet, one source said.

The U.S. will not deliver this information to Canada at the June 27 meeting, according to an Administration official.

The program is not set up to monitor the destination of reexported sugar containing products, but rather to ensure that the equivalent amount of sugar imported to the U.S. is reexported, another official said. It would be "exceedingly difficult" to provide the information Canada is looking for, but the U.S. could "get close" if it had enough time, he said.

The sugar dispute will be discussed in the margins of a June 27 bilateral meeting that will focus on grain trade, U.S. and Canadian officials said. Those talks will constitute the second set of consultations requested by U.S. Trade Representative Charlene Barshefsky under pressure from senators of wheat-producing states.

Barshefsky told reporters last week that the U.S. does consider the resolution of the sugar and grain disputes linked, and that Canada does not either.

Barshefsky and Agriculture Secretary Dan Glickman told the Senate Agriculture Committee on June 18 that the U.S. will not permit Canada to disrupt its wheat market, but U.S. officials privately concede that there is no legal authority to curb Canadian exports since a tariff-rate quota expired in 1995.

But by keeping up the political pressure, the U.S. can ensure that the Canadian Wheat Board will think carefully about sales that exceed the 1.5 million ton level set a TRQ that expired in 1995, private-sector sources said. As the single seller of Canadian wheat, the board can control sales effectively, they pointed out. But Canadian officials insist that only supply and demand determine the level of Canadian exports to the U.S.

Canada will likely announce a forecast that its exports to the U.S. will be "very close" to the 1.5 million ton mark set by the expired TRQ, one source said. But this year the grain is moving largely by train to milling facilities in the U.S., which avoids previous problems with congestion at U.S. grain elevators, he said.

For the June 27 meeting, the two sides have agreed on an agenda that includes the Canadian barley TRQ, and officials are likely to discuss the conditions under which Canada would consider lifting this restriction. Up to now Canada has maintained that it will lift restraints on U.S. exports if U.S. subsidy levels are equivalent to Canadian ones, in accordance with the U.S.-Canada agriculture agreement included in the NAFTA.

Other issues to be covered include end-use certificates, which Canada has said it needs to protect the quality of its grain, sources said. Canada has said end-use certificates are not necessarily the only way its quality control system can be maintained. The two sides also have placed on the agenda such issues as grading and standards of grain as well as harmonization of pesticide registration with the goal of having the same kind of pesticides available at both sides of the border, sources said. None of the officials meeting at the grain talks have authority over pesticide registration, they emphasized.

U.S. URGES CHANGES TO JAPANESE STOCK MARKET IN INVESTMENT DIALOGUE

The U.S. last week urged Japan to take steps that will allow foreign firms to buy more Japanese-owned stock, encourage Japanese prefectures to provide more local incentives to foreign investment, and ease investment restrictions in certain sectors, U.S. and Japanese officials said. The June 17-18 discussions in Washington took place under a 1995 arrangement under the U.S.-Japan framework, which calls for meetings twice a year to discuss barriers to foreign direct investment.

The U.S. generally focused on ways to improve the ability of foreign firms to merge with and acquire Japanese companies, sources said. The U.S. has argued that Japan's culture encourages "stable shareholding," which means there are generally fewer shares of stock available for purchasing in Japan than there are in the U.S., a U.S. official said.

"Seventy to 80 percent of investment is done through mergers and acquisitions, but Japanese owners selling shares of stock to foreigners is not done," he said. Aside from that cultural difference, he said, Japan also maintains various tax incentives, which the U.S. believes encourage Japanese companies not to make public stock offerings.

A Japanese official acknowledged that the volume of Japan's stock market is "very small," and that Japanese shareholders tend to hold their stock as long as possible. But he said Japan is working on other improvements, such as allowing small companies to sell stock and reducing the time required to register stock on the market. It can take

up to a decade or longer for stock to be registered in Japan, which is much longer than the time it takes in the U.S., the official said.

The U.S. has also complained that capital gains from investing in certain smaller, fast-growing companies are not eligible for some tax incentives in Japan, which effectively hinders investment in those companies. And the U.S. is also urging Japan to provide more information on the companies listed in Japan's stock market, which will encourage foreign direct investment there, sources said.

Last week's meeting was the fourth and final one under the arrangement, but the two sides agreed to continue meeting twice a year, sources said. The talks have traditionally focused on investment barriers in Japan, as Japan generally invests eight to nine times as much in the U.S. as the U.S. invests in Japan, according to a U.S. official. But a U.S. official acknowledged that many of the U.S. suggestions will be difficult to achieve in the short term.

The meeting was attended on the U.S. side by officials from the U.S. Trade Representative's Office, the Securities and Exchange Commission, and the Departments of State, Treasury, Commerce and Justice. The Japanese delegation was led by Ministry of International Trade & Industry officials, and included officials from the Ministries of Finance, Foreign Affairs and Agriculture.

Also at the meeting, sources said officials from the state of Virginia and the Japanese prefecture Niigata shared information on how local regions can provide incentives to foreign direct investment. It was "obvious" after the meeting that local regions in Japan offer less tax and other investment incentives than localities in the U.S., the U.S. official said.

But the Japanese official said regions in the U.S. are more independent than most Japanese prefectures, which must consult the Japanese government before offering such incentives.

Sources said the U.S. also urged Japan to reduce investment restrictions in sectors such as telecommunications and agriculture. But that topic was touched upon only briefly, as Japan said those measures are currently being addressed in negotiations to reach a multilateral agreement on investment in the Organization for Economic Cooperation & Development.

The U.S. also raised three or four other issues that hinder foreign direct investment in Japan. Those issues included restrictions that increase the price of land, prevent workers from labor companies from being employed at foreign-owned firms, and prevent foreign firms from joining industry associations, according to a U.S. official.

NEW TASK FORCE TO SET U.S. GOALS FOR WTO AGRICULTURE NEGOTIATIONS

Secretary of Agriculture Dan Glickman last week told a congressional panel that he has appointed a task force to begin developing strategies and positions for agriculture negotiations scheduled to begin in the year 2000. The U.S. is most interested in improving rules on the administration of tariff rate quotas, on plant and animal health as well as on state trading enterprises with regard to imports and exports, Glickman told the Senate Agriculture Committee on June 18.

"These are all issues we will look at as we formulate the agenda," Glickman said. He also said that biotechnology would be a new issue on the agenda, a point echoed by U.S. Trade Representative Charlene Barshefsky who testified with him.

Both Barshefsky and Glickman emphasized last week that the U.S. would at a minimum resort to WTO dispute settlement procedures if the European Union goes through with proposals to require the segregation of agricultural products containing genetically modified organisms (*Inside U.S. Trade*, June 20, p. 1).

The U.S. will also try to address agricultural trade problems specific to individual countries in the WTO, including Canada's continuing restrictions on imports of dairy, poultry and eggs, barley and margarine products, Glickman said.

U.S. officials have already raised Canada's price pooling system in the WTO Committee on Agriculture, which U.S. industry has charged acts as an export subsidy. But the U.S. comments have amounted to a number of technical questions in the Committee, but there have been "no hints, suggestions" that anyone will challenge Canada on that, a Canadian official said.

Glickman told the committee that the U.S. will also seek to revisit the disciplines negotiated in the Uruguay Round on internal and export subsidies as well as market access, even though subsidies have generally been cut around the world. "The significance of subsidies may have diminished as production policies become more market oriented around the world," he said. "On the other hand, we know that market access restrictions will remain substantial for many of the products we export."

Glickman also said the U.S. is concerned about "signs" that the European Union may try to carry over unused export subsidies from one year for use in future years. In addition, the EU may exceed authorized export subsidy levels for cheese, he said. Both these steps would violate the "spirit" of the Uruguay Round agreement, according to Glickman.

In a related development, Florida Citrus Mutual this week urged Glickman and Barshefsky to pursue a so-called "request-offer" approach to the next WTO agriculture negotiations. The approach would allow the U.S. to seek reductions in barriers to U.S. exports without necessarily having to give up a moderate level of protection for Florida growers, the group said in separate but identical letters on June 23.

The letter warned against pursuing the approach used in the Uruguay Round, in which the U.S. agreed to cut tariffs based on an across-the-board formula. This approach led to a reduction in U.S. tariffs but little or no access for U.S. exports in foreign markets, according to the group.

Many of the markets that the group considers potentially significant restrict imports from Florida for phytosanitary reasons, such as China, Mexico and Australia, the letter said. Others such as Japan and the European Union protect their domestic production with high tariffs, according to the letter.

Florida Citrus Mutual is an association of more than 11,000 independent citrus growers.

U.S., EU INITIAL MUTUAL RECOGNITION AGREEMENT AT DENVER SUMMIT

The U.S. and European Union late last week (June 20) initialled a draft mutual recognition agreement (MRA) on the fringes of the Summit of the Eight meeting in Denver, Colorado, Clinton Administration officials announced this week. The MRA is aimed at reducing the time and costs associated with trans-Atlantic trade in six sectors worth almost \$50 billion by allowing manufacturing processes and products to be accepted by one trading partner after being tested by the other.

But it will likely take until the fall for the MRA to be formally signed, informed sources said. Charles Ludolph, acting deputy assistant secretary for Europe in Commerce's International Trade Administration, last week said the deal would be signed in early fall "at the earliest" because the Food and Drug Administration (FDA), which will be involved in administering the MRA, needs to put the agreement out for public comment. In addition, the EU parliament will have to review it, which will also take "a few months," Ludolph said.

In addition, U.S. and EU inspection bodies must be designated, and that could also take "a few months," Ludolph said. These are the bodies that each side will approve for doing the testing in the six sectors that is to be accepted by the other side.

For example, for telecommunications equipment, Commerce's National Institute of Standards and Technology (NIST) will soon post a *Federal Register* notice indicating that it is looking for testing certification bodies, Ludolph said. He said last week there were 60 potential testing bodies for telecommunications equipment, and that they and others will be examined by the Federal Communications Commission and NIST. After that process, those bodies will have to be approved by the EU, he said.

In addition to telecommunications equipment, the MRA covers pharmaceuticals, medical devices, recreational craft, and products which must pass tests for electromagnetic compatibility and electrical safety.

U.S. officials this week also released a letter of intent signed by U.S. and EU negotiators to eventually add two more products to MRA. The first one is fasteners, which include all high-tech nuts and bolts that are used in the construction of airplane wings and tank turrets, and the second is veterinary biologics, which are vaccines produced from animal serum for use on animals only.

U.S. officials made copies of the draft MRA text available at a June 25 press conference in Washington.

The two sides have also agreed on confidence building periods for each sector, during which relevant U.S. and EU agencies will examine the testing data from each side. At the end of each confidence building period, each agency will then accept testing results of manufacturing processes except under certain, specified circumstances.

Ludolph said two of those circumstances include indications of inadequacies in inspection reports and indications of quality defects in the products in question.

Any disputes between U.S. agencies and the EU on their respective abilities to perform reinspections will be settled by a joint sectoral committee, which will try to reach a consensus opinion, informed sources said. If it cannot, the dispute will go to another joint committee under the umbrella agreement, where disputes will be settled by unanimous consent.

If no agreement can be reached at that level, the U.S. agency involved or the EU could say it rejects the element in dispute, although both sides have stressed that such an outcome is not the "spirit" of the deal. Sources said pressure from the Transatlantic Business Dialogue will likely have a positive impact on this stated desire to keep the MRA intact (*Inside U.S. Trade*, June 6, p. 13).

On pharmaceuticals and medical devices, the EU and the FDA have agreed to a three-year confidence building period. For telecommunications networking equipment and electromagnetic compatibility, the Federal Communications Commission and the EU have agreed to a two-year period. And for recreational craft, the Coast Guard and the EU have agreed to a one-year period.

For electrical safety, the EU and the Occupational Safety and Health Administration (OSHA) in the Labor Dept. have agreed to immediately implement the MRA without a confidence building period. But U.S. officials

said this week that OSHA would use the transition periods agreed to by the FCC for telecommunications equipment and other products that undergo testing for electrical safety and electromagnetic compatibility.

Ludolph also said last week that both sides are hopeful that even during the transition periods, the costs and time associated with getting products on the overseas market can slowly be reduced.

In a related development, the EU and Canada announced a separate MRA last week. Ludolph said the U.S. has begun talks with Canada on MRA for pharmaceuticals, and that those initial discussions are between the FDA and Health Canada.

The U.S.-EU deal will likely "accelerate" the talks between the U.S. and Canada, he said. One problem the U.S. will raise is how to handle European drugs sent to Canada under the Canada-EU MRA, and defining circumstances under which those drugs be reexported to the U.S., Ludolph said.

ALLGEIER SAYS QUICK PROGRESS ON FTAA NEGOTIATIONS UNLIKELY

The Clinton Administration recognizes that Free Trade Area of the Americas negotiations cannot be concluded rapidly because most countries of the region are still busy implementing changes to their domestic laws required to meet Uruguay Round obligations, a senior U.S. trade official said last week.

"We recognize in the U.S. that most countries in the hemisphere are absorbing a lot of change....," Associate U.S. Trade Representative for the Western Hemisphere Peter Allgeier said June 19. "So it's difficult to contemplate a whole new dose of change immediately."

For most countries in Latin America and the Caribbean, the Uruguay Round converted Tokyo Round voluntary codes (except for government procurement) to mandatory obligations for which national laws and regulations are now being adjusted, Allgeier noted. And it also pressed on those countries new mandatory disciplines in the areas of intellectual property rights, investment and services, he said.

But the Administration nonetheless believes it is necessary to initiate the formal FTAA talks in a comprehensive manner at the March 1998 Summit of the Americas in Santiago, Chile, he said.

The U.S. is "confident" that in "two or three years" Latin and Caribbean nations will be more "comfortable" with the idea of negotiating additional trade liberalization because they will have implemented all the new Uruguay Round-related institutions, laws and regulations, and will have trained personnel to run them, Allgeier said.

"[W]e want to be at the point to be able to conclude some agreements at that time," Allgeier told a luncheon sponsored by the Assn. of Women in International Trade. Minister-Counselor Maria Estela Frota of the Brazilian Embassy to the U.S. also spoke and answered questions about her country's views on the FTAA at the event.

Because of the size and complexity of its economy, Brazil may require more time than other Latin American countries to make a "comprehensive assessment of its rights and obligations" before signing on to an FTAA, Frota said. Brazil's Gross Domestic Product last year was \$749 billion, which was more than the combined GDPs of Mexico, Argentina and Chile, she noted.

"For that reason, for us to assess the costs and the benefits of FTAA is really a very complex job, so we are doing that with very great care," she said. "Brazil as a society has decided it wants to continue to be an industrial power in the region, and this decision has to be supported and not undermined by the FTAA."

At the same time, though, the FTAA also holds out some "remarkable" opportunities for Brazil, she said. "Freer access to 33 other countries will give Brazilian industries a larger base from which to develop."

She pointed out that Brazilian Foreign Minister Luiz Felipe Lampreia insisted in Belo Horizonte that in the FTAA process "nothing is agreed until everything is agreed." This is not identical to the "single undertaking" concept, which mandates that at the end of the negotiations all participants will take on the same responsibilities under the accord, she acknowledged. But it does mean that Brazil believes that the only "effective and practical way" to assure that all parties have agreed to the same level of rights and obligations is to allow each country to make a "comprehensive assessment" of the FTAA's likely impact before it signs the accord, according to the Brazilian official.

Two "vital areas" of the FTAA talks for Brazil are agriculture and non-tariff barriers such as countervailing duties and antidumping measures, Frota said. "Progress in these particular areas are fundamental for our country," she added.

Brazil believes the FTAA must accommodate the "fundamental interests" of each of the 34 participants, she said. The region-wide trade pact also must be consistent with World Trade Organization rules and should not raise barriers to countries from outside the region, she added.

Any regional initiative must be "consistent" with Brazil's balanced foreign-trade profile, she noted. This is important because, for example, last year the top destination for Brazilian exports was the European Union, which took in 26.4 percent of its foreign sales, as compared to 22.5 percent for second-place U.S. and 21.7 percent for its

neighbors grouped in the Latin American Integration Assn. (ALADI).

While the U.S. agrees that the FTAA should be WTO-consistent, Allgeier said, "an emerging consensus" among participants including the U.S. is that the WTO should be viewed as "the threshold" of the FTAA. "That's where you start," he said. "You walk through the threshold but you keep on walking."

One of the tasks that remains is to define the ways in which the FTAA will "move beyond" the WTO rules, he said.

Frota named seven specific results of the FTAA ministerial held in mid-May in Belo Horizonte, Brazil, which she said showed that the FTAA process "is alive and well." One was the recommendation that the countries' leaders launch the formal FTAA talks in Santiago in March. Another was the definition of a number of areas where common views have already been reached, she said. A third was the decision to set up a temporary secretariat to administer the negotiating stage of the FTAA process.

In addition, she cited decisions to set up a Preparatory Committee, or PrepCom, to prepare recommendations on how to conduct the negotiations, and to establish a working group on an FTAA dispute settlement system. And she noted the inclusion in the ministerial declaration of instructions to the 12 FTAA working groups to submit technical alternatives on possible approaches to negotiations in their subject areas.

Brazil has not made U.S. passage of fast-track negotiating authority a condition for proceeding with the FTAA talks even though it would be preferable if the U.S. did have that authority, according to Frota.

Allgeier agreed that it would be better for the U.S. if it had fast track because it would give U.S. negotiators "more influence" in the negotiations and provide "much more stimulus" to the talks. It would also help because the "costs of us sitting on the sidelines" are becoming more apparent as "everyone else in the hemisphere is negotiating at least one free trade area or more."

But the lack of fast track should not be used as an excuse for not moving forward in the negotiations because many other countries in the region also have presidential systems of government and would have to get their legislative branches to change their laws to conform to the FTAA, the USTR negotiator said.

Allgeier also identified two worries he has about the FTAA process. One is the "resource-intensive" nature of the upcoming negotiating stage of the FTAA, given the limited human and financial resources that governments possess. The other point of concern is the "great diversity" among the countries participating in the negotiations, he said.

HUENEMANN NAMED AS ACTING ASSISTANT USTR FOR NORTH AMERICAN AFFAIRS

The Clinton Administration last week named Jon Huenemann as Acting Assistant U.S. Trade Representative for North American Affairs. Huenemann, who was named to the post by Associate USTR for the Western Hemisphere Peter Allgeier, will assume his new post on an interim basis.

Huenemann is also a top candidate for the post on a permanent basis, but he must formally compete for the job against others in government, informed sources said. The position was vacated recently by David Weiss, who left to take a job in the private sector.

Huenemann is likely to retain his current duties in managing U.S. implementation of NAFTA, but now will also manage bilateral trade issues with Canada and Mexico, informed sources said. In recent months, Huenemann has been charged with crafting a composite draft report on NAFTA's impact from contributions prepared by the departments of State, Commerce, Treasury, and Labor, as well as from the Environmental Protection Agency and the International Trade Commission.

Previously, Huenemann coordinated U.S. participation in negotiations to bring Chile into NAFTA, but those talks were cut short after the Administration was unable to gain fast-track negotiating authority during the last Congress.

Separately, U.S. Trade Representative Charlene Barshefsky is close to making a decision on naming a Deputy USTR for Asia, and will send her choice to the White House within a week, according to a senior U.S. official. She is also very close to appointing an Assistant USTR for Japan, the source said.

Barshefsky has no immediate plans for reorganizing USTR, but may consider changes in the fall or early next year, said the source.

Separately, Deputy Assistant Secretary of State for East Asia and Pacific Affairs Jeffrey Bader will be moving to the White House to replace Robert Suettinger as the National Security Council's Director of Asian Affairs.

CORRECTION

Inside U.S. Trade incorrectly reported earlier this month that Canadian Environment Minister Sergio Marchi would "take over at the helm" of the Ministry of Foreign Affairs and International Trade in Prime Minister Jean Chretien's new government (*Inside U.S. Trade*, June 13, p. 15). The article failed to mention that Marchi, the new Minister for International Trade, shares control of the ministry with Lloyd Axworthy, Minister for Foreign Affairs.

CHINA WTO ACCESSION DEAL UNLIKELY THIS YEAR . . . begins page one

on the table, he said.

His assessment was backed by a foreign diplomat who said that the negotiations are not at a stage that would allow a final push for conclusion. Much more work is necessary to be in a "position to make a dash for the summit," he said. If there is no progress on market access, there is not a lot more work trading partners can do on the draft WTO protocol language that lays out the rules for China's accession to the WTO, he said.

But he warned that if the negotiations have not made "significant progress" by the Clinton-Jiang summit, the talks will be on a "slow boat to nowhere."

China has made a commitment to make a revised market access offer in July that would cover tariffs for agricultural and industrial goods and non-tariff barriers such as quotas, licensing and tendering arrangements, the U.S. trade official said. The offer will also cover services and on agricultural tariff-rate quotas, he said.

China will likely provide more details on its subsidies programs, and statutory inspections at a later point.

Until now, the widespread expectation has been that China would make an offer on services in September based on the comments made by China's chief negotiator at the last working party in the WTO.

Among major trading partners, the U.S. is making the strongest demands in the services sector, but the U.S. and China have not discussed this area in detail, the U.S. official said. But the official hinted that the U.S. would consider offers which liberalized the market of specific regions in China and not the country as a whole. Given the geographic concentration of China's population, geographic liberalization is not "necessarily a bad beginning," the official said.

The U.S. "floated some ideas" on how to get rid of quotas, licensing and tendering requirements during last week's meeting between Assistant U.S. Trade Representative for China Robert Cassidy and Assistant Minister of Foreign Trade and Economic Cooperation Long Yongtu, the U.S. official said. Chinese officials seemed "very receptive" to the U.S. proposals on how to get rid of quotas, licensing and tendering requirements now in place in China, the official said. One possible approach to phasing out quotas is to convert them to tariff-rate quotas, sources said.

The U.S. trade official refused to elaborate on the U.S. proposals except to say that the U.S. approach is to seek significant market access upon China's entry, and "progressive" market liberalization thereafter. One informed source said that the U.S. signalled new flexibility to China last week by saying it could accept a longer phaseout period for certain non-tariff measures than it has previously considered acceptable provided China makes a strong market access concessions upon accession.

In addition, there has been "heightened activity" from other countries laying out their most important demands on market access, one diplomat said. He said that China has already met the demands from some small countries on market access, which generally had a "handful of requests." But there are still a core group of medium-sized countries which have significant market access demands and demands for rules changes that have not been met, he added.

U.S. and China will meet again next month in advance of the WTO working party, which is now scheduled for July 31 and Aug. 1, the U.S. official said. But there are no definitive plans on when the meeting will take place except the general agreement that China will hold bilateral meetings with trading partners before the working party session.

"If you have too many meetings, there is not enough time to do the work," the U.S. official said. Trading partners need to give China "enough time to make good offers," he said.

China has specifically asked foreign trading partners not to have an intense schedule of meetings leading up to July to allow China to make the necessary internal deliberations, one negotiator said.

The negotiator warned not to expect too much from the July Chinese offer. He said he would be "surprised" if China simply made a sweeping new offer all at once, either in July or September.

U.S., JAPAN OFFER DIFFERING VIEWS ON NEW DEREG PLAN . . . begins page one

A Japanese spokesman said that the U.S. "access" in formulating Japanese deregulation plans "is a very difficult thing to judge" and stressed that the new plan calls for "enhanced dialogue." Another Japanese official said the U.S. role will not involve working out agreement on specific deregulation measures. "The official Japanese position is that this is about providing friendly advice," he said.

The final "sticking point" in reaching the agreement had been Japanese demands that the U.S. implement deregulatory measures if Japan did so, Barshefsky said. The agreement was finalized in the early hours of June 19 when Japan dropped this demand, Barshefsky said. She noted that the publication of statistics showing that Japan's current account surplus had risen dramatically "played well into the negotiating strategy."

The final agreement does emphasize that the new initiative is a way for both sides to raise deregulation issues. "In addition, the meetings held under this Enhanced Initiative will take place under the basic principle of two-way dialogue," the plan states.

But Japanese officials argued that the agreement fully endorses a reciprocal approach to deregulation that they

have advocated. "[W]e think that this dialogue between the United States [and Japan] could lead to a significant event," one official said. "[A]s written in the Joint Statement, this enhanced initiative will take place under the basic principle of two-way dialogue, so there are some issues which the Government of Japan may raise to the U.S. side."

Japan has "not decided exactly" what issues it might raise with the U.S. on deregulation, a Japanese official said. But the official noted that there has been "some concern" over the delay in licensing NTT and KDD to provide international services from the U.S.

The Federal Communications Commission has so far effectively blocked the NTT and KDD licenses in response to a request from Clinton Administration officials. The Administration has sought to use the licenses as leverage to secure a renewal of the NTT procurement agreement (*Inside U.S. Trade*, March 14, p. 3).

Under the new plan, expert level groups in the areas of telecommunications, housing, financial services and medical devices and pharmaceuticals will develop reports to a high-level group which will meet yearly and will resolve differences unsettled at the expert level. The initial U.S. proposal for the deregulation initiative asked that the group meet "at least annually" (*Inside U.S. Trade*, May 16, p. 4).

The high-level group will be chaired by the Deputy Minister of Foreign Affairs and the Deputy U.S. Trade Representative, according to the agreement, which is reprinted below.

The objectives of this "Enhanced Initiative on Deregulation and Competition Policy" will limit consultations to "matters within the scope and responsibility of the government," and will be consistent with the principles of the Framework, "such as tangible progress," according to the plan.

The plan envisions that a Deregulation and Competition Policy Working Group established under the Framework will continue to address "developments in the deregulation process." The plan envisions two subgroups to address structural barriers that cut across sectors. One subgroup will address structural issues such as competition policy and distribution and another will address issues related to transparency and other government practices, according to the plan.

The U.S. and Japan also offered significantly different assessments of the timetable for seeing clear results from the new plan. "We will see results -- the first major meeting and report back to the leaders is within a year," Barshefsky said in a June 19 press conference. "But we will start in meetings this summer so that we can feed into Japan's legislative process over the coming six or eight months."

A Japanese official said it is unclear precisely what Barshefsky meant by this comment. The Administrative Reform Council, which had been in charge of making recommendations for deregulation, has not been renewed. But an advisory council to the Ministry of Finance will be active towards the end of the year in developing deregulation proposals on financial services.

Noting that the U.S. has indicated it wants to see results from the agreement within a year, a Japanese official stressed that deregulation is a "continuing process" within the Japanese government. "Prime Minister Hashimoto's Cabinet has been working harder than ever in promoting deregulation, but we do not have any time limit or anything like that set," the official said.

The official hinted that Japan does not see the first meeting of senior U.S. and Japanese officials as a deadline for progress. "As for the actual achievements or results after one year, it is a little hard to judge at this point," the official said.

Barshefsky also met briefly with Japanese Minister for International Trade and Industry Shinji Sato on issues besides deregulation. She expressed the Clinton Administration line that Japan should encourage a domestic demand-led recovery and should not try to export its way out of recession. Specifically, Barshefsky called for improved market access in the autos, distribution, flat glass and paper sectors, but did not elaborate on particular measures which Japan might take, U.S. and Japanese officials said.

U.S.-Japan Statement on Deregulation

June 19, 1997

JOINT STATEMENT ON THE U.S.-JAPAN ENHANCED INITIATIVE ON DEREGULATION AND COMPETITION POLICY UNDER THE U.S.-JAPAN FRAMEWORK FOR A NEW ECONOMIC PARTNERSHIP

I. Basic Principles

A. In today's increasingly integrated world economy, it is becoming more important to address consumers' interests in ex-

panded choices of products and services that are readily available at lower prices, through enhanced competition and improved market access opportunities. With a view to meeting consumers' interests and to improving market access for foreign companies and foreign goods and services, the President and the Prime Minister decided in April 1997 to strengthen the dialogue between and reinforce the efforts of their governments with regard to deregulation and competition policy under the U.S.-Japan Framework for a New Economic Partnership ("Framework"). This Enhanced Initiative on Deregulation and Competition Policy ("Enhanced Initiative") is intended to carry

out that decision.

B. The objective of the Enhanced Initiative, which will address both sectoral and structural issues, is to conduct a serious exchange of views and to undertake measures, as called for in the Framework, to "address reform of relevant government laws, regulations, and guidance which have the effect of substantially impeding market access for competitive goods and services" in order to enhance consumers' interests and to increase efficiency and promote economic activity.

C. The Enhanced Initiative will be carried out through meetings of the High-level Officials Group and expert-level groups, described below, consistent with the principles of the Framework, such as achievement of tangible progress, limiting consultations to matters within the scope and responsibility of government, the MFN principle, and the removal of sectoral and structural impediments to expanded international trade and investment flows. In addition, the meetings held under this Enhanced Initiative will take place under the basic principle of two-way dialogue.

II. The High-level Officials Group and Reports to the Leaders of the Two Countries

A. A High-level Officials Group will be established to review and comment on reports by the expert-level groups. The High-level officials Group will make utmost efforts to resolve any outstanding issues forwarded by the expert-level groups.

B. The High-level Officials Group will be chaired by the Deputy Minister, Ministry of Foreign Affairs (MOFA), and the Deputy USTR. Other principal agencies participating in the expert-level groups as described in Section III will be represented by appropriately ranked officials from the GOJ and the USG.

C. Meetings of the High-level Officials Group will be held once a year, or more frequently as agreed by both sides.

D. The progress under the Enhanced Initiative will be reported to the leaders of the two countries since the strengthening of dialogue on deregulation is based on the decision between the leaders of Japan and the United States, and the promotion of deregulation and active implementation of competition policy are issues of major importance to the GOJ.

III. Expert-level Groups

A. Overview

(1) Expert-level groups will be tasked with fulfilling the objective of the Enhanced Initiative.

(2) Initially, five expert-level groups will be included within the Enhanced Initiative: four sectoral groups telecommunications, housing, medical devices/pharmaceuticals, and financial services — and the Deregulation and Competition Policy Working Group (the Working Group).

(3) Expert-level groups on other issues may be established or otherwise brought under the Enhanced Initiative in the future as agreed by both sides.

(4) Each experts-level group will decide the schedule and items

to be taken up in its group.

(5) Officials in charge of domestic regulations within the scope of each expert-level group will participate as appropriate.

(6) Each expert-level group will report in writing to the High-level Officials Group, unless the expert-level group decides otherwise.

B. Sectoral Groups

The two governments will use existing fora to the extent possible, including the following:

(1) Deregulation in the telecommunications sector, including the implementation of the GATS commitments on basic telecommunications in each country, will be addressed in the existing experts group, co-chaired by MOFA and the Ministry of Post and Telecommunications and by USTR for the USG.

(2) Deregulation in the housing sector will be addressed in an expert-level group at the occasion of the existing wood products subcommittee, chaired by MOFA for the GOJ and USTR for the USG. The housing expert-level group will be co-chaired by MOFA and the Ministry of Construction for the GOJ and by USTR for the USG.

(3) Deregulation in the medical devices/pharmaceuticals sector will be addressed in the existing MOSS medical devices/pharmaceuticals consultations, chaired by the Ministry of Health and Welfare for the GOJ and by the Department of Commerce (DOC) for the USG.

(4) Deregulation in the financial services Sector will be addressed in the existing financial services consultations, chaired by the Ministry of Finance (MOF) for the GOJ and by the Department of Treasury for the USG.

C. Deregulation and Competition Policy Working Group

(1) The two governments will continue to address developments in the deregulation process within the Deregulation and Competition Policy Working Group (the Working Group), chaired by MOFA for the GOJ and by USTR and the Department of Justice (DOJ) for the USG.

(2) Cross-sectoral issues will be addressed within the Working Group as follows:

— Structural issues such as competition policy and distribution will be addressed in a subgroup that will be established, to be co-chaired by MOFA, MOF, Ministry of International Trade and Industry, Ministry of Transportation, and the Japan Fair Trade Commission for the GOJ and by the Department of State and DOJ for the USG.

— Issues related to transparency and other government practices will be addressed in the Working Group, which, for the purposes of this dialogue will be chaired by MOFA for the GOJ and by DOC for the USG.

(3) Other issues on deregulation which are not discussed in other expert-level groups may also be taken up within the Working Group.

SENATE COULD ROLL BACK COMPUTER EXPORT DECONTROL . . . begins page one

of 2000-7000 Million Theoretical Operations Per Second (MTOPS) to so-called Tier Three countries. This group includes China, Russia, Israel, India and Pakistan. The 1995 decontrol allowed exports in this category to these countries under a general license.

The Cochran measure, Senate Amendment 420, also contains a "Sense of the Senate" provision calling for legislation that would require an individual license for the re-export of computers in this category from any nation to a Tier Three country. It is cosponsored by Sens. Richard Durbin (D-IL), Spencer Abraham (R-MI) and Tim Hutchinson (R-AR).

The relicensing provision of the Cochran amendment is identical to one sponsored by House National Security Committee Chairman Floyd Spence (R-SC) and Ranking Member Ronald Dellums (D-CA), which was passed by the House last week (*Inside U.S. Trade*, June 20, p. 1).

Members including Sens. Barbara Boxer (D-CA) and Rod Grams (R-MN) immediately placed a hold on the Cochran amendment on June 19 in order to prevent a quick Senate vote on the measure, informed sources said. A hold allows only a temporary delay, but because the Senate will be working on the budget reconciliation tax bill until it adjourns for the July 4 recess, the hold will forestall floor action until early next month, these sources said.

The delay will allow industry representatives to mount an aggressive lobbying campaign to persuade enough senators to vote down the measure if it comes to a vote, private-sector sources said. Senior executives of several major computer companies were also planning to take their case to President Clinton and Vice President Gore, who were in California this week, these sources said.

Grams has proposed an alternative measure to tightening export controls as a way to head off the Cochran amendment. It calls for a study by the General Accounting Office on the national security risks of exports in the 2000-7000 MTOPS range to Tier Three countries. The Grams amendment would also require the publication of a list of military and nuclear end-users and the establishment of a "procedure by which exporters may seek information on questionable end users."

The White House entered the fray for the first time late last week, one day after the House vote. Assistant to the President for National Security Affairs Sandy Berger wrote Senate Majority Leader Trent Lott (R-MS) on June 30 to convey the Clinton Administration's "strong opposition" to the Cochran and Spence-Dellums amendments, but did not indicate whether President Clinton would veto the defense authorization bill if it contained these provisions.

Berger argued that the amendment "drastically undercuts our flexibility to adjust controls to keep pace with technological change" in the high-tech industry. He also noted that the Commerce Dept. is currently reviewing all exports above 2000 MTOPS since January 1996.

"If problems are identified with any of these shipments, we have the legal and administrative means to address them and I assure you we will use that authority," Berger wrote in the letter reprinted below.

The Cochran amendment would have passed the Senate this week if it had come to a vote, industry sources said. Even with the industry lobbying campaign over the next few weeks, there is "better than a fifty-fifty chance" that the Senate will follow the House lead, one source said.

Industry sources strongly criticized the Administration for ignoring the warning signs that both the Senate and the House would be entirely willing to roll back part of the 1995 decontrol. The bipartisan sponsorship of export curbs "gives everybody lots of cover," one source pointed out. In addition, the perception that tighter export controls punish China in particular also plays into Cochran's hands, the source said.

In addition, an amendment which changes a major Administration policy initiative could also prove tempting for Republicans, informed sources pointed out.

Many major computer companies would feel the impact of new curbs at the 2000 MTOPS level, while others expect they would bump into them within in two years at the latest, private-sector sources said. In addition, other firms not generally considered supercomputer makers would be affected by the measure because local area network servers and some personal computers could soon enter this range of performance, these sources said.

EU LAUNCHES INQUIRY INTO U.S. IPR PRACTICES, COULD LEAD TO WTO CASE

The European Commission this week announced that it has launched an investigation into what it charges are U.S. violations of international intellectual property agreements. The investigation, which could ultimately lead to a challenge in the World Trade Organization, focuses on a U.S. law allowing the unlicensed broadcast of music in public areas, according to a June 23 EU announcement.

By playing this music without licenses, the U.S. evades payments of royalties to the author or performer of the works, the EU charges.

This practice, which is sanctioned by a provision in the 1976 Copyright Act, violates the U.S. obligation under the WTO Agreement on Trade-Related Intellectual Property Rights and the Berne Convention for the Protection of Literary and Artistic Works and is a trade barrier for EU works, according to the Commission.

The Commission began its inquiry under its trade barriers regulation following complaint by the Irish Music

Rights Organization (IMRO), a music licensing and collecting society.

In its June 23 statement, the Commission claims there is a substantial U.S. market for the licensing of performing rights in Irish music and that the U.S. exemption causes a \$1.4 million annual loss of income for Irish right-holders.

"Furthermore, as other EU Member States' musical works are also available on US markets, the alleged U.S. practices have an effect on all EU authors and not only on the complainant," the Commission said. "Losses of the whole Community industry are estimated at ECU 27 million [approximately \$31 million] per annum."

The Commission fears that the U.S. could widen the scope of the current exemption provided by Section 110(5) of the 1976 Copyright Act with a draft legislative proposal sponsored by Sens. Jesse Helms (R-NC) and Strom Thurmond (R-SC).

The Commission also fears that the U.S. licensing exemption could set a "dangerous precedent" and be adopted by other third countries to the detriment of EU composers and authors.

As part of its investigation, the Commission has requested information from the U.S. government on the rationale behind the exemption. It has also sought comments from other interested parties on the issues raised by the IMRO complaint.

The investigation was formally announced in the June 11 *Official Journal of the European Communities*. The U.S. has 37 days from that date to respond to a Commission questionnaire, according to a Commission official.

Under EU law, the investigation should be concluded and a report submitted to member states within five months, unless the Commission extends the deadline to seven months. The Commission may then initiate dispute settlement procedures in the WTO.

EU Notice on Music Licensing Violation

11.6.97

Notice of initiation of an examination procedure concerning an obstacle to trade, within the meaning of Council Regulation (EC) No 3286/94, consisting of trade practices maintained by the United States of America in relation to cross-border music licensing.

(97/C 177/08)

On 21 April 1997, the Commission received a complaint, pursuant to Article 4 of Council Regulation (EC) No 3286/94⁽¹⁾ (hereinafter 'the Regulation').

1. Complaint

The complaint was lodged by the Irish Music Rights Organization (IMRO) which is a company limited by guarantee formed in 1988 under the laws of Ireland. IMRO is a music licensing and collecting society which represents and acts on behalf of its members (more than 1,500 authors, composers, arrangers of music, lyricists and music publishers), which are mainly based in Ireland.

The complaint is unanimously supported by the Groupement europeen des societes d'auteurs et compositeurs (Gesac). Gesac is an economic grouping of 24 of the largest licensing and collecting societies in Europe, representing nearly 480,000 authors and composers from all Member States.

2. Subject

The complaint concerns the obstacles to trade allegedly encountered in the United States of America for the licensing of music works. The complaint contends that such obstacles adversely affect the cross-order licensing by IMRO of its members' works in this country.

3. The service

The complaint notes that the licensing of music works by authors and composers traditionally takes place through licensing and collecting societies. IMRO has concluded

crossborder licensing agreements with 59 collective licensing societies worldwide. Such agreements concern the reciprocal authorization for the licensing of the music works of each other's members (notably for the performing of these works) and, as a result, the collection and administration of payments due for such licensed performing. IMRO has concluded this type of agreement with several US societies.

The complaint specifically concerns the licensing by IMRO of its members' music works to users of these works in the USA. Such licensing of music works is a cross-border service within the meaning of Article 2(8) of the Regulation.

4. Allegation of obstacles to trade

The complaint contends that the authorization for the use of IMRO's repertoire in the USA is covered by the cross-border licensing agreements which IMRO has concluded with US societies. Nevertheless, according to IMRO, such licensing agreements (and the income resulting from them) are seriously hindered by the exemption contained in section 110 (5) of the USA 1976 Copyright Act.

The complaint notes that the exemption contained in section 110 (5) covers the use of a home type apparatus of radio or television in a shop, bar, restaurant, factory and in any other place frequented by the public. It alleges that a significant number of locations in the USA avail themselves of this exemption in order to avoid obtaining licenses for the performing of music works and thus paying appropriate remuneration to their authors.

IMRO contends that this practice constitutes an obstacle to trade within the meaning of Article 2 (1) of the Regulation. Furthermore, the complaint claims that the USA is in breach of its international obligations under the TRIPs Agreement (notably Article 9 therein) and the Berne Convention for the Protection of Literary and Artistic Works (notably Article 11 (a) therein).

In addition, the complaint alleges that new US legislative proposals⁽²⁾ currently before the US senate, which would replace section 110 (5) bringing more music users within the scope of the exemption and, therefore, resulting in substantial loss to IMRO and its members, would increase the impact of existing obstacles to trade even further.

5. Allegation of adverse trade effects and material impact on the Community

IMRO claims that it and its members suffer and are threatened to suffer adverse trade effects within the meaning of Article 2 (4) of the Regulation.

Given a relatively high degree of market penetration of Irish music in other countries' markets, cross-border licensing of music works is essential for IMRO and its members. IMRO's income from overseas societies amounted in 1996 to £/Irl 1,3 million. In this respect, in 1996, IMRO obtained US \$1,3 million equivalent (i.e. US \$0,022 per capita) from the UK, but it only obtained US \$0,04 million (i.e. US \$0,0002 per capita) from the USA.

The complaint contends that section 110 (5) deprives IMRO of the possibility of licensing and administering the performing right in its members' works, either directly or by means of a reciprocal agreement with a US licensing and collecting society. As a result, the music works of IMRO's members are claimed to be performed in the USA without their authorization and without remuneration in the situations in which section 110 (5) applies. The complainant estimates losses to IMRO's members caused by section 110 (5) at ECU 1,21 million per annum.

Furthermore, since section 110 (5) applies equally to all Community authors, IMRO estimates total Community loss caused by this provision at ECU 27 million per annum. In addition, current proposals before the US Senate to expand the scope of this section are alleged to be an additional and serious threat to all European music authors.

The alleged US trade practices directly concern the possibility of providing the service of cross-border music licensing (and obtained appropriate income there from) and are alleged to be of economic importance for Ireland and the Community, as well as of vital significance for a whole sector of the Irish and the Community's economy, i.e. music authors and composers. Therefore, there appears to be *prima facie* evidence of a material impact as set out in Article 2 (4) of the Regulation.

In addition to the adverse trade effects on IMRO and its members, and since the trade practices alleged in the complaint are not restricted in their scope to the latter, these practices may also adversely affect other Community authors and composers as well as the economy of other Member States.

6. Community interest

The Community interest in this matter is *prima facie* shown by the unanimous support given by the General Assembly of Gesac to IMRO's complaint. Under such circumstances, it is considered to be in the Community's interest to initiate an examination procedure.

Furthermore, given the allegedly unique character of the US trade practices challenged, it is in the interest of the Community to examine whether such practices constitute a dangerous precedent and example which could be adopted by other third countries to the detriment of European authors and composers.

7. Procedure

Having decided, after consultation of the Advisory Committee established by the Regulation, that there is sufficient evidence to justify initiating an examination procedure for the purpose of considering the legal and factual issues involved, and that this is necessary in the interest of the Community, the Commission has commenced an examination in accordance with Article 8 of the Regulation.

Interested parties may make themselves known and make known their views in writing, in particular by addressing the specific issues raised by the complaint, and by providing supporting evidence.

Furthermore, the Commission will hear parties who so request in writing when making themselves known, provided that they are a party primarily concerned by the result of the procedure.

This notice is published in accordance with Article 8 (1) (a) of the Regulation.

8. Time limit

Any information relating to the matter and any requests for hearings should reach the Commission not later than 37 days following the publication of this notice and should be sent in writing to:

European Commission,
Directorate-General I (External Relations: Commercial Policy and Relations with North America, the Far East, Australia and New Zealand),
Mr Alistair Stewart, DG I/E/3,
MDB, 06/18,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels.
Telex: COMEU B 21877
Fax: (32-2) 295 65 05.

Footnotes:

¹Council Regulation (EC) No. 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (OJ No. L 349, 31. 12. 1994, p.71), as last amended by Regulation (EC) No. 356/95 (OJ No. L 41, 23. 2. 1995, p.3).

²Draft 'Fairness in music licensing Act' submitted by Senators Thurmond and Helms.

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ADMINISTRATION DECIDES TO DELAY FAST TRACK UNTIL SEPTEMBER

President Clinton this week formally decided to delay action on fast-track negotiating legislation until September, and to use the summer to consult with members of Congress on the substance of the bill, according to Administration officials. The Administration plans to devote a lot of resources to the initiative in September, according to these officials.

The decision was made at a high-level meeting on May 21 involving the President, Vice President Al Gore, Treasury Secretary Bob Rubin and his deputy Larry Summers, as well as U.S. Trade Representative Charlene Barshefsky and Gene Sperling, the director of the National Economic Council.

The decision to delay fast-track consideration until later in the year came after weeks of indications that the Administration believed it could not expend the political capital for fast track when Congress faced votes on the

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EU SUBMITS STATEMENT OF OBJECTIONS ON PROPOSED BOEING-MD MERGER

European Union competition authorities this week presented to the Boeing Co. a 60-page statement of objections to the proposed merger between Boeing and McDonnell Douglas Corp. (MDC), according to informed sources. The statement charged that the merger would further strengthen Boeing's already dominant position in the large commercial aircraft market with unfair advantages over its only remaining competitor, Airbus Industrie, sources said.

Commission officials handed the statement to Boeing's lawyers in Brussels on May 21, these sources said.

As is consistent with EU regulations, the EU statement does not propose steps Boeing could take to satisfy the EU's objections, informed sources said. The EU and Boeing will likely discuss ways to resolve the EU's objections next month.

continued on page 16

CHINA MFN OPPONENTS LAUNCH CAMPAIGN TO OVERRIDE CLINTON DECISION

Opponents of renewing most-favored nation status for China this week kicked off a campaign to override the decision by President Clinton announced earlier to extend MFN for another year. The launch of the two campaigns for extension and revocation came amid indications that a vote in the House is not likely until at least mid-July.

Supporters of MFN extension would prefer to have the vote as early as possible, but recognize the political difficulties of holding it before the reversion of Hong Kong to Chinese sovereignty on July 1, these sources said. A vote before then is "not out of the realm of the possible but a risky political move" because if "Hong Kong goes to hell" the leadership would suffer politically, one source said.

MFN opponents have emphasized the need for an extensive debate on China policy before a House vote. At a May 21 press conference announcing the opposition of a diverse coalition of groups to MFN renewal, Family

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CHINA WTO TALKS BRING NO BREAKTHROUGHS, BUT MORE PROGRESS POSSIBLE

Negotiations this week in Geneva on China's accession to the World Trade Organization are unlikely to produce a major breakthrough that would help conclude talks by the end of this year or early next year, according to a preliminary assessment by negotiators. But these officials held out the hope that China's chief negotiator Long Yongtu might announce some new concessions at the formal session of the working party today (May 23).

"We have not seen anything substantially new or meaningful," a Japanese official said. "We are waiting for additional good news."

But even if there were an announcement of additional concessions, it would be unlikely to mark a significant breakthrough in the talks, according to negotiators. Much of the informal sessions this week were taken up by technical talks on statutory inspections, agricultural trade and subsidies, official said. There was also little progress

continued on next page

*Inside U.S. Trade published a Special Report on the outcome of the
FTAA ministerial on May 20*

in the bilateral meetings that China held with trading partners, informed sources said.

For much of the week, China was represented by technical experts because Long arrived in Geneva only on May 22 from Beijing. He had traveled to back Beijing after meeting with European Union officials in Brussels last weekend.

This week's meetings were largely characterized by China's willingness to include in the formal documents trade concessions promised in March, officials said. But China failed to offer major new concessions, officials said. "In March, we were led to believe that there would be revised annexes, improvements in the annexes," one negotiator said. "There are minimal changes in the annexes" as filed with WTO members on May 20, he said.

China did provide new information on such areas as subsidies and statutory inspections, but did not offer any new tariff cuts as some officials had hoped, sources said. Annexes to the WTO protocol of accession lay out the specific steps China will take to implement the rules of the protocol.

The May 18 meeting was billed by then-U.S. negotiator Lee Sands in April as a crucial one to assess whether China was serious about its stated timetable for concluding most of the accession negotiations in 1997 (*Inside U.S. Trade*, April 18, p. 3).

The chairman of the working party also predicted that the progress made in March should allow trading partners to focus on such "core issues" as balance of payments, safeguards, transitional review mechanism and the issue of what methodology should apply to China in trade remedy cases (*Inside U.S. Trade*, March 7, p. 1).

This week, negotiators said they were hoping to make some progress regarding China's specific market access commitments as expressed in the annexes and schedules, and not just focus on the language of the protocol, which lays out the framework of rules to which China is to adhere. The March working party session focused more on the protocol, and did not address specific market access commitments.

As a result, officials emphasized the importance of matching progress on the protocol with improvements on specific market access commitments in the schedules and annexes. But negotiators also said they believed they could reach agreement on two sections of the protocol regarding judicial review of government agencies' decisions and non-discrimination.

The area of subsidies and statutory inspections had been identified as "major problems" by working party chairman Pierre-Louis Girard in March, and officials said this week that additional information provided by China was not sufficient to answer their questions.

The new annex on subsidies lists a range of government programs, such as subsidies for regional development of poverty-stricken regions, but without any date for their phaseout, officials said. China only identified three programs it would phase out by the year 2000, as it promised in March, officials said.

One promised phaseout would eliminate by the year 2000 the preferential tariff treatments for manufacturers that meet local content requirements in the automotive sector, officials said. Another would phase out a policy that provides hard currency loans based on export performance requirements by the year 2000, they said.

In a separate annex, China explained that it conducts statutory inspections for health, safety, and environmental purposes and to meet "mandatory standards," which Chinese officials said were laid down in Chinese law, according to informed sources. Trading partners made it clear that they were not satisfied with the explanation of this system, which affects both agricultural and industrial products, sources said.

The annex on non-tariff measures included the concessions promised in March, officials said. Those concessions were a phaseout period for import barriers in the automotive sector of 12 rather than 15 years, they said.

In addition, China offered to phase out designated trading rights for six commodities in three to five years, allowing anyone to trade them, officials said. For example, for natural rubber and acrylic fiber, China has offered to reduce the transition period from five to three years. Transition periods will remain at five years for steel and at three years for timber, plywood and wool, sources said.

Regarding agriculture, China made it clear that it would not accept the obligations of the Uruguay Round in one step, officials said. Both the EU and the U.S. emphasized the need to clarify such issues such as the administration of tariff-rate quotas, export subsidies and aggregate domestic supports.

When Long was in Brussels, the EU presented him with a list of requests for tariff cuts that further identified the priority cuts it is seeking, informed sources said. The EU also asked China to adhere to the tariff cuts of the Information Technology Agreement, which one source termed a "political priority" for the EU to ensure that China does not appear to be a free-rider of the multilateral system.

In the weekend meetings, Long said that adhering to the ITA was good for China, but he did not say China was ready to deliver on the specified cuts that would lead to elimination of tariffs in the sector by 2000, one official said.

EU TO SEEK WTO TALKS ON POULTRY FIGHT, WARNS OF ENDING VET DEAL

European Union Commissioner Franz Fischler this week tried to assuage member states' opposition to a veterinary agreement with the U.S. by announcing he would take the first step towards a possible international dispute settlement panel, according to EU officials. Fischler will seek consultations with the U.S. in the World Trade Organization on its decision to cut off \$1 million in EU poultry exports but prefers to settle the issue bilaterally, the officials said.

The U.S. cut off the exports after the EU ended \$50 million of U.S. exports to its market by refusing to accept U.S. processing methods using chlorine to kill bacteria on chicken carcasses.

In addition, Fischler held open the possibility that the EU would terminate the agreement with the U.S. after twelve months if it does not meet EU expectations, they said. The EU expects the U.S. to formally accept its animal health assessments that determine whether a European region is eligible for exports to the U.S.

Fischler told a May 20 Council of Agriculture Ministers that the veterinary agreement is subject to a 12 month review and that the EU could renounce the agreement if the U.S. has not recognized the EU's regional animal health assessments by then, sources said.

He said it was important to be as "certain as possible" that the U.S. will introduce a law on EU regionalization, according to officials. Fischler plans to write a letter to U.S. Agriculture Secretary Dan Glickman emphasizing the importance of the regionalization issue to the EU, according to a senior EU official. Regionalization will be the deciding factor for the EU when it reviews the agreement after twelve months, he said.

At that time, the EU will have to assess what to do if only part of the agreement is carried out by that time, he said.

The EU has indicated to the U.S. that regionalization will be a key factor in assessing progress under the agreement, a U.S. official said. He emphasized this week that the U.S. would also examine the success of the veterinary agreement after twelve months to ensure the EU delivers on its obligations. Progress will be measured by the number of U.S. facilities that will be listed as eligible for exports to the EU and the amount of trade that is moving over the course of 12 months, he said.

At this week's council meeting, member states argued against the veterinary agreement because it implements the U.S. goal of access to the EU market for red meat and other products immediately while putting off the implementation of a final regionalization rule. The U.S. has made a commitment to publish a proposed rule on regionalization by the time the veterinary agreement goes into effect, and Glickman has promised the EU that the final rule will be implemented as soon as possible.

The opposition was led by France, whose exports are affected by the U.S. decision to declare EU plants ineligible for exports to the U.S. The other member state affected by the decision, Great Britain, has not taken a strong position on the agreement, partially because of the change in government, sources said.

The French position was supported by a number of member states including Germany, Spain, Italy, and Luxembourg, sources said. These countries expressed reservations about signing the agreement before the U.S. had met the EU regionalization objectives, but reserved their final position, EU officials said.

The agreement did not come up for a vote because the final text was not available, a senior EU official said. He said he could not predict whether the agreement would have passed had it come up for a vote. It takes twenty-three votes, which constitutes two large member countries with the support of a small EU country, to block the agreement.

The agreement is scheduled to go into effect on Oct. 1, 1997, and can be presented to an EU Council of Ministers before then, EU officials said. U.S. and EU negotiators last week worked out further details of the agreement.

A U.S. official this week said it was "amazing" that EU member states claim the agreement is unbalanced in favor of the U.S. The U.S. has recognized the EU processing and production system for meat and meat products as equivalent to its own, allowing the EU to export freely to the U.S. In contrast, U.S. exports were impaired by the EU's efforts to harmonize its veterinary system among member states, he said.

The EU believes it has a strong WTO case against the U.S. decision to cut off EU exports, according to the senior EU official. The U.S. did so without inspecting EU plants to see if they could meet U.S. requirements for pathogen reductions, and that is a violation of U.S. obligations under the WTO, the EU has charged.

But Fischler pointed out that an international dispute settlement panel takes a long time and that it is in the EU interest to resolve the issue bilaterally, EU officials said.

A senior U.S. official earlier this month also emphasized the need to work out the poultry dispute with the EU that arose when the EU refused to accept chlorine as a decontaminant in poultry processing.

USDA official Paul Drazek told a House Agriculture subcommittee in a May 8 hearing that pursuing the case in the WTO is not "out of the question," but the U.S. will continue to press the issue bilaterally under the framework established in the veterinary agreement.

"[I]f at the appropriate point in time we think that is the best way to go, we will do it," he said. "We have

done it in the past, and I think we will be successful in using the WTO in the future."

A U.S. poultry industry source backed Drazek's emphasis on a bilateral solution by saying that a WTO case is not the best solution because it takes a long time and the U.S. has no guarantee of its outcome.

Drazek said the U.S. would have a "very, very compelling" argument and "probably a winning argument" in the WTO if the EU Commission failed to stop as it has promised the use of chlorine in poultry processing in Great Britain and in France for third country exports. If the EU failed to stop those practices, it would be a violation of its obligations to treat domestic product and imports alike. If the EU stopped the French and British practices, it would "not help the case" the U.S. could bring to the WTO, Drazek said.

Drazek defended the use of chlorine in poultry processing, but acknowledged that it is not without risk. "[M]y understanding is that the use of chlorine in all risk assessments that we have seen demonstrate conclusively that the benefits far, far outweigh...any tiny risk there might be from the use of chlorine in poultry processing," he said.

Drazek told the subcommittee on livestock, dairy and poultry that he believes a scientific review would also reach that conclusion.

He said that the EU has agreed to conduct over the next six to nine months a study on the use of decontaminants in poultry production. And as a result of that study, the U.S. believes that the EU will decide to pursue legislation that would legalize the use of at least some decontaminants used by the U.S.

Drazek said that the issue of whether chlorine will be included in the EU study has not been settled yet, and said the U.S. government was consulting with the industry on that issue. He said the U.S. had discussed with the EU whether to allow the scientists themselves to decide which chemicals they would examine. "And it is conceivable, and probably likely, that chlorine will be included in some way in this study," he said.

Drazek said the U.S. government is trying to help the poultry industry with a "package of ideas" to offset the \$50 million market it has lost in Europe. He said the U.S. is looking into sanitary and phytosanitary problems that U.S. poultry exports face as well as other programs that USDA may have to promote U.S. poultry exports.

A U.S. industry source said this effort could focus on Taiwan and the Philippines, as well as the possible use of the Export Enhancement Program and the Market Access Program. But he emphasized that the use of these programs is not the primary thrust of the U.S. efforts.

But the two sides have not had a chance to engage in detailed talks, a USDA official said.

ADMINISTRATION CALLING FOR INDUSTRY INPUT ON TECH TRANSFER INITIATIVE

The Clinton Administration has called on members of the information technology industry to suggest ways in which the U.S. could address the problem of forced technology transfer in an expanded Information Technology Agreement. Industry input would be used to flesh out an initiative endorsed by the U.S., European Union, Japan and Canada earlier this month.

"It is not currently a well-developed concept," one industry source said.

The initiative was not undertaken at the behest of the U.S. high-tech industry, which was generally surprised by the announcement of Quad trade ministers, private-sector sources said.

The Administration is planning to solicit information from the industry in general on what should be covered in the ITA II, in particular through a *Federal Register* notice in the coming months, according to informed sources.

Forced technology transfer occurs when a company has to license intellectual property to a joint venture as a condition of the partnership or when the establishment of an investment is conditional on bringing technology or manufacturing of it into the country. The presence of the technology allows domestic producers to study and adopt it for their own benefit.

Quad trade ministers announced earlier this month that they would try to develop disciplines on technology transfer in the context of the so-called "ITA II." The ITA II will be devoted to expanding the product coverage, resolving tariff classification issues and non-tariff measures, which could include technical standards and forced technology transfer, industry and government sources said. Participants in the ITA agreed to meet in September 1997 to consider these issues as part of the ITA declaration issued in Singapore (*Inside U.S. Trade*, Dec. 16, p. 1).

One trade official predicted that the September meeting would constitute the "very early stages" of moving the ITA II forward, and that completion of it will "realistically" take 18 months. The annual summit of the Asia-Pacific Economic Cooperation forum in November and the Quad meeting in the fall could also serve as "action-forcing events" for the tech transfer initiative, one informed source said.

Industry sources suggested that the ITA II process could be harnessed to address technology transfer, even though there are currently no explicit WTO rules prohibiting forced technology transfer. The practice is

perceived by the U.S. and other industrialized countries to be above all a problem for companies doing business in China and Brazil.

Neither country is a participant in the ITA and China is not even a member of the WTO, although Taiwan participated in the ITA even though it is not a member, the sources pointed out. But the ITA II could bring them into the ITA process to slow the effort leading to WTO disciplines on it, one source said.

The source suggested that "peer pressure" in the context of the ITA II could be used to address the tech transfer issue. "If you don't play, you'll be left outside," another source said.

Despite the absence of clear WTO rules on tech transfer, there are some "vague commitments" in China's draft accession protocol on technology transfer, but no concrete proposals for disciplines on it, according to an informed source. Japan has raised the issue more "of late" and the U.S. has always expressed its opposition to the practices, the source said. The European Union has pressed China to curb tech transfer and other performance requirements in the context of its WTO accession (*Inside U.S. Trade*, April 5, 1996, p. 1).

SENATORS SAY DELAY OF FAST TRACK ENDANGERS PASSAGE THIS YEAR

Two members of the Senate Finance Committee and the Commerce Committee this week warned the Clinton Administration that failure to introduce fast-track legislation is reducing its chances of congressional passage this year. Sen. Charles Grassley (R-IA), the chairman of the Finance trade subcommittee, said that introducing the bill after the August recess would put Congress in a "very very weak position" to pass the measure.

This message was echoed by Finance Committee member Bob Graham (D-FL), who said that the longer the Administration waits, the more narrow the fast-track proposal has to become in order to pass this year. "If we go into July and don't have anything introduced, the last thing that can slip under the window in my opinion is a Chile-only fast track," Graham said in a May 21 press conference with Grassley.

Graham also agreed that the window of opportunity for passing fast track would be "virtually shut" if legislation were introduced after August. In the same press conference, Senate Commerce Committee Chairman John McCain (R-AZ) added that moving the bill in September would be difficult because Congress would have to focus mostly on appropriations bills.

Grassley said the extent to which labor and environment are dealt with in the bill would be a key issue to its passage in the Senate. Grassley added that another issue in the Senate would be how hard other committees, such as Commerce, demand to be more involved in the process of developing the legislation.

Grassley said being flexible in that area would be "worth it" to develop a fast-track bill that would move forward. But a congressional source said after the press conference that Grassley's comments do not mean that he would be willing to share jurisdiction over fast track with Commerce, and mean only that he would be willing to consult with other committees.

Graham predicted that he believes Clinton can unite Democrats behind a fast-track proposal as he united the party behind the North American Free Trade Agreement. "His Administration is at stake here," Graham said. "He has committed to the world that the U.S. will continue to be a leader in trade."

Some of these senators also warned that if the Administration does not introduce legislation, they would support fast-track bill developed by members of Congress. But they differed on when Congress should present its own bill, with Graham arguing for a 30 day delay, and Grassley urging immediate action.

"If the Administration goes past the third week in June and we still don't have a bill, then I would be inclined to join in saying that by its inaction, the Administration has now forfeited its leadership," Graham said. "In spite of the fact that its forfeiture makes it much less likely that fast track will get passed, at least Congress has an obligation to see that the ideas are explored and debated."

But Grassley, the chairman of the Senate Finance subcommittee on international trade, said he had "less patience than others" in waiting for an Administration fast-track proposal. "Speaking only for myself, I personally believe that maybe it's time for Congress to move forward," Grassley told reporters.

McCain also said that a congressional fast-track bill should be a "last resort," and agreed that passing fast track without Presidential leadership would be "extremely difficult." McCain said last week that he and Graham have discussed the option of introducing a fast-track bill.

These three senators and Sen. Kay Bailey Hutchison (R-TX) said fast-track's passage is an important step toward reestablishing U.S. leadership on trade in the hemisphere and the world. They also warned that other countries have been striking trade deals putting the U.S. at a disadvantage.

Finally, Graham said passing a bill renewing trade preferences to the Caribbean Basin countries would not happen until there is serious consideration of fast track. "If fast track doesn't move, then the chances are zero," he said.

ADMINISTRATION MAY HAVE TO SUE TO SOLVE MASSACHUSETTS SANCTIONS FIGHT

Massachusetts is unlikely to change a controversial law which discourages companies from doing business in Burma unless it faces a constitutional challenge from the Clinton Administration, sources close to the issue said this week. The European Union and Japan have complained that the law is incompatible with the Government Procurement Agreement (GPA) in the World Trade Organization, which prohibits political considerations from being weighed in procurement decisions.

In order to convince Massachusetts to change the law, "the State Dept. would have to say what Massachusetts is doing is illegal, and would have to demonstrate it," one informed source said. "The Administration would have to do that in court."

A court decision that the law is illegal would likely provide Massachusetts legislators the "political cover" in order to change the law, according to another informed source. "Legislators never admit error and want cover, and a court decision provides excellent cover," he said.

Supporters of the Burma sanctions law have so far refused to agree to change the law on their own, partly because State and the Office of the U.S. Trade Representative have yet to formally conclude that it is a violation of the GPA, according to U.S. government sources and other informed sources. In addition, the Administration remains reluctant to confront Massachusetts on the issue for fear of entering into a heated state's rights debate, sources said this week.

Adding to that reluctance is the increasing momentum that similar sanctions laws are picking up in several other cities and states, including New York City, which last week passed similar legislation sanctioning companies doing business in Burma, these sources said.

Trade experts agree that there is little doubt that the Administration has the proper constitutional authority to require Massachusetts to comply with its GPA obligations, if it wishes to do so.

Massachusetts legislators recently agreed to change a similar, pending law that would prohibit companies doing business in Indonesia from entering into state contracts. Legislators agreed to have the law only apply to contracts for goods worth less than \$500,000, and construction contracts worth less than \$5 million, sources said. These caps would be consistent with the state's GPA commitments, which obligate signatories to not weigh political factors in procurements worth more than those amounts, he said.

Although the Administration has not officially concluded that the Burma law violates the GPA, USTR has floated a similar proposal for solving the dispute over the Burma law, a U.S. trade official said. But state supporters of the law are unlikely to agree to those changes absent a court decision, informed sources said.

Another part of that solution could be to clarify with the EU and Japan that only executive branch purchasing decisions are beholden to the confines of the GPA, and that other decisions could be subject to the state law, the official said. In a 1993 letter, Massachusetts Governor William Weld (R) voluntarily agreed that an annex of executive agencies would be covered by the GPA, which excludes entities like the Massachusetts Turnpike Authority and others from that commitment (*Inside U.S. Trade*, March 7, p. 11).

Meanwhile, the EU is still waiting for a U.S. response to its inquiry on how the dispute might be resolved, an EU official said this week. While the EU has not set any deadlines by which a U.S. response must be made, "more time than we thought was necessary has already gone by," the official said. "We are eager for an answer on this, but we have heard nothing."

U.S., MERCOSUR AGREE ON RELATION OF FTAA TO OTHER TRADE ACCORDS

The U.S. and the Brazil-led Southern Cone Common Market last week hammered out a last-minute compromise over the extent to which a Free Trade Area of the Americas will co-exist with other trade arrangements such as Mercosur, informed sources said.

The matter was negotiated at the ministerial level after U.S. Trade Representative Charlene Barshefsky rejected previously-agreed language on the subject contained in a draft of the ministers' joint declaration prepared by their deputies. In the end, ministers agreed that elements in other trade arrangements would continue to exist if they went beyond language in the FTAA, sources said.

At Barshefsky's insistence, the final compromise language of the Joint Declaration of Belo Horizonte now states that the FTAA "can coexist with bilateral and sub-regional agreements, to the extent that the rights and obligations under these agreements are not covered by or go beyond the rights and obligations of the FTAA..." The declaration was signed by the trade ministers of the hemisphere's 34 democratically-elected governments.

Barshefsky told her hemispheric counterparts on May 16 that the original draft language took a "step backwards" from the principles contained in the 1994 Miami Declaration upon which the FTAA is founded, according

to these sources. That language called for the FTAA to "coexist with existing bilateral and sub-regional agreements, as well as those that may be established in the future, provided that they are consistent with" the World Trade Organization.

Barshefsky said she could not sign off on that language because it did not move the process forward, and urged that the document's paragraph 5, which lays out areas of consensus already achieved between the FTAA nations, be revised. That ultimately occurred as part of intensive, behind-doors negotiations on this issue and others related to labor input and strengthening the commitment to launch the talks next March.

"The point was...that if you are in business, while it's great that countries are liberalizing through these different bilateral and sub-regional agreements, to the extent that they differ from each other it makes it more difficult to do business," a senior U.S. trade official said at the conclusion of the May 16 ministerial. "You have a little different rules to do business in Mercosur than in the Andean Pact."

Barshefsky pressed the point because the U.S. "felt that the language was not sufficiently precise [to express] that what you would have is... truly a hemispheric agreement, and only to the extent that those sub-regional agreements were going to address things beyond the FTAA, would they continue to exist," the senior trade official said.

"Otherwise," he added, "they would be in effect subsumed or overtaken by the FTAA."

But Mercosur trade officials said they fought hard to ensure that the final language on this subject clearly allowed Mercosur to retain all of the customs union's political aspects of shared policy coordination and the common external tariff, as well as the ability to negotiate similar pacts with trading partners outside the region such as the European Union.

In addition, the compromise language would mean that bilateral or sub-regional trade pacts with provisions that are more liberalizing or "deeper" than whatever FTAA provisions are ultimately negotiated in a specific discipline could also be retained between the members of that accord. But provisions that are the same or less liberal would give way to the hemisphere-wide pact, sources noted.

COALITION STEPS UP FIGHT AGAINST NAFTA AD/CVD PANEL SYSTEM

A coalition of trade groups last month stepped up its attack on the dispute settlement system of the North American Free Trade Agreement that reviews antidumping and countervailing duty cases, arguing that it should be reformed or struck from the existing agreement. In addition, the coalition insisted that the Administration should include in any fast-track negotiating bill an explicit prohibition on extending the dispute settlement system under Chapter 19 of NAFTA to new countries.

"Precluding extension of Chapter 19 is needed to limit the deterioration of U.S. trade remedies and the administration of justice," the coalition said in an April public submission to the Office of the U.S. Trade Representative on the negotiation of the Free Trade Area of the Americas. "In addition, doing so would enhance prospects for fast-track and expanded free trade by removing a widespread concern about them."

Containment of Chapter 19 would lead to broader support for fast-track negotiating authority and expanding free trade, according to the submission. The group includes long-standing opponents of the Chapter 19 system as well as new members such as the National Cotton Council, the Southern Tier Cement Committee and a number of groups representing the lumber industry, such as the California Forestry Assn., and the Southern Forest Products Assn.

Some of the group's members have long argued that the Chapter 19 system is fundamentally flawed and violates the Constitution by depriving U.S. citizens of their right to have a case reviewed by federal judges. These members say it places far-reaching decisionmaking powers in the hands of private individuals who do not have judicial experience and are not accountable for their performance. "Constitutional safeguards to assure judicial impartiality are lost when such panels replace U.S. courts," the submission said.

Under Chapter 19, NAFTA panels are allowed to review whether signatories applied their trade remedy law in a reasonable manner, and can overturn a national agency's decision if they find this is not the case. But opponents of the system have long argued that panels often do not perform this review, but instead try to revisit the substance of a given case in order to overturn U.S. decisions.

The system's ad hoc and fragmented nature dooms it to failure as a replacement for domestic courts, the coalition charged. "Especially if the system were extended to additional countries, industries attempting to exercise their rights against unfair trade from different points of origin would end up facing a multiplicity of panel and court proceedings likely to yield divergent rulings on identical issues," the submission said.

Cases against NAFTA partners would go to a panel system while cases that involve other trading partners would go to the Court of International Trade. This could create a body of case law for NAFTA countries different from case law applying to non-NAFTA countries, a coalition source said. "The inevitable result is an unworkable system, leading to the effective neutralization of U.S. trade laws," the coalition said.

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The Chapter 19 system should also not be extended to other countries since the World Trade Organization dispute settlement system can satisfy the needs of all exporters and importers, the coalition said. "Unlike the Chapter 19 system, the WTO system is based on traditional international dispute settlement principles, i.e. international bodies interpreting international rules," the coalition said.

NAFTA partners have also indicated that Chapter 19 is unnecessary in future trade agreement, the coalition pointed out. Mexico omitted Chapter 19 from trade agreements with several Latin American countries. Canada and Chile omitted the system from the trade agreement they signed last year as the precursor to NAFTA expansion, relying instead on WTO dispute settlement.

The coalition consists of the following members: AK Steel Co., American Beekeepers Assn., American Honey Producers Assn., American Textile Manufacturers Institute, The Assn. for Manufacturing Technology, Bethlehem Steel Corp., California Forestry Assn., Coalition for Fair Atlantic Salmon Trade, Coalition for Fair Lumber Imports, Cold-Finished Steel Bar Institute, Copper and Brass Fabricators Council, Ferroalloy Assn., Footwear Industries of America, Fresh Garlic Producers Assn., Inland Steel Industries, Inc., Intermountain Forest Industries Assn., Leather Industries of America, LTV Steel Co., Municipal Castings Fair Trade Council, National Assn. of Wheat Growers, National Cotton Council of America, National Steel Corp., Northeastern Lumber Manufacturers Assn., Southern Forest Products Assn., Southern Tier Cement Committee, USX Corp., Valmont Industries, and Western Wood Products Assn.

EXECUTIVE ORDER BANNING BURMA INVESTMENT SPARES EXISTING CONTRACTS

An executive order issued by President Clinton this week prohibits U.S. companies from entering into new investment contracts in Burma after May 21, an Administration official said this week. But the order does not prohibit future U.S. investment in Burma if it is explicitly covered by an existing contract, the official said.

Future investments made in the context of contracts signed before the order took effect, which was May 21, will not be affected by the sanctions order as long as those contracts contain a "clear, unambiguous" commitment to further investment, an Administration official said.

"But if a contract envisions activities that require further deals and contracts, those activities will be prohibited," the official said.

The executive order, reprinted below, also prohibits U.S. citizens from "facilitating" any transaction resulting in new investment in Burma by a foreign citizen or company. The order prohibits "any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute new investment in Burma prohibited by this order if engaged in by a United States person or within the United States."

Sources said it is unclear what that language will specifically prohibit until the Dept. of the Treasury's Office of Foreign Assets Control (OFAC) develops implementing regulations for the order. For example, OFAC's regulations could address the question of whether a parent company in the U.S. would be in violation of the order if it encouraged its foreign subsidiaries to invest in Burma.

Prohibiting the facilitation of investment in Burma by U.S. citizens, which is aimed only at U.S. involvement in such investment, reflects the Administration's efforts to "avoid extraterritoriality" in drafting the order, an Administration official said. The order does not sanction foreign companies that choose to invest in Burma.

A spokesman for UNOCAL Corp., which is part owner of a gas pipeline project in Burma, declined to comment on the order's language on facilitation until OFAC's regulations are completed. The spokesman also said the company believes its involvement in Burma will not be affected by the order, although that will be confirmed only after the regulations are final.

In the order, Clinton found that Burma has committed large-scale repression of the democratic opposition in Burma, a finding that triggered the sanctions under a law passed last year. Clinton found that Burma's actions constituted a "national emergency," which he declared in order to use his authority under the International Emergency Economic Powers Act (IEEPA) to implement the sanctions. Sources said this move was expected given that the sanctions law itself grants no authority to impose the sanctions once a finding under the law is made.

U.S. industry sources had feared that the order might seek to inhibit the ability of U.S. companies to fulfill existing contracts. While the order's intention is to allow companies to fulfill current contracts, Sen. Mitch McConnell (R-KY) is expected to introduce a bill that would force U.S. companies to divest from Burma (*Inside U.S. Trade*, May 9, p. 19).

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Clinton Executive Order on Burma

May 20, 1997

Executive Order

Prohibiting New Investment in Burma

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208) (the "Act"), the International Emergency Economic Powers Act (50 U.S.C. 1601 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1701 *et seq.*), and section 301 of title 3 of the United States Code;

I, William J. Clinton, President of the United States of America, hereby determine and certify that, for purposes of section 570(b) of the Act, the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, and further determine that the actions and policies of the Government of Burma constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declare a national emergency to deal with that threat.

Section 1. Except to the extent provided in regulations, orders, directives, or licenses that may be issued in conformity with section 570 of the Act and pursuant to this order, I hereby prohibit new investment in Burma by United States persons.

Sec. 2. The following are also prohibited, except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) or in regulations, orders, directives, or licenses that may be issued pursuant to this order:

(a) any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute new investment in Burma prohibited by this order if engaged in by a United States person or within the United States; and

(b) any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. Nothing in this order shall be construed to prohibit the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology, except:

(a) where the entry into such contract on or after the effective date of this order is for the supervision and guarantee of another person's performance of a contract for the economic development of resources located in Burma; or

(b) where such contract provides for payment, in whole or in part, in:

(i) shares of ownership, including an equity interest, in the economic development of resources located in Burma; or

(ii) participation in royalties, earnings, or profits in the economic development of resources located in Burma.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United

States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States;

(d) the term "new investment" means any of the following activities, if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after the effective date of this order:

(i) the entry into a contract that includes the economic development of resources located in Burma;

(ii) the entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(iii) the purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(iv) the entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation;

(e) the term "resources located in Burma" means any resources, including natural, agricultural, commercial, financial, industrial, and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma;

(f) the term "economic development of resources located in Burma" shall not be construed to include not-for-profit educational, health, or other humanitarian programs or activities.

Sec. 5. I hereby delegate to the Secretary of State the functions vested in me under section 570(c) and (d) of the Act, to be exercised in consultation with the heads of other agencies of the United States Government as appropriate.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by section 570(b) of the Act and by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 7. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 8. (a) This order shall take effect at 12:01 a.m., eastern daylight time, May 21, 1997.

(b) This order shall be transmitted to the Congress and published in the *Federal Register*.

William J. Clinton

The White House

May 20, 1997.

FUJITSU WITHDRAWS FROM U.S. SUPERCOMPUTER DUMPING INVESTIGATION

Fujitsu Limited this week withdrew from a controversial Commerce Dept. dumping investigation into vector supercomputers from Japan because it could not provide a complete response to Commerce's inquiries by a May 19 deadline. As a result, the dumping margins assigned to Fujitsu supercomputers by Commerce could be higher than they would have been if Fujitsu had not withdrawn, according to a Commerce official.

"It's fair to say the margin could go up...because we now have to go with the facts available," the official said this week. Without a complete response available from Fujitsu, Commerce is now obligated to seek out other industry data in its effort to determine cost and price information for Fujitsu supercomputers.

Commerce's investigation was prompted by Cray Research, Inc., after the company lost a bid from a U.S.-funded weather research center to an Arlington, VA, company that bid supercomputers made by NEC Corp. of Japan. NEC has refused to participate in Commerce's investigation from the start over charges that Commerce is biased in favor of Cray.

In a May 20 letter to Commerce, reprinted below, Fujitsu said it withdrew from the investigation because it could not comply with Commerce's April 28 request for further information.

"That questionnaire contains 137 separate requests for extraordinarily detailed information," the letter said. "Our request for reasonable modifications of the questionnaire were denied. Since the Department had previously stated in a May 9th letter that 'we cannot grant any additional deadlines,' we concluded that we had no choice other than to cease participating in the investigation."

A Fujitsu spokesman said this week that the company was "astonished" that Commerce did not grant an extension, and said that decision is "unfair" because it was "physically impossible" to provide that much information three weeks after it was requested.

Commerce's April request for information included details on semiconductor and circuit board development, which the company does not feel is related to the case, the spokesman added. While the price of these components affects the dumping margin, methods by which they are developed do not, he said.

But a U.S. official this week said Commerce had already granted Fujitsu several extensions, and that it could not grant another or it would risk exceeding its own deadline for completing the investigation. The official added that Fujitsu had "more time than any other company that I can recall" in which to make submissions to Commerce.

Meanwhile, the Court of International Trade (CIT) could rule as early as today (May 23) on NEC's petition requesting that a third party, instead of Commerce, determine whether Japanese supercomputers are being sold at less than fair value in the U.S., informed sources said. However, that decision will likely be made next week, they said.

Part of the delay in the CIT Judge Donald Pogue's decision is that he is urging NEC and Cray to settle their dispute, sources said. Other sources close to the case said there is a "certain level of frustration" on the part of Cray that Judge Pogue has delayed the decision, especially since he has already rejected an NEC request that Commerce's investigation be delayed until the CIT case was completed. Pogue based that decision on his opinion that NEC had not demonstrated a "likelihood of success" on the merits of its case (*Inside U.S. Trade*, March 28, p. 12).

Although NEC and Cray met last week and in April to discuss possible settlements to the dispute, sources close to the case this week continued to downplay the possibility of the two sides reaching a settlement. Industry sources said Cray believes its dumping case is very strong, and therefore is only interested in a settlement that would address competition in the world market, not just the single procurement of NEC equipment that prompted the case.

Sources added that NEC has floated the idea of sharing technology with Cray, but Cray believes that solution does not address the question of dumping and ignores the fact that Cray already has access to the same technology that NEC does.

NEC's complaint that Commerce is biased stems from Commerce's distribution of a predecisional memorandum that was used to warn the U.S. agency that was prepared to lease NEC equipment that the equipment in question was likely being leased at less than fair market value. That memo effectively blocked the procurement last year after the procuring agency decided to wait until the completion of the dumping case before deciding whether to lease the NEC equipment.

The government of Japan has already complained that Commerce's predecisional memo is "clearly inconsistent" with antidumping rules under the World Trade Organization. Sources said Japan could raise the issue again in the WTO's Government Procurement Committee, which is scheduled to meet today, (*Inside U.S. Trade*, May 2, p. 24).

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Fujitsu Letter on Supercomputers

May 20, 1997

The Honorable William Daley
Secretary of Commerce
Attn: Central Records Unit
Room B-099
Department of Commerce
Pennsylvania Ave. and 14th Street, N.W.
Washington, D.C. 20230

Re: Vector Supercomputers from Japan

Dear Mr. Secretary:

Please be advised that Fujitsu Limited and Fujitsu America, Inc. have determined that they will no longer participate in the Department's investigation of vector supercomputers from Japan. We reached this decision after concluding that we could not provide a complete response by the May 19th due date for responding to the Department's

April 28, 1997 supplemental cost questionnaire. That questionnaire contains 137 separate requests for extraordinarily detailed information. Our request for reasonable modifications of the questionnaire were denied. Since the Department had previously stated in a May 9th letter that "we cannot grant any additional deadlines," we concluded that we had no choice other than to cease participating in the investigation.

Since Fujitsu sold only one small supercomputer in the United States during the one year period of investigation, there is no possibility that any alleged dumping could have caused material injury to the petitioner. For this reason, and many others, we fully expect that the International Trade Commission will reach a negative final determination, and we intend to direct our efforts to achieving this objective.

Sincerely,
Michio Naruto
Executive Vice President

OECD MEMBERS TO OPEN INVESTMENT PACT NEGOTIATION TO NON-MEMBERS

Members of the Organization for Economic Cooperation & Development last week agreed to open the negotiation of the Multilateral Agreement on Investment (MAI) to the first non-OECD members, according to informed sources. Negotiators agreed to invite Argentina and Hong Kong to attend MAI negotiating sessions with limited rights to participate in plenary discussions, these sources said.

At a May 14-16 negotiating session in Paris, OECD members agreed to formally invite the two countries next month, according to informed sources. Argentina and Hong Kong have previously requested observer status in the MAI negotiations, these sources said.

Observers in the negotiations will meet with the chairman prior to each plenary session to consider what issues they might address, informed sources said. They may also intervene in discussions if the chairman asks for their contributions, the sources said.

"We'll have to find a middle ground between unlimited speaking rights and keeping entirely quiet," one official said.

Participation as observers in the negotiations will likely be part of the process that ultimately results in accession to the MAI by non-OECD members, informed sources said. Officials said they also expect requests from Chile, Brazil and Slovenia for observer status.

To participate, countries must already be members of the OECD's Committee on Investment and Multinational Enterprises (CIME) and the Trade Committee, the two OECD bodies which deal with issues also addressed in the MAI, informed sources said. Chile is already a member of both, and Slovenia is "on the [OECD] membership track," one source said.

Brazil is currently being considered for membership in the CIME, an informed source pointed out. To do so, a country must agree to adhere to the OECD's non-binding investment national treatment instrument and the Guidelines on Multinational Enterprises, the source pointed out.

Negotiators last week also approved a report to ministers on the MAI which largely summarized the progress made to date and emphasizes the importance of concluding the agreement by the 1998 ministerial, according to informed sources. "The basic message is that a lot of progress has been made [and that] the commitment to the process is definitely there," one official said.

The report, which will be made public following the OECD ministerial early next week, notes the "main elements" of the MAI and lists "in a very neutral way" a number of the unresolved issues, most of which will require political decisions before they can be addressed in the MAI, two officials said.

The key outstanding issues cited in the report include a possible exemption from MAI disciplines for measures related to the protection of cultural heritages, as well as general exceptions for "essential security interests" and public order, informed sources said. The report also mentions the issue of how to treat regional economic integration organizations (REIOs) and conflicting jurisdictional issues related to laws such as the Helms-Burton Act.

The report notes that the MAI will also include country-specific reservations and includes a "throwaway line"

which alludes to issue of binding subfederal governments by noting the importance of applying the MAI to all levels of government, one informed source said.

OECD members will begin the third year of the MAI negotiation by tackling some of the more difficult issues at a June 30-July 2 session, informed sources said. These issues include the potential general exemptions for national security, culture and public order, the REIO question and the negotiation of country-specific reservations, these sources said.

To assist countries in negotiating the reservations, the OECD secretariat will also prepare a "matrix" comparing the non-services restrictions included in the lists which countries have tabled, informed sources said. The lists of reservations, which compile the investment barriers countries maintain, will form the basis of the negotiation to roll back investment restrictions.

U.S. OUTLINES WTO CASE AGAINST EU ON HIGH-TECH CLASSIFICATION FIGHT

The U.S. last week charged that decisions by the European Union and two member states to reclassify a number of high-tech products into tariff categories with higher duties violates international trade rules. In a May 13 submission to a World Trade Organization dispute settlement panel, the U.S. argued that the EU's reclassification of local area network (LAN) equipment and multimedia computers is a straightforward violation of Art. II of the General Agreement on Tariffs & Trade.

The dispute stems from a June 14, 1995 European Commission regulation which reclassified LAN adapter cards from the Harmonized Tariff System category for "automatic data processing (ADP) machines and units thereof" (category 8471) to "telecommunications apparatus" (category 8517). The change boosted the tariff from 3.9 percent to 7.5 percent.

Although this regulation did not specifically address other LAN equipment, customs authorities in two member states, the United Kingdom and Ireland, began reclassifying other items in this manner. This group of products includes repeaters, bridges, routers, hubs, network cards, optical fibre converters, media interface modules and multistation access units.

Beginning in 1996, European customs authorities have also classified computers with television reception and display capability as "television receivers" (category 8528). This change resulted in a duty of 14 percent instead of the lower rates for computers in the EU of two percent.

Customs authorities in the UK began even before the passage of the EU regulation to switch the classification of LAN equipment to the category with higher duties. The UK also reclassified "certain enhanced computers," thus boosting the duty to 14 percent. Despite "binding" classification decisions by the Irish Revenue Commission in 1993 which put LAN equipment into category 8471, Ireland reclassified these products following the EU regulation.

The U.S. pointed out in its submission that the EU and its member states committed to its Uruguay Round tariff concessions on Dec. 15, 1993 but subsequently took decisions which altered the balance of concession established in that negotiation. UK authorities began the reclassification of LAN equipment "just days" after the verification of Uruguay Round schedules in April 1994, and Irish authorities did so one year later.

The U.S. charged the reclassification decisions violate GATT Art. II:1(b), the most-favored nation clause, which calls for treatment no less favorable than that provided for in WTO members' tariff schedules. "The principles set forth in GATT Article II form the cornerstone of the GATT commitments," the U.S. wrote. "The fundamental principles embodied in this Article are the security and predictability of market access."

The decision by the Commission to issue a blanket reclassification of LAN equipment and change its practices for the classification of computers with multimedia capabilities represented a violation of what the U.S. could reasonably expect from Uruguay Round tariff concessions. "When the United States negotiated with the EC for tariff concessions, it understood that LAN equipment accounting for substantial volumes of trade entering the EC was receiving treatment as ADP, and reasonably expected these products would have continued access to the EU market consistent with existing conditions of competition for trade," the U.S. wrote.

The U.S. made similar arguments regarding the actions by the UK and Ireland.

The EU has assured the U.S. that it will allow the WTO panel hearing the case to consider "any argument the United States wished to put forward relating to the tariff treatment actually applied by the U.K. or Irish authorities," according to the U.S. brief. The EU also said it would not seek to exclude any U.S. arguments by contending that separate WTO panels would be necessary, the U.S. said.

ROTH TO INTRODUCE BILL FOR PERMANENT CHINA MFN AFTER ANNUAL CYCLE

Senate Finance Committee Chairman William Roth (R-DE) this week said that China should be granted permanent most-favored nation status in conjunction with the tabling of a "commercially viable" offer from China on its accession to the World Trade Organization. Roth said he would introduce legislation to do so following the annual MFN renewal cycle later this summer.

"[W]e must make it clear that the time has come to make normal trade relations with China permanent," Roth said in a May 21 speech at the National Press Club. "Normal trade relations between the United States and China are central to the kind of policy we need if we are to keep our economy strong and engage Beijing in constructive reform."

At the same time, Roth said that the strength of anti-MFN forces is "growing with each passing day," and called for a strong campaign by pro-MFN forces to ensure that "Americans understand what is at stake in this debate."

"The strength of this coalition is its diversity -- from groups within the Christian Right, to the AFL-CIO, to women's organization's, to the United States Catholic Conference," he said. "This coalition is being heard."

Roth warned that human rights abuses, religious persecution, allegations of Chinese influence-peddling in the 1996 elections, and "the many other problems we have with China" are "stark statistics" which "weigh heavily in favor of the anti-MFN lobby."

The case for MFN must be based on the national interest of the U.S. and the recognition that the best way to change Chinese behavior is to engage China by "establish[ing] an economic association of trust and communication," Roth argued. He also said that MFN is not the right tool to address other issues such as human rights.

"To use MFN status in an effort to force China's leaders to address non-trade issues is to actually compound those important issues by enveloping them in what could turn into a bitter trade war -- a war that would not only undermine the changes we seek, but slam the door shut on America's access to China's market, the fastest growing in the world," Roth said.

Roth also reiterated his previous calls for legislation to change the term MFN to "normal trade relations" in order to "bring clarity" to U.S. trade law. "If reporters here and elsewhere take note of this act, and describe the renewal debate as one over normal trade relations, Congress and the American public will be far better able to make an informed decision," he said.

WTO COMPETITION POLICY GROUP PREPARES WORK PLAN FOR COMING YEAR

Members of the World Trade Organization are gearing up to decide what issues a new working party on the relationship between trade and competition policy should address, according to informed sources. Following an informal meeting earlier this month, WTO members agreed to put in writing by June 13 their suggestions so that they can begin hammering out a work program at a first meeting scheduled for July 7-8.

Officials agreed that members should consider both analytical work related to competition policy provisions of existing WTO agreements as well as additional questions consistent with the mandate of the group approved at the Singapore WTO ministerial. That mandate stipulates that the group consider "the interaction between trade and competition policy, including anti-competitive practices."

One trade official speculated that the submissions will address the "full range of issues" for a potential agenda of the working group and will therefore dampen the tendency to focus solely on the issue of antidumping. "Things will fall into perspective after that," the official said.

Countries including Japan and Korea have insisted that the group address trade remedy law while the U.S. and the European Union have strongly opposed this position (*Inside U.S. Trade*, Dec. 20, p. 18).

Existing WTO rules on aspects of competition policy that could be raised in the working group include the recently approved regulatory principles for the basic telecommunications sector, rules in the General Agreement on Trade in Services for antitrust cooperation, rules in the General Agreement on Tariffs & Trade on the exclusive privileges accorded state trading entities, provisions of the Trade-Related Aspects of a Intellectual Property (TRIPs) agreement. The Trade-Related Investment Measures (TRIMs) agreement also contains a pledge to look at competition policy issues.

Besides antidumping, countries may also push to have the group address market access issues related to competition policy enforcement, restrictive business practices, international antitrust cooperation and export cartels, informed sources said.

Separately, the WTO working party on investment will hold its first meeting on June 2-3, informed sources said. The group will likely first take stock of investment work done in other international fora and hear general statements from WTO members about the group's goals, these sources said.

SHAPIRO TO LEAVE USTR NEXT MONTH TO JOIN WASHINGTON LAW FIRM

Ambassador Ira Shapiro will leave his position as Senior Counsel and Negotiator at the Office of the U.S. Trade Representative early next month to become a partner at Collier, Shannon, Rill & Scott. In that role, he will work on international law and policy issues and will advise clients on how to gain more market access abroad, sources said.

Shapiro will leave his position at USTR on June 6 and begin work at Collier June 16, they said.

U.S. Trade Representative Charlene Barshefsky this week told reporters that Shapiro's responsibilities regarding Japan, Canada and Mexico will be absorbed by the two Deputy U.S. Trade Representatives. This would mean the two USTR deputies would deal with all regions of the world and all sectors except for agriculture, which would be handled by Peter Scher in his role as special ambassador for agriculture, sources said.

Under the Clinton Administration ethics rules, Shapiro cannot lobby or contact USTR or the White House on behalf of a client for five years, sources said. In addition, he faces a five year ban on advising foreign corporations with the intent of influencing the executive branch, they said. But those restrictions leave open the possibility of advising clients on trade issues, they said.

Shapiro came to USTR as general counsel in February 1993 after having served on the transition team for President Clinton. He was promoted to Ambassador rank as special negotiator for Japan and Canada in early 1995.

KANTOR TESTIMONY SOUGHT IN SUIT AGAINST COMMERCE DEPARTMENT

A group suing the Commerce Dept. over allegations that it improperly gave business representatives seats on foreign trade missions based on their contributions to the Democratic party is expected next week to request that former U.S. Trade Representative and Commerce Secretary Mickey Kantor be deposed in the case.

Judicial Watch, Inc. announced it will make this request at the next status conference in the ongoing case, which is being heard by the U.S. District Court for the District of Columbia, according to Judicial Watch Chairman Larry Klayman. The group's previous request for Kantor to testify in the case was rejected by the judge because Kantor was the Secretary of Commerce at the time.

But Klayman said he expects Judge Royce Lamberth will grant the new request in the coming weeks.

"The judge's [previous] argument for not allowing Kantor to testify was that he was the Secretary of Commerce," Klayman said this week. "That was their only objection." Now that Kantor is in private practice, it should be "easy" to get him to testify, Klayman said.

Klayman said the group is still seeking the testimony of twenty other Administration officials, and will also next week seek to reopen the testimony of former Commerce official and Democratic party fundraiser John Huang.

Judicial Watch last August filed a complaint against Commerce with the Federal Election Commission for allegedly awarding seats on Commerce trade missions abroad to U.S. executives that made campaign contributions to the Democratic party (*Inside U.S. Trade*, Aug. 30, p. 14). The group has filed a freedom of information act case in the U.S. District Court in an effort to acquire documents detailing Commerce's handling of trade missions.

The Administration has since revised its rules for trade missions under the leadership of Commerce Secretary Bill Daley, leaving the decisions up to career officials.

U.S. DELEGATION PRESSES CHINA FOR STRONG AGRICULTURE CONCESSIONS

Agriculture Ambassador-designate Peter Scher and a group of U.S. agriculture representatives last week urged senior Chinese officials to resolve bilateral market access disputes remaining from a 1992 memorandum of understanding with the U.S., according to informed sources. The group also emphasized to Chinese officials in last week's visit to Beijing that China must make significant market access commitments for agriculture as part of China's accession to the World Trade Organization.

The U.S. group also emphasized to China that keeping in place unjustified trade barriers not based on sound science will have a negative impact on the debate over the annual renewal of most-favored nation status and the WTO accession, informed sources said. This trip marked the first time that this message was highlighted to senior Chinese officials in the ministries of foreign affairs, trade, agriculture and internal trade and the State Planning Commission, these sources said.

In response to the U.S. delegation's message, Chinese officials emphasized that they need to pursue policies that ensured food self-sufficiency, informed sources said. Delegation members tried to emphasize that relying on imports is not inconsistent with that goal, sources said.

Chinese officials also argued that they must be able to make trade rules that take into account the special

circumstances of China's climate, these sources said. China bans the exports of U.S. wheat from the northwest over fears that it might be contaminated with TCK fungus, which the U.S. says is not a threat to human health, and would not spread in China's climate.

The Clinton Administration is continuing to press the issue with China, but informed sources said officials have become increasingly convinced that China will only buy wheat from the Pacific Northwest if it needs to do so.

It is clear to many U.S. agriculture industry representatives that increasing agriculture exports to China will at best be a long-term proposition, although many bet that consumer demands in an increasingly affluent society may lead to increased imports, sources said.

But other U.S. agriculture interests have argued that the U.S. is expending political capital in vain in pressing China for market access on basic foodstuffs. China is unlikely to ever relinquish state control over the supply of these items, such as grains and vegetable oil, these sources argue. Up to now, China has insisted that these commodities will remain subject to state trading even after WTO accession (*Inside U.S. Trade*, March 14, p. 6).

The debate on agriculture rules at a working party meeting this week was focused on explaining basic concepts of the Uruguay Round agriculture agreement. China emphasized that it could not accept the agriculture obligations of the Uruguay Round in one step (see related story).

Chinese officials meeting with Scher and his group agreed to hold a working session with the U.S. on barriers to citrus exports from the U.S. by the end of June, sources said. China now bans U.S. citrus because it claims problems with the Mediterranean fruit fly. The U.S. has proposed to China a work plan for ensuring that U.S. citrus is free of the pest, sources said. It was not clear to members of the delegation whether the two sides could resolve the citrus dispute at that time, they said.

Citrus access is one of the issues unresolved under the 1992 MOU, along with barriers for northwest wheat, stone fruit, and tobacco. The two sides earlier this month resolved a market access dispute over grapes with a new export protocol (*Inside U.S. Trade*, April 25, p. 17).

The chairman and ranking member of the Senate Finance trade subcommittee last week warned senior Administration officials to resolve bilateral and multilateral agriculture disputes before China enters the World Trade Organization. The U.S. must have agricultural issues settled with China before accession to the WTO, particularly as it relates to the scientific justification for non-tariff trade restrictions, Sens. Charles Grassley (R-IA) and Max Baucus (D-MT) said in a May 15 hearing.

"We ought to learn from President Eisenhower's haste in getting Japan into the [General Agreement on Tariffs & Trade] ... without getting concessions ahead of time, and obviously, we're still trying to work all those details out over the last 40 years," Grassley said. "I would hope that we would not make the same mistake with China."

Grassley argued that failure to hold China to the obligations of the Uruguay Round agriculture agreement would undermine the value of the concessions that were negotiated. "And you might as well not have had the 1993 agreement, if we're going to let China ignore all these major issues that we fought so hard to get with every other country," he said.

Baucus said he was "quite concerned" that the Administration is not pushing China as hard as it should on agriculture. He pointed out that China may eliminate tariffs, but then continues to block exports with non-tariff barriers, particularly to the sale of northwest wheat. He warned that he would raise a "ruckus" if he detected a potential deal on China accession until these agricultural problems are solved.

Their warnings were answered with commitments from Deputy U.S. Trade Representative Jeff Lang and to Paul Drazek, the trade advisor to Agriculture Secretary Dan Glickman, that the Administration is pressing China for strong agricultural commitments.

SUBSCRIPTIONS:
703-416-8500 or
Toll-free 800-424-9068

NEWS OFFICE
703-416-8539

FAX: 703-416-8543

Publisher: Joe Burey
Chief Editor: Jutta Hennig
Associate Editors: Carter Dougherty, Peter Kasperowicz, Craig Updyke
Contributing Editors: Scott Otteman, Janice Hughes
Production: Justin Goudreau, Wendy Tull, Wendell Alcorn, Lori Nicholson

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EU DETAILS OBJECTIONS TO BOEING MERGER . . . begins page one

Specifically, the EU argued that the merger would increase Boeing's market share for large commercial aircraft, and eliminate MDC as a competitor and potential partner for other aircraft manufacturers in this market. In addition, the EU argued that the merger would dramatically increase Boeing's customer base as a percentage of Boeing aircraft being used.

The EU also argued that strengthening Boeing's already dominant position in the large commercial aircraft sector would allow the company to more easily enter into sole-supplier arrangements with airlines, informed sources said. And the statement criticizes two of these existing sole-supplier deals with U.S. airlines, which the EU charges already create an environment that will make it more difficult for Airbus to compete, they said.

The EU is charging that each of these effects reduces the chances that potential competition will have a significant impact in the market in the near future.

In general terms, the statement fleshes out the EU's preliminary statement of objections it gave to Boeing in March, the Boeing spokesman said. That preliminary finding, which found that the merger would have anticompetitive effects in the EU market, launched a full-scale investigation that is likely to end in July.

The next step in the investigation will be hearings in Brussels on June 12-13, which will provide Boeing an opportunity to respond to the EU's objections, sources said. The company has until July to either work out changes to the merger with the EU or risk facing possible EU penalties of as much as 10 percent of Boeing's world-wide turnover. The EU could also move to fine EU airlines for purchasing Boeing aircraft, although EU officials have said both of those outcomes are "doomsday scenarios."

But Boeing this week publicly questioned the EU's authority to review the proposed merger, and argued that the EU has no jurisdiction over the merger of two U.S. companies "with no development or manufacturing facilities in Europe." Boeing also argued that the EU has no authority to investigate and demand changes to sole-supplier contracts between Boeing and U.S. air carriers, and that the investigation raises "serious issues as to the jurisdictional reach of EC competition law."

Despite that charge, Chairman and Chief Executive Officer of Boeing Philip Condit said May 21 that Boeing would continue to cooperate with the EU's investigation. "However, the U.S. Federal Trade Commission should be given the lead in this case, as it so obviously concerns key U.S. interests, not the least of which is in the sovereign area of defense," he said. The FTC is also investigating the merger and is expected to issue a ruling in early July.

In addition, based on previous cases in the European Court of Justice, the EU "does not have jurisdiction to oppose a merger of two United States companies under these circumstances, or to demand the abrogation of existing contracts, valid under United States law, between Boeing and its United States airline customers," Boeing said in a May 20 statement. "Such actions by the EC would be unprecedented and would constitute a much more expansive approach to its jurisdiction than the EC has ever exercised in any past case."

Specifically, Boeing said that EU enforcement against the merger would contradict a U.S.-EU cooperative agreement on the application of their respective competition laws. The merger involves important interests of the U.S. that would be jeopardized if the EU took action, and those interests are greater than the interest of the EU, the statement said.

"The main purpose of the merger is to create a stronger, more cost-effective defense and space business in the United States," the statement said. "This is consistent with the important defense industry consolidation goals of the United States Government. If the Commission opposed the merger, this would clearly be contrary to the stated economic policy of the United States to encourage consolidation in the defense industry."

Boeing also called on the EU to defer its jurisdiction to the Federal Trade Commission by noting that the U.S. Department of Justice made a similar move by deferring its jurisdiction to the EU in a recent investigation of certain EU airline reservation practices.

And on the specific issue of Boeing's sole-supplier arrangements with Delta Air Lines and American Airlines, Boeing said it is "difficult to see how the EU would claim jurisdiction to examine such contracts at all," since those arrangements are between a U.S. company and U.S. airlines that fly primarily between U.S. destinations.

"[E]ven if the EU claims jurisdiction, those contracts have nothing to do with Boeing's acquisition of MDC," Boeing argued in its statement. "For that reason, it is entirely inappropriate to consider these contracts in the process of reviewing the acquisition or to withhold approval of the merger because one party entered contracts that EC officials don't like."

The Boeing statement added that one sole-supplier contract was signed before the proposed merger was announced, and the other takes effect before the merger will take place. EU Commissioner for Competition Karel van Miert has said the arrangements are being considered by the EU because of their affect on competition in the EU.

As to the specific complaints raised by the EU, Condit said there is "one fundamental antitrust issue: does the combination of Boeing with McDonnell Douglas' commercial airplane unit have a restrictive effect on competi-

tion?" He said the answer is a "resounding no" because MDC had only four percent of new commercial sales in 1996, and added that Airbus has become a stronger competitor in recent years.

Boeing charged that the EU used old ordering information to "create an exaggerated impression" that MDC's market share is six percent overall, and said Airbus has acknowledged that MDC is no longer a significant company in the commercial aircraft sector.

"Moreover, reliance on order backlog figures (which include orders won several years ago) to assess market impact is particularly inappropriate since merger control is about future competition and it is widely acknowledged that MDC will have no significant impact on future commercial aircraft competition," the statement said.

Boeing also said that indirect U.S. subsidies benefitting MDC's defense and space business will not lead to "spill-over effects" that will benefit Boeing's commercial aircraft development. In meetings under a bilateral civil aircraft agreement, the U.S. has continued to certify that no such spill-over exists, Boeing said. In addition, if it did exist, it would also exist for Airbus, the statement said.

The statement also rejected EU suggestions that the merger would allow Boeing to use profits from successful aircraft models to subsidize less successful models. "While such cross-subsidization may not be unusual in state-owned companies, the shareholders of a privately-owned company simply will not tolerate any business strategy that deliberately continues to put money into a loss-making business," it said.

And Boeing denied that it would be able to obtain discounts from parts suppliers that are unavailable to Airbus or to instruct suppliers not to deal with Airbus. That kind of leverage does not exist because aircraft parts are typically the result of a joint development effort between aircraft manufacturers and parts suppliers, it said. In addition, Boeing said its main concern is with getting the best parts available, and that excluding a supplier because it refused to discriminate against Airbus would jeopardize that goal.

Finally, Boeing downplayed reports that Airbus would be a weak competitor against the merged company, and noted that Airbus continues to enjoy large government subsidies and that it won 44 percent of all orders last year.

"To portray Airbus as a financially weak competitor in comparison with Boeing is at odds with economic reality," the statement said. "Moreover, it is clearly inconsistent with the Commission's approach to this issue in other cases, where the Commission has considered the ultimate shareholders of a company in judging its financial strength. Using this measure, the combined turnover of Airbus shareholders is vastly greater than that of Boeing and MDC combined."

OPPONENTS KICK OFF ANTI-CHINA MFN PUSH . . . begins page one

Research Council President Gary Bauer said that House Speaker Newt Gingrich (R-GA) promised him in a private meeting that there would not be a "rush to judgement" with a quick House vote.

"We had a very simple request [to Gingrich]: there ought to be a full and open debate in the U.S. Congress so that the American people can hear this debate and make a judgement," Bauer said. "I would hope the rumors that we have heard in the last week about speeding up this vote is not a violation of the pledge in that meeting, and we intend to hold him to it."

Bauer admitted that Gingrich did not offer explicit assurances as to when the vote would be held, but said that the Speaker "bristled at the suggestion" that the vote would be early.

Assistant to the President for National Security Affairs Sandy Berger said at a May 19 White House briefing announcing Clinton's decision to extend MFN that the Administration believes Congress should "get on with it" and hold the vote as soon as possible. But Berger did not specify a date.

Rep. Nancy Pelosi (D-CA) said at the May 21 press conference that the Administration has asked the congressional leadership to "get this over with as soon as possible because they know that our momentum is growing." Pelosi also said she understood that the Administration was pressing for a vote the week of June 9, but numerous congressional sources stressed that a vote that early simply will not be possible.

Clinton has not yet formally notified Congress of his intent to extend MFN to China, one source pointed out. Once he does so, an opponent will still have to introduce the resolution of disapproval, which would then encounter a "huge fight" in the Rules Committee before going to the floor. In addition, trade subcommittee Chairman Phil Crane (R-IL) plans to hold a hearing on MFN renewal before the full committee will consider the resolution, another source said.

Democratic and Republican MFN supporters were gearing up late this week to get a rough count of the support and opposition in the House, according to congressional sources. Members were hoping to get a sense of the extent of support for renewal adjourning for Memorial Day recess or shortly thereafter, one source said. But other sources suggested it might not be possible to get even a general sense of the vote count before the recess.

One private-sector source suggested that once the pro-MFN forces have a rough vote count, they could better

make a decision about whether to push for an earlier vote. Some members have informally suggested that since senior Hong Kong officials have emphasized the importance of renewing MFN, an argument could be made that a vote before the transition could be justified in order to "give Hong Kong the best possible scenario," one congressional source said. But the source described this possibility as "a theoretical discussion" that is "on the fringes."

MFN opponents this week signalled that they will push for outright revocation and will not accept any substitute legislation that might be introduced to avoid a override of Clinton's decision. At the same time, business lobbying is now focusing on the freshmen members who have no track record on MFN. It is likely to emphasize the importance of the U.S.-China trading relationship rather than attempt to counter opponents' arguments on other issues, private-sector sources said.

"Our efforts this year are focused on outright revocation," Pelosi said. Wolf emphasized that they feel substitute measures have no credibility because previous provisions were passed by the House but died in the Senate.

The coalition which announced it will oppose MFN includes Pelosi and Reps. Frank Wolf (R-VA) and Christopher Smith (R-NJ) as well as a number of pressure groups: the Family Research Council, the AFL-CIO, the U.S. Catholic Bishop's Conference, the International Campaign for Tibet, the Robert F. Kennedy Memorial Center for Human Rights, the U.S. Business and Industrial Council, the Wisconsin Project on Nuclear Arms Control, and the Christian Coalition.

The opponents admitted that it is unlikely they can muster the two-thirds majority that would be necessary to override an expected Presidential veto. Cox argued that opponents could nevertheless assemble a coalition that would be a strong force on the MFN issue in coming years. "We may not win this outright," he said. "But we are holding together a coalition that is sustainable."

Bauer argued that the momentum created by a House vote to revoke MFN would give opponents the leverage to force concrete changes in U.S. policy towards China. "What follows after that becomes unpredictable, but it is certainly going to be moving in our direction and not in the President's," he said.

Bauer told reporters that the Family Research Council is much more focused on grass roots efforts against MFN this year than it has been in previous years, when it simply issued press releases opposing extension. The group has already done a mailing to four million people and a number of radio shows to ask members to put pressure on their members of Congress. A "couple dozen" members have told Bauer that the group's pressure could force them to vote against MFN even though some may have supported it in the past, he said.

The anti-MFN coalition outlined a number of different arguments it will use to buttress its case, but focused on human rights issues such as prison labor, religious persecution and general lack of political freedoms in China. But they also pointed to the growing trade deficit with China and security issues.

The Business Coalition for U.S.-China Trade is focused on lobbying the freshmen members of Congress, according to private-sector sources. The pro-MFN group which includes Reps. Bob Matsui (D-CA), David Dreier (R-CA) and Jim Kolbe (R-AZ) has urged business lobbyists "not to write off the freshmen" even though some of the Republicans ran on a "Buchanan-esque philosophy," one source said.

But one congressional source argued that appeals must be directed at both Democratic and Republican freshmen. Last Congress, there were over 70 new Republicans and fewer than 20 new Democrats in the House, but this Congress there are roughly 40 Democratic and 30 Republican freshmen, the source pointed out.

A second priority would then be to lobby the sophomore members and secure the votes especially of those who supported renewal last year, private-sector sources said. Then lobbying could address members who have voted for revocation in previous years, one source said.

Pro-MFN members of Congress have also emphasized that lobbying should "keep the message simple" that trade with China boils down to jobs in members' districts, one industry source said. "Focus on self-interest and don't try to explain the human rights [situation] or explain the fundraising," the source said. But a congressional source suggested that companies doing business in China should address the human rights issues by emphasizing that they offer Chinese workers better conditions that they would otherwise enjoy.

The Business Coalition also asked its members in a May 9 memo to contact a number of members of the Ways & Means Committee to determine their position on MFN renewal. Although Ways & Means has been a source of solid support for MFN renewal, lobbying began there both to ensure a solid basis of support and because other members look to Ways & Means for guidance on the issue, according to private-sector sources.

Republicans cited in the memo include Bill Thomas (CA), Clay Shaw (FL), Nancy Johnson (CT), Jim Bunning (KY), Amo Houghton (NY), Wally Herger (NY), Jim McCrery (LA), Dave Camp (MI), Jim Nussle (LA), Mac Collins (GA), Rob Portman (OH), Phil English (PA), John Ensign (NV), Jon Christensen (NE), Wes Watkins (OK), J.D. Hayworth (AZ), Jerry Weller (IL) and Kenny Hulshof (MO).

Democratic members on the list included Charles Rangel (NY), Pete Stark (CA), Barbara Kennelly (CT), William Coyne (PA), Sander Levin (MI), Benjamin Cardin (MD), Jim McDermott (WA), Jerry Kleckza (WI), John Lewis (GA), Richard Neal (MA), Michael McNulty (NY), William Jefferson (LA), John Tanner (TN), Xavier Becerra (CA) and Karen Thurman (FL).

Clinton announced on May 19 his intent to renew MFN for another year and placed the decision in the

context of the stated Administration policy of engaging China. "[O]ur broad policy is engagement," he said in a speech that day. "That doesn't mean that we win every point, but it means we work together when we can and we're honest in our disagreements when they exist."

Although Berger argued that "[t]his annual exercise is not in anyone's interest," he declined to explain why the Administration chose not to press for permanent MFN. A White House spokesman said on May 20 that the Administration concluded that a one-year extension was "the most effective way to proceed."

"The change [to permanent MFN] would have to be made in the statute and we just made the judgment that that was not in the offing," the spokesman said.

In a related development, Republican Leadership Chairman. Bill Paxon (R-NY) last week announced that he would oppose MFN. In a May 12 letter to Clinton, Paxon said that problems in the areas of human rights, trade and non-proliferation, as well as allegations of Chinese influence-peddling in the U.S. led to his decision to oppose renewal. In addition, House Minority Leader Richard Gephardt will announce his opposition to China MFN in a speech in Detroit next week.

ADMINISTRATION TO DELAY FAST TRACK PUSH UNTIL FALL . . . begins page one

budget and the renewal of China's most-favored nation status (*Inside U.S. Trade*, May 16, p. 1 & May 2, p. 1). But even at the last moment, some members of the Administration were still arguing for going forward in June after the Memorial Day recess, sources said.

House Democrats also advised a delay until after the budget and China votes. House Democratic Leader Richard Gephardt (D-MO) last week expressed the hope that the Administration would consider fast track "after the budget is out of the way."

Regarding the substance of the bill, Republicans have offered the Administration to include labor and environmental issues that are "directly trade-related," congressional sources said. The proposal, as presented to Administration officials last week, did not include any prohibition on the use of trade sanctions to enforce such rules, they said.

Some officials in the Office of the U.S. Trade Representative consider this Republican language a "promising beginning," one source said. But informed sources said the Administration has not decided how to deal with the substance of fast track and how to deal with organized labor. The AFL-CIO has made it clear that it will fight against any fast-track bill that would not establish labor rules as part of trade agreement.

House Democratic supporters of fast track such as Rep. Bob Matsui (D-CA) have said the proposal presented by House Republicans this month would not attract the sufficient number of Democrats to pass the measure.

The Administration has formally maintained that it wants to have a clean fast-track bill that would spell out any negotiating objectives in an accompanying Presidential statement. That position has been rejected by House Republicans in late April.

House Majority Leader Dick Armey (R-TX) predicted the passage of fast-track legislation this year in a May 20 memo to House Republican members on the GOP Agenda.

"At our current pace, I fully expect to have the following items through the House and the Senate and sent to the White House by the end of this session," Armey said in his memo.

Armey's list includes "fast-track free trade status for Latin America," which he said would create jobs and spur economic growth in the U.S. and lead to "greater shared interests with our neighbors in the Western Hemisphere."

The memo does not include any other trade bills, such a measure to expand the benefits of the Caribbean Basin Initiative.

The Administration and key House Republican supporters of fast track squared off last week over when to pursue fast-track legislation. House Ways & Means Committee Chairman Bill Archer (R-TX) warned that the Administration's failure to agree to a May 15 markup endangered passage of the bill this year.

"I have been urging an early focus on fast track in order to avoid direct conflict with congressional action on the budget and extension of MFN status for China that will occur in June or July as well as to provide sufficient time for Senate action so that we may have fast track in place by the end of the year," Archer said in a May 15 letter to Clinton, reprinted below. "I have repeatedly said that receiving a proposal from the Administration even during the summer would make it extraordinarily difficult to enact fast track."

In the letter, Archer accuses the Administration of giving lip service to fast-track negotiating authority without taking action (*Inside U.S. Trade*, May 16, p. 1).

A congressional source said that Archer and House Ways & Means trade subcommittee chairman Phil Crane (R-IL) want to move forward on a bipartisan basis. "We have done all that we can," the source said. "There is now a very strong burden on the Administration to prove that it can be done."

Another congressional source said it may be helpful to delay action on fast track to allow the relationship between trade officials and Archer to recover from last week's charges and countercharges. "They muddied the waters with Crane and Archer," the source said. He added that it will "realistically" take some time for the relationship to recover.

Archer Letter on Fast Track

May 15, 1997

The Honorable William J. Clinton
President
The White House
Washington, D.C.

Dear Mr. President:

As you know, I am a strong supporter of extending your Administration fast-track authority to negotiate and implement trade agreements. Since early this year, I have waited patiently for the Administration to present to Congress a proposal demonstrating that the White House was serious about negotiating trade agreements designed to remove barriers to U.S. exports, to the benefit of American companies, workers, and consumers.

I have been urging an early focus on fast-track in order to avoid direct conflict with congressional action on the budget and extension of MFN status for China that will occur in June or July as well as to provide sufficient time for Senate action so that we may have fast-track in place by the end of the year. I have repeatedly said that receiving a proposal from the Administration even during the summer would make it extraordinarily difficult to enact fast-track. However, although voicing strong support for fast-track authority, no concrete steps have been taken by your Administration to reach our objective of enacting trade negotiating authority. Accordingly, your actions dictate that discussion on renewal of fast-track negotiating authority be set aside.

Despite our efforts, your Administration has not accepted the proposed timetable that I am confident would have allowed fast-track renewal to be enacted into law this year. I, together with Congressman Crane, Chairman of the Subcommittee on Trade,

recently offered an opportunity to the Administration to mark-up a bipartisan consensus on a fast-track proposal before the Memorial Day recess. Because there is still no movement from the White House on this important issue, and because Democrats have voiced strong opposition to moving fast-track legislation now, it proved impossible to mark-up consensus fast-track legislation during this critical window of opportunity.

Ambassador Barshefsky has done admirable work on Capitol Hill in meeting with Members, especially Democrats, to lay the groundwork for House consideration of fast-track authority. But there comes a time when the preparatory work must end and we move ahead, especially when the congressional schedule requires such timely action.

Fast-track authority is vital if the United States is to exercise a leadership role in international negotiations in order to protect and promote the interests of U.S. producers, workers and consumers. Indeed, our trading partners have already moved forward without the United States by signing more than a hundred trade agreements since fast-track authority expired. The United States was not at the table for those discussions and played no role in shaping their provisions.

I am deeply disappointed that your Administration's delay in seeking fast-track authority will translate directly into missed opportunities for our companies and our workers. Every month that goes by means more lost contracts and more job opportunities foregone for Americans. It is unfortunate that the Administration is unable to give what should be a major trade priority — early renewal of fast-track negotiating authority — the attention it deserves.

Sincerely,
Bill Archer (R-TX)
Chairman

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ing to a provisional translation of a MITI commentary on the law. The law provides for tax measures, the promotion of ties to universities, "adjustments measures" involving the Japan Fair Trade Commission (JFTC), and information on "price gaps at home and abroad," according to the commentary.

The exclusion of the film sector from coverage under the Business Reform Law was motivated by the Japanese government's desire to reduce the cost of the law, a Japanese official said. "The more eligible industries there were, the more incentives the government has to give," the official said.

The official emphasized that the law should not be an issue in the ongoing WTO case since the film sector is no longer covered. He pointed out that the U.S. has not made an issue of the law in its submissions, although U.S. officials have criticized it publicly.

Also on film, the JFTC has yet to complete a long-promised survey of competitive conditions in the film markets of Europe, Japan and the U.S., according to a Japanese official. The survey was announced in early 1996 with the expectation that it would be completed in early 1997.

The commission is "still doing research" on the study and could issue it in early July, or by the summer breaks at the latest, the Japanese official said.

The JFTC has also not yet ruled on a separate submission made last year by Eastman Kodak, and it remains unclear when it might do so, according to informed sources. The submission was made by Kodak at the request of the Clinton Administration and sought an investigation of potentially anticompetitive practices in the film sector in Japan (*Inside U.S. Trade*, June 21, 1996, p. 8).

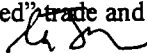
BARSHEFSKY SAYS LABOR, GREEN ISSUES COULD STAY OUT OF TRADE DEALS

U.S. Trade Representative Charlene Barshefsky this week said important labor and environmental issues do not necessarily need to be addressed in trade agreements, and hinted that the Clinton Administration could support handling those issues in separate agreements that may be negotiated concurrently or independent of trade agreements. Regardless of the approach, the Administration wants to ensure that trade does not lead to environmental degradation and that countries observe labor standards, she said.

"There is no cookie cutter approach that is possible [for labor and environment issues]," Barshefsky testified before the House International Relations Committee on June 10. "The question is ... must these discussions necessarily be tied to trade agreements." Alternative ways to address these issues would be to have negotiations that proceed separate from a trade agreement in a concurrent deal, or to negotiate these objectives before or after trade negotiations, she said.

"It is certainly important to address those [labor and environment] issues that will affect trade with a particular country," Barshefsky said. "I can think of many countries with whom the U.S. would not want to think about negotiating labor standards because their labor standards are higher than ours." She said the same is true for countries with environmental standards that are higher than those of the U.S.

She said enforcement of labor standards and environmental rules are important for reasons other than U.S. competitiveness. "The only issue is how do we maximize our progress with countries and regions of the world on a full range of economic interests," she said.

Her comments hint at the position the Administration has advocated in informal meetings with House Republicans. Officials have said they want to exclude negotiating objectives from a fast-track bill and spell them out in an accompanying Presidential statement. House Republicans have rejected that idea, saying it would give the Administration too much leeway. Instead, they have proposed language that would allow "directly trade related" trade and environment issues to be included in a trade agreement. 

Barshefsky pointed out that countries' failure to enforce environmental regulations and labor standards can hurt U.S. business. "There is no question that failure to enforce environmental regulations and failure to enforce labor standards can put U.S. companies at a competitive disadvantage with respect to their foreign counterparts if they both export into the same markets," she said. This is a real issue with respect to the competitive position of U.S. firms versus their foreign competitors, according to Barshefsky.

During the hearing, Chairman Ben Gilman (R-NY) and several members criticized the Administration for delaying consideration of fast-track authority until September and thereby risking passage of the legislation before the second Summit of the Americas in March, 1998. But Barshefsky emphasized that the decision to tackle fast track in September was made with the "concurrence of the leadership" in both House and Senate.

"In consultation with Senate leadership and House leadership, we determined that the best opportunity to ensure passage of legislation" this year is to begin in September, she said.

Barshefsky said the U.S. needs to position itself to take advantage of future economic expansion in ways outlined by Vice President Al Gore in his May 27 speech to the Greater Nashua Chamber of Commerce in New Hampshire.

In his speech, Gore said the U.S. needs to do three things to sustain the economic growth. They are elimination of the federal deficit; investment in education, new technologies and environmental protection; and seizing the benefits of "reciprocal free and fair trade," Gore said. She said as the summer proceeds there will be "more and more" efforts by Gore and President Clinton to highlight the importance of trade.

Gore emphasized that the U.S. cannot turn away from the policies of open markets, despite the fight that both parties have over this policy.

"Let me just say, if protectionism was wrong in the Industrial Age, in the time of Smoot-Hawley, it is just plain dangerous in the Information Age," he said. At a time when knowledge is the most important component of national success, America should embrace fair and free trade with open arms, he said. "It is one of the three essential components that is allowing us to have this prosperity with a closing gap between rich and poor while inflation declines and encourages more investment so that we can have even higher standards of living in the future."

Gore said the Administration's policies face opposition from "organized foes" who would push the U.S. back to outdated economic policies.

At the hearing, several members of the committee warned Barshefsky that obtaining fast track will mean a tough fight. Ranking member Lee Hamilton (D-IN) said President Clinton will have to weigh in with members of Congress as he did for NAFTA and the Uruguay Round agreement. Rep. Bob Clement (D-TN) said he did not think there are sufficient votes to pass fast track, and said the Administration was probably "correct" in delaying the proposal for the fall.

"Many who voted for NAFTA are not ready yet to vote for fast track," Clement said. Those members first need answers on how NAFTA is working, he said.

Barshefsky disputed the notion that the Administration would be better off to seek congressional approval of a trade agreement with Chile than a fast-track bill. "It might be easier to enact a Chile [trade agreement] bill than a fast track for Chile, but that assumes that fast track is only for Chile, which it is not," she said. "But the Chilean government itself has told us they will not negotiate without assurance that Congress cannot renegotiate [the agreement], in part because of the sensitive agriculture issues that would arise in the negotiations."

Barshefsky said there are several problems with agricultural market access as well as an issue related to Chile's investment regime.

The Administration is seeking fast-track authority for multilateral, regional, bilateral and sectoral trade agreements, she said. Sectorally, the U.S. wants to pursue initiatives on medical equipment and environmental technology, where the U.S. is the world leader, she said.

Barshefsky said that fast-track negotiating authority gives the U.S. more options in reaching trade agreements than it would otherwise have. "As a policy, the U.S. must be in a position to look at an economy, and look at a sector and pry open markets on a much more sustained, consistent basis," she said. This means "not always using the stick of threatened trade sanctions, but the carrot of a perceived closer relationship with the U.S."

Failure to obtain fast track would show up immediately in the Administration's inability to strike a trade agreement with Chile, she said. That, in turn, would send a "signal to our hemisphere that the U.S. will not be engaged in as forceful a manner as the hemisphere had hoped," Barshefsky said.

UNION PRESIDENTS VOW TO FIGHT FAST-TRACK BILL WITHOUT LABOR RULES

The President of the AFL-CIO and a group of union presidents this week told White House chief of staff Erskine Bowles and senior Administration economic advisors that they will mount a major campaign against any fast-track bill that does not provide for labor rights to be included in future trade agreements, according to informed sources. The group emphasized that trade agreements that are acceptable to union members must take into account the interests of working families, not favor corporations the way the North American Free Trade Agreement does, these sources said.

The union presidents expressed their "deep reservations" about NAFTA, and emphasized that it should not be used as a model for future trade agreements, one source said.

Bowles did not use the meeting to lay out the kind of fast-track authority the Administration would seek, but instead insisted that the NAFTA on balance is a successful trade agreement, these sources said. He also pointed out that the current economic situation, characterized by low unemployment and increased exports, benefits workers, these sources said.

Bowles also conveyed the message that if the unions do not fight the Administration over fast-track authority that does not explicitly include labor standards, the White House would take into account union issues, sources

said. But unions are not interested in such a deal because they are looking for results not just "good efforts," one source said.

The June 9 meeting essentially amounted to a restatement of the two sides' positions, and did not break new ground, sources said. AFL-CIO President John Sweeney said after the meeting that the meeting was a "full and frank discussion," a union source said.

In addition to fast track, the union presidents raised their opposition to the extension of most-favored nation status for China, these sources said. Unions oppose the extension of MFN but are unlikely to spend as much on public advertising on that issue as they will on fast track, sources said.

The AFL-CIO is in the process of preparing its campaign against fast track by interpreting the results of focus groups that have been held, one source said. The campaign is likely to target both Democrats and Republicans with an advertising campaign and grass roots lobbying initiatives. The decision to hit harder on fast track than on China's MFN status stems from a recognition that the unions have a greater chance of affecting the outcome of fast track than they have of influencing the MFN debate, one source said.

Meanwhile, the Administration is likely to accept a fast-track bill that would downplay labor issues, sources said. U.S. Trade Representative Charlene Barshefsky this week said that it is an open question whether the Administration would seek to address labor and environment within trade agreements, on a separate track concurrent with trade agreements, or before or after they are reached (see related story).

The meeting with Bowles, which was held at the request of the union presidents, brought together Sweeney with a number of presidents, including the presidents of the Teamsters, the Machinists, the United Auto Workers, UNITE, and the steelworkers. Bowles was "in and out" of the meeting, which led to the impression among some union leaders that he was not entirely focused on the discussion, sources said.

The meeting was also attended by other senior economic advisors, including Gene Sperling, the chairman of the National Economic Council, and Dan Tarullo, assistant to the President for international economic affairs.

In a related development, Sweeney and labor leaders from the G-7 countries this week successfully urged President Clinton to raise with his counterparts a joint statement by labor groups on effectively dealing with globalization, labor leaders said in a June 9 press conference. They presented their statement to Clinton, Vice President Gore, Treasury Secretary Robert Rubin and Labor Secretary Alexis Herman.

The statement calls on G-7 countries to endorse six policies at the upcoming summit in Denver that will restore balance in the labor markets and allow workers to join in the benefits of productivity growth.

This goal could be achieved through an "immediate and effective" coordination of macroeconomic policies to raise sustainable growth and employment, according to the May 16 Trade Union Statement to the 1997 OECD Council and to the Denver G-7 Summit of industrialized nations.

The statement also calls on governments to guarantee the rights of workers in trade and investment agreements through "well-defined and enforceable" labor standards, labor leaders said in the press conference. When presenting the recommendations to Clinton with other labor leaders, Sweeney did not raise the issue of fast-track negotiating authority, which he told reporters is a domestic U.S. issue.

The four other recommendations called on governments to implement rules covering global financial markets to enable real economic growth, invest in "physical and social" infrastructure such as education and training, achieve an effective new debt relief initiative for heavily indebted poor countries, reverse the trend of declining foreign aid, and to work toward a new agenda for development. Labor leaders also called on G-7 countries to ensure that the OECD and G-7 maintain their "common values of pluralist democracies and respect for human rights" if they expand to include new members.

"The Denver communique should recognize that there is a social deficit," according to Bob White, the president of the Trade Union Advisory Committee to the OECD. Countries must send a signal that they will "stop ducking" the issues and deal with the current unemployment problems, he said.

The primary goal is to get these issues on the agenda so that finance and labor ministers recognize that dealing with the social deficit is a priority, labor leaders said. If that is achieved in the communique, it constitutes an "important step" forward, they said.

In his comments, Sweeney emphasized that there is a need to develop new rules guiding the globalization of the economy. The current system protects capital, but not working families, he said.

The coordinated effort of labor leaders on the G-7 summit illustrates that U.S. unions are doing the necessary work to raise relevant issues with foreign leaders and do not solely rely on the U.S. government to do so, according to one union source. "It is important that the Administration sees we are carrying our water on this," the source said.

AFL-CIO staff will follow up the June 9 meeting with the staff of the National Economic Council and the National Security Council before the Denver summit to ensure that the statement will be incorporated, the source said.

BARSHEFSKY SAYS CHINA NEEDS TO IMPROVE WTO MARKET ACCESS OFFERS

U.S. Trade Representative Charlene Barshefsky this week said that although China has demonstrated a renewed interest in negotiations on acceding to the World Trade Organization, all of its offers on market access remain inadequate. In addition, recent progress on adherence to WTO rules is not sufficient for WTO accession.

"At this juncture, while China has evidence a new seriousness about the negotiations, it has yet to put forward acceptable offers on market access for industrial goods, services and agricultural products," Barshefsky said in testimony before the Senate Finance Committee on June 10. "In addition, significant reforms will be needed to bring China's practices into conformity with WTO rules."

Barshefsky said that there has been "some progress" on "the rules side of the equation," but that significant progress must still be made on the market access side.

"All of that, market access and adherence to the full range of WTO rules, must come together before China is ready to accede to the WTO," she told the House International Relations Committee the same day. The negotiations have a "very long way to go," she added.

In her Senate Finance testimony, Barshefsky also declined to indicate when it might be possible to conclude an agreement and insisted that Chinese offers will drive the speed of the talks. "The timing of China's accession is in China's hands," she said. "We are prepared to move as quickly as China, based on serious offers that provide genuine market opening and a means to achieve the balance that is lacking in our trade relationship."

But a senior Chinese official this week hinted that negotiators could hammer out the market accession part of the accession by October in time for the visit of Chinese President Jiang Zemin to Washington in the fall (see related story).

Secretary of State Madeleine Albright echoed Barshefsky's comments, saying a "combination of rigorous entry criteria and generous technical assistance" has aided the negotiations. "Although differences remain in the negotiations and the outcome remains uncertain, China has become increasingly serious in the proposals it has put forward, and is coming to understand that membership is not a right but a privilege accompanied by responsibilities," Albright said at the same hearing.

Barshefsky also hinted that the U.S. will vigorously enforce Chinese commitments through the WTO dispute settlement system once China does join the organization. "The United States has used the WTO dispute settlement system successfully against major trading partners, such as Europe, Japan and Canada, as well as against countries such as Korea and Pakistan," she said.

Barshefsky said that China has made substantial progress in protecting intellectual property under the terms of the 1995 agreement, but that high levels of piracy remain. Guangdong province, a major center of piracy, launched a "major crackdown" in late 1996. Since June 1995, 39 factories have been closed and 22 legitimate factors have begun producing domestic products rather than pirating foreign sound recordings, she said.

But piracy of computer software continues "at high levels," and market access for U.S. intellectual property remains low, Barshefsky said. In addition, Hong Kong remains a major center for the export of pirated goods, she added.

At the hearing, both Barshefsky and Albright largely repeated the Clinton Administration's public case in favor of extending most-favored nation status to China for an additional year. Albright admitted that the Administration is "not yet where we want to be in our strategic dialogue with China," but argued that a revocation of MFN would only damage U.S. interests.

At the same time, both Albright and Barshefsky dodged questions from senators on whether the Administration would support the extension of permanent MFN to China. Albright chose only to say that the Administration would have to consult with Congress before making that decision.

Albright expressed hope that continuing economic engagement with China would result in "a liberalizing effect" on Chinese political and human rights practices, but cautioned against high expectations. "Given the nature of the Chinese government, that progress will be gradual at best, and is by no means inevitable," she said.

MFN revocation would also likely damage or destroy cooperation with China on a number of non-trade issues, Albright argued. The U.S. would likely lose Chinese cooperation on regional security issues with respect to North Korea, hamper U.S. efforts to stem the proliferation of weapons of mass destruction and risk losing Chinese support for U.S. initiatives in the United Nations.

Barshefsky largely focused on economic arguments in favor of extending MFN, particularly the importance to U.S. jobs and the effect which revocation would have on Hong Kong. She warned that China would likely retaliate, as it has threatened when the U.S. considered imposing trade sanctions for other reasons.

religious persecution in Tibet, the bill also authorizes funding to establish a consulate in Lhasa.

9. Opposing Forced Abortion in China. The abhorrent pattern of forced abortion and sterilization countenanced under the state-imposed "one-child policy" is a grisly phenomenon with implications both for religious liberty and for basic human rights. The China policy bill recently introduced by Sen. Abraham provides that U.S. visas shall not be issued to Chinese officials implementing this form of "population control." H.R. ___ contains this prohibition as a stand-alone piece of legislation.

10. Helping Chinese Political Prisoners in the Laogai. Dissidents -- not only well-known individuals such as Wei Jingsheng and Wang Dan, but literally hundreds of thousands of

others -- are imprisoned without trial or even formal charges. Wei himself has recently been sentenced to a second 14 years, without any semblance of due process. (That glaring injustice led to two former U.S. Attorneys General to offer to defend him at his December 1995 show trial -- an offer Beijing forbade.)

H.R. ___ expresses America's contempt for this aspect of China's current autocratic rule. The bill authorizes increased funding to ensure that two diplomats dedicated to monitoring human rights be assigned to the Beijing Embassy, and at least one diplomat dedicated to monitoring human rights be assigned to each Consulate. (Currently, only one official in the U.S. Embassy in Beijing is assigned to human rights, and none in U.S. Consulates in the PRC.)

BARSHEFSKY SUGGESTS BANANA NEGOTIATIONS WITH EU TO HELP CARIBBEANS

U.S. Trade Representative Charlene Barshefsky this week said the U.S. is open to negotiating a settlement with the European Union in a dispute over banana import restrictions to remove uncertainty for Caribbean banana producers. She said such a settlement would have to be "consistent" with the rules of the World Trade Organization, which the U.S. up to now has interpreted that as a deal that would give Caribbean bananas a lower tariff in the EU over competing Latin American bananas.

Under the U.S. plan, Latin American bananas would no longer be restrained by licensing requirements, which a dispute settlement panel found earlier this year violate the EU's WTO obligations.

"We would like a negotiated solution if the EU will come forward because of the unpredictability and uncertainty the Caribbean countries feel," Barshefsky told the House International Relations Committee in a June 10 hearing. The EU has not responded to the U.S. proposal for a negotiated settlement made by President Clinton in a meeting late last month with EU Commission President Jacques Santer, Barshefsky said.

Without negotiations, the U.S. intends to pursue the case "fully" in the WTO, she said. "The EU owes us a response," Barshefsky told reporters after the hearing. The U.S. will "give them a little more time" before raising the issue again, she said.

Barshefsky acknowledged that the smaller Caribbean nations could get hurt in the banana fight between the U.S. and EU, which she characterized as a dispute between two large trading partners that is putting the interest of smaller trade partners at risk.

Meanwhile, the EU notified the WTO Dispute Settlement Body on June 11 of its intent to appeal the panel ruling. It is very likely that the EU will contest the panel's expansive interpretation of how the General Agreement on Trade in Services can be applied to disputes involving goods, informed sources said.

As a result of the EU filing, the banana panel was taken off the agenda of a June 12 Dispute Settlement Body meeting.

The EU notification briefly outlined the basis of the appeal, and the EU must file a brief on the appeal within ten days. Even though the U.S. won the case, it and Latin American countries that supported the U.S. case could also appeal the panel ruling within 10 days, according to the WTO rules of procedure on dispute settlement.

For example, Mexico has complained that the panel offered too broad an interpretation of a waiver the EU obtained from WTO disciplines for its Lome Convention.

The panel ruled that the waiver allowed preferential tariffs for African, Caribbean and Pacific bananas, and indicated that the EU could extend some additional preferential treatment. Mexico feels the panel gave an overly broad reading of the Lome waiver beyond the most-favored nation obligations of Article I of the General Agreement on Tariffs & Trade to allow the EU flexibility in adhering to GATT Article XIII on quota allocation.

Other Latin countries which joined the U.S. side in the case also have voiced complaints that the panel decision did not rule strongly enough in their favor. For example, Guatemala has charged that the EU violated its obligations under GATT Article II by not informing all its trading partners of its decision to include the banana regime in its list of Uruguay Round concessions.

Caribbean banana producers came to Washington this week to make their case to U.S. legislators and others. One of their main arguments was that the dismantling of the EU regime would devastate their banana industries. This in turn would cause unemployment, social unrest and migration to the U.S., according to a June 3 dear colleague letter by Reps. Maxine Waters (D-CA) and Marcy Kaptur (D-OH) announcing a discussion on the

issue. "Economically and politically weakened Caribbean countries will also be more vulnerable to international drug cartels intent on finding Caribbean transshipment points for cocaine and heroin headed to the United States," the letter said.

HOUSE UNANIMOUSLY CALLS ON STATE DEPT. TO SUPPORT TAIWAN WTO ENTRY

The House late last week unanimously called on the State Dept. to express greater public support for Taiwan's accession to the World Trade Organization, which it said is based on a relatively better offer than that of the People's Republic of China. The statement, introduced by Rep. Dana Rohrabacher (R-CA), was approved as an amendment to the Foreign Relations Authorization bill on June 4.

"The Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization," the one-sentence statement said. Up to now, the Administration has not made it clear enough that it supports Taiwan's bid for membership, according to a Rohrabacher source.

The measure, which was part of a bloc amendment to H.R. 1757, includes seven findings that highlight the importance of Taiwan's accession relative to that of the People's Republic of China.

"It is in the economic interest of United States consumers and exporters for Taiwan to complete the requirements for accession to the World Trade Organization at the earliest possible moment," according to one of the findings.

The measure approved by the House differs significantly from a concurrent resolution Rohrabacher introduced earlier this year as H. Con. Res. 56. That measure stated that the Congress "favors public support by the United States Government for the accession of Taiwan to the World Trade Organization prior to the admission of the People's Republic of China to that Organization."

Congressional supporters of Taiwan have long pressed the issue of its accession to the WTO, even though it is widely known that there is a political deal to hold back Taiwan until China accedes. Deputy Assistant Secretary of Commerce Nancy Linn Patton told the Heritage Foundation on May 29 that there is "no public agreement" on this issue to her knowledge.

"The decision on whether or not China or Taiwan accedes first is not up to the United States," Patton said. "It's up to the signatories of the WTO."

The problem issues remaining in U.S. bilateral negotiations with Taiwan on WTO accession are on market access for pork and poultry, on the reform of the wine and tobacco monopoly, and on government procurement restrictions in the areas of transportation and power, she said.

"If we can come to some mutual agreement in those areas, I think we can expect to see bilateral consultations concluded rather soon," Patton said.

HOUSE WAYS & MEANS PLANS TO MOVE AFRICA BILL WITH FAST TRACK

The chairmen of the House Ways & Means Committee and its subcommittees are hoping to move a bill aimed at stimulating economic development in Africa later this fall along with fast-track legislation, according to a congressional source. Between now and fall, sponsors could garner support for one of the Africa initiative's most controversial provisions regarding quota and duty-free trade for textile and apparel.

By the fall, the International Trade Commission will have completed a study requested by subcommittee chairman Phil Crane (R-IL), one of the bill's sponsors, on the impact of such an arrangement on the U.S. industry. The study, which is due in September, is expected to show that the impact of duty-free, quota-free imports from Africa would be "minimal" on the U.S. textile and apparel industry because of the small level of imports, according to the source.

"The ITC report will cut through the rhetoric and permit a factual debate," the source said. The report would strengthen Crane's hand against the Administration and the U.S. textile industry, who oppose quota- and duty-free access for African textile and apparel products.

Fast track is the only remaining legislative vehicle for the Africa initiative, since it was not included in the tax bill now moving through committee. The tax measure includes a two-year retroactive extension of the Generalized System of Preferences and a one-year bill to enhance the benefits of the Caribbean Basin Initiative.

Moving the Africa bill with fast track makes sense because the bill includes a provision asking the President to prepare plans for a free trade area with sub-Saharan Africa, the congressional source said. The bill, H.R. 1432, is formally titled the African Growth and Opportunity Act.

Instead of free trade, the Administration wants to offer African countries a preferential quota access program for products assembled with U.S. cut and formed fabric, which is supported by the U.S. textile industry. This preferential treatment -- so-called "807A" imports -- would be comparable to benefits currently given to countries

in the Caribbean Basin Initiative and the Andean Pact, U.S. Trade Representative Charlene Barshefsky told the Advisory Committee on Trade Policy and Negotiations (ACTPN) on June 5.

The number 807A refers to the U.S. tariff schedule's old numbering system under which the programs were conceived. The program is now called "9802."

The Administration has defended its textile proposal by insisting that it would benefit countries that currently have quotas on their textile and apparel exports to the U.S. and countries that do not. In each case, countries would receive guaranteed access for their products made from U.S. inputs even if they fill their regular quota.

The proposal is opposed by Crane and the other sponsors of the H.R. 1432, as well as U.S. importers and retailers, sources said. "Crane is interested in providing useful benefits to sub-Saharan Africa," a committee source stressed.

These opponents of the so-called "807A" proposal say it is unworkable due to the prohibitive transportation costs involved in sending U.S. formed and cut fabric to Africa to be assembled and reexported to the U.S.

The Administration has for weeks refused to present a proposal that does not use the 807A program, despite consistent opposition, a congressional source said.

The Crane bill, which has 44 cosponsors, was approved by the House Ways & Means trade subcommittee on May 22. It has sufficiently broad bipartisan support to move through the Ways and Means Committee, according to a committee source. Crane and the bill's major cosponsors Ranking Ways & Means Member Charles Rangel (D-NY) and Rep. Jim McDermott (D-WA) "seem to be in lockstep" on the issue, the source said.

Supporters of the measure insisted it will not be blocked by textile industry interests. When the Africa bill reaches the House floor, "members who normally represent textile interests will look the other way" and vote in favor "because of the proposal's unique politics," an industry source said.

The textile program the Administration wants to offer would be part of several benefits extended to sub-Saharan African countries in the second phase of the Administration's plan. Countries would also get the benefits of the Caribbean Basin Initiative, with some additional products that are not included in the CBI, she said. "In the second tier, the range of benefits would be very substantial, most importantly in the products Africa now makes in [the] greatest quantities," she said.

The Administration is proposing African countries would be eligible for these second tier benefits if they demonstrate a strong commitment to economic reform, Barshefsky said. African countries that have made the most progress in reform would reach the third tier of the initiative, under which the U.S. would consider pursuing free-trade agreements with them.

The first tier of the initiative is the extension of GSP benefits to 1,783 products produced in least developed beneficiary countries, most of which are in sub-Saharan Africa. The list was announced May 30 by President Clinton, one day before the expiration of the GSP program.

Barshefsky told the ACTPN that the range of these newly eligible GSP products "covers the whole gamut -- from chemicals to consumer-type products to inputs."

"The designation of these products will contribute toward effective and sustainable economic growth in Sub-Saharan Africa," Barshefsky said in a June 5 release. "It creates additional trade opportunities for the thirty least developed countries in Sub-Saharan Africa -- a region rich in resources and potential."

"Some" of the new GSP items were "previously excluded because of import sensitivity," but were included in GSP for these less developed countries "that don't pose a threat of import penetration," Barshefsky added.

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**Trade Advisory Center
U.S. Department of Commerce
Room 2015B
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230
Phone: (202) 482-3268
Fax: (202) 482-4452**

Date: 6/4/97

Time: 11:53:22

To: Neil I. Turkewitz
International Recording Industry Assoc.

Fax: 775-7253

From: Tiffany Smith, Director
Number of Pages (including cover): 10

MEMORANDUM TO: ALL President's Export Council & ISAC/IFAC Members

FYI,
Attached is testimony that was recently given by U.S. Trade Representative Charlene Barshefsky to the Senate Finance Committee on the subject of Trade and Domestic Prosperity.

Dear Ginny:
See page 3.
Best regards.



Testimony of
Ambassador Charlene Barshefsky
United States Trade Representative

before the Senate Finance Committee
June 3, 1997

Thank you, Mr. Chairman and Members of the Committee. I appreciate the opportunity to appear before you today.

Trade and Domestic Prosperity

Trade, as you know, has a profound effect on the lives of millions of Americans. It is both a pocketbook issue and a strategic issue. Never before have the benefits of trade for Americans been so deep, so diverse, so widespread, and so sustainable. More than 11 million Americans now work in jobs supported by exports: these jobs pay 13%-16% above the national average wage. Those jobs represent the leading edge of the current economic expansion, now in its sixth year, and they cover the spectrum from agriculture to high tech, small businesses to multinationals, blue collar to white collar, and small-town Main Street to Wall Street. Exports have increased dramatically across the country, with 47 of 50 states registering significant export growth over the last 4 years. Exports from California are up 45%, Michigan 68%, Illinois 64%, Ohio, 42%, Texas 40%, Nebraska 54%, North Dakota 76%, Montana 52%. Exports from Florida, Rhode Island, Louisiana, and West Virginia have increased more than 30%. States from New York to Utah also have posted double digit increases.

Export-driven growth is one of the reasons that the American economy today is strong and sound. Over the past four years, we have created nearly 12 million new jobs. Unemployment is at its lowest level in 24 years standing at 4.9% in April. Inflation is down to a low of 2.5% for the period ended April 1997. At the same time, family incomes are up significantly; home ownership has hit a 15-year high; growth of our industrial capacity is at its highest level since 1970; business investment has been stronger than at any time since the 1960s. Our current economic expansion has been investment-led, which establishes a firm footing for an even greater climb.

The best way to continue this prosperity is to give our workers and businesses a full and fair chance to tap into the global economy. If the momentum of the American economy begins to stall, the world economy can help it recharge. America's growth in trade has been faster than its overall economic growth for years. Our exports to the rest of the world increased by more than \$49 billion last year alone; an increase of more than 6 percent. Exports are at record levels across the board. Since 1992, manufactured exports increased 42%; high-tech exports were up 45%; agricultural exports were up 40%, and services exports increased by 26%.

Since the beginning of this Administration, exports have accounted for fully one-fourth of the increase in our GDP. Today, exports account for 30% of our GDP, compared to 13% in 1970. Increases in GDP combined with a 70% reduction in the federal budget deficit over the last four years, and the balanced budget agreement recently announced, lay the foundation for continued economic expansion, but only if we continue to use all the tools necessary to compete in and shape the global economy.

While exports are at record levels, our competitors are determined and sophisticated. They too appreciate the importance of export opportunities to their economic prosperity and security. They continue to seek out new export markets and forge alliances with a view to defining the global landscape.

Trade and Economic Security

Since the end of the Cold War, trade and economic development have emerged as fundamental strategic issues. The strength and prosperity of the United States depends increasingly on our ability to create and maintain trade relationships that are beneficial to us and to our trading partners. It is therefore critical that we continue to identify those markets that present growth opportunities, ensure access to those markets, and do so in such a way as to create enduring relationships that foster not only short-term economic prosperity, but also our long-term economic security. Doing so requires continued American leadership.

Ninety six percent of the world's consumers live outside our boundaries, and 85 percent of them reside in developing countries. These are the large growth regions. Last year, the developing world imported over \$1 trillion in manufactured goods from the industrialized countries, and that is the tip of the iceberg. Over the next decade, the global economy is expected to grow at two times the rate of the U.S. economy; Asian and Latin American growth is projected to be 3 times that of the U.S. We must work to create fair access to the world's expanding markets.

For 50 years, the United States has led the world in opening global markets. Our persistent leadership has helped bring global tariffs down from an average of 40 percent at the end of World War II to about 5 percent today, leading to a 90-fold increase in world trade. Our trade policy has been driven by two factors: our emphasis on building prosperity at home through the expansion of our export and trade opportunities; and ensuring that we are strategically well positioned in the world to advance our economic and security interests through a growing number of enduring trade arrangements.

We have embraced the unique and difficult responsibility of making the world a more secure place by ensuring the peace and providing a foundation for economic growth. We asked more of our people during World War I, World War II, and the Cold War than any other nation could have possibly delivered. That special responsibility for global security continues today quite visibly. We see it in the dedication of our Armed Forces within and among nations such as Bosnia, Haiti, and Korea; in their regional roles, throughout Europe, the Middle East, and the Asia-Pacific; and literally around the world, in their vigilance against terrorism and weapons of mass destruction.

Our efforts have strengthened the foundation for peace and prosperity. With that foundation strong, we must move forward and lead with policies that achieve economic security. We need to be positioned to play a catalytic role in all key regions of the world, utilizing the full range of our trade and other tools to maintain the centrality of America's role in world trade.

The Importance of Fast Track Authority

Just as we are the world's military superpower and the world's strongest democracy, we are the world's most competitive and dynamic economy.

To seize the opportunities in the global economy and to fully meet the competition, the President will seek a new grant of authority to implement global, sectoral and regional trade agreements -- fast track authority. In consultation with the Senate and House leadership, we have determined that proceeding with fast track legislation in September provides the best opportunity for proper consideration and passage of this legislation by year end. Between now and September, we will work with you towards developing legislation that will allow us to continue our important initiatives.

There is no substitute for our ability to implement comprehensive trade agreements. The absence of fast track authority is the single most important factor limiting our capacity at this time to open markets and expand American exports and trade opportunities in the new global economy. Its absence also undermines America's leadership abroad.

Fast track allows the U.S. to set the pace and timing of many of our most important trade negotiations. More importantly, such authority is a prerequisite to U.S. negotiating credibility and success on major trade fronts. It tells other countries that the Administration and the Congress stand together in negotiating the best possible agreements for the United States. In light of the extraordinary opportunities before us, and the economic security of the nation, retreat is not an option.

Improving American Trade Opportunities

Globally, in Sectors and Regionally

Our trade policy has created enormous economic opportunities thus far, but to sustain progress we must remain aggressive and focused. We must also be mindful of the danger posed by continued inaction and the extraordinary potential held by trade agreements that, in the absence of fast track, may be just beyond our reach. Let me review for you the scope and breadth of the trade agenda ahead of us.

Multilateral Efforts

Within the next three and one-half years, major WTO negotiations will occur in a number of areas where the United States is a top global competitor; of particular note, agriculture, services, and the rules for intellectual property rights. This year we have also resumed WTO negotiations on financial services, a sector where U.S. companies excel. These are the very goods and services that the fastest growing economies need most, and in which America does best. American workers, farmers, engineers and manufacturers will increasingly be just within reach of new markets that are measured in billions of dollars, but they will never get a secure hand on them if the United States cannot negotiate from a position of unequivocal strength, as it should. 

Negotiations to further open the \$526 billion global agriculture market are to be initiated in 1999. While the Uruguay Round reduced some of the most difficult barriers to agricultural trade, helping us to attain a record level of agricultural exports in 1996, our work is far from done. Removing agricultural barriers wherever they exist is one of our highest priorities of the next four years, so follow-on negotiations in the WTO are extremely important.

Services negotiations will expand this \$1.2 trillion global market -- where U.S. firms exported more than \$220 billion in 1996 with a surplus of \$73 billion. The trade related intellectual property rights (TRIPs) agreement which protects, for example, the interests of fast-growing U.S. copyright industries exporting over \$400 billion a year, is to be reviewed as well. We must do everything possible to expand opportunities for such vibrant industries. 

In the financial services negotiations, we are committed to achieving a meaningful and comprehensive agreement by the end of the year. Earlier efforts to reach agreement were not successful due to inadequate offers by key countries. To successfully conclude these negotiations this year, our trading partners must significantly improve their commitments based on the GATS principles of market access, national treatment and MFN. With the precedent that has now been established in the telecommunications agreement, unless we see significantly improved offers in the financial services talks, we will continue our MFN exception.

The work this year to improve and expand the coverage of WTO rules on government procurement can facilitate U.S. efforts to improve our access to the lucrative infrastructure projects now planned or under way in the rapidly growing regions of the world. We estimate that Asia alone will provide opportunities for up to \$1 trillion in business for such projects over the next decade.

The "built-in agenda" from the Uruguay Round provides further critical opportunities to open foreign markets. In a world trading environment increasingly less characterized by traditional tariff barriers, the built-in agenda is in many respects aimed at clearing away the impediments left by non-tariff barriers -- be they deliberate or the unintended consequence of bureaucracy and inefficiency.

The U.S. has pursued a consistent strategy to ensure that the WTO is a forum for continuous negotiation and liberalization. That strategy and U.S. leadership resulted in the commitment to review and opportunity to improve agreements covering such areas as the rules governing technical barriers to trade, sanitary and phytosanitary measures, customs valuation and pre-shipment inspection and import licensing procedures. Continued leadership is essential if we are to dismantle barriers in these and other areas as we confront them, rather than waiting for a "new Round" as some of our trading partners would prefer.

We also have a full agenda of accession negotiations regarding the WTO. As always, we are setting high standards

for accession in terms of market access and adherence to the rule of law. Accessions offer an opportunity to help ground new economies in the rules-based trading system and promote sustainable development including environmental protection. The Administration believes that it is in our interest that China become a member of the WTO; however, we have been steadfast in leading the effort to insure that China's accession to the WTO will occur only on commercial, rather than political, grounds. The pace of China's accession negotiations depends very much on Beijing's willingness to improve its offers.

While China's accession has attracted far more attention, the United States takes every opportunity to pursue American interests with the 28 applicants that are now seeking WTO membership, and to give leadership to the process. Russia's WTO accession could play a crucial part in confirming and assuring Russia's transition to a market economy, governed by the rule of law. Discussions so far on Russia's accession, while still at an early stage, have been quite positive and we look for more progress. We also are interested in the prospects for the accession of many of the former Soviet Republics, the Baltic States, Taiwan, Saudi Arabia and others.

Within the Organization for Economic Cooperation and Development, we are in active negotiations over the Multilateral Agreement on Investment to ensure equitable and fair treatment for U.S. investors. In both this forum and the WTO, we are also actively engaged in efforts to address bribery and corruption, competition policy and transparency in government procurement.

Fast track is essential if we are going to capitalize on the additional market access opportunities presented by the full range of WTO-related negotiations, and OECD initiatives. Before the close of the Uruguay Round, the United States insisted on commitments for ongoing market access efforts. The WTO marked the beginning, not end, of a process of achieving greater market openness for U.S. companies. Without fast track authority, serious preparatory work before the scheduled negotiations will be impaired, as will the U.S.' ability to contribute meaningfully to actual negotiations.

Sectoral Efforts

Sectoral initiatives have succeeded to ensure that U.S. industries that are global competitive leaders will enjoy export success commensurate with their competitive position. Such initiatives are designed so that all those that compete in a particular sector compete on the same terms. They can revive and maintain the momentum of trade liberalization in cases where more comprehensive efforts might falter.

Several recent agreements demonstrate the opportunities such market access initiatives provide for American companies, workers and consumers. We should build on these recent successes, and the commitments we have now obtained from key trading partners to maintain the momentum. Fast track authority is essential if we are to capitalize on these opportunities now.

Our most recent successes are the Information Technology Agreement (ITA) and the Agreement on Basic Telecommunications -- two far-reaching multilateral agreements reducing trade barriers around the world for our high technology industries.

The information technology market is a \$500 billion market, in which the United States is the largest single exporter. The ITA covers more than 93% of global trade in information technology products and includes 42 countries. Under the agreement, global tariffs will be reduced to zero on all goods associated with the information superhighway -- such products as semiconductors, computers, telecommunications equipment and software. These industries support 1.5 million manufacturing jobs and 1.8 million related service jobs. This agreement amounts to a global tax cut of \$5 billion annually.

The telecommunications agreement ensures that U.S. companies can compete against and invest in all existing carriers. Before this agreement, only 17 percent of the top 20 telecom markets were open to U.S. companies; now they have access to nearly 100 percent of these markets. Our international long distance industry will gain access

to serve markets accounting for over 95% of global revenue in Europe, Asia, Latin American and Africa, gaining the right to use their own facilities and to work directly with their customers everywhere their customers go. The agreement also offers important opportunities for American investors and entrepreneurs who will be able to acquire, establish or hold a significant stake in telecom companies around world. These opportunities span all sectors.

Telecommunications is a \$600 billion industry; under the agreement revenues are expected to double or even triple over the next ten years. U.S. companies are the most competitive telecommunications providers in the world; they are in the best position to compete and win under this agreement. We expect the agreement will lead to the creation of approximately one million U.S. jobs in the next ten years -- not only in communications companies but also in high-tech equipment makers and in a range of industries such as software, information services, and electronic publishing that benefit from telecom development.

This agreement will also save billions of dollars for American consumers. We estimate that the average cost of international phone calls will drop by 80% -- from \$1 per minute on average to 20 cents per minute over the next several years. Every American with relatives or friends overseas and every business that operates internationally will benefit from this agreement.

The Information Technology Agreement has set a new standard such that the 18 nations of the Asia-Pacific Economic Cooperation forum (APEC) agreed last month in Montreal to explore other sectors for similar market opening treatment. The APEC Ministers also agreed to follow up the ITA by pursuing an "ITA II" trade agreement, which would go beyond tariffs to encompass non-tariff trade barriers, increased product scope and broadened country participation. Our Quad partners have concurred in the goal of negotiating an ITA II. Let me stress here that the original ITA -- already a model agreement affecting hundreds of billions of dollars in goods and services worldwide -- would have been impossible without residual tariff cutting fast track authority from the Uruguay Round.

With respect to the non-IT sectors, the APEC Ministers established an expedited process for launching new market-opening initiatives. Specifically, the APEC countries will each propose sectors for market access initiatives that will be developed by trade officials this summer and presented by the Trade Ministers for Leaders' consideration in November. These initiatives may encompass goods as well as services, and cover tariff and non-tariff measures.

As we move forward to identify specific initiatives, we are looking broadly at sectors where the U.S. can capitalize further on its global competitive advantage if market access barriers are reduced. We are working closely with U.S. industry to identify such sectors. Among those that may be included for such market access initiatives are environmental products and services, health care products and services and global electronic commerce.

Fast track authority is essential to ensuring that the United States again plays the critical role in opening markets on a sectoral basis as it did in the ITA and telecom agreements. While we retain residual tariff cutting authority in certain areas left over from the Uruguay Round, immediate new opportunities of the type just noted will be lost without a new grant of authority.

Regional Efforts

Latin America and the Caribbean were the fastest growing markets for U.S. goods exports in 1996; our exports grew by more than 13 percent, reaching \$109 billion. That growth rate is more than twice the rate of U.S. exports to the rest of the world. If these trends continue, Latin America will exceed the EU as a destination for U.S. exports by the middle of next year, and we have only begun to see the potential of this huge emerging economic region. Its potential as a source of growth for U.S. exports can be seen in the case of Chile: a country of less than 14 million people, but to which we exported more last year than we did to nations such as India, Indonesia, or Russia.

Latin America is the second fastest growing region in the world, having transformed itself over the last decade in a manner unnoticed by some, but with profound positive implications for the United States. It is already the

developing region with the highest per capita consumption of U.S. imports of any region in the world, and it has only begun to generate its full capacity to absorb imports. The Administration recognizes the enormous opportunity to build on this historic transformation. Mexico, for example, is already on the verge of replacing Japan as our second largest export market; in fact, in October of last year, Mexico did exceed Japan in purchases of U.S. exports. This, in spite of the worst economic downturn in modern Mexican history during late 1994 and most of 1995.

At the recent ministerial meeting of the Free Trade Area of the Americas in Belo Horizonte, Brazil, the Trade Ministers of the participating nations agreed that FTAA negotiations should be launched at the Santiago Summit of the Americas in March 1998. To this end, the Trade Ministers established a formal Preparatory Committee which will take all the necessary steps to prepare for comprehensive negotiations early next year addressing a full range of issues from tariff reductions to agriculture to structural issues such as IPR and government procurement.

A comprehensive trade agreement with Chile is our first step in the FTAA process. It will be viewed as a bellwether for our plans in the region. Chile is symbolic of both the opportunities in the region and the region's rising strategic significance to our longer-term economic interests. U.S. exports to Chile are up 148 percent since 1990. Chile is a leading reformer in Latin America. Without fast track, the United States will not be positioned to conclude an agreement with Chile, and the longer our promise remains unfulfilled, the more likely that Chile, as many countries in our hemisphere will form alternative alliances in place of the U.S.

The Asia Pacific region, likewise, is a region of rapid progress and vital interests. It is enormous in its scope and has major implications for the future of the United States. It contains the fastest growing economies in the world, largely emerging economies with a total population nearing 3 billion people. Within the Asia Pacific Economic Cooperation (APEC) forum, we estimate that reaching the goal of open markets would increase U.S. goods exports alone by 13 percent annually, or almost \$80 billion a year.

As a step towards the ultimate APEC goal of free and open trade, market-opening agreements with key economies and key sectors of the Asian Pacific rim would provide U.S. exporters with a strategic advantage over U.S. competitors in the region. It would also provide the United States with a strong economic anchor in Asia, a key step in further cementing U.S.-Asian ties and U.S. opportunity.

There may be no aspect of our trade agenda in which the nexus between economic prosperity and economic security is as profound as it is in our regional agenda. We have the unprecedented opportunity to build enduring economic relationships with the countries in our hemisphere, and in Asia, a region also of vital importance to us. Through trade agreements, we have an opportunity also to enhance our strategic positioning in these critical regions. Globalization will occur with us or without us. U.S. objectives and interests demand action; fast track will help ensure continued U.S. leadership.

Dangers of Inaction

With all we have accomplished in the past four years, the world has continued to change in ways that are critically important to understand. We must recognize the dangers of inaction. In every region of the world, but particularly Asia and Latin America, the two fastest growing regions of the world, our competitors are pursuing strategic trade policies and, in some cases, preferential trade arrangements that will open up markets for their exporters, their products, their workers, their farmers. In short, in this post Cold War global economy countries are creating new exclusive trade alliances to the potential detriment of U.S. prosperity and leadership.

More than 20 such agreements have been concluded without the United States since 1992 alone and the trend continues. Increasingly, the rules are being written without us. Unless we are in a leadership role, our vital economic interests may be compromised. We must maintain strong, consistent influence in these critical regions. Without that presence, nations will look elsewhere for their opportunities and long-term economic alliances. Examples already abound:

In South Asia, the seven members of the South Asian Association for Regional Cooperation (SARC) -- India, Pakistan, Bangladesh, Nepal, Bhutan, Sri Lanka, and the Maldives -- just announced that they were accelerating their target date for the creation of free trade area, setting a deadline of 2001. SARC now represents only about 1 percent of world trade, but it encompasses roughly 20 percent of the world's population. Indifference to its development can only harm our economic security.

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

Canada, as you know, has already negotiated a trade pact with Chile and has started discussions with MERCOSUR.

The Presidents of Argentina and Brazil have both expressed an interest in a MERCOSUR-ASEAN free trade agreement, a trade alliance that would incorporate more than 600 million people and two of the most important emerging markets in the world. We simply cannot underestimate the impact of these efforts on our global export competitiveness.

In addition:

- MERCOSUR (Argentina, Brazil, Paraguay, Uruguay) is a developing customs union with a GDP of over \$1 trillion and ambitions to expand to all of South America. MERCOSUR is the largest economy in Latin America and has a population of 200 million. It has struck agreements with Chile and Bolivia, and is discussing agreements with a number of Andean countries (Colombia, Venezuela) as well as countries within the Caribbean Basin. The MERCOSUR ambition is in part driven by the decades old vision of a Latin American free trade area, but also by a clear strategic objective regarding commercial expansion and a stronger position in world affairs.
- The EU has begun a process aimed at reaching a free trade agreement with MERCOSUR. They have also concluded a framework agreement with Chile that is set up to lead to a free trade agreement.
- China has targeted Mexico, Argentina, Brazil, Chile and Venezuela as "strategic priorities" in Latin America. China wants to enhance commercial ties and ensure that key Latin countries are receptive to its broader global agenda as a rising power, both in the WTO and other fora. The Chinese leadership has undertaken an unprecedented number of trips to Latin America in the last two years, and Latin America is its second fastest growing export market.
- Japan has undertaken high level efforts throughout Asia and Latin America to enhance commercial ties through investment and financial initiatives. The Prime Minister of Japan recently visited Latin America seeking closer commercial ties and a greater Japanese commercial presence in all respects.
- ASEAN -- the Southeast Asian free trade area -- will include 400 million people and some of the fastest growing economies in the world. It is a region where China, Japan, Korea and the EU are focusing competitive energies. As noted earlier, Argentina's President Menem recently suggested a MERCOSUR-ASEAN free trade area -- an agreement that would encompass over 600 million people.
- Countries within this hemisphere are equally aggressive. Mexico wants to be the commercial hub between North and South America, and also serve as a venue in which to enter North, Central and South America from Asia and Europe. It is jointly pursuing a free trade area with Europe and is reaching out to Asia. President Zedillo and his Cabinet have undertaken numerous missions to Asia and have been well received. It has reached trade agreements with Colombia, Venezuela, and Costa Rica and is negotiating with Honduras, El Salvador and Nicaragua. It has initiated talks with MERCOSUR.
- Chile has a similar strategy. It has concluded agreements with MERCOSUR, Mexico, Colombia,

Venezuela and Ecuador. It intends to start similar negotiations with Central America and has an eye toward agreements with Asia. Japan is its largest export market, but Chile sees itself as a bridge from MERCOSUR to Asia and back, and is positioning itself with its MERCOSUR neighbors for that purpose.

- In the Asia-Pacific region, competition comes from many sources, all of which have contributed to a declining share of U.S. exports to the region. Competition within Asia is the most intense. Japan has been ahead of the U.S. in East Asia in terms of corporate presence, and especially in the past decade, in terms of the amount of overseas development assistance (ODA) it is willing to spend to advance its commercial interests. In more recent years, Korean conglomerates have likewise pursued an aggressive strategy to both invest and attain market share in dynamic East Asian economies, ranging from textiles to steel to autos. The consequences of these developments for American companies and workers are real, not theoretical. A recent example will suffice: In November 1996 Canada reached a comprehensive trade agreement with Chile that will eliminate Chile's 11% across-the-board tariff starting this year. Northern Telecom recently won a nearly \$200 million telecommunications equipment contract over U.S. companies in part because a purchase from a U.S. producer meant an additional \$20 million in costs (duties) relative to purchasing from Canada.

We cannot stand by idly. U.S. leadership is essential if we are not only to maintain, but enhance our competitive position. We must use every tool in our arsenal, supplemented by fast track authority, to ensure that the rules that emerge from this process of rapid economic integration, reflect our interests and our values.

The Decision to Compete

We have an extremely rare opportunity. Never before have so many nations looked to a freer market and believed in it enough to let competition come right to their doorstep. This is a season of open minds on more open markets. Why -- when the benefits of expanded trade are so clear and the costs of sidelining ourselves so great -- should we retreat? We cannot afford to do so and we must not.

We should begin by recognizing that our economy is the strongest in the world; that expanded trade has played an important role in building that strength; and that no country in the world is better positioned to take advantage of the enormous opportunities presented by a growing global economy. In fact, we are at a unique moment and we need to seize it now. Our competitors cannot beat us, but we can lose if we put ourselves on the sidelines.

As we contemplate the next four years in trade, we face a very clear choice:

We can recognize that the American economy is the model for the world, and continue to open foreign markets and seize the initiative when it comes to international competition. We can recognize the extraordinary opportunities presented by the growing global economy, in which developing nations, which want and need the full range of our manufactured goods, services and agricultural products, are poised to fuel continued global growth.

At the same time, we would face up to problems as we identify them together: working to put in place education, training and adjustment policies needed to help those who are not benefitting from the new economy; advancing core labor standards and protecting the environment; being vigilant to the consequences and potential threat of forced technology transfers. But we would be starting from the proposition that we have been basically on the right track, and we should stay fully engaged, using all our tools, taking advantage of opportunities that present themselves as we did when we saw the chance to reach an ITA.

Or, we can convince ourselves, against the evidence, that we are on the wrong track. We can choose our course guided by a picture of economic decline and disinvestment that bears no resemblance to what is happening in our country. Our competitors would like nothing better than for us to sideline ourselves, debating NAFTA and our relationship with Mexico for years to come while they move ahead. It would be a serious, self-inflicted wound.

America is poised to seize great opportunities. Our competitors cannot beat us; we can only lose by removing ourselves. We can, in short, lose our momentum, abdicate our position of strength, either permit markets to stay closed, or let others seize the initiative from us and gain preferential treatment. The choice is that clear.

Labor and the Environment

Similarly, we can no longer allow our disagreements over the relationship between trade, labor standards and environmental protection to prevent us from granting the President fast track authority. We simply have to forge a consensus of this subject which eluded us in 1994 and 1995. I have been consulting broadly with members of Congress, business, labor and environmental groups, and will continue to do so. I do not intend to put forward a specific formulation today, but wanted to share several thoughts in this area.

It is important to recognize that a commitment to the protection of core labor standards and their relationship to trade, is not new, nor is it unique to the United States. The international commitment to address this issue goes back as far as the Havana Charter, which was the effort to establish the International Trade Organization after World War II. We were gratified that at the WTO Ministerial in Singapore, the trading nations of the world acknowledged, for the first time in a Ministerial declaration, the importance of core labor standards to trade, although we fought for stronger steps. Advancing worker rights and labor standards is in our national interest and it is consistent with our deepest national values.

Making environmental and trade policy mutually supportive, although a somewhat newer public policy phenomenon on a global scale, similarly enjoys strong support in our country, and internationally. The 1992 Rio Sustainable Development Summit, the 1994 Summit of the Americas, and ongoing work in the WTO all reflect an international commitment to the importance of making these policy areas mutually supportive.

In my view, the challenge is how to maximize progress in three areas which are of major importance to us: expanded market access, advancing worker rights and core labor standards, and promoting environmental protection and sustainable development. We are committed to a strong strategy of pursuing our goals, and maintaining flexibility rather than pretending that one prescription would fit all countries or all cases. Based on my experience over these past four years, I think there is no substitute for building a consensus at home behind a strategy to advance our objectives on core labor standards and environmental protection. I am also certain that we will not convince other nations to improve their labor standards or environmental protection by denying the President the ability to negotiate trade agreements with them. We will, however, cripple our own export performance and lose jobs at home.

Conclusion

Clearly, this should not be a matter of party or politics. Every President since President Ford has had fast track authority for key periods on a bipartisan basis. For over 60 years, in response to the lessons of the Smoot-Hawley tariffs, America has led the effort to open foreign markets and increase U.S. and global prosperity. We cannot take that role for granted.

Rather, the Administration and the Congress must work together to seize the immense opportunities presented by the global economy. We must continue to play a central role in shaping that economy. Doing so is vital to our domestic prosperity, our longer term economic security and our broader strategic interests. I look forward to working with you on this trade agenda of the 21st century and the enactment of fast track legislation this year.