V. Bilateral Negotiations

A. Asia and the Pacific (Other than China & Japan)

Overview

The dramatic expansion of trade and economic growth in the Asia Pacific region over the past decade was due in large measure to the progressive and steady opening of markets in the region. While numerous barriers to trade in the region still exist, significant progress was made in the past decade in dismantling impediments to trade. The commitment of regional leaders in the Asia Pacific Economic Cooperation (APEC) forum to move forward toward free and open regional trade and investment has been an important factor in spurring this regional trend (see Chapter IV for information on APEC). In addition, the Administration has delivered results in bilateral negotiations and consultations with countries in the region, opening markets of interest to American farmers, manufacturers, and services providers, and protecting intellectual property, which is critical to U.S. exporters in the high-tech, entertainment and other key sectors.

Highlights of the achievements in this region include:

< *Effective Enforcement of Trade Commitments through WTO Dispute Settlement*. The United States effectively used the WTO Dispute Settlement mechanism to ensure that countries in the region implemented their multilateral commitments. The United States prevailed in cases involving: discriminatory liquor taxes in Korea; Korea's discriminatory import regime for beef; automotive subsidies and barriers in Indonesia; prohibited export subsidies on automotive leather in Australia; exclusive marketing rights in India for pharmaceutical and agricultural chemical products; and quantitative restrictions applied by India on a wide range of imported products.

The WTO Dispute Settlement process also facilitated settlements favorable to the United States in a dispute with Korea on shelf-life requirements for food products, with the Philippines on pork and poultry imports, and with Pakistan on exclusive marketing rights for pharmaceuticals and agricultural chemicals.

< *A Series of Significant Market Opening Agreements with Korea*. Through a combination of bilateral consultations, the use of U.S. trade remedy law, and action in the WTO, the United States has concluded agreements with Korea, and obtained commitments from its government: (1) in 1990, 1993, and 2000, to open its market for beef; (2) in 1995, to reform its government mandated shelf-life system, which had impeded the import of meat products; (3) in 1995, to address market access problems for trade in passenger cars; (4) in 1998, to further reduce trade barriers affecting passenger vehicles and to render trade in minivans and sport utility vehicles fairer; (5) between 1995 and 1998, to revise Korean import clearance procedures, thereby expediting the import of several key U.S. agricultural exports; (6) in 1998 and 1999, to take steps to privatize the second largest steel company in the world and to get the Korean Government "out of the steel business;" (7) in 1999, to reform its pharmaceutical pricing and regulatory policies, thereby

making the drug approval process in Korea faster and less onerous; and (8) in 1996, an agreement, and in 1997, a policy statement, to ensure equal treatment for foreign goods, services and intellectual property rights protection in telecommunications.

< *Normalization of Trade Relations with the Countries of Indochina*. As a result of the Vietnam era conflict, Cambodia, Laos and Vietnam were three of only seven countries in the world not to receive normal trade relations (NTR) status from the United States. In 1996, the United States completed a bilateral trade agreement with Cambodia granting it NTR status; in 1997, a comprehensive bilateral trade agreement and bilateral investment treaty were concluded with Laos (Congressional approval is still required to grant NTR under the terms of this agreement); and in July 2000, the United States and Vietnam signed a bilateral agreement granting NTR status to Vietnam, with provisions covering market access for goods and services, intellectual property and investment issues. (The agreement requires final formal assent by the Vietnamese and U.S. Congressional approval.)

< *Significant Progress in Protecting Intellectual Property Rights*. Bilateral consultations and negotiations with a number of countries in the region resulted in significant new commitments to protect intellectual property. These include: conclusion by Thailand of a comprehensive IPR action plan in 1998; enactment of two TRIPS-related laws; patent amendments and plant varieties in 1999, and trademark amendments and integrated circuits in 2000, all of which followed extensive consultations with USTR; submission in 2000 of draft legislation to Parliament by the Indonesian Government; action by the Malaysian Government in 2000 to reduce pirated optical media production and export; as a direct result of the "Special 301" process, an action plan by Korea in 1997 to combat copyright piracy, improve patent enforcement and improve its trademark and industrial design laws; and a bilateral agreement with Vietnam in 1997, which grants legal protection to all U.S. copyrighted works in that country for the first time.

< *Enhanced Access for U.S. Agriculture and Processed Food Exports*. The United States has vigilantly utilized WTO procedures and bilateral consultations to reduce Asian restrictions which impede market opportunities for U.S. agriculture and food exporters. In addition to the agriculture-related WTO disputes mentioned elsewhere, resolution of India's balance of payments restrictions resulted in the elimination of quantitative restrictions affecting a broad range of agricultural and processed food products. In Southeast Asia, particularly during the recent economic turmoil and currency volatility, U.S. efforts concentrated on a host of measures which threatened U.S. agriculture exports, including: Philippine arbitrary customs valuation practices; Thai tariff adjustments and import licensing restrictions; Malaysian food standards and certification; and Indonesian tariff adjustments and monopolistic distribution channels.

< *Ensuring that Responses to the Financial Crisis are Market Opening*. USTR worked with Treasury and other agencies to ensure that International Financial Institutions (IFIs) stabilization programs adopted by countries effected by the financial crisis (including Korea, Indonesia and Thailand) worked to open markets and expand competition. Many aspects of these programs have a direct bearing on trade, in areas such as improved market

access, ransparency, economic deregulation, attracting investment, and allocating public and private resources based on market disciplines. The United States continues to monitor the trade-related aspects of these programs closely to ensure their effective implementation.

2000 Activities

The countries in the Asia Pacific region are continuing to work to recover from the financial crisis of 1998. The economies hardest hit by the financial crisis – Korea, Thailand, Philippines, Malaysia and Indonesia – continue to have overall positive growth rates in 2000, with much of the growth led by exports.

U.S. goods exports to APEC countries grew approximately 15.6 percent in 2000, an indicator that these countries are continuing to recover from the Asian financial crisis. Meanwhile, U.S. imports from APEC countries grew 18.7 percent in 2000 over the previous year, highlighting the export-based nature of the recovery.

The United States has a full agenda of specific bilateral impediments that it is tackling in the Asia Pacific region, as described below. It also continues to work regionally, primarily through APEC, to foster concrete movement toward more open markets, as described elsewhere in this report. In addition, it is using the WTO process – both in enforcing existing commitments and in its future work program – to further drive open markets and expand trade in a region that accounts for over half of total U.S. exports. The negotiation of a comprehensive U.S.-Singapore Free Trade Agreement would complement both our regional and multilateral work by serving as a significant step toward realization of APEC's "Bogor Vision," under which APEC's 21 members are working toward "free and open trade in the Pacific" and by underscoring the benefits of further trade liberalization.

1. Australia and New Zealand

Despite some limited progress in recent years, Australia's market for agricultural commodities continues to be closed for some products due to sanitary and phytosanitary measures. For example, the United States is waiting for the Australian Government to issue a science-based risk assessment to justify its prohibition on the importation of U.S. table grapes.

The WTO validated the U.S. and Canadian complaint in a case on barriers to Australia's fresh, frozen and chilled salmon market. With Australia's June 1, 2000 amendments to its quarantine policies regarding these products, U.S. exporters now have access to a market that had been closed for more than 20 years. The WTO SPS Agreement provided the lever to push Australia to allow entry of U.S. salmon.

On June 21, 2000 the United States resolved a dispute it brought to the WTO over subsidies to Australia's sole exporter of automotive leather. The WTO found that Australia's subsidies violated its obligations under the WTO Agreement on Subsidies and Countervailing Measures. Under the resolution agreement, the subsidy recipient agreed to a partial repayment of the prohibited export subsidy it received, and the Australian Government committed to exclude this industry from current and future subsidy programs, and to provide no other direct or indirect subsidies.

New Zealand's one-year-old Labour/Alliance Government committed to change the previous government's law on parallel imports to prohibit parallel imports of CD's, films, videos and software"creative works" (copyrighted products such as film, video, software, music and books) for up to two years after initial release. To date, the New Zealand Government has not implemented this commitment and parallel imports are still permitted.

The New Zealand Government has created a Royal Commission on Biotechnology to study for one

year various issues involving food produced from grains grown using this technology. During this time, there is a “voluntary" moratorium on new field trials and commercial release of genetically modified products. On a separate front, the Australia-New Zealand Food Safety Council (ANZFSC) has approved a rule requiring labeling of all genetically-modified food products beginning in late 2001.

2. The Association of Southeast Asian Nations (ASEAN)

The trade and investment relationship between the United States and the members of the Association of Southeast Asian Nations is strong, mature, and mutually beneficial despite the continuing effects of the Asian financial crisis on Asian economies. Two-way trade in goods increased an estimated 15 percent (annualized based on the first 10 months of 2000), from $115 billion to $132 billion, with U.S. exports to ASEAN in 2000 increasing by an estimated 17 percent. This growth reflects the recoveries from the Asian financial crisis underway in a number of ASEAN economies. The now ten-member ASEAN group – comprising Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam – collectively continues to be the United States’ fifth largest trading partner. As such, the United States has an important stake in ASEAN’s economic recovery and is committed to working closely with ASEAN as an institution, and with ASEAN member countries individually, to pursue and promote our mutual trade and investment interests.

The ASEAN countries have witnessed a number of important developments during the last few years. The economic turmoil which began in 1997 has caused significant economic dislocation, but also has been the impetus for economic reform and restructuring that has promoted recovery and will benefit these countries in the future. The crisis has also stimulated dialogue between the United States and ASEAN countries, as well as more regular discussion between ASEAN and its Asia neighbors, including China, Japan and Korea. The year 2000 marked the first full year of the ten-member ASEAN.

While ASEAN’s gradual expansion over time has added to the association’s diversity, it has also posed new challenges, which manifest themselves as more complicated decision-making and the lack of ASEAN solidarity in other fora, such as APEC and the WTO (in which some ASEAN members do not participate). Tensions have also surfaced in terms of individual member’s economic difficulties and selective implementation of trade-related initiatives undertaken within ASEAN. In order to ensure that these intra-ASEAN undertakings do not adversely affect U.S. interests, we have stressed the importance that such undertakings be consistent with WTO rules, be taken in the spirit of APEC’s goals and principles, and be faithfully implemented if ASEAN hopes to attain its own developmental goals and in order to promote a business- and investor-friendly environment.

In 1993, the then-seven members of ASEAN created the ASEAN Free Trade Area (AFTA) as a means to promote regional economic competitiveness and prosperity. The objective of AFTA is to promote trade among ASEAN member countries by gradually eliminating customs duties on intra-ASEAN trade of qualifying products by 2005, with special allowance for sensitive sectors. By agreement, AFTA members agreed to accelerate the reduction of tariff cuts under AFTA from 2003 to 2005. Laos and Burma were admitted to ASEAN as full members in July 1997, although these countries have until 2008 to phase in obligations under the AFTA.

ASEAN continues efforts to implement and expand the AFTA by including unprocessed agricultural commodities in the tariff phase-out scheme, and placing greater emphasis on the elimination of non-tariff measures such as customs surcharges and technical barriers to trade. During the December 1998 ASEAN Summit in Hanoi, leaders agreed to accelerate reduction of AFTA Common Effective Preferential Tariff (CEPT) rates to ensure that a minimum 90 percent of tariff lines are

subject to 0-5 percent rates by 2000 (three years ahead of schedule). They also agreed to expand the scope of products for which CEPT rates will be eliminated by 2003 (accounting for roughly 83 percent of AFTA tariff lines). In recognition of their late accession to the AFTA, Vietnam, Laos, and Burma will follow a modified schedule.

In October 2000, the ASEAN Economic Ministers held their annual meeting in Chiang Mai, Thailand. The Ministers agreed on a mechanism to allow an ASEAN member to temporarily postpone tariff reductions on specific products under the CEPT. This mechanism was developed at the request of Malaysia, which sought a delay in its obligation to eliminate tariffs on autos and auto parts. The mechanism also provides for ASEAN members adversely affected by such delays to temporarily suspend concessions as compensation.

ASEAN also intends to expand negotiations under the Framework Agreement on Services beyond the current priority areas with a view to eventually including all sectors and all modes of supply. The 1999 Hanoi Summit also produced the "ASEAN Vision 2020" declaration in which members resolved, among other things, to continue with full implementation of AFTA, to implement fully the ASEAN Investment Area by 2010, and to achieve the free flow of investment by 2020. The eventual creation of ASEAN patent and trademark offices are longer-term goals; however, efforts toward coordinating documentation and application filing procedures continue.

a. Indonesia

i. General

The economic crisis and political upheaval in Indonesia have taken priority over bilateral trade issues during the past year. While the Indonesian economy is strengthening as a result of economic and political reforms, it remains fragile. Indonesia's IMF program, initiated in October 1997, was modified in each of the three subsequent years as the economic situation deteriorated. Concerns about the Indonesian Government's ability to follow through with these reforms along with the continuing political uncertainty is weakening investor confidence and adding to the serious problems faced by Indonesia's financial and corporate sectors.

ii. Intellectual Property Rights

In April 2000, the USTR removed Indonesia from the Special 301 Priority Watch List, where it had been since 1996, and placed it on the Watch List in recognition of efforts made toward a more effective IPR regime. The Indonesian Government resubmitted draft legislation on trade secrets, industrial designs, patents, trademarks and copyrights in February 2000, although this legislation has yet to gain parliamentary approval.

However, U.S. industry reports continuing problems with IPR issues, including: software, book, video, VCD, drug, and apparel trademark piracy; audiovisual market access barriers; inconsistent enforcement; and an ineffective legal system. Indonesia's amendments to the copyright, patent and trademark laws apparently are still not completely TRIPS consistent.

The U.S. Government has raised these issues with Indonesia since 1998, and in June 1998 presented Indonesia with an IPR work plan (market access, enhanced enforcement, TRIPS consistency of laws, special juridical arrangements, legal use of software, and increased protection of well-known marks; including several company-specific cases). Although the Indonesian Government has yet to take sufficient action on the proposed work plan, it has acknowledged the need for improved enforcement and a broad education program, in addition to the need to bring its statutes into TRIPS conformity.

iii. IMF Trade-Related Conditionality

Indonesia's initial October 31, 1997 Memorandum of Economic and Financial Policy (MEFP) with the IMF has been revised several times in response to

deteriorating macroeconomic conditions. The latter versions of the program, including the most recent letter of intent executed in January 2000, expanded the focus of earlier programs to cover the entire range of economic challenges facing Indonesia. These include fiscal policy, monetary policy, structural reform and deregulation, corporate debt and bankruptcy proceedings, banking sector reform and restructuring, restoration of trade financing to promote exports, food security, the distribution system and social safety net policies. In accordance with the IMF program, the Indonesian authorities are taking initial steps to restructure the banking system and to facilitate the restructuring of corporate debt burdens.

The IMF memoranda contain a considerable amount of trade-related conditionality that if fully implemented by Indonesia will contribute to significant liberalization of the real economy and reduction of distortions in the Indonesian goods and services markets. Despite the sharp economic downturn in Indonesia, the Indonesian Government has undertaken structural reforms to dismantle the national car and aircraft programs, reduce tariffs on agricultural commodities and industrial goods, eliminate export taxes, and disband marketing monopolies. Indonesia appears to be implementing its border liberalization and internal market reforms captured in the IMF memoranda from October 1998 to date, although careful monitoring is warranted given the ambitious scope of liberalization involved and the relatively low level of commercial activity this year.

iv. Automobiles

The successful 1998 WTO challenge by the United States (joined by the EU and Japan) of Indonesia's auto programs constitutes a significant victory for the United States in its effort to dismantle Indonesian barriers to trade in automotive products. It also serves as an important precedent in combating similar barriers in other markets. In 1999, Indonesia promulgated a new automobile policy that appears to comply with its WTO obligations. However, the United States is concerned by recent statements by high-level Indonesian officials that the Government is considering reviving a national automotive industrial policy in some form. Such an action would be an inefficient commitment of resources at a time when materials, capital, and labor should be focused on promoting Indonesian recovery and promotion of sustainable enterprises. The United States is continuing to monitor developments in this area closely.

b. Malaysia

i. Investment and Services

Malaysia maintains investment limits which predate the financial crisis and which adversely affect the local business and investment climate. In general, Malaysian law requires that business entities include a domestic partner with a minimum 30 percent stake. Banking and other financial services providers face foreign-held equity restrictions, as do suppliers in the wholesale/retail, distribution and multi-level marketing, construction and legal services sectors. U.S. officials have and will continue to raise concerns over investment restrictions in the distribution services sector as a priority and will continue to monitor developments.

ii. Tariffs

In 1997 and 1998, Malaysia raised tariffs on certain goods from 0 percent in 1996 to current levels of between 5 and 20 percent ad valorem – still within its WTO-bound commitments. The products affected include some types of heavy machinery and construction equipment, automobiles, motorcycles, and home appliances. In 1998, Malaysia also implemented a new import approval scheme for construction equipment that could further restrict market opportunities for U.S. exports. Malaysia's rationale for the measures affecting construction equipment is to encourage reconditioning and repair of existing equipment; however, it is unclear that this policy has promoted this objective. Malaysia is reducing tariffs for information technology products covered by the

Information Technology Agreement (ITA), under which most of its tariffs were to be bound at zero by the year 2000.

iii. Local Content-Related Investment Incentives

Malaysia has taken a number of steps which confer tax benefits, based on the amount of locally produced parts or inputs utilized, in order to promote the development of domestic automobile manufacturers under its "national automobile" program. As required by the WTO Agreement on Trade-Related Investment Measures, Malaysia's various incentives for local production were to be eliminated by January 1, 2000. However, in late December 1999, Malaysia notified WTO members of its desire to obtain a two-year extension of its auto-related measures. Malaysia's request to the WTO has not been acted upon. The United States is considering taking appropriate action.

iv. Intellectual Property Rights

The USTR conducted an out-of-cycle Special 301 review of Malaysia's intellectual property practices in late 1999, deciding not to remove Malaysia from the Priority Watch List pending passage of new optical disc (OD) legislation designed to reduce pirated optical media production and export. After considerable delay, the Malaysian Government enacted its Optical Disc Anti-Piracy Act in September 2000. The legislation offers the government greater enforcement powers and establishes stiffer penalties for IPR crimes.

In August 2000, Malaysia announced the formation of special mobile enforcement units throughout Malaysia in its war against copyright pirates. The Malaysian Government has worked closely with the United States and U.S. industry to suppress end-user piracy of copyrighted works, principally business application software. U.S. industry has welcomed these increased enforcement actions, but remains concerned by a lack of prosecution of IPR offenses by the local judicial system.

The Malaysian Government IPR enforcement efforts in 2000 were a significant step forward. However, it needs to take additional action to link effective police enforcement with aggressive prosecution in the courts. Domestic production of optical disks far exceeds domestic demand, and has contributed to substantial domestic and export markets for pirated goods. The United States will continue to encourage the government to further increase its efforts in IPR enforcement.

c. Philippines

i. Market Access Issues

In 2000, the Philippines passed a new safeguard law. Although no action has been taken under this law, the U.S. Government and U.S. industry have serious concerns with its provisions. The legislation does not give foreign producers a meaningful opportunity to defend their interests. In addition, the prerequisites for imposition of provisional relief appear to be lower than the requirements contained in the WTO Safeguards Agreement. We have raised our concerns with the Philippine Government and will take appropriate action as necessary as the law is implemented.

ii. Intellectual Property Rights

In June 1997, the Philippines enacted a comprehensive law on intellectual property rights. The law entered into force on January 1, 1998, although formal implementing regulations for most provisions of the law were not promulgated until later. On balance, the law represents a significant step toward implementation of the Philippines' commitments under the WTO TRIPS Agreement. However, several provisions of the law are of concern to the United States and could pose serious policy implications and investment disincentives if not adequately addressed. Specific concerns include provisions governing the circumstances under which decompilation of software programs is permissible, *ex parte* search and seizure, and restrictions on technology licensing arrangements. The United States also continues to monitor

carefully Philippine enforcement efforts and judicial efficiency.

iii. Customs

With the transition period available to the developing countries at an end, the Philippines was obligated to implement the "transaction value" method of customs valuation on January 1, 2000, in accordance with obligations under the WTO Agreement on Customs Valuation. While the existing Valuation Law (R.A. 8181) includes a provision requiring the Bureau of Customs to publish reference values that "shall be binding on importers and the Bureau of Customs until changed," new implementing regulations are silent on this issue. Legislation to remove this provision is still pending in the Philippine Congress.

In addition, on March 31, 2000, the Philippine Government ended a preshipment inspection services contract with Swiss Societe Generale De Surveillance. Thus, effective April 1, 2000, all importers or their agents are required to file import entries with the Bureau of Customs, which processes these entries through its automated customs operating system.

d. Singapore

In November 2000, the United States and Singapore announced the launch of negotiations for a U.S.-Singapore Free Trade Agreement (FTA). This agreement is expected to have significant commercial benefits, as Singapore is our largest trading partner in Southeast Asia, with two-way trade in goods and services totaling more than $40 billion. In negotiating this agreement, the United States will seek to eliminate tariffs on substantially all goods over time, obtain substantial sectoral coverage in services, help develop electronic commerce, protect intellectual property rights (IPR), and achieve other bilateral trade objectives. Like in the Jordan FTA, the United States has proposed provisions on labor and the environment.

Singapore imposes tariffs on only four categories of goods, allowing nearly 96 percent of its imports to enter duty-free. Singapore's tariffs on products covered by the Information Technology Agreement were bound at zero by the year 2000.

While the United States and Singapore are discussing IPR in the context of the FTA negotiations, this issue has been a longstanding concern for the United States. Singapore enjoys some of the lowest piracy rates in Asia, but it has been on the Special 301 Watch List since 1995, primarily out of concerns that its legal framework does not appear to be TRIPS compliant and that its enforcement efforts are inconsistent.

Singapore readily acknowledges that enhanced IPR regulation and enforcement is necessary for it to develop toward its goal of becoming a "knowledge-based economy." The creation of mobile IP units in 2000 has increased the Government's ability to conduct raids on major centers of distribution for pirated products. In addition, the Government of Singapore's efforts to promote a "code of conduct" for local manufacturers of optical disks in order to improve the performance of its domestic industry has helped to focus attention on the growing problem of piracy of CDs, VCDs, and CD-ROMs. We continue to work with U.S. industry to develop effective approaches to curtailing retail piracy in Singapore.

e. Thailand

i. Intellectual Property Rights

In recent years, Thailand's commitment to effective IPR protection has been uneven, as evidenced by growing piracy rates and inconsistent coordination between enforcement authorities. The Thai Government has made significant progress, however, toward erecting legal and administrative structures necessary for IPR enforcement. Thailand enacted two TRIPS-related laws in 2000, including amendments to trademark laws in June and protection of integrated circuit design in August. Thailand opened specialized IPR and international trade courts in late 1997, which has

resulted in moderate improvements in IPR protection, but has not resulted in the imposition of penalties sufficient to deter IPR infringement. In June 1998, the United States and Thailand concluded an Action Plan, which among other things was intended to enhance routine coordination among relevant Thai Government agencies in order to improve retail-level IPR enforcement and to prioritize the enactment of key legislation. The Action Plan also sets the foundation for implementation of measures to address the growing problem of optical disk (OD) piracy. The United States will continue to press the Thai government to make meaningful progress on IPR protection and enforcement, and will continue to consult with U.S. industry to develop specific proposals to enhance patent, copyright and trademark protection in Thailand.

ii. Market Access Issues

Thailand's applied tariffs are generally higher than many of its neighbors. As a signatory to the Information Technology Agreement (ITA), effective January 2000, Thailand eliminated tariffs on 153 information technology-related products pursuant to it obligations.

iii. Worker Rights

In July 2000, USTR terminated a long-running GSP investigation concerning the provision of core worker rights in Thailand. In February, the Thai Government successfully re-instituted fundamental worker rights with the enactment of the new State Enterprises Labor Relations Act. The Act, which received Royal Assent and was published in the Royal Gazette in Bangkok, reversed a nine-year time period during which core rights had been denied workers in state-owned enterprises.

f. Normalization of Trade Relations with Vietnam and Laos

i. Vietnam

On July 13, 2000, the United States and Vietnam signed a historic bilateral trade agreement, culminating a four-year negotiation to normalize trade relations. When enacted, the agreement will grant Vietnam "Normal Trade Relations" (NTR) status, that is, the same low tariffs that the United States applies to imports from nearly every other country. The agreement also commits Vietnam to sweeping economic reform, which will create trade and investment opportunities for both Americans and Vietnamese, and will lay the foundation for a new American relationship with Vietnam.

The trade agreement, when implemented, commits Vietnam to opening its market and moving toward adoption of WTO and international norms. The agreement has five major sections.

1. *Market Access for Agricultural and Industrial Goods*. Vietnam has made significant commitments across hundreds of industries. It will grant trading rights, allowing all Vietnamese firms, and over time U.S. persons and firms, the right to trade in Vietnam for the first time; lower tariffs on hundreds of categories of industrial goods and farm products of interest to U.S. exporters; phase out all non-tariff measures; and adhere to WTO standards in applying customs, import licensing, state trading, technical standards and sanitary and phytosanitary measures.

2. *Intellectual Property Rights*. Vietnam will adopt the WTO "TRIPS" standard for intellectual property protection (copyright, patent and trademark law) in 18 months or less, and take further measures in several other areas (e.g., protection of satellite signals).

3. *Market Access for Services*. Vietnam will allow U.S. persons and firms to enter its services market in a broad array of areas, including financial services (insurance and banking), telecommunications services, distribution services, audiovisual services, as well as other sectors. These commitments are phased in, typically within three to five years.

4. *Investment*. Vietnam will protect U.S.

investments from expropriation, eliminate its "Trade Related Investment Measures," and phase out its investment licensing regime for many sectors, as well as modernize its investment regime in other areas.

5. *Transparency*: Vietnam has agreed to adopt a fully transparent regime in each of the four areas above, by publishing all laws, regulations and rules; submitting them for public comment in advance; and giving U.S. citizens the right to appeal rulings made with respect to all such laws and regulations.

Under U.S. law, for Vietnam to receive NTR status, a bilateral trade agreement must be completed and approved by Congress, and the President must "waive" the "Jackson-Vanik" provision, indicating that Vietnam is making sufficient progress on the issue of free emigration. Since 1998, the President has granted the annual Jackson-Vanik waiver for Vietnam. Thus, completion of this agreement, and its subsequent approval by Congress will clear the way for Vietnam to receive annually renewed (as opposed to permanent) NTR treatment from the United States. This, along with the Vietnamese Government's formal ratification of the Agreement, would bring Vietnam's commitments under the bilateral trade agreement into force.

ii. Laos

In 1997, the United States completed a comprehensive bilateral trade agreement with Laos aimed at normalizing trade relations. Laos, unlike Vietnam, is not covered by the "Jackson-Vanik" provisions of U.S. trade law. Similar to Vietnam, the Laos agreement does require separate legislation enabling the President to grant normal trade relations status to Laos once formal signature of the agreement is completed.

3. Republic of Korea

a. Macroeconomics and Trade

At the end of 1997, the IMF negotiated a macroeconomic stabilization package with the Korean Government when the value of the won depreciated dramatically due to a large outflow of foreign investment. The stabilization package for Korea included credit from the IMF, the World Bank, and the Asian Development Bank.

The stabilization plan focused on: (1) restructuring the financial and corporate sectors to make them more market-driven, efficient, transparent, and open to foreign investment; and (2) eliminating trade- and competition-distorting policies. Korea's trade-related reforms included:
early elimination of WTO-prohibited export and domestic content subsidies and the import diversification program (which prohibited many Japanese imports); and a reduction in the number of products subject to tariff adjustments, or snapbacks. Korea also agreed to liberalize its import licensing and certification procedures and to bind its OECD financial services market access commitments in the WTO.

The Korean Government made progress on implementing some of its reform commitments during the past three years, particularly in the financial sector, by rationalizing and recapitalizing its banks, and by consolidating regulatory authority over the financial sector in a new, independent Financial Supervisory Commission. However, the Korean Government still maintains a majority ownership in several of the largest commercial banks in Korea and a significant stake in a number of others. Korean authorities are now in the process of further strengthening commercial bank balance sheets and restructuring merchant banks, investment trust companies and the insurance industry.

With respect to changes in corporate practices, Korea is in the process of implementing international standards on accounting practices,

including corporate activities on a consolidated basis, and has provided for the appointment of outside directors on corporate boards. The rights of small shareholders have been strengthened, while restrictions on foreign participation have been eased. Cross guarantees of major conglomerates have been eliminated, and bankruptcy laws have been strengthened.

That said, the Korean Government's record on implementation of some of its trade-related stabilization commitments has fallen short. For example, the U.S. Government has expressed concern about the Korean Government's decision to maintain tariffs at the highest "snapback" level, while eliminating the "snapback," or tariff adjustment mechanism. The U.S. Government will continue to work with Korea to ensure full follow-through on its trade-related stabilization commitments.

In addition, many of the systemic reforms that President Kim Dae Jung laid out for Korea have yet to be implemented. Corporate restructuring efforts undertaken thus far have yielded little change in the structure of Korean industrial sectors, including motor vehicles, steel, and shipbuilding. The U.S. Government has noted in representations to the Korean Government that for restructuring to be considered meaningful: (1) it must yield efficient, market-driven companies; and (2) the process through which it is carried out must be open, transparent, and treat foreign creditors equitably, and comport with Korea's international obligations.

The fiscal, monetary, and restructuring policies laid out by the Kim Dae Jung administration have contributed to a resumption of foreign and domestic consumer confidence in Korea's economy. In 1999, Korea grew at a rate of 10.7 percent and is expected to grow by about 9 percent in 2000, after experiencing negative growth in 1998. The United States ran a bilateral trade deficit with Korea of $8.3 billion in 1999, and the deficit in 2000 is expected to be higher.

b. OECD

In late 1996, the Korean National Assembly ratified Korea's accession to the OECD. Given Korea's membership in the OECD, the United States expects Korea to implement its WTO commitments and to negotiate in the new round of multilateral trade negotiations as a *developed* country, including in the area of agriculture.

In May 1997, on the fringes of an OECD Ministerial, Korea issued a statement indicating that the government did not support anti-import activity, which had been encountered in the Korean market in the context of the frugality, or anti-consumption, campaign launched by President Kim Young Sam. The Korean Government also issued guidelines to trade officials to ensure that they did not discriminate against imports. While the Korean Government has taken some important steps to address anti-import activity, serious problems in this area persist. The United States continues its work with the Korean Government to ensure that it expeditiously and effectively addresses instances of anti-import activity and reaches out proactively to educate Korean citizens on the benefits of free trade and competition.

In November 1999, the Trade Committee of the OECD reviewed Korea's regulatory regime. In this review, the U.S. Government stressed the need for enhanced transparency and reform of Korea's regulatory system and emphasized that Korean regulations should fully reflect the trade commitments and policies that Korea has undertaken as a WTO and OECD member. In addition, the United States underscored the need for Korean regulations and other rules, and the officials who administer them, to reflect the free and open trade and investment policy that Korean President Kim Dae Jung has embraced. Among the specific areas of concern flagged by the United States in this review were Korean policies on motor vehicles, pharmaceuticals, telecommunications, *chaebol* reform, import clearance procedures, foreign equity restrictions, and customs classification and border treatment.

Also in November 1999, the OECD Committee on Capital Movements and Invisible Transactions and the OECD Committee on International Investment and Multinational Enterprises reviewed Korea's financial and investment policies. In this review, the United States focused on Korean takeover policies, financial services commitments, and rules on bank ownership and investment in the meat, rice, barley and insurance sectors.

In September 2000, the OECD Trade Policy Review Body reviewed Korea's trade policies. The report noted the progress the Korean Government had made over the past few years in instituting market-based reforms, which helped pave the way for the recovery of the Korean economy following the financial crisis. However, the United States and Korea's other trading partners highlighted areas where additional progress is required. Among these were Korean Government policies on privatization and *chaebol* reform, motor vehicles, pharmaceuticals, telecommunications, agriculture, intellectual property protection, import clearance procedures, foreign equity restrictions, subsidies, and labor rules.

c. Motor Vehicles

In the October 1, 1997 Super 301 report to the Congress, the USTR identified Korean barriers to motor vehicles as a priority foreign country practice. On October 20, 1997, the USTR initiated a Section 301 investigation with respect to certain acts, policies, and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market.

On October 20, 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access for foreign motor vehicles. Under this MOU, Korea agreed to: (1) bind in the WTO its 80 percent applied tariff rate at 8 percent; (2) lower some of its motor-vehicle-related taxes and to eliminate others, thereby substantially reducing the tax burden on motor vehicle owners; (3) streamline its standards and certification procedures and adopt a manufacturer driven self-certification system by 2002; (4) establish a new mortgage mechanism to make it easier to purchase motor vehicles in Korea; and (5) continue to actively and expeditiously address instances of anti-import activity and to proactively educate Korean citizens on the benefits of free trade and competition. As a result of the measures the Korean Government committed to in the 1998 MOU, on October 20, 1998, the USTR decided to terminate the Section 301 investigation and to monitor the Korean Government's implementation of these measures.

The United States and Korea have held three formal reviews of the 1998 MOU. At the most recent review, held in August 2000, the United States and Korea held consultations to assess the progress under the agreement and to discuss additional steps Korea will take to implement this agreement. While implementation of many of the specific provisions of the MOU is on track, the U.S. Government expressed serious concerns about: (1) the lack of substantial increases in market access for foreign motor vehicles in Korea; (2) ongoing instances of anti-import activity; (3) the lack of a long-term plan to continue to reduce the tax burden on motor vehicle owners in Korea; (4) standards and certification issues (including the potential application of new standards to minivans when they are reclassified as passenger vehicles, the Korean Government's plans on noise and fuel efficiency standards, and the development of a self-certification system by 2002); and (5) the pace of corporate restructuring in the automotive sector.

The United States also made specific proposals for addressing these concerns and achieving further progress under the agreement. Among these were proposals for Korean Government action to improve the generally negative perception of foreign vehicles among Korean citizens, which are largely the result of successive Korean Government policies that discouraged the purchase of foreign autos. The U.S. Government also made specific proposals on outstanding standards and certification, financing, and tax and tariff issues.

d. Steel

U.S. steel imports surged in 1998, as chronic overcapacity in the global steel sector was compounded by the Asian financial crisis and the resulting drop in demand in Asia. Korea accounted for nearly 20 percent of the overall growth in U.S. imports of steel in 1998. Although imports declined in 1999 and in 2000, largely as a result of eight antidumping and countervailing duty cases, imports remain substantially above 1997 levels, and the U.S. market has not recovered from the import surge.

In response to the substantial role that Korean steel plays in the U.S steel import situation, the United States has continued a dialogue on steel with the Korean Government. This dialogue is based on the 1999 exchange of letters in which the Korean Government made assurances that it would not provide any market-distorting subsidies to the steel sector and that steel companies would be privatized and restructured under transparent and market based principles.

In July 2000, the U.S. Government published the Report to the President on Global Steel Trade: Structural Problems and Future Solutions. The report documented the role of Korean imports in the 1998 steel crisis and the underlying structural distortions in the Korean steel industry that exacerbated that crisis.

In 2000, the United States continued the bilateral dialogue with Korea on steel, holding working level meetings in May and November to urge the Korean government to:

- take steps to promote increased domestic and international competition in Korea's steel sector;
- fully privatize Pohang Iron and Steel (POSCO) (a partially state-owned steel company) and terminate government influence over its management;
- sell off Hanbo's assets to encourage rationalization of Korean steel capacity (Hanbo is Korea's largest steel producer which declared bankruptcy in 1997); and
- promote fair trade in steel.

The U.S. Government will continue to raise these issues with the Government of Korea in bilateral meetings and will use the OECD Steel committee as a forum to address structural distortions in the Korean steel market.

e. Pharmaceuticals

U.S. concerns regarding pharmaceuticals trade relate to three baskets of issues: (1) listing and pricing on Korea's national health insurance reimbursement schedule, and associated hospital margins and administrative procedures that limit the commercial distribution of foreign-made pharmaceuticals; (2) protection of intellectual property rights, particularly protection of clinical data and patents; and (3) regulatory requirements, particularly on acceptance of foreign and clinical test data and approval of new drugs. USTR, in its 1999 Super 301 trade report, listed these pharmaceuticals trade issues as the bilateral trade expansion priority on the U.S.-Korea agenda and in May 2000, USTR placed Korea on the Special 301 Priority Watch List, in part because of concerns of intellectual property issues related to pharmaceuticals.

In 1999, the Korean Government took a number of steps to address U.S. concerns in this sector, including: (1) listing imported pharmaceuticals on Korea's national health insurance reimbursement schedule; (2) implementing an Actual Transaction Price (ATP) system whereby both imported and domestically-manufactured pharmaceuticals are reimbursed without hospital margins (such margins had previously benefitted only Korean-produced drugs); (3) committing to adhere to international guidelines on the acceptance of foreign clinical test data and making the approval process for new drugs more science-based; (4) eliminating the requirement for the submission of a Certificate of

Free Sale before Phase III clinical trials can commence in Korea; and (5) committing to shorten the overall drug approval process in Korea.

The U.S. Government has been closely monitoring Korea's implementation of the recent important changes made to its procedures on reimbursement pricing of pharmaceuticals and on regulatory requirements for the acceptance of foreign clinical test data and the approval of new drugs. The United States has urged Korea to take steps to ensure full implementation and enforcement of the ATP system to prevent resumption of questionable (and illegal) discounting that would disadvantage innovative drugs, limiting their availability to Korean patients. The United States also will continue to monitor Korea's implementation of its policy to separate the prescribing and dispensing of drugs, and will urge the Korean Government not to take steps that would lead to a distortion of the incentives needed to promote innovation and the availability of innovative pharmaceutical products. In addition, the United States will urge the Korean Government to take steps to ensure that its actions to open the pharmaceutical market are not undermined by harassment of U.S. pharmaceutical firms or recent anti-import activities by Korean pharmaceutical companies.

To speed the introduction of innovative drugs into Korea, the U.S. Government has underscored the need for Korea to improve market access for foreign pharmaceuticals by eliminating requirements for redundant clinical test data in the drug approval process. The United States will continue to urge Korea to adopt tests for bio-equivalency based on global scientific standards and requirements for bridging studies based on ICH and global scientific studies. We also will continue to press Korea to implement international guidelines on the acceptance of foreign clinical test data.

On IPR, the United States is monitoring Korea's implementation of an amendment to the Pharmaceutical Affairs Act in January 2000, which provides for the protection of data submitted to the Korean Government when the submitting company requests such protection. The U.S. Government also remains concerned about the lack of coordination between the Korea Food and Drug Administration (KFDA) and intellectual property (KIPO) officials, which allow products that infringe existing patents to be approved for marketing.

f. Intellectual Property Rights

Korea's record on IPR protection and its Special 301 status are important indicators of the nature of Korea's climate for doing business. In April 2000, USTR placed Korea on the Special 301 Priority Watch List due to serious concerns over legal protection and enforcement of intellectual property rights. The U.S. Government and U.S. industry remain concerned about Korea's failure to provide: (1) full protection for pre-existing copyrighted works as required under the TRIPS Agreement; and (2) adequate and effective data, patent, and trademark protection. In addition, the United States has engaged the Korean Government on concerns that U.S. industry has raised about recent amendments to Korean laws on protection of copyrighted works, including computer programs. The U.S. Government will continue to work with the Korean Government to ensure its full compliance with its TRIPS obligations, including those on protection of test data against unfair commercial use and disclosure, and on protection of copyrights. The United States also has highlighted the need for Korea to improve coordination between its health and safety and IPR officials to ensure that products that infringe on existing patents are not approved for marketing. Issues related to Korea's TRIPS consistency must be resolved before concluding a Bilateral Investment Treaty (BIT).

g. Telecommunications

The Korean Government raised foreign investment limits in telecommunications services companies (other than Korea Telecom) from 33 percent to 49 percent in April 1999, 18 months sooner than its

WTO commitment. The limit on foreign investment in Korea Telecom was increased from 20 percent to 33 percent in September 1999, and the Korean Government announced in September 2000 that it would ask the Korean National Assembly to revise the Telecommunications Business Act to increase the foreign ownership ceiling to 49 percent. The United States has urged Korea to eliminate all investment restrictions in this sector, which limit Korea's ability to introduce the infrastructure necessary to develop its telecommunications sector.

Korea issued two third-generation wireless services licenses in December 2000. The Korean Government had announced its intention to issue three licenses, one each for W-CDMA and cdma2000 technologies and a third license for an unspecified technology. Three companies bid for W-CDMA licenses and one for a cdma2000 license. Two companies received W-CDMA licenses but the company that bid for the cdma2000 license was judged technically unqualified. The Korean Government stated that it intends to re-tender the cdma2000 license in early 2001. The United States has consulted with the Korean Government on this issue and urged it to allow network operators to make their own technology choices and not to mandate the use of a particular technology.

h. Financial Services

As a condition in the IMF stabilization package, Korea agreed to bind its OECD commitments on financial services market access in the WTO. In January 1999, Korea provided WTO members with a revised and somewhat improved schedule of financial services commitments that entered into force as of September 1999. The U.S. Government will continue to work with Korea to bring about more liberal treatment of foreign financial services providers.

i. Screen Quotas

Korean Law requires that domestic films be shown in each cinema for a minimum number of days per year. Current law requires that Korean films be shown 146 days of the year, with a potential reduction to 106 days. The Korean National Assembly adopted a resolution on December 8, 2000 stating that the screen quota system must not be abolished or reduced until the domestic market share for Korean films maintains a 40-percent level. The screen quota issue is part of ongoing Bilateral Investment Treaty (BIT) negotiations.

j. Bilateral Investment Treaty

In 2000, the U.S. Government sought further progress in negotiations with Korea on a BIT aimed at securing Korean commitments on a balanced and open investment regime and providing protections for U.S. investors in Korea. Negotiations in 1999 made progress on Korean commitments to liberalize investment restrictions in a number of sectors, but several key issues remain unresolved, including greater access for U.S. investors in telecommunication services, liberalization of the screen quota system, and full TRIPS compliance, specifically, with respect to retroactive copyright protection for pre-existing works and sound recordings.

k. Cosmetics

Impediments to entry and distribution of foreign cosmetic products in Korea have included the following: (1) the Korean Government's delegation of authority to the domestic industry association to screen advertising and information brochures prior to use; (2) provision of proprietary information on imports to Korean competitors; (3) redundant testing; (4) burdensome import authorization and tracking requirements (record-keeping from import to sale); and (5) requirements for animal toxicity test data. During July and August 1997, U.S. Government officials made representations to Korean Embassy officials on these and other barriers that were in effect at the time. The U.S.

Government cited Korea's cosmetics-related measures as a bilateral priority in the 1997 Super 301 report.

On January 1, 1998, the KFDA abolished the annual testing requirement for imported cosmetics, and authorized importers to perform the required self-testing, provided that they maintain records for each batch/shipment. In January of 2000, the KFDA eliminated requirements for pre-approval and local testing at the first importation. Foreign cosmetic manufacturers that have passed a facility inspection by the KFDA also are exempt from testing requirements for each batch/test. The U.S. Government will continue to press Korea in a variety of fora until U.S. concerns on Korea's barriers to entry and distribution of cosmetics are fully and satisfactorily addressed.

l. Distilled Spirits

Despite Korean consumer interest in U.S. whiskey, U.S. exports of this product to Korea have historically been very low, accounting for less than one percent of the total Korean market for distilled spirits. This is due to the exorbitant taxes and tariffs they face. Prior to January 2000, Korea's taxation of alcoholic beverages was based on a two-tiered regime. First, under a general liquor tax law, Korea imposed an *ad valorem* tax of 100 percent on whiskey and brandy, and of 80 percent on vodka, rum, and gin. At the same time, Korea applied a tax of only 35 percent to *soju*, the locally produced Korean liquor. The Korean Government compounded this difference in liquor tax rates by applying another tax – an education tax – on alcoholic beverages and by basing the education tax rate on the liquor tax rate. The effect of these tax policies was the application of an education tax of 30 percent on U.S. whiskey and of only 10 percent on *soju*. In short, the effective tax rate on whiskey was 130 percent and on *soju* only 38.5 percent.

In 1997, the United States and the EU initiated dispute settlement proceedings against Korea because of this discriminatory tax system. In July 1998, a WTO dispute settlement panel ruled that Korea's taxes on alcoholic beverages were discriminatory, and in January 1999, the Appellate Body upheld this decision. The panel found, and the Appellate Body agreed, that Korea's two liquor taxes violated Article III:2 of the General Agreement on Tariffs and Trade (GATT) because they afforded protection to domestic production of *soju*.

In April 1999, the United States and the EU requested that the period of time for Korea to implement the panel's recommendation be determined by arbitration because Korea wanted 15 months, which the United States and the EU opposed. The WTO arbitrator found that Korea should comply within 11.5 months, *i.e.,* by January 31, 2000.

Korea complied with the panel and Appellate Body decisions on January 1, 2000, one month earlier than required, by amending two laws to harmonize its tax rates on domestically-produced and imported liquors. In fact, the Korean Government actually lowered taxes on imported whisky by 28 percentage points. The U.S. Government will continue to monitor Korean policies affecting producers of *soju* to ensure Korea's continued compliance with its WTO obligations.

m. Beef

Pursuant to a 1989 GATT panel ruling against Korea, the Korean Government committed to phasing out its balance-of-payment restrictions on beef. Subsequently, in 1990, and in July 1993, the United States and Korea concluded exchanges of letters and Records of Understanding (ROUs) under which Korea agreed to increasing minimum market access levels annually for beef imports through 1995. The 1993 agreement also guaranteed direct commercial relations between foreign suppliers and Korean retailers and distributors and provided that a growing volume of beef be sold through that channel instead of through a state trading organization. Specifically, the agreement provided for the following: (1) an

increase in the minimum annual quotas; (2) an increase in the number of Korean meat outlets and retailers that can undertake commercial transactions with U.S. exporters without Korean Government intervention – the Simultaneous Buy/Sell (SBS) system; (3) dramatically increased annual SBS sub-quota amounts; and (4) a ceiling on the mark-up levied on the duty-paid price of imported beef. Australia and New Zealand – the other two major suppliers of beef to Korea – entered into identical ROUs on beef issues with Korea.

In December 1993, the July agreement – including provisions for increasing the minimum market access quota – was extended. Pursuant to Section 306 of the Trade Act, the USTR began monitoring Korea's implementation of its commitments on beef imports.

Senior U.S. Government officials have repeatedly sought Korea's elimination of government impediments to the entry and distribution of foreign beef. On February 1, 1999, the U.S. Government requested WTO dispute settlement consultations. No settlement was reached, and a panel was established in May 1999. Australia's request for formation of a panel on Korea's beef measures was approved in July, and the U.S. and Australian panels were eventually joined. Canada and New Zealand participated in the panel process as third parties.

The U.S. complaint focused on Korea's: (1) requirements that imported beef be sold only in specialized imported beef stores and Korean laws and regulations restricting the resale and distribution of imported beef by SBS super-groups, retailers, customers, and end-users; (2) a discretionary import licensing regime; (3) imposition of duties and charges in the form of a markup, which is not provided for in Schedule LX; and (4) failure to fulfill its WTO reduction commitment for domestic support.

The United States prevailed in the case against Korea, with the WTO panel concluding in July that Korea's import regime for beef discriminates against imports of beef from the United States and other foreign countries. Korea filed an appeal of the case in September; and in December the Appellate Body report affirmed most of the findings of the WTO panel. The United States will meet with Korea in early 2001 to discuss implementation of the WTO ruling and the steps the Korean Government is taking to open its beef market.

In October 2000, the Korean Government passed a rule of origin requiring that cattle must be in the United States for at least six months prior to slaughter in order to be considered U.S beef when exported to Korea. The requirement was to go into effect at the beginning of 2001. The Korean Government has stated that the new rule is not a public health or animal health requirement. The U.S. Government raised strong concerns about the new requirement and its likely impact on U.S. beef exports to Korea, which total about $500 million. The Korean Government has agreed to delay implementation for one year and to work with the U.S. Government to find a mutually satisfactory resolution to this issue during this time.

n. Rice

The Korean Government continues to exercise full control over the purchase, distribution, and end-use of imported rice. The state trading enterprises that administer the WTO-mandated minimum access program continue to purchase only low-quality Asian rice, as Korean law forbids the use of imported rice for purposes other than industrial or processing uses. As a result, high quality U.S. rice is effectively shut out of the Korean market. In addition, Korea appears not to have filled the quota established in the Uruguay Round based on minimum access commitments. The U.S. Government also continues to be concerned with Korea's statements that Korean rice policies are "off the table" in the new round of multilateral agriculture negotiations provided for as part of the built-in agenda. The United States will continue to actively engage Korea to ensure its full compliance

with its current obligations on rice and to press for further liberalization of Korean trade policies on this commodity.

o. Oranges

The Cheju Citrus Cooperative, a Korean producer group, has controlled the allocation of the in-quota quantity of Korea's orange tariff-rate quota (TRQ). In the past, Cheju has filled the quota, with most of the imports coming from the United States. In 1999 and in 2000, however, the quota was not filled. In 1999, Korea auctioned a portion of the quota, despite U.S. concerns that an auction system would add costs to entering the market beyond Korea's bound tariffs. In 2000, Korea opted not to tender for the unfilled quota amount, ignoring queries from the U.S. Government and industry on the country's tendering schedule. The United States will continue to actively engage Korea on this issue to ensure its full compliance with its WTO obligations on citrus.

p. Croaker

Korea's application of prohibitively high adjusted tariffs to croaker significantly limits U.S. exports of the fish species to Korea, which is the largest per capita consumer of croaker in the world. Only joint ventures with Korean importers (with a minimum of 49 percent Korean ownership) are eligible to export croaker to Korea at a zero tariff rate.

Korea's market to croaker was closed until 1997, when it introduced a 90 percent adjustment tariff. Since 1997, in accordance with the requirements of its IMF stabilization package, the Korean Government has reduced the number of items that qualify for adjusted tariff protection. Of the remaining 27 items, however, 14 are seafood products, including croaker.

The U.S. Government has urged Korea to eliminate or reduce its tariff on croaker. In 1999, Korea reduced the tariff to 80 percent and the Korean Government announced that it reduced the tariff to 70 percent in early 2001. The United States will continue to encourage Korea to phase out these tariffs.

q. Potato Preparations

The Korea Customs Service's (KCS's) repeated misclassification and change in border treatment of potato preparations has essentially stopped U.S. exports of these products to the Korean market. Potato preparations should enter Korea in the unrestricted HS heading 2005 with a current applied tariff rate of 20 percent and a bound rate of 31.5 percent. Instead, Korea has been classifying these products in the more restrictive HS heading 1105 (pure potato), with an in-quota quantity of 60 metric tons and an over-quota tariff rate in excess of 300 percent.

In 1993, the KCS suddenly reclassified a U.S. potato preparation as pure potato, thereby subjecting it to more restrictive border treatment. The U.S. Government objected to this action, and asked international customs authorities – then, the Customs Cooperation Council (CCC), the predecessor to the World Customs Organization (WCO) – to provide an opinion on the proper classification of the product in question. The CCC found that the U.S. product was properly classified as a potato preparation, and therefore subject to a straight tariff, rather than to more restrictive treatment. Subsequently, the KCS agreed in an exchange of letters with the United States to abide by the CCC ruling. In January 1997, however, after initiating a review of the classification of a number of preparation products, the KCS once again abruptly reclassified another U.S. potato preparation into the same trade restrictive heading, HS 1105. The U.S. Government subsequently pursued resolution of the issue in numerous bilateral meetings with the Korean Government, and has raised it in various multilateral fora.

Even after assurances by the Korean Government that the U.S. product would enter Korea as a potato preparation if a similar European product were found to be a preparation by the WCO – which it

was – and a 1999 letter in which the KCS agreed to classify blended potato products according to internationally recognized criteria, U.S. exporters of potato preparations continue to experience market access problems in Korea. The U.S. Government has urged Korea to take steps to resolve this issue.

r. Agricultural Tariffs

In 1999, the U.S. Government discovered a discrepancy between Korea's applied tariff rates on several agriculture items – peanuts, popcorn, potato flour, potato flakes, and wheat and soybean meal – and its WTO bindings and tariff commitments made to the United States in a 1993 U.S.-ROKG Record of Understanding and a February 1994 exchange of letters. In February 1999, U.S. Embassy officials in Seoul brought these discrepancies to the attention of the Korean Government. The Korean Government adjusted the in-quota tariff rates of potato flour, potato flakes, and peanuts effective January 1, 2000. The U.S. Government will continue to press Korea to bring duties on the remaining agricultural products into compliance with Korea's WTO and bilateral commitments.

s. Import Clearance Procedures, Food Standards, and Labeling Requirements

After WTO dispute settlement consultations with the United States between 1995 and 1999, the Korean Government revised its import clearance procedures by: (1) expediting clearance for fresh fruits and vegetables; (2) instituting a new sampling, testing, and inspection regime; (3) eliminating some non-science-based phytosanitary requirements; (4) beginning revisions of the Korean Food and Food Additives Codes, for example, by bringing Korean pesticide residue level standards for citrus into conformity with CODEX standards; and (5) requiring ingredient listing by percentage for major, rather than all, ingredients. In 2000, the KFDA issued revisions to the Food Code, the Food Additives Code, and Labeling Standards for Food. The KFDA's changes addressed many U.S. industry concerns, including mandatory labeling of product type in Korean and excessive restrictions on food and food additives. However, additional work will be needed to bring Korea's Food and Food Additives Codes into conformity with international standards, specifically those related to chocolate and food additives.

In October 2000, the U.S. Government worked closely with the KFDA and the Ministry of Agriculture and Forestry (MAF) to reassure them that the U.S. Government would help them minimize the risk of importing U.S.-origin food-grade corn and corn-based food products that tested positive for the "Starlink" protein. In late December, KFDA guidance to field inspectors helped ease, although not eliminate, port clearance delays caused by confusion over Korea's import requirements regarding Starlink.

In general, U.S. suppliers of food and agricultural products continue to encounter trade-impeding practices in Korean ports of entry and Korean clearance times are still slower than in other countries in the region. Surveys of U.S. trading partners in Asia indicate that import clearance for most agricultural products requires less than three to four days. In Korea, import clearance for new products still typically takes ten to eighteen days (and four to six months if a food additive is used that is not specifically recognized in Korea's Food Code for use in that product). MAF accounts for the greatest delays in import clearance, specifically through non-science-based quarantine, and burdensome documentation, requirements.

The United States will continue its dialogue with the Korean Government on its import clearance procedures until clearance times in Korean ports of entry are comparable to those in other Asian ports and Korean procedures are based on science and consistent with international norms.

4. India

a. General

Important progress was made during 2000 in developing a more constructive long-term trade relationship with India. Important events during the year included elimination of one-half of India's remaining balance of payment-related quantitative restrictions and agreement on India's tariff bindings for textiles and apparel. However, India continues to limit market access through irritants such as automotive TRIMS, soda ash restrictions, and minimum reference prices on steel products.

b. WTO Balance of Payments Case

For more than fifty years, India maintained bans, restrictive licensing, and other quantitative restrictions (QRs) on imports of industrial, textile, and agricultural products, and sought to justify these restrictions on the basis of the balance of payments (BOP) provisions of the GATT. In 1999, BOP restrictions applied to approximately 15 percent of India's tariff lines. Virtually all consumer goods are affected, as are many agricultural, textile, and petroleum-related products.

In 1997, during India's consultation with the WTO Committee on Balance of Payments Restrictions, the International Monetary Fund stated that India no longer had a BOP crisis permitting recourse to the GATT BOP exception. However, India insisted on at least six years to remove the BOP QRs. Following unsuccessful settlement talks with India, the United States initiated dispute settlement proceedings against India in July 1997. A dispute settlement panel was established in November 1997 and the panel issued its final report in April 1999 affirming the U.S. contention that these measures were inconsistent with India's WTO commitments. On May 25, 1999, India filed a Notice of Appeal with the Appellate Body. The Appellate Body rejected India's claim that its balance of payments situation justified import restrictions.

On December 28, 1999, the United States and India reached an agreement to lift these restrictions. Under the agreement, India eliminated one-half, or 714, of its 1,429 QRs on March 31, 2000. Restrictions on the remaining 715 items will be eliminated by April 1, 2001. Eliminating these restrictions will provide market access opportunities for U.S. producers in key sectors such as textiles, agriculture, consumer goods, and a wide variety of manufactured products. India had previously reached agreements with the EU, Japan, and other trading partners to remove these restrictions by April 2003. The agreement with the United States advanced that time table by two years.

c. Intellectual Property Rights and the WTO TRIPS Mail Box

As a signatory to the Uruguay Round of GATT trade negotiations, including the Agreement on Trade-Related Aspects of Intellectual Property Rights, India was required to comply with most of the obligations of the TRIPS Agreement by January 1, 2000, and must introduce a comprehensive patent system for pharmaceuticals and agricultural chemicals no later than 2005. The Indian Government has announced its intention to conform fully to the IPR-related requirements of the Uruguay Round. In December 1999, Parliament successfully passed three IPR related bills: the Copyrights Amendment Bill, the Trademark Bill, and the Geographic Indicators Bill. While the copyright law is generally compliant with the TRIPS Agreement, the 1999 amendments undermine TRIPS requirements concerning protection for computer programs. In 1999, the Parliament failed to amend the Patents Act and, thus, apparently failed to meet fully its WTO TRIPS obligations by the January 1, 2000 deadline. The Patents Act was expected to pass the Parliament in July 2000, and subsequently in November 2000, but remains mired in Committee nearly one year past its original introduction. Should the bill eventually pass, however, several provisions still appear to be inconsistent with the TRIPS Agreement.

In April 1999, the United States and India resolved the WTO dispute brought by the United States regarding India's implementation of Articles 70.8 and 70.9 of the TRIPS Agreement. Through the enactment of the Patents (Amendment) Act 1999 and its accompanying regulations, India established a mechanism for the filing of so-called "mailbox" patent applications and a system for granting exclusive marketing rights for pharmaceutical and agricultural chemical products.

d. Auto TRIMS

The United States considers India's measures affecting trade and investment in the motor vehicle sector to be inconsistent with India's obligations under Articles III and XI of the GATT and Article 2 of the Agreement on Trade-Related Investment Measures. These measures require manufacturing firms in the motor vehicle sector to achieve specified levels of local content; to achieve a neutralization of foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period; and to limit imports to a value based on the previous year's exports.

On June 2, 1999, the United States requested consultations with the Government of India pursuant to the WTO Dispute Settlement Understanding (DSU). Those consultations were held on July 20, 1999. On June 19, 2000, the United States requested establishment of a WTO dispute settlement panel, which India rejected. The United States made a second request at the July 27 meeting of the WTO Dispute Settlement Body, which established the panel on that date. On November 17, 2000, a panel on the same issue was established at the request of the European Union. Pursuant to Article 9.1 of the DSU and at the request of the parties to the two disputes, the panel will be merged. We expect the panel process to continue through the middle of 2001.

e. Textile and Apparel: Tariff Bindings

In the Uruguay Round, the EU and the United States pressed India for market opening commitments. In bilateral agreements in December 1994 with the EU and with the United States, India agreed to eliminate, over time, the special import licensing program, and to bind textile tariffs in the WTO for the first time. This was a very important achievement for EU and U.S. industry.

After some delay, in conjunction with the visit of Prime Minister Vajpayee in September 2000, India and the United States agreed on the level at which India would bind its tariff on textile and apparel products. At issue was the introduction of alternative specific duties by India, including many at rates which would effectively block U.S. exports. The final agreement provides new opportunities at commercially viable tariff rates for U.S. exporters in this large, untapped market. Such products include textured yarns of nylon and polyester, filament fabrics, sportswear and home textiles.

f. GSP

The GSP subcommittee decided in December 1998 to accept for review the petition of the American Natural Soda Ash Corporation (ANSAC) to withdraw, suspend or limit the application of GSP treatment to Indian imports due to the lack of market access to the Indian market stemming from the injunction of the Indian Monopolies and Restrictive Trade Practices Commission barring ANSAC imports. In India's FY1999-2000 budget, it raised the import tariff on soda ash to 38.5 percent, which is now the highest import tariff on soda ash in the world. A public hearing was held on March 23, 1999.

Discussions with the Government of India during the course of 2000 did not lead to a resolution of the issue. In early January 2001, the Administration published a Federal Register notice seeking public comment on the withdrawal of India's GSP benefits on a variety of products as a consequence of India's denial of market access for soda ash. A decision on withdrawal of benefits is expected on or about April 1, 2001.

g. Reference Pricing

In December 1998, three weeks after imposing antidumping duties on certain steel products, the Government of India established minimum reference prices for certain other imported steel products: hot-rolled steel coils, cold rolled steel coils, hot-rolled sheets, and alloy steel bars and rods. Under this regime, India prohibits the import of these products when the import values are below the established minimum price. India had noted that the regime was adopted to discourage dumping. Although, the United States does not export steel to India, U.S. industry is concerned that this practice, which violates India's obligations under the customs valuation agreement, could divert imports to the United States.

Minimum prices on steel were withdrawn on January 1, 2000, for primary products but still apply to secondary merchandise. In the spring of 2000, Indian industry challenged the Government's action to eliminate the regime with respect to primary products. The Supreme Court of India reinstated the regime for these products while it considers the petitioner's claim. To date, the Supreme Court has not issued a final decision and the regime remains in place for both primary and secondary products. The U.S. Government is evaluating the appropriate response to India's decision to retain minimum prices for secondary merchandise.

5. Taiwan

Overview

During 2000, the Working Party on Taiwan's accession to the WTO agreed that substantive negotiations on market access and the Working Party Report had been completed subject to final review and verification. The United States and several other WTO members completed their verification of Taiwan's tariff and services schedules. The only outstanding issue relates to the concerns of a few WTO members regarding nomenclature used in the Working Party Report. The United States has stated on several occasions during the year that the General Council needs to act on the Taiwan and the People's Republic of China's (PRC) applications for accession to the WTO at the same Council session. Negotiations on PRC accession continued throughout the year.

In the U.S.- Taiwan bilateral agreement on WTO accession, concluded in February 1998, special access was provided for agricultural products previously subject to import bans, including certain pork, chicken, and beef products. During 2000, these access arrangements were multilateralized, i.e. "U.S. only" quotas were converted into quotas open to all WTO members. Because of the competitiveness of U.S. product prices, imports of pork and chicken products in 2000 continued at levels at or above those concluded in the February 1998 agreement. Taiwan, however, took the unusual step of allocating a significant portion of the 2000 chicken quota to poultry farmers who did not then import. Discussions are underway to assure that this practice is not repeated before Taiwan accedes to the WTO.

In 1999, Taiwan agreed on a procedure for recognition of internationally approved minimum residue levels (MRLs) for pesticides. Taiwan implemented this new MRL regulatory system in July 2000. Despite the fact that an extensive registration of currently used pesticides was required, no U.S. fruit or vegetable exporters have reported problems with the new system.

a. 1998 Bilateral Agreement on WTO Accession

Taiwan's bilateral agreement with the United States, concluded in February 1998, provides for increased market access prior to accession to the WTO. Once Taiwan fully implements its commitments as a WTO member, it will benefit from increased access to a broad range of U.S. goods and services, including agricultural exports to Taiwan.

Highlights of the 1998 bilateral WTO agreement include commitments by Taiwan to:

- reduce its overall tariff rates below 5 percent;
- reduce tariffs and discriminatory taxes on imported automobiles;
- open trade in a full range of products, including chemicals, medical equipment, furniture, toys, steel, paper, construction and agricultural equipment, wood, civil aircraft, and distilled spirits;
- improve access for telecommunications service providers so that foreign companies can hold a controlling interest, and reduce excessively high interconnection charges for new telecommunications companies;
- accede to the WTO's Government Procurement Agreement (GPA) and establish new arbitration procedures for resolving disputes involving major projects undertaken by the Taiwan authorities. Consultations were held with Taiwan authorities during 2000 to ensure Taiwan's new procurement law and regulations were in compliance with the GPA.

b. Intellectual Property Rights

The overall climate for the protection of intellectual property in Taiwan has deteriorated over the past year. This deterioration is due to a single major factor – lack of an effective legal basis for enforcement actions against optical media piracy. There is a critical need in Taiwan, one of the world's largest producers of optical media products, for a legal requirement to license both the import and the use of CD manufacturing devices. Other governments have adopted such requirements and they have been proven to be an effective tool to identify and to act against copyright piracy. In 1999 and 2000, Taiwan reorganized its enforcement authorities and addressed some longstanding impediments to IPR enforcement. Nevertheless, U.S. companies have for the past decade complained about convoluted procedures regarding recognition of powers-of-attorney, which have often hindered efforts by foreign rights-holders to bring legal action against copyright pirates. In the last year, Taiwan has moved effectively to streamline its legal procedures on this issue.

On January 1, 2001, Taiwan will implement a new chip marking system which will allow identification of the manufacturer and designer of computer chips suspected of containing counterfeit software. This program represents a significant step forward in protecting the IPR of video game designers.

c. Telecommunications

Taiwan issued licenses to three new fixed-line telecommunications companies during 2000. While U.S. companies were initially very interested in fixed-line operations, Taiwan's requirement that new telecommunications companies invest US$1.25 billion in new facilities together with Taiwan's commitment to open fixed-line competition fully by July 2001 dissuaded U.S. and most other foreign telecommunications companies from seeking licenses now.

Several international telecommunications companies, however, are actively interested in providing fiber-optic broadband submarine cable service to Taiwan customers. Access issues regarding these companies have been difficult to resolve. The United States has been actively involved in discussions with the Taiwan authorities over the last several months to assure that these companies can effectively compete in the Taiwan market in a manner consistent with Taiwan's WTO commitments.

6. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights

Hong Kong undertook significant enforcement

actions over the last year to address widespread piracy of copyrighted works. On the legislative front, the proposal to include copyright piracy and trademark counterfeiting as offenses under the Organized and Serious Crimes Ordinance was enacted by the Legislative Council in January 2000. The Legislative Council also passed legislation in June that criminalized the corporate use of unlicensed software and subjects corporate pirates to the same penalties, including fines and jail sentences, as other pirates. Imposition of deterrent sanctions for IPR violations has also improved over the previous year, with an increase in the number of IPR-related jail sentences. Significant follow-up efforts, however, are needed as piracy problems continue and we will continue to monitor these follow-up efforts closely. On other fronts, the Hong Kong authorities extended the mandate of the special anti-piracy task force and are considering concrete actions to prosecute the illegal loading of software by dealers onto computer hard drives. The Hong Kong public continues to become much more aware of the damage being sustained by its own industries, notably movies and toys, from copyright and trademark infringement.

b. Telecommunications

Hong Kong continues to make progress in opening its telecommunications market. During 2000, Hong Kong authorities announced over 30 new licenses for telecommunications services. In particular, Hong Kong's Telecommunications Authority (TA) issued five new licences for local fixed telecommunication network services using wireless networks and twelve licences for external fixed telecommunications services using satellites to and from Hong Kong. It also issued a licence to Hong Kong Cable TV to provide telecommunications services over its coaxial cable networks. In addition, Hong Kong authorities decided to liberalize submarine cable landing licences in an effort to attract more international capacity to Hong Kong. They also announced that in 2001 Hong Kong would invite applications for new local fixed network (wireline) telecommunications systems licenses in order to allow new companies to develop business plans and generate capital in advance of full liberalization.

B. People's Republic of China

Overview

Our China trade policy goals have been to open China's markets to American exports, support Chinese domestic economic reform, and integrate China into the Pacific and world economies. We have used a variety of means to achieve these goals, including commercially meaningful agreements that create opportunities for Americans. These efforts culminated in the signing of permanent normal trade relations (PNTR) legislation for China by the President in October 2000, which builds on our historic bilateral agreement on China's accession to the WTO signed in November 1999.

Looking ahead, to complete the WTO accession process China must reach agreement with other WTO members and complete a multilateral negotiation which will ensure that its policies comply with broader WTO rules. Once China becomes a WTO member, its market will become far more open to the world than it has ever been. WTO accession for China requires no substantial concessions by the United States. We make no change in our current market access policies, and preserve our right to withdraw market access for China in the event of a national security emergency. Likewise, we amend neither our laws controlling the export of sensitive technology, nor our fair trade laws.

Finally, of course, the full benefits of this agreement will require extensive monitoring and enforcement. WTO accession will substantially strengthen our enforcement capability with respect to China, for example through WTO dispute settlement, our ability to work with 139 other WTO members instead of acting alone, multilateral monitoring, and our own trade laws.

2000 Activities

The passage of PNTR legislation in 2000 built upon a record of bipartisan support for a market-opening China trade policy. Until China becomes a WTO member, China's receipt of normal trade relations tariff treatment will be reviewed on an annual basis, requiring the President to waive Section 402 of the 1974 Trade Act, the Jackson-Vanik Amendment. As discussed, Congress enacted legislation authorizing the President to terminate application of Jackson-Vanik to China and grant exports from China PNTR treatment when China becomes a WTO Member.

1. WTO Accession

In November 1999, the United States concluded a comprehensive bilateral WTO accession agreement with China. China committed to reduce both tariff and non-tariff barriers to U.S. exports of industrial goods, agricultural products and services. China also agreed to application of specific rules to address import surges, anti-dumping and subsidies practices and to end the application of export performance, local content, offsets, technology transfer and similar requirements on imports and investment.

China's industrial tariffs will fall from an overall average of 24.6 percent in 1997 to an overall average of 9.4 percent by 2005. On U.S. priority industrial products, tariffs will fall to an average of 7.1 percent, with the majority of tariff cuts fully implemented by 2003. Tariffs will fall on a broad range of products, including wood, paper, chemicals, agricultural and medical equipment. China also committed to join the Information Technology Agreement, so tariffs on products such as computers and semiconductors will fall from an average of 13 percent to zero by 2005.

China's average duty on agriculture will fall from 22 percent to 17.5 percent, with the duties on items of U.S. priority falling even more sharply, from an average of 31 percent to 14 percent. China will expand access for bulk agriculture commodities, including corn, cotton, wheat, rice, barley, and soybean oil and will permit private trade in these products as well as imports through state trading enterprises. Tariff reductions and quota growth will be fully phased in by 2004. China also will eliminate agricultural export subsidies, in particular for corn, cotton and rice.

China agreed to phase-in trading rights for most products over a three-year period. This means U.S. firms and individuals can import and export without going through government-approved middlemen. China also agreed to liberalize distribution services for most products over a three-year period, so that U.S. firms may eventually own and operate their own distribution systems in China, and provide related services such as maintenance and repair services. China also committed to progressively liberalize a broad range of services, including telecommunication services, such as Internet and satellite services; banking, insurance, and financial information services; professional services such as accounting, management consulting, and legal services; hotel and tourism services; motion pictures and distribution for videos, software entertainment, and periodicals; business and computer services; and environmental services.

The agreement also deals, appropriately, with the special and unusual characteristics of the Chinese economy: it addresses state trading; it bans forced technology transfer; it eliminates investment policies intended to draw jobs and technology to China, such as local content, offsets and export performance requirements; and it provides protections for Americans against import surges from China and from abusive export practices like dumping.

While the market access agreement represents a crucial step in China's WTO accession process, China also concluded bilateral negotiations with a number of other WTO members. The commitments in the U.S. bilateral agreement and other such agreements will form an integral part of China's WTO accession package.

In addition to completing these bilateral negotiations, China must reach agreement with the participants in China's WTO Working Party on the application of WTO rules and any special provisions that may apply to China. After a consensus is reached in the Working Party on China's draft Protocol of Accession, Working Party Report and market access schedules, these documents are transmitted to the WTO General Council, which must approve the terms and conditions for China's accession. Normally, approval is by consensus, but a Member may require a vote on the accession, which must then be approved by a two-thirds majority of all WTO Members. Negotiations on China's accession continued throughout the year.

2. Agriculture

Gaining direct access to China's market for U.S. agricultural products has long been an objective of the U.S. agricultural industry, in particular, the removal of unjustified sanitary and phytosanitary barriers. In 1992, China signed a bilateral Memorandum of Understanding on Market Access with the United States, agreeing to remove unjustified technical barriers to imports of U.S. agricultural commodities. Although China agreed to address these issues within one year, a significant number of problems remain.

On April 10, 1999, the United States and China signed an *Agreement on U.S. - China Agricultural Cooperation*, which eliminated technical barriers in China to imports of U.S. citrus, meat and poultry, wheat, and other grains. Unfortunately, China's compliance with this agreement has been inconsistent and U.S. exporters still do not have the access envisioned in the agreement.

While China agreed to recognize the U.S. inspection system for meat and poultry, for example, it implemented new barriers to poultry imports on December 1, 2000. China has not yet published this regulation, but we understand that the new measure requires all imports of poultry to enter China through four ports. It also imposes several other WTO-inconsistent restrictions and appears designed to replace other restrictions removed in connection with our bilateral agreement and the WTO accession negotiations. We have already raised our concerns about these new regulations with Chinese officials.

In the 1999 Bilateral Agreement, China agreed to remove phytosanitary barriers to citrus exports from Arizona, California, Florida and Texas over a two-year phase-in period. While it implemented the first tranche according to schedule, China delayed implementation for remaining counties in California and Florida three months beyond the October 2000 deadline, finally implementing the agreement for those countries on January 18, 2001.

China also agreed to remove phytosanitary barriers to wheat and other grains from the Pacific Northwest beginning April 1999. Thus far, less than 100,000 metric tons of grain have been shipped to China, and most of it has been stopped at the border due to new internal measures calling for special processing of U.S. grains.

Bilateral negotiations on remaining sanitary and phytosanitary issues continued in 2000. China agreed to remove unjustified barriers to imports of U.S. dried tobacco as of December 1, but has just concluded an "import protocol." China still needs to publish its administrative rule so the protocol can become effective. While China agreed to allow imports of U.S. rabbits, barriers still remain on plums, additional varieties of apples, potatoes and pears.

3. Intellectual Property Rights

For more than a decade, the United States and China have engaged in detailed discussions regarding the improvement of China's protection of intellectual property rights and market access for products with intellectual property rights protection. In January 1992, the United States and China reached an agreement on improved protection for U.S. inventions and copyrighted works, including computer software and sound

recordings, trademarks, and trade secrets. This Agreement focused principally on revisions to China's laws and membership in international intellectual property rights agreements, including the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Patent Cooperation Treaty, and the Madrid Protocol on the Protection of Marks.

Although China improved the legal framework for intellectual property rights protection based on the 1992 bilateral agreement, enforcement of those laws was seriously deficient. In 1995, the United States and China reached a second agreement that focused on intellectual property rights enforcement and market access issues.

Based on our 1995 IPR Agreement and the Administration's continuing bilateral efforts, China has developed a basic infrastructure for the protection and enforcement of intellectual property rights. Implementation of our bilateral intellectual property rights agreements provided a basis for China's commitment to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) upon accession to the WTO. Additional improvements to China's laws and training of judges and enforcement personnel are essential. U.S. and Chinese rights-holders can seek administrative and judicial remedies for infringement of their intellectual property rights; however, administrative sanctions need to be increased and the threshold to initiate criminal investigations needs to be lowered. China has formally issued a decree to address the "end-user" computer software piracy issue in connection with government purchase and use of legitimate software.

As a result of intensive bilateral implementation and enforcement negotiations in 1996, China has made further progress on enforcement of intellectual property rights. For example, Chinese authorities have shut down over 100 illegal CD, CD-ROM and VCD production facilities. This effort has changed China from an exporter of pirated material to being the import target for pirated product from other countries in the region.

China also is improving customs enforcement of intellectual property rights. Each year customs authorities seize millions of pirated CDs, CD-ROMs and VCDs. Since the importation of pirated product has been on the increase, we have encouraged enhanced cooperation with regional customs authorities, such as those in Hong Kong and Macau, Vietnam and others, to stop this trade in pirated product.

Under our bilateral agreements, market access for computer software, motion pictures, videos and sound recordings have improved. China also has made further commitments on market access in the context of our bilateral WTO accession agreement.

a. Further Steps to Improve Protection for IPR and Market Access

China's last major revisions to its intellectual property rights laws and regulations occurred after the 1992 Bilateral Agreement. Based on its experience in implementing its intellectual property rights laws, Chinese authorities are engaged in the process of revising the copyright, patent and trademark laws and taking further steps necessary to comply with the requirements of the TRIPS Agreement. The United States has also urged China to do a comprehensive amendment to its copyright laws to implement two copyright related agreements negotiated under the auspices of the World Intellectual Property Organization (WIPO) that China has signed but not yet ratified.

Chinese enforcement of copyrights and trademarks is still uneven from province to province. Guangdong province, for example, has recently significantly increased sanctions against piracy and counterfeiting. We are encouraging the national government and/or the other provinces to do likewise. Of concern is the unauthorized use of software by private enterprises (end user piracy). Piracy rates of entertainment software (game compact discs) and other audiovisual products are

also very high. Although strong steps have been taken to address the production of pirated software, CDs and VCDs, pirated product remains available at the retail level.

Trademark counterfeiting in China has worsened considerably. During recent discussions we have also raised the growing problem with trademark counterfeiting, particularly in the area of consumer goods, protection for unregistered well-known trademarks and effective enforcement against counterfeiters. In part to address these concerns, the Chinese launched a nationwide anti-counterfeiting campaign in October 2000. The results are as yet inconclusive.

Access for foreign sound recordings has improved, but restrictions on distribution remain a key concern. Although imports of foreign video titles have increased rapidly, the Chinese still impose an unofficial quota on foreign motion pictures that are distributed on a revenue sharing basis. China maintains this limit through a state-owned import monopoly.

China committed in its November 1999 WTO accession agreement to increase market access for the audiovisual sector. China will allow foreigners to distribute videos, entertainment software and sound recordings through joint ventures, and will allow the importation of 20 motion pictures annually on a revenue sharing basis.

4. 1992 Market Access Agreement

The United States and China signed a Memorandum of Understanding on Market Access in 1992. This Agreement committed China to changes in its import regime over a five-year period, including increased transparency, elimination of quotas and licenses, a guarantee that no trade law or regulation could be enforced unless published, uniform application of trade rules, elimination of import substitution policies, and agreement that any sanitary and phytosanitary measures would be based on sound science. While China has phased-out formal measures, such as quotas and licenses, serious problems remain as China continues to restrict imports by retaining non-uniform application of trade rules, import substitution policies and use of sanitary and phytosanitary (SPS) standards.

5. Satellite Launch Services

On March 13, 1995, the United States and China agreed to extend the 1989 Bilateral Agreement on International Trade in Commercial Launch Services. This Agreement is intended to balance the interests of the U.S. satellite and commercial space launch industries, while encouraging free trade by allowing China to enter the international market for commercial space launch services in a fair and non-disruptive manner. The extended Agreement covers the period from 1995 through 2001 and continues quantitative and pricing disciplines established under the earlier bilateral space launch services Agreement. The renewed Agreement initially limited China to 15 launches over this time period. An increase in the Geosynchronous Earth Orbit (GEO) launch limit, up to a potential of twenty launches, may be prompted as a result of stronger than predicted growth for GEO launch services. With respect to the Low Earth Orbit (LEO) satellite launch market, the Agreement requires that China's participation in this market segment be proportionate and non-disruptive. Both the GEO and LEO launches are to be priced on a par with other Western providers. The space launch services Agreement specifically provides that nothing in the Agreement limits the operation of U.S. export control laws.

As a result of a 1997 determination that the pricing terms of one of the contracts for a GEO launch were not consistent with the provisions of the Agreement, the United States decided not to consider exercising any discretionary increase in the limitation on GEO launches provided for in the Agreement beyond the original fifteen. The United States continues to monitor the prices, terms and conditions offered by Chinese launch services providers in international commercial competitions.

In October 2000, representatives from China and the United States met to discuss a schedule and agenda for upcoming annual consultations under the terms of the space launch services Agreement. The United States and China are attempting to arrange consultations under the Agreement in early 2001. Agenda items for those consultations include an overview of the world satellite launch market, new developments in China's commercial space industry, and a review of the implementation of the Agreement.

C. Japan

The United States continued its intensive efforts in 2000 to improve market access for United States goods and services, promote deregulation and much-needed structural reform, and support the adoption and successful implementation of pro-competitive policies throughout the Japanese economy. The macroeconomic steps adopted by the Japanese Government have complemented the positive trends in corporate restructuring and investment. Nonetheless, the outlook for Japan's economy remains uncertain. The United States has strongly urged Japan to take additional steps to open and deregulate its market, which would help revitalize its economy and generate sustainable economic growth in the medium- and long-term.

The United States placed a high priority in 2000 on further market opening efforts in Japan. As elaborated below, the United States and Japan reached agreement on a package of new deregulation measures to be taken by the Government of Japan encompassing a wide range of sectors and cross-cutting structural issues. The package will help to promote meaningful reform in Japan, reinvigorate the Japanese economy, and address specific market access concerns of United States exporters.

In addition to this new agreement, the United States dedicated substantial resources to monitoring and enforcing the bilateral trade agreements concluded with Japan, particularly autos and auto parts, insurance, and various sectors of government procurement. While Japan's economic slowdown has interrupted progress in a number of sectors over the last several years, the United States remains committed to close monitoring of our trade agreements with Japan to ensure that United States rights under these agreements are enforced and that the United States exporters are well positioned to compete in Japan once the economy regains its footing.

The United States also relied on a wide range of regional and multilateral fora, including the WTO and APEC to achieve market opening goals in Japan. The United States is working to ensure that our agendas in these fora, including on agriculture and services, are well coordinated with our bilateral agenda so that the various initiatives are mutually reinforcing and complementary.

The highlights of our 2000 bilateral and multilateral trade agenda with Japan follow.

Overview of Accomplishments in 2000

The United States continued to secure further progress in promoting much-needed comprehensive deregulation in Japan in 2000 while simultaneously obtaining improved access for U.S. goods and services. In July, under the Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative), Japan agreed to take additional deregulatory steps in telecommunications, energy, housing, medical devices, pharmaceuticals, financial services and legal services – sectors where United States firms are particularly competitive. In addition, Japan unveiled specific measures to address structural concerns relating to cross-cutting competition policy, transparency, and distribution issues. A key commitment included in the new package is a substantial reduction in Japanese telecommunications interconnection rates, opening the door to genuine competition in Japan's $130 billion telecommunications market and unleashing enormous economic opportunities for United States telecommunications carriers and Internet services providers. Such rate cuts are expected to save telecommunications carriers

operating in Japan over $2 billion during the next two years. Moreover, the benefits for new competitors should grow as interconnection rates will likely drop even more sharply as a result of Japan's agreement to conduct a thorough review of interconnection rates in 2002.

In July, the United States and Japan agreed to continue bilateral deregulation discussions for a fourth year, aiming to secure new deregulation measures designed to further open Japan's economy and increase market access for U.S. and other foreign firms. The United States submitted to Japan in October a 49-page set of proposals calling on Japan to adopt sweeping regulatory reforms in key sectors and structural areas of the Japanese economy. Building on the deregulation measures agreed to in 2000, this October's submission has expanded its telecommunications component to include numerous proposals on cutting-edge information technology issues, particularly e-commerce. Also new to the submission is a section on the revision of Japan's Commercial Code, which provides the fundamental regulatory framework for conducting business in Japan.

The United States focused considerable time and resources in 2000 on the monitoring and enforcement of existing agreements to ensure their successful implementation. U.S. Government officials met with their Japanese counterparts throughout the year to discuss progress and implementation problems under a range of bilateral agreements, including: autos and auto parts, insurance, and NTT procurement.

1. Deregulation

The Enhanced Initiative on Deregulation and Competition Policy, announced in June 1997 established a bilateral forum for addressing deregulation and market access issues in Japan. The Enhanced Initiative seeks to eliminate bottlenecks that inhibit Japanese structural change and economic adjustment and focuses on market access and regulatory issues in seven important sectors: telecommunications, housing, financial services, medical devices, energy, pharmaceuticals, and information technology. The Enhanced Initiative also addresses the critical cross-cutting structural issues of distribution, competition policy, transparency, and the revision of Japan's Commercial Code.

Building on the achievements of the first two years of the Enhanced Initiative, the United States and Japan issued the Third Joint Status Report in July 2000. The measures included in this report will translate into meaningful deregulation in Japan, supporting continued recovery of the Japanese economy and increasing the availability of new, innovative, and competitive products for Japanese consumers.

Recognizing that deregulation is an ongoing process, the United States presented to Japan in October 2000 a 49-page submission, which called on Japan to adopt bold regulatory reforms to further open Japan's economy and increase market access for U.S. and other foreign firms. Given the potential boost to growth that information technology can give to Japan's economy, the United States expanded its submission to include numerous measures on cutting-edge information technology issues. These proposals promise to create a legal and regulatory environment in which the digital economy in Japan can flourish with minimal government intervention. The U.S. submission also focuses on Japan's proposed revision of its Commercial Code, offering measures to ensure that the reform is sufficiently comprehensive to remove the existing impediments to investment and financial transactions and increase accountability and efficiency in corporate management. Fundamental revision of the Commercial Code will have a positive impact on the ability of foreign firms to enter and operate in the Japanese market.

Highlights of the deregulation achievements in 2000, and key United States proposals made in October 2000, for further progress in 2001, are as follows:

a. Sectoral Deregulation

Telecommunications: Over-regulation of new entrants in Japan's telecommunications sector and weak controls over the dominant carrier, NTT, have stifled competition in Japan's $130 billion telecommunications services market, deprived the Japanese economy of the benefits of innovative services and low prices, slowed growth in Japan's information infrastructure and limited access of competitive United States companies. As a result, Japan continues to have difficulty stimulating investment in this sector while high telecommunications rates are crippling Internet usage and electronic commerce.

Under the third year of the Enhanced Initiative, the United States called on Japan to implement a "Telecommunications Big Bang" to eliminate unnecessary regulations and strengthen safeguards against anti-competitive behavior by dominant carriers. To address these problems, Japan agreed to reduce the rates for competitors to interconnect with NTT's network by 50 percent at the regional level (the rates of greatest importance to United States companies) and by 20 percent at the local level by 2001. Such rate reductions will save competitive carriers over $2 billion over the next two years. The cuts will also improve service and lower costs for Japanese consumers, and will reduce the cost of business-to-business transactions and Internet usage. In addition, Japan agreed to conduct a thorough review of NTT's interconnection rates in 2002 based on an improved rate calculation model, a process that should result in additional and substantial rate reductions in 2002.

Japan committed in 2000 to open new points of access ("unbundling") to NTT's network and enact rules to ensure fair usage rates and conditions in order to allow new entrants to compete in providing high-speed Internet services. Japan also agreed to eliminate restrictions which limit their ability to construct their own networks in the most efficient way, removing certain road construction restrictions and promoting measures to improve access to underground tunnels controlled by NTT and electric utilities.

In its October 2000 deregulation submission, the United States urged Japan to establish strong dominant-carrier regulation. In order to achieve more independent telecommunications regulation, the United States called on Japan to create an independent regulator in this important sector by fully separating the regulatory responsibility from the government's industrial promotion policies. Moreover, the United States urged Japan to eliminate rules and practices that deny competitors access to rights of way, facilities, and services necessary to provide high-quality, up-to-date and affordable telecommunications services to consumers in Japan.

Housing: Japan's $42 billion home building materials market is the second largest in the world. Unwieldy rental market restrictions and government-imposed limits on the size of wooden buildings have stymied market access and driven up housing costs for Japanese consumers. The lack of significant resale and renovation markets and a shortage of high-quality rental housing are also limiting long-term growth of Japan's housing sector.

During the third year of the Enhanced Initiative, Japan implemented a change to its Land and House Lease Law governing lease renewals, a reform that will help Japan to develop a quality rental housing market. The measure will also improve housing choices for millions of Japanese families and create enormous opportunities for domestic and foreign builders and suppliers.

Building on our efforts from the first two years of the Enhanced Initiative, Japan agreed to reduce restrictions on four-story wood-frame buildings. This move will strengthen the current boom in construction of wood-frame houses, and could ultimately mean substantial increases in the sales of U.S. wood products. Japan also agreed to help improve housing appraisals by ensuring that maintenance and renovation are factored into

appraisal values.

In its October 2000 submission, the United States urged Japan to take a renewed look at ways to substantially increase the sale of existing homes and expand the market for home renovation including changes to housing finance policies. Taking advantage of new technologies, the United States recommends that Japan make such information as property assessments and sale prices for new and existing homes publicly available, including via the internet. The United States is also focusing on technical building regulations and standards issues that continue to impede the use of U.S. building products and building systems. Implementation of such proposals will help Japan achieve its objective of improving the quality, affordability, and variety of Japanese housing, without compromising safety. As in the United States, growth in the resale and renovation markets also will generate significant growth for the overall economy.

Financial Services: The Government of Japan has already implemented the majority of its "Big Bang" financial deregulation initiative, which aims to make Tokyo's financial markets "free, fair and global" by allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. "Big Bang" liberalization should substantially improve the ability of foreign financial service providers to reach customers in most segments of the Japanese financial system.

In a move long sought by the United States, Japan modified the Employee Pension Fund (*kosei nenkin kikin*) and National Pension Fund (*kokumin nenkin kikin*) provisions in June 2000 to allow the direct transfer of securities from one asset manager to another. Japan will eliminate the corresponding requirement for public pensions by April 2001, and permit investment advisors to directly manage public pension funds. Japan also approved legislation to expand the class of assets eligible for securitization by Special Purpose Companies. To improve transparency and predictability in the regulatory process, the Financial Services Agency has agreed to initiate a system of response to written inquiries, including requests for published guidance and "no-action" letters. The entry of banks into the insurance business, scheduled to take place by March 2001, will complete the removal of restrictions on the scope of business of cross-industry subsidiaries.

The United States welcomes Japan's notable progress in increasing the efficiency and competitiveness of its financial markets. In its October 2000 submission, the United States put forward proposals to support further opening and development of the Japanese financial markets, which will allow Japan to take full advantage of international financial expertise and support future Japanese growth. These include: (1) introducing tax-advantaged defined contribution pension plans in a manner that creates a viable pension alternative; (2) permitting postal financial institutions to employ investment advisory companies through direct onshore trust arrangements without the requirement to convert asset positions into cash before changing asset managers; (3) exempting from withholding tax foreign holders of Japanese Government Bonds (JGBs) who use global custodians; (4) requiring full mark-to-market accounting for all investment trusts; (5) simplifying the disclosure requirements for investment trusts; and (6) permitting multiple classes of shares for investment trusts.

For information on deregulation in the insurance sector, please see the Insurance entry under "Existing Bilateral Agreements."

Medical Devices and Pharmaceuticals: Continued over-regulation and inefficiencies in Japan's medical device, pharmaceutical, and nutritional supplement sectors have slowed the introduction of innovative, cost-effective products into Japan. Increasing the availability of these products is key to helping Japan meet the challenge of providing increased quality healthcare to its aging population while containing overall healthcare costs.

Under the third year of the Enhanced Initiative, Japan agreed to take twenty-five new concrete deregulation measures that are critical to ensuring that the steady stream of innovative medical devices and drugs being developed by U.S. firms can gain timely access to the Japanese market. This included a commitment to establish in October 2000 an unbiased and transparent appeals process that allows U.S. suppliers to challenge unfavorable pricing decisions for medical devices and pharmaceuticals under Japan's national health insurance system.

In line with commitments made in 1998, on April 1, 2000, Japan implemented a reduction in the approval processing time for new drugs from 18 months to 12 months. In addition, Japan agreed to implement a transparent and speedy process for creating new medical device pricing categories and committed to take specific measures to improve the transparency and speed of the approval procedures for both drugs and medical devices, including increased use of foreign clinical data. This will result in faster patient access to cutting-edge products. The Third Joint Status Report also included a commitment by the Ministry of Health and Welfare to abolish restrictions on the shape and maximum daily dosages of many common vitamins and minerals.

Recognizing that Japan has achieved important progress in the medical devices and pharmaceuticals sectors, the United States continues to recommend additional measures that will result in even greater improvements to the ongoing healthcare reform process in Japan. In its October 2000 deregulation submission, the United States Government proposes that Japan adopt steps to expedite and increase the availability of innovative medical devices and expand consultations between the Government of Japan and industry regarding pharmaceutical pricing reform to promote the availability of innovative pharmaceuticals. The United States also urges Japan to take further steps to prevent duplicative clinical testing for pharmaceutical approvals, expedite the approval of medical devices, ensure direct industry input in the medical device and pharmaceutical pricing decision processes, and liberalize the sale of nutritional supplements.

Energy: Japan has taken concrete steps over the past year to deregulate its energy sector with the aim of creating a more efficient, rational and less expensive supply of energy. In March 2000, Japan opened nearly one-third of its electricity market to competition, allowing large-lot customers to choose their electricity supplier. This reform is intended to help reduce Japan's energy prices, which are the highest among OECD countries, and in doing so, to increase economic growth and create new jobs. In the Third Joint Status Report, the Government of Japan agreed to establish a fair, transparent, and non-discriminatory framework for access to its electricity transmission grid and natural gas sector. Japan also agreed to eliminate antitrust exemptions applicable to the electricity and gas sectors, and pledged to disclose information on the development of transmission rates by utilities so that new firms seeking to compete in the market can determine if these rates are being set fairly. These reforms will help United States firms to produce, sell, and trade power in Japan's $135 billion electric power market and will create new opportunities for exports to Japan's $15 billion market for electrical generation equipment.

In its October 2000 submission, the United States calls on Japan to take more aggressive steps to promote the emergence of competitive wholesale and retail energy sectors. The United States recommends that the new divisions created within the Ministry of Economy, Trade and Industry in January 2001 regulate the electricity and gas industries, be fully independent, and staff themselves with a sufficient number of energy sector experts to permit effective monitoring and enforcement. The United States also urges Japan to establish measurements to gauge progress in energy sector liberalization and to conduct comprehensive interim reviews of liberalization in the gas and electricity sectors by the end of 2001 instead of waiting until the currently scheduled review dates of 2002 and 2003, respectively. Other key elements in the submission are proposals that

Japan: (1) require that utilities make transparent their tariff calculation methodologies; (2) ensure open and non-discriminatory access to electricity transmission and distribution facilities; and (3) ensure open and non-discriminatory access to gas pipelines and liquified natural gas terminals.

Legal Services and Infrastructure: As deregulation and restructuring of the Japanese economy create new opportunities for Japanese and foreign persons and enterprises, the capacity of the Japanese legal system to facilitate business transactions and resolve disputes will become increasingly important. The Government of Japan, recognizing the importance of adequate legal services in an international financial center, has taken measures to increase the number of successful applicants of the annual Bar Examination, lifted the ban on business advertising by Japanese lawyers and foreign legal consultants, and established a Judicial Reform Council to verify the fundamental policies necessary for reform of the Japanese legal system. The United States has welcomed these steps and its October 2000 submission recommends additional measures to be taken: Those measures include: (1) further increasing the number of legal professionals in Japan; (2) improving the efficiency of civil litigation; (3) reforming Japan's arcane arbitration law; (4) augmenting judicial oversight over administrative agencies; (5) improving the ability of courts to issue and enforce prompt and effective orders to remedy legal violations; and (6) improving the transparency of judicial proceedings. In addition, the United States continues to urge Japan to remove the ban on partnerships between Japanese and foreign lawyers and to accord equal treatment to Japanese lawyers and foreign legal consultants.

Information-Technology: Recognizing that building a vibrant information technology sector is critical to bolstering Japan’s economic growth, the U.S. deregulation submission to Japan in October 2000 includes a new focus on cross-cutting information technology issues. The proposals in the submission reflect the U.S. experience that government’s most important role is ensuring that market mechanisms such as competition and innovation are allowed to flourish. They are also designed to dovetail with Japan’s objective of achieving an IT revolution within five years. The United States recommends steps to improve the climate in Japan for operating and investing in this sector through: (1) greater intellectual property rights protection in the digital environment; (2) a commitment to free trade in "digital products" such as software, music and video; (3) reform of laws permitting paperless electronic commerce in sectors such as consumer finance sector; (4) greater use of electronic commerce for government procurement; (5) a commitment to market-based approaches to technology standards (versus government-mandated standards); and (6) an emphasis on a self-regulatory approach to consumer protection and privacy.

b. Structural Deregulation

Distribution: Japan's rigid and inefficient distribution and customs systems have restricted market access in key sectors, including glass, film, and paper. The heavily regulated and therefore costly and time-consuming process of physically distributing foreign-made goods in Japan results in trade distortions that affect purchasing decisions and work against the competitiveness of foreign-made products. Japan's ability to move goods quickly and inexpensively is critical in order for the country to reap the benefits of achieving a revolution in information technology.

Japan's new Large-Scale Retail Store Location Law enacted on June 1, 2000 marked an important step forward in addressing some of the inefficiencies in the distribution sector. However, the law must be carefully monitored to ensure that its implementation does not unfairly discriminate against large stores and is not an even greater obstacle to store openings than the previous regulatory regime. U.S. and other foreign retailers, for example, have expressed concerns that small shop owners pressure local officials to abuse their authority and make unreasonable demands on large retailers over issues related to traffic, parking,

noise, and trash removal.

In the Third Joint Status Report, Japan agreed to ensure that the new Large Scale Retail Store Location Law is implemented in a consistent, transparent, and fair manner. In response to requests by the United States, MITI, and its successor, the Ministry of Economy Trade and Industry (METI) has established official contact points in Tokyo and around the country to field complaints by large store developments and to facilitate their resolution. To address concerns that local governments will not implement the Large Scale Retail Store Location Law in a uniform manner, Japan will undertake an information campaign to ensure maximum awareness about the new law, and to provide local governments with technical assistance with regard to its implementation.

Japan also agreed to adopt meaningful changes to its customs system, including increasing the amount of goods that Customs officers are allowed to process during overtime work. This measure will effectively reduce the costs of releasing goods imported into Japan, saving U.S. and other foreign importers millions of dollars each year. Japan has agreed to introduce over the next year a new Simplified Declaration Procedure that will move imports into Japan more efficiently through streamlined procedures for duty payments and reporting requirements.

In its October 2000 deregulation submission, the United States called on MITI to continue to monitor implementation of the Large Scale Retail Store Location Law, taking appropriate measures to ensure that it is applied fairly, reasonably, and uniformly by the local governments. The submission also called on MITI to work closely with the Japan Fair Trade Commission to promote competition in highly oligopolistic industry sectors such as flat glass. With respect to import processing, the United States urged Japan to continue modernizing and streamlining customs clearance procedures.

Competition Law and Policy: A key goal of the Enhanced Initiative is to ensure that deregulation is not undone by anti-competitive actions orchestrated by private-sector players. Strong antitrust enforcement is needed to combat bid rigging, restrain anti-competitive behavior by incumbent firms in once heavily regulated sectors, and prevent cartels from undermining the health of the economy. In the Third Joint Status Report, Japan confirmed that it will not allow the January 2001 central government organization to affect the independence of the Japan Fair Trade Commission (JFTC) in antitrust enforcement and competition policy promotion related to any sector. Japan also undertook to improve the JFTC's capacity to investigate and take action against cartels by improving the effectiveness of its searches, fortifying its ability to obtain evidence stored on computers, actively seeking penalties against obstruction of its investigations and aggressively pursuing international cartels. In addition, Japan committed the JFTC to monitor local government policy toward large-scale retail stores and to strictly apply the Antimonopoly Act (AMA) against collusive practices in the retail sector. To combat bid rigging, the National Police Agency (NPA) will cooperate with the JFTC in a new investigative mechanism and provide assistance to local police departments to ensure vigorous and effective investigations of criminal bid-rigging, or *dango*, activities.

In the past year, Japan passed legislation eliminating the antimonopoly exemption for the electricity, gas and railroad sectors as well as for other sectors that could be characterized as natural monopolies, and affirmed that the Industry Revitalization Law in no way supercedes the AMA. Japan also enacted a bill allowing private parties to obtain legal injunctions against parties engaged in activities that violate the unfair trade practices provisions of the AMA and to file damage actions against trade associations violating the AMA.

The United States continues to urge Japan to strengthen its efforts to stamp out anti-competitive

practices in its economy. In its October 2000 deregulation submission, the United States recommended that Japan take formal steps to safeguard the JFTC's independence following the reorganization of the central government. It urges the JFTC to play an active role in promoting competition in regulated sectors, including by establishing a joint working group with the Ministry of Posts and Telecommunications (MPT) to review ways to promote competition in the telecommunications, postal insurance and other postal services sectors under MPT jurisdiction. The submission also calls on Japan to make operation of the surcharge payment system more effective in supporting the investigation and deterrence of collusive agreements among competitors.

Transparency and Other Government Practices: Over the past several years, the Government of Japan has begun to lay the foundation for a more transparent and accountable regulatory system, including through the implementation in 1999 of a Public Comment Procedure. However, Japan's regulatory system continues to lack the transparency and accountability necessary to ensure that all players have the same access to public information and the policymaking process.

In order to address these concerns, Japan has agreed under the Third Joint Status Report to increase regulatory transparency and bureaucratic accountability by introducing a government-wide policy evaluation system. In response to U.S. concerns, Japan will examine the implementation of the Public Comment Procedure, including the length of comment periods used and the justifications given for why the ministries do not use the Procedure in particular cases. Building on these measures, the United States is seeking steps in its October 2000 submission that would curtail bureaucratic discretion by incorporating the rule-making procedures into a law, requiring any administrative guidance to be issued in writing, and requiring administrative agencies to allow the public to comment on proposed legislation before it is submitted to the Diet. The U.S. submission also calls on Japan to improve the Public Comment Procedure by taking steps to better incorporate public comments into final regulations, as well as to extend the time period for submissions of such comments. Such reforms will increase the transparency of the process, raise the accountability of the bureaucracy, and help level the playing field for foreign firms by curbing the special advantages traditionally enjoyed by Japan's domestic firms.

Commercial Code: The United States Government included for the first time in 2000 recommendations in regard to Japan’s plan to undertake a sweeping revision to its Commercial Code - the first such comprehensive revision in half a century. A bold reform of the Code, which is scheduled for completion in 2002, could introduce greater flexibility in the organization, management, and capital structure of Japanese companies, and improve their efficiency and accountability. Ultimately, this could strengthen Japanese firms, improve the business environment for United States and other foreign firms operating and investing in Japan, and contribute to the revitalization of the Japanese economy. In its October 2000 deregulation submission, the United States recommends that Japan carefully consider revisions of the Commercial Code that would: (1) make corporate boards more independent of management and accountable to shareholders; (2) eliminate many of the current restrictions on a company’s capital structure; and (3) push Japan closer to international standards of accounting and disclosure. The submission also calls on Japan to allow greater public and foreign expert input in the revision process.

2. Existing Bilateral Agreements: Implementation and Monitoring

a. Insurance

The 1994 and 1996 bilateral insurance agreements have made significant contributions to the deregulation of the Japanese insurance market to date. The agreements included sweeping measures that resulted in significant improvements in the

product approval process, greater use of direct sales of insurance products, and the introduction of risk differentiated automobile insurance. Of great importance, the agreements eliminated the obligation to adhere to rates set by the non-life rating organizations once imposed on insurance companies, thereby eliminating the cartels that, until recently, characterized Japan's non-life insurance market. As a result of these positive changes, foreign insurance companies have visibly and substantially increased their presence in both the life and non-life insurance sectors in Japan.

In light of progress made by Japan to deregulate the primary insurance sector as well as its commitment to further improve the product approval process, in July 2000, the United States confirmed that the bilateral agreement provisions to avoid radical change that prohibited life subsidiaries of non-life companies and non-life subsidiaries of life companies from selling third sector insurance products or utilizing certain distribution channels for these products, would be lifted on January 1, 2001. However, the 1994 and 1996 bilateral insurance agreements as well as Japan's WTO commitments related to insurance remain in force, and consultations will continue as called for under the agreements.

Bilateral consultations under the two insurance agreements were held in Tokyo in March 2000. The review included an assessment of Japan's implementation of the provisions of the agreement through use of data provided by the Government of Japan and the objective criteria contained in the agreement. More specifically, the United States and Japan discussed administrative and regulatory changes in Japan's insurance sector, including issues related to Japan's product approval process, the availability of needed resources and technology within the Financial Services Agency (FSA), and recent changes related to the life and non-life Policyholder Protection Corporations. The United States also raised issues of key concern to U.S. industry regarding plans of the Ministry of Posts and Telecommunications related to their postal insurance system (*Kampo*). In addition, in order to promote U.S.-Japan regulator-to-regulator discussions of various aspects of the U.S. and Japanese insurance regulatory systems, a representative from the National Association of Insurance Commissioners (NAIC) participated in the talks. The next annual consultation is scheduled to be held in the spring of 2001, at which time the United States anticipates a full discussion of a wide range of issues.

In addition to the bilateral agreements on insurance, the United States and Japan have discussed various insurance-related issues within the context of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy. The United States welcomes new commitments Japan made in the Third Joint Status Report to further deregulate, increase transparency of, and best utilize personnel and other resources within Japan's insurance product approval system. In addition, the Government of Japan affirmed that it has no current plans to expand *Kampo* into additional areas of non-life insurance, and that the Ministry of Posts and Telecommunications will explain upon request to foreign insurance providers and other interested parties any plans to change *Kampo* insurance offerings.

In its October 2000 deregulation submission to Japan under the Enhanced Initiative, the United States included specific proposals focused on transparency in the regulatory reform process and in Japan's development of plans for the transition of the postal services portion of the Ministry of Posts and Telecommunications to a Postal Services Agency and Public Corporation in 2001 and 2003, respectively. In addition, the United States called for Japan to ensure that any plans to change the offerings of *Kampo* are developed and implemented in a manner consistent with Japan's goals of deregulation to promote free, fair and global markets. The United States voiced concern that any future expansion of *Kampo* into product lines being offered by private insurers is inappropriate and questioned the competition policy implications of the fact that *Kampo* falls outside the scope of the Insurance Business Law and is not subject to

oversight by FSA or the JFTC.

b. Autos and Auto Parts

Improving access to Japan's automotive market has been a high priority for the United States. In an effort to significantly increase export opportunities to Japan for U.S. auto and auto parts manufacturers, in August 1995, the United States and Japan reached an Automotive Agreement, which expired on December 31, 2000. The goals of the 1995 Agreement were to eliminate market access barriers and significantly expand sales opportunities in this sector. To monitor implementation of the Automotive Agreement, the United States also announced the establishment of an Interagency Enforcement Team, which released periodic assessments of progress in all areas covered by the Agreement.

At the last annual consultations under the 1995 Agreement, held in November 2000 in Seattle, the United States expressed strong concern that Japan's economic slump, limited market access, and the weak competitive environment have continued to disproportionately hurt foreign vehicle and auto parts manufacturers in Japan. The United States voiced strong disappointment that, after rising steadily in 1995 and 1996, sales of North American-made vehicles have fallen for the past four years, with sales in 2000 expected to be substantially less than in 1994. In an effort to contend with these economic conditions and position themselves to better compete in the future, U.S. auto companies have continued to consolidate or close less-profitable dealerships. The United States also stressed similar concerns related to the auto parts sector, where U.S. exports to Japan declined from a record level of $13 billion in 1995 to about $11 billion in 1999. The United States pointed to the need for additional Japanese efforts to, among other things, further deregulate and increase transparency in this sector. In general, the United States concluded that, while some progress was made under the 1995 Agreement, the overall market opening objectives of the agreement have not yet been achieved and significant barriers restricting full access by U.S. vehicle and parts manufacturers remain.

During the latter half of 2000, the United States and Japan conducted a series of negotiations on the future of the bilateral Automotive Agreement. Recognizing the significant changes that have taken place in the global automotive market in the last several years, the U.S. Government proposed a five-year, follow-on agreement that was based on the 1995 Agreement and incorporated additional measures to be undertaken by Japan to eliminate remaining market access barriers in the sector. These included: further deregulation of the automotive sector; improvements in the transparency of procurement by Japanese auto and auto parts makers and in the Japanese automotive regulatory and standards-setting process; adoption of more rigorous measures by the private sector to comply with the Antimonopoly Act; further dissemination of information on central and local government investment incentive programs of relevance to the automotive sector; facilitation of a periodic dialogue among U.S. and Japanese auto and automotive parts industries. Another essential aspect of the U.S. proposal was continued provision of specific automotive data by Japan for discussion at ongoing annual consultations and a set of additional objective criteria through which to evaluate progress.

Unfortunately, the Government of Japan did not accept the U.S. proposal, and as a result, the 1995 Agreement expired on December 31, 2000.

c. Government Procurement

NTT Procurement: On July 1, 1999, the United States and Japan concluded an NTT Procurement Agreement that reflects changes brought about by NTT restructuring into four firms (NTT holding company, NTT East, NTT West, and NTT Communications). The new agreement remains in effect until July 2001. It includes a commitment that the NTT companies will conduct their procurement in an open and transparent manner and provide non-discriminatory and competitive

opportunities to both domestic and foreign suppliers. The agreement outlines three methods of procurement, including the traditional "request for proposal" method, a means by which companies with innovative products can approach NTT directly, and a means by which NTT will conduct follow-on purchases. The agreement also ensures that foreign companies will continue to have equal access to procurement information, provides protection for any proprietary information supplied during the procurement process, and includes a mechanism for protesting unfair bids.

The NTT companies continue to account for a large percentage of Japan's $35 billion telecommunications equipment market and remain the most important purchasing entities in this sector. Through their research and development and deployment decisions, the NTT companies have and will continue to set standards that impact the entire market. The United States expects that procurement of foreign equipment by the NTT successor companies will not only continue to grow, but will move closer to the success foreign firms have achieved in other, more open parts of the Japanese market and telecommunications markets globally.

The United States and Japan conducted an annual review under the bilateral agreement in November 2000 to discuss the operation of the new procurement procedures and review data. The United States side focused discussions on changes in procurement brought about by the NTT restructuring, the process through which suppliers qualify to bid, the criteria used by NTT to select suppliers, the functioning of the Supplier Proposal process, and the use of national versus international technical standards. The NTT companies provided data on foreign procurements for Japanese Fiscal Year (JFY) 1998 and 1999, as called for under the agreement. Procurement of foreign equipment increased somewhat under the 1999 Agreement, but still remains far below purchases of such equipment by other Japanese telecommunications carriers. Under the terms of the 1999 Agreement, in 2001 the U.S. and Japanese Governments will hold consultations on the operation of the agreement, and the NTT companies will provide procurement data for JFY 2000.

Telecommunications: The Government Procurement Agreement on Telecommunications Products and Services, concluded on October 1, 1994, aims to significantly increase access for, and sales of, foreign products and services. The agreement also includes measures Japan will take to improve and open its procurement process to foreign suppliers, which are intended to improve the transparency and impartiality of the process and to increase reliance on international standards. Implementation of this agreement is assessed through both quantitative and qualitative criteria.

The United States continues to urge Japan to take concrete actions to correct the low level of Japanese public procurement of highly competitive U.S. and other foreign telecommunications goods and services. The United States remains concerned about the use of biased standards, the excessive use of sole sourcing, and lack of transparency, which restrict the ability of U.S. firms to bid competitively. The next annual review will be held in the spring of 2001.

Computers: The 1992 U.S.-Japan Computer Agreement commits Japan to adopt non-discriminatory and open procurement procedures with the aim of expanding government procurement of foreign computer products and services. The agreement makes procedural improvements in Japan's public sector computer procurement regime, with provisions guaranteeing that: (1) equal access to information and opportunity to participate will be available to all potential bidders; (2) any company that has participated in developing specifications for a procurement will be barred from bidding on that same procurement; (3) sole sourcing will be restricted to exceptional cases justified under the GATT/WTO Agreement on Government Procurement; (4) evaluation of bids will be based upon a range of criteria set forth in the tender documentation; and (5) unfair low bids will be prohibited.

United States firms continue to have much greater success in the Japanese private sector than in the public sector. This situation, as well as rapid technological advancements in this sector, has led the United States to urge Japan to update and improve the implementation of the Computer Agreement. As a step forward, the Government of Japan has announced a plan to consolidate Japanese central government procurement announcements and documentation on the Internet. Japan's aim is to create a consolidated procurement information home-page beginning in fiscal year 2001. This site would make available all Japanese central government procurement information necessary for bidding for all product categories. A pilot program for digital bidding and contracting would begin in Japan's FY2003, aiming at full implementation from Japan's FY2005. The next annual review of the Computer Agreement will be held in the first half of 2001.

Supercomputers: Under the 1990 Supercomputer Agreement, Japan committed to implement transparent, open, and non-discriminatory procurement procedures and to ensure that procuring entities are able to procure the supercomputer that best enables them to perform their missions.

Results under the 1990 Supercomputer Agreement have been mixed. There was an increase in the early 1990's in the U.S. share of Japan's public sector supercomputer market, with U.S. firms reaching a 40-45 percent market share. However, this trend has not been sustained, and more needs to be done by the Government of Japan to ensure that individual ministries and agencies fulfill Japan's commitment to provide transparent, open and non-discriminatory competitive procedures for their procurement of supercomputers. The United States continues to closely monitor developments in this sector and remains committed to ensuring full implementation of the 1990 Agreement.

Medical Technology: The Medical Technology Agreement was concluded in November 1994 with the goal of significantly increasing access and sales of competitive foreign medical technology products and services in the Japanese public sector procurement market. This agreement has been successful in providing greater market access and sales for foreign suppliers in Japan's government procurement sector. The last review of this agreement showed that foreign market share had increased to 45.6 percent.

The United States continues to urge Japan to make further progress in this sector by improving transparency in Japan's public procurement process. At the United States' request, Japan took steps in February 1999 to allow the use of the overall greatest value methodology to include procurement by local and prefectural governments. The next consultation under this agreement will be held in early 2001, at which time Japan will provide updated procurement data.

Construction/Public Works: There are two public works agreements in effect: the Major Projects Arrangements (MPA), implemented in 1988 and amended in 1991, and the 1994 U.S.-Japan Public Works Agreement, which includes the "Action Plan on Reform of the Bidding and Contracting Procedures for Public Works" (Action Plan). The MPA was designed to improve access to Japan's public works market and includes a list of 40 projects in which international cooperation is encouraged. Under the 1994 Agreement, Japan must use open and competitive procedures for procurements valued at or above the thresholds established in the WTO Agreement on Government Procurement.

The U.S. share of Japan's $250 billion public works market has consistently remained well below one percent – a troubling fact given the competitiveness of American design/consulting and construction firms throughout the rest of the world. The consultative mechanism under the 1994 Agreement expired on March 31, 2000. However, the United States believes it is essential for the two governments to continue to meet regularly to discuss problems in Japan's public works sector.

The United States included procurement practices

in Japan's public works sector in its Title VII report issued in May 2000. In the report, the United States described a significant and persistent pattern of practices of discrimination that impedes U.S. companies from participating in Japan's public works sector. These practices include rampant bid-rigging; unreasonable restrictions on the formation of joint ventures, including the three-company joint venture rule, which limits to three the number of members in joint ventures for most construction projects; use of unreasonably vague and discriminatory qualification and evaluation criteria in the design/consulting and construction areas; and the structuring of procurements and calculation of procurement values so they fall below the thresholds covered by the agreements. The U.S. Government continues to closely monitor developments in this sector.

d. Investment

Changing Japanese attitudes toward inward foreign direct investment (FDI), depressed asset values and improvement in the regulatory environment enabled U.S. and other foreign firms to gain significant new footholds in the Japanese economy in 2000, mostly through mergers and acquisitions. As a result, although FDI in Japan remains the lowest among the OECD countries, investment during JFY 1999 hit $21.5 billion (Yen 2.4 trillion), double the level of JFY 1998. In the first half of JFY 2000 (April-September) FDI rose 41 percent compared to the same period the year before, totaling $17.45 billion (about Yen 1.9 trillion). Financial services accounted for approximately 40 percent of this FDI, with 38 percent (roughly $7 billion) going to telecommunications.

In March 2000, the United States and Japan co-sponsored an Investment Conference in Tokyo at which business representatives from both countries were able to raise issues of concern directly with Japanese Government officials. The business recommendations for further reform and deregulation were contained in a summary report jointly presented to the President and Prime Minister in July 2000.

Japanese and foreign businesses in 2000 were significantly affected by the implementation of several laws passed in 1999 which included suggestions raised by the United States during the dialogue carried out under the 1995 foreign direct investment agreement. The Securities Exchange Law, for example, was modified and now mandates consolidated and market-value accounting for listed firms. A revision of Japan’s Commercial Code for the first time allows one company to wholly acquire another through stock swaps. Further, the Industrial Revitalization Law was passed, providing tax and credit relief to firms (including foreign investors in Japanese companies) which undertake government-approved reorganization. The new bankruptcy law (Civil Reconstruction Law) encourages business reorganization, including spin-offs, rather than forced liquidation of assets. In addition, the concept of corporate governance, such as the role of boards of directors, is also changing in ways that augur well for increased investments, mergers and acquisitions.

Nevertheless, government and business observers from both countries recognize that much more remains to be done. The U.S. and Japanese Governments agreed in 2000 to continue to consult on investment issues; a meeting of the bilateral Investment Working Group will occur in early 2001.

3. Sectoral Issues

a. Steel

The U.S. steel industry endured tremendous hardship in 1998 as a sudden and substantial drop in demand for steel in Japan and the rest of Asia created a huge oversupply. As a result, imports from Japan increased 164 percent from 1997 to 1998, making Japan the main source of imports to the U.S. market in 1998. Imports from Japan of steel mill products in 1999 fell 54 percent compared to 1998, and fell an additional 30 percent in 2000.

In July 2000, the Commerce Department published

the Report to the President on Global Steel Trade: Structural Problems and Future Solutions. The report documented the role of Japanese imports in the 1998 steel crisis and the underlying structural distortions in the Japanese steel industry that exacerbated that crisis. Specifically, the report cited substantial information indicating the apparent market coordination among major integrated steel producers and a protected home market characterized by stable production shares among the major producers; very low levels of imports; a closed distribution system for steel; and an onerous product certification process for steel imports.

In 2000, antidumping orders were issued against Japan on (1) structural steel beams and certain tin mill products; and (2) certain carbon and alloy seamless standard, line, and pressure pipe. In addition, U.S. steel producers and workers requested antidumping investigations against Japan on steel concrete reinforcing bar and stainless steel angles.

The second and third working-level meetings of the U.S.-Japan Steel Dialogue took place in March and November 2000. The primary topics of discussion in the second round of meetings were trade patterns, market conditions, and trade policies in Japan. Specifically, the United States focused on the static shares of production held by Japanese steel producers, the stability of steel prices in Japan's domestic market, and other indicators of the lack of competition in the Japanese steel market. The United States also inquired about the implementation of the Industrial Revitalization Law in the steel sector. The United States stressed that in order for restructuring to be successful, Japan needed to encourage domestic and import competition and avoid subsidies.

In the third session held in November 2000, the United States focused on the lack of meaningful competition in Japan's steel market. The United States presented the findings of the Commerce Department's steel report which suggests that members of Japan's steel industry continue to coordinate steel production levels in a manner that appears inconsistent with principles of market competition. The United States will continue to raise its concerns about the apparent anticompetitive practices in the steel industry with the Government of Japan in future meetings of the U.S.-Japan Steel Dialogue. The United States will use the OECD Steel Committee as a forum to discuss structural distortions in the Japanese steel market. We will also continue to raise the structural issues that affect the steel sector, such as competition policy and distribution, under the Enhanced Initiative.

b. Flat Glass

In January 1995, the United States and Japan concluded an agreement aimed at opening the oligopolistic Japanese market to imported flat glass. There were some positive changes under the agreement, such as increased use of higher value added glass, but U.S. firms have made little market headway. The Agreement expired on December 31, 1999, and Japan has refused to negotiate a new agreement.

A 1999 Japan Fair Trade Commission (JFTC) survey identified a number of problematic distribution practices requiring further monitoring. In addition, the JFTC ruled on December 21, 1999, that certain Japanese industry associations and affiliates, including a subsidiary of Japan's largest flat glass manufacturer, unlawfully colluded through price discrimination and other methods to intimidate distributors who purchased foreign-manufactured auto replacement glass.

In its 2000 deregulation submission under the Enhanced Initiative, the United States urged MITI and the JFTC to actively take additional steps to monitor and promote competition in the flat glass sector and assure compliance with the Antimonopoly Act by working with Japanese firms to prevent discriminatory barriers in the distribution system. The United States also called on the JFTC to initiate a survey on highly oligopolistic industry sectors, focusing on the

extent and form of financial inter-relationships linking manufacturers and distributors. The United States continues to raise glass market access issues with Japan and to work with U.S. industry on ways to improve market access and enhance competition in this sector.

c. Rice

Japan's highly protected rice market has long been a target for liberalization efforts. During the Uruguay Round, Japan agreed to crack open the door to its domestic rice market by establishing a minimum access commitment for rice imports. Under this agreement, Japan committed to import 379,000 metric tons in 1995/1996. This quota has grown to just over 762,000 tons at the end of the Uruguay Round implementation period (2000/2001). Since the Uruguay Round, the United States has been the single largest foreign supplier of rice to the Japanese market, supplying approximately one-half of total imports.

On April 1, 1999, a new Japanese rice regime went into effect that transformed the existing import quota system into a tariff quota system. Under "tariffication," a duty is applied to imports outside of Japan's minimum access rice imports.

The U.S. rice industry has worked assiduously to meet the demands of the Japanese market. In cooperation with its Japanese customers, it has improved its production, handling, and milling techniques for the unique varieties that are produced specifically for the Japanese market. To advance this effort, the U.S. rice industry has actively engaged in technical discussions with Japan. In addition, the U.S. rice industry made tremendous efforts to improve its price competitiveness under the simultaneous-buy-sell (SBS) tendering system.

The United States continues to convey to the Government of Japan its expectation that the U.S. rice industry will achieve future access to Japan's rice market in line with earlier supply trends established under the minimum access commitment. The United States believes it to be of great importance that the Japan Food Agency administer its import system in a transparent manner that will allow U.S. rice exporters to develop effective commercial relationships with end-users in Japan. Moreover, the United States urges the Government of Japan to consider any changes to the SBS system that would allow it to work in a more effective way. The United States will continue to closely monitor Japan's rice purchases, and will consider all of its options to respond to Japan's policies in the event that circumstances change. Additionally, the United States will seek further liberalization of all market access commitments, including Japanese commitments on rice, during ongoing WTO agricultural negotiations.

4. Multilateral/WTO Disputes and Settlements

Consumer Photographic Film and Paper: In 1998 the United States created an interagency monitoring and enforcement committee to ensure that Japan is fully living up to its formal representations to the WTO regarding its efforts to ensure the openness of the Japanese market to imports of photographic film and paper.

The conclusions of the Committee over the last year have been mixed. Overall, recent structural changes in the Japanese economy, coupled with U.S. monitoring efforts and limited steps by the Government of Japan to further open the Japanese market to foreign photographic film and paper producers, have yielded some positive results in this sector. The removal of various barriers to foreign direct investment (FDI) in Japan has provided some new and heretofore unseen opportunities for U.S. companies in the photographic film and paper as well as other sectors of the Japanese economy. However, foreign manufacturers continue to face notable barriers in their continued efforts to gain more meaningful access to the Japanese photographic film and paper market. This calls for further action by the Government of Japan. Among other things, Japan's Ministry of International Trade and

Industry and the JFTC in particular - should take further steps to open Japan's distribution system and more actively seek out and investigate complaints of anticompetitive behavior in all sectors, including photographic film and paper. Further, because the availability of most foreign film products remain greatest in larger "non-traditional" retailing channels, it is important that the Government of Japan takes all necessary steps to ensure that the new Large-Scale Retail Store Location Law, which became effective in June 2000, does not discourage new retail store development or create a regulatory environment that is more burdensome than under the old Large Store Law.

Varietal Testing of Fruits: In October 1997, the United States invoked dispute settlement procedures against Japan regarding its varietal testing requirements. Japan required repeated testing of established quarantine treatments each time that a new variety of an already approved commodity was presented for export. This redundant requirement had no scientific basis and, because it imposed expensive and time-consuming testing on American producers, served as a significant barrier to market access. The United States challenged these requirements as inconsistent with Japan's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement").

The United States prevailed in WTO panel and Appellate Body proceedings which concluded on October 27, 1998, and February 19, 1999, respectively. On March 19, 1999, the WTO Dispute Settlement Body (DSB) adopted the panel and Appellate Body findings that Japan's varietal testing requirement was: (1) maintained without sufficient scientific evidence, in violation of Article 2.2 of the SPS Agreement; (2) not based on a risk assessment, in violation of Article 5.1; and (3) inconsistent with Japan's transparency obligations under paragraph 1 of Annex B, since Japan did not publish its requirements. The United States and Japan are close to agreeing on quarantine methodologies for apples. Japan and the U.S. agreed on the implementation of methodologies for nectarines and cherries, allowing these products to be shipped to the Japanese market.

D. Western Europe

Overview

The U.S. economic relationship (measured as trade plus investment) with Western Europe is the largest and most complex on earth. Due to the size and nature of the transatlantic economic relationship, serious trade issues inevitably arise on occasion. Sometimes small in dollar terms, especially compared to the overall value of transatlantic commerce, these issues can take on significant importance as potential precedents for broader U.S. trade policies. This is particularly true in the case of U.S. disputes with the European Union (EU) over EU import policies respecting bananas and beef treated with growth hormones. Despite U.S. WTO victories against the EU's banana regime and the EU's ban on U.S. beef from cattle treated with hormones, the EU has not ended its discriminatory treatment in these areas.

The fifteen member countries of the EU together comprise a market of some 370 million consumers with a total gross domestic product of over $8 trillion. U.S. goods exports to the EU Member States totaled $152 billion in 1999, second only to Canada. Since 1992, U.S. goods exports have increased 41 percent, including a 1.8 percent increase in 1999. Jobs supported by goods exports to the EU have increased from an estimated 1.3 million in 1992 to an estimated 1.4 million in 1998 (latest data available).

From its origins in the 1950s, the EU has grown from six to fifteen Member States, with Austria, Finland, and Sweden becoming the newest EU members states on January 1, 1995. The other major trade group within Western Europe is the European Free Trade Association (EFTA), which through 1994 included Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland

(Austria, Finland, and Sweden ceased EFTA membership upon their accession to the EU). Formed in 1960, EFTA provides for the elimination of tariffs on manufactured goods and select agricultural products that originate in, and are traded among, its Member States.

In late 1991, the EFTA countries and the EU reached agreement on the formation of a European Economic Area (EEA), designed to strengthen significantly the free trade agreement already in place between the two groups. Switzerland rejected the EEA in a referendum at the end of 1992. A revised EEA (excluding Switzerland) entered into force on January 1, 1994. In practice, the EEA involves adoption by the EFTA signatories of approximately 70 percent of EU legislation.

2000 Activities

In 2000, the EU intensified its efforts to deepen the economic and political integration of its Member States. The pace of additional western European integrative efforts over the next few years is being set first by the experience of implementing the Economic and Monetary Union (EMU) established by the EU's Maastricht Treaty, which went into force on November 1, 1993, and amendments to Maastricht contained in the 1997 Amsterdam and 2000 Nice Treaties. Under the Maastricht Treaty schedule, eleven Member States on January 1, 1999 launched in earnest the EMU program, the most prominent feature of which is the introduction of the new European single currency (the "euro"), set to replace national currencies in participating Member States by 2002. The second major factor affecting the pace of European integration will be the process of enlarging the EU to include new members to the East and South. The EU has signed association agreements and other types of free trade arrangements with the Czech Republic, Slovakia, Hungary, Poland, Bulgaria, Romania, Latvia, Lithuania, Estonia, Albania, Slovenia, Israel, Algeria, Morocco, and Tunisia. The EU has also negotiated a customs union with Turkey. In November 1998, the EU formally launched substantive accession negotiations with six "first-tier" candidate countries: Poland, the Czech Republic, Hungary, Slovenia, Estonia and Cyprus. In late 1999, the EU declared it would also begin formal negotiations for accession with Slovakia, Romania, Bulgaria, Lithuania, Latvia and Malta (Turkey remains an accession candidate, with no EU commitment to commence formal negotiations). Although the December 2000 EU summit addressed important institutional questions associated with EU enlargement, key issues still need to be resolved before enlargement can take place. No firm target has been set for completing any of the accession negotiations and some candidate states have expressed concern that the process could last for a number of years.

In 2000, USTR devoted considerable resources to addressing pressing or potential trade problems with the EU and its individual Member States, as well as to efforts to enhance the transatlantic economic relationship. As part of our ongoing dialogue with the European Union under the Transatlantic Economic Partnership (TEP) this year, we negotiated a Mutual Recognition Agreement (MRA) on marine safety equipment, completed an agreed framework for cooperation on calibration, and are nearing completion on guidelines for more effective transatlantic regulatory cooperation and transparency. We advanced our discussions with the EU on MRAs in key services sectors (insurance, engineering and architecture). We also have agreed to establish a pilot project to track biotechnology product approvals simultaneously through our respective regulatory systems. We have continued efforts to reach understandings with the EU that would lead to EU compliance with WTO dispute settlement rulings on bananas and beef and to resolve other bilateral trade problems. In addition, with respect to the WTO ruling in the Foreign Sales Corporation (FSC) case (see Chapter II for a fuller discussion of this case), we will work to resolve the situation in a mutually satisfactory manner and to ensure that this issue does not seriously damage our overall bilateral relationship.

The extent of USTR activity on a bilateral basis with respect to the EFTA states in 2000 was modest, though both Norway and Switzerland have continued to make inquiries concerning possibilities for further regulatory cooperation.

1. Transatlantic Economic Partnership

At the May 1998 U.S.-EU Summit in London, the President and EU Leaders announced the Transatlantic Economic Partnership (TEP) initiative, which seeks to deepen and systematize the cooperation in the trade field launched under the New Transatlantic Agenda process begun in 1995 (see below). In the TEP, the two sides identified a number of broad areas in which they committed to work together in order to increase trade, avoid disputes, address disagreements, remove barriers and achieve mutual interests. These areas include: technical barriers to trade, agriculture, intellectual property, government procurement, services, electronic commerce, environment and labor. In addition, the United States and EU agreed to put an emphasis throughout the initiative on shared values, i.e. they agreed to more fully involve citizens and civil society on both sides of the Atlantic in trade policy so as to strengthen the consensus for open trade. Cooperation under the TEP occurs with respect to bilateral matters, as well as in the context of multilateral activities such as in the WTO. The TEP Action Plan, endorsed by Leaders at the December 1998 U.S.-EU Summit in Washington, lays out specific goals under each of the above categories which the two sides hope to achieve as soon as possible.

Under the TEP in 2000, the United States and EU agreed to establish a project to examine the regulatory processes on each side connected with the issue of biotechnology. The two sides worked to develop common guidelines for regulatory cooperation and transparency – an area increasingly seen by the business community as impacting the further deepening of transatlantic commercial ties. In addition, under TEP auspices, the United States and EU will begin negotiating new agreements and other forms of cooperation for mutual recognition of regulatory processes in various industrial and services sectors. Finally, U.S. and EU leaders agreed at the June 1999 U.S.-EU Summit to use TEP mechanisms to carry out part of a joint effort to identify – and hopefully defuse – potential trade problems at an early stage, before they become irritants to the bilateral economic relationship.

Public Dialogues: Important companions to the Transatlantic Economic Partnership initiative are the various private dialogues among European and American businesses, labor organizations and environmental and consumer groups. The first of these to be established, the Transatlantic Business Dialogue (TABD), is a forum in which American and European business leaders can meet to discuss ways to reduce barriers to U.S.-European trade and investment. Other dialogues – the Transatlantic Labor Dialogue (TALD) and the Transatlantic Consumer Dialogue (TACD), along with the Transatlantic Environment Dialogue (TAED) – start from a similar premise, i.e., that corresponding organizations on both sides of the Atlantic should share views and, where possible, present joint recommendations to governments in both the United States and the EU on how to improve transatlantic relations and to elevate the debate among countries in multilateral fora. All of these dialogues have forwarded recommendations related to trade policy issues to governments on both sides of the Atlantic. The United States is committed to the full participation of civil society in the trade policy process and intends to cooperate closely with all the dialogues as it works to implement the TEP initiative.

2. Standards, Testing, Labeling, and Certification

A process of harmonization of technical regulations and product standards is underway within the EU. The U.S. Department of Commerce anticipates that EU legislation covering regulated products

eventually may affect half of all U.S. exports to Europe. Given this trade pattern, EU legislation and standardization work in the regulated areas is of considerable importance. Although there have been improvements in some respects, a number of problems related to this evolving EU-wide regulatory process continue to cause concerns for U.S. exporters. Among these concerns are: lags in the development of EU standards; lags in the drafting of harmonized legislation for regulated areas; inconsistent application and interpretation by Member States of the legislation that is in place; overlap among directives dealing with specific product areas; gray areas among the scope of various directives; and unclear or unnecessary marking and labeling requirements for these regulated products before they can be placed on the market.

In December 1998, the United States and the EU began implementation of the U.S.-EU Mutual Recognition Agreement (MRA) – in sectors representing over $50 billion of annual two-way trade. The MRA is designed to reduce duplicative conformity assessment procedures, while maintaining our current high levels of health, safety and environmental protection. Once fully implemented, the MRA will permit U.S. exporters to conduct required conformity assessment procedures (such as product testing and inspection) in the United States according to EU requirements, and vice versa. The sectors covered by the current MRA include: telecommunications and information technology equipment; network and electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft. The recreational craft annex entered the operational phase in June 2000; and the telecommunications equipment and EMC annexes entered the operational phase in January 2001.

Over the past year, the United States continued work to enhance regulatory cooperation and reduce unnecessary technical barriers to transatlantic trade. Under the Transatlantic Economic Partnership (TEP), the United States and EU advanced our bilateral regulatory cooperation workplan in 2000 by advancing negotiations for an MRA on marine safety equipment and a completing a framework for cooperation on calibration. We made substantial progress on agreed guidelines and principles for effective regulatory cooperation and more transparent regulatory procedures. In addition, the TEP will be used to conclude precedent-setting mutual recognition agreements and other cooperation in the services field – beginning with sector-specific negotiations in the areas of insurance, engineering services and architectural services.

3. Telecommunications

Europe is in the process of implementing wide-ranging liberalization and harmonization in its telecommunications services market and is undergoing a process to update its telecommunications legislation. The European Community and its Member States, with limited exceptions, committed to provide market access, national treatment, and fair regulatory practices as part of the WTO Basic Telecommunications Agreement. Greece, Ireland, Portugal, and Spain made subsector-specific reservations in the WTO agreement, mirroring derogations granted under EU law that permit an extra one to five years before the introduction of competition. Ireland and Spain abandoned these derogations and, as of January 1, 1999 and December 1, 1998 respectively, opened their markets to full competition. Portugal's derogation has also ended and Greece's was scheduled to end at the end of 2000.

The record of implementation under the agreement so far is mixed. Many Member States have begun licensing new entrants, and have begun taking the steps necessary to compel former monopolies to meet pro-competitive obligations set forth in the WTO Agreement. However, some governments have been slow to adopt or put in place the legislative and regulatory mechanisms necessary to implement EU directives. The European

Commission's competition directorate, formerly DG-IV, has taken an active stance in bringing actions for noncompliance with EU directives in order to compel implementation.

Europe is also in the process of privatizing state-owned telecommunications firms, but in some countries, this process has proceeded slowly. About half of the incumbent operators in EU Member States remain primarily government owned, including France, Germany, Austria, Belgium, Luxembourg, Sweden, Finland, and Greece.

4. Aircraft

Throughout 2000, the United States pressed the European Commission and Airbus consortium governments for details of EU plans for official financial assistance for the launch of Airbus' A3XX superjumbo jetliner project. Specifically, the United States asked for discussions regarding the terms and conditions of that financing, to ensure that those terms and conditions complied with the EU's obligations under the 1992 U.S.-EU Agreement Concerning the Application of the WTO Agreement on Trade in Civil Aircraft and the WTO Agreement on Subsidies and Countervailing Measures. In December 2000 and January 2001, the two sides held technical discussions on financing of the A3XX (officially unveiled as the A380 by Airbus on December 19, 2000) and other issues associated with trade in large civil aircraft.

5. Foreign Sales Corporation Tax Rules

Potentially the most damaging of the trade disputes currently involving the U.S. and the EU is the EU's complaint to the WTO that the U.S. Foreign Sales Corporation (FSC) tax rules are an illegal export subsidy. The United States lost this case on appeal in spring 2000, but repealed the FSC and enacted new legislation in November which correct the shortcomings identified in the dispute. Though the United States and the EU agreed in September 2000 on procedures which would permit WTO legal review of the new legislation, the EU has nonetheless requested permission ultimately to retaliate against up to $4 billion in U.S. exports should the new measure be found inconsistent with WTO rules, as the EU charges. The WTO's review of the legislation is expected to be completed by the middle of 2001. In the U.S. view, the EU's WTO challenge does not arise out of substantive commercial problems of EU businesses. To the extent that European industry has spoken out on this issue, it has been to counsel against escalation and confrontation and to urge a reasonable settlement of the dispute.

6. EU Banana Regime

In 1997, the United States won two WTO proceedings (before a WTO panel and the WTO Appellate Body) against the EU's discriminatory banana regime, which has been in effect since 1993. The WTO found that the EU had violated numerous provisions of the GATT and GATS. The WTO determined that the EU had deliberately confiscated a major share of the banana business developed by United States and Latin American companies and transferred it to EU companies and EU domestic banana growers. The WTO also determined that the EU unfairly restricted imports of bananas grown in Latin American countries compared to imports from the EU's former colonies.

In 1999, the United States won a WTO arbitration that determined that the EU banana regime is hurting the U.S. economy by over $191 million each year – i.e., over $1.3 billion since 1993 – and authorized U.S. retaliation in the form of 100 percent duties on selected EU products. The United States took this action after nearly a decade of trying to convince the EU to honor its international trade commitments and after the EU had lost two cases in the GATT.

U.S. policy consistently has been to press the EU to adopt a WTO-consistent banana regime that enables the vulnerable Caribbean countries to continue exporting their bananas. U.S. officials have presented the EU several proposals that would

do just that, and have coordinated these views with Latin American countries involved in this dispute. The Caribbean countries themselves recently submitted a proposal to the EU that would achieve these twin goals. The United States has endorsed the Caribbean proposal; the EU has not. The United States will continue to press the EU to comply with its WTO obligations, including by intensifying on-going negotiations with the Commission, consulting with EU Member States, and raising the issue in the WTO Dispute Settlement Body.

7. Ban on Growth Promoting Hormones in Meat Production

The EU continues to ban the import of U.S. beef obtained from cattle that have been treated with growth promoting hormones. In 1996 the United States challenged the EU ban on U.S. beef in the WTO. In June 1997, a WTO panel found in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the ban was not based on a scientific risk assessment. In January 1998, the WTO Appellate Body upheld the panel's finding that the EU's ban on imported meat from animals treated with certain growth-promoting hormones is inconsistent with obligations under the WTO SPS Agreement.

In 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with the WTO rulings by the May 13, 1999 deadline. In July 1999, the United States applied 100 percent duties on $116.8 million of U.S. imports from the EU after receiving WTO authorization.

The United States has recently engaged in discussions with the EU on the possibility of reducing the level of retaliation in exchange for improved market access for U.S. non-hormone treated beef. However, as of December 31, 2000, the two sides had not reached an agreement on this matter.

8. Approval of Biotechnology Products in the EU

EU legislation covering biotechnology has proven to be unpredictable, cumbersome, and non-transparent, and the EU's approval system has ceased to function. While in the past the EU approved several U.S. agri-biotech products, no U.S. agri-biotech products have been approved since April 1998. In June 1999, some of the EU's Environmental Ministers declared a moratorium on new approvals of agri-biotech products until amendments are completed to the EU's Directive 90/220, which governs approval of agri-biotech products. The United States has lost $200 million annually in corn sales since 1998 because of continued approval delays for other agri-biotech corn varieties.

The United States continues to press concerns about the EU's regulatory processes for approving agri-biotech products and is continuing a dialogue with the EU on these issues. Both sides agreed in late 1998 to use the Transatlantic Economic Partnership (TEP) to set up a Biotechnology Group to identify and address differences in regulatory processes that delay the approval process in the EU. This Group met periodically during 1999 and 2000 and will continue in 2001 with a meeting in February. In addition, President Clinton and EU Commission President Prodi agreed to a high-level dialogue to address a wide range of issues involving this technology. These senior officials have met several times in 1999 and 2000 to address these issues, including market access obstacles. In the TEP Biotechnology Group, the U.S. presented a proposal in May 2000 aimed at restoring U.S. corn exports to the EU. U.S. and EU experts have engaged in a useful technical dialogue to reach a common understanding on mutually acceptable sampling and testing methodologies to detect unapproved varieties. This work should facilitate reaching an agreement in 2001 that will enable trade in corn to resume.

9. Veterinary Equivalence

As a part of the Single Market initiative, the EU harmonized its animal and public health standards among Member States. In harmonizing these standards, the EU introduced new import controls for animal and animal products that threatened to disrupt U.S. exports to the EU. On April 30, 1997, USDA announced that the United States and the European Union had reached an agreement on an overall framework for recognizing each other's veterinary inspection systems as equivalent. The agreement is expected to open new opportunities for red meat exports and preserve most pre-existing trade in products such as pet food, dairy and egg products. Without this agreement, U.S. exports of some products, including egg products and dairy products, would have been blocked from the EU market unless U.S. industries invested in costly adjustments to their facilities to comply with each EU internal market requirement. The agreement, which covers more than $1.5 billion in U.S. animal and animal product exports to the EU and an equal value of EU exports to the United States, was signed on July 20, 1999 and became effective on August 1. In July 2000, the Joint Management Committee created by the agreement met for the first time. Agreement was reached on an approach to resolve differences concerning short audit processes and a working group was formed to harmonize auditing procedures for the long term. Progress was also made on selected animal health issues.

While conditions for trading poultry and poultry products will be less restrictive under the agreement, U.S. poultry plants using certain anti-microbial treatment are not able to ship to the EU. The EU will not accept our use of certain anti-microbial treatments such as chlorine despite the fact that such treatments are an important element in modern poultry and red meat processing. The United States continues to explore ways of resolving this issue in connection with its overall review of implementation of the Equivalence Agreement.

10. Wine

U.S.-EU wine negotiations were successfully launched in 1999 following several years of discussions concerning various market access problems. The negotiations became possible when, in response to U.S. insistence, the EC Council in December 1998 approved an extension of the existing derogations for U.S. wine making practices for five years or until an agreement is reached, whichever comes first. EC Commission and U.S. negotiators met several times in 1999 and 2000, gaining valuable information about each other's regulatory systems for wine that will help them achieve a bilateral agreement. The United States continues to be concerned about the EU's requirements for the review and approval of wine making practices, and has questioned the EU's export subsidies and subsidies to its grape growers and wine producers. A major EU concern is the use of semi-generic names on some U.S. wines. Other issues include tariffs, approval procedures for labels, the use of certain terms on labels, and import certification. The United States will continue to press the EU to give U.S. wine makers equitable access to the EU wine market. Negotiations slowed in the second half of 2000 while the EC Commission consulted with stakeholders. In late 2000 the EU Council agreed on new guidelines for EC negotiators. Negotiations are expected to accelerate in 2001 starting with a session in February.

E. Mediterranean/Middle East

Overview

U.S. trade relations with the countries of Northern Africa and the Middle East, while to date relatively modest, have considerable potential value in terms of both U.S. commercial and foreign policy interests. The U.S.-Jordan Free Trade Agreement (FTA) and the U.S.-Israel Free Trade Agreement, together with the Trade and Investment Framework Agreements (TIFAs) established with several countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the

development of intra-regional trade.

2000 Activities

1. U.S.-Jordan Free Trade Agreement

The U.S.-Jordan Free Trade Agreement (FTA), signed on October 24, 2000, will eliminate virtually all tariffs on industrial goods and farm products within 10 years, as well as commercial barriers to bilateral trade in goods and services originating in the United States and Jordan. The FTA includes, for the first time ever in the text of a trade agreement, substantive provisions on electronic commerce. Other provisions address intellectual property rights protection, balance of payments, rules of origin, safeguards, labor, environment, and procedural matters such as consultations and dispute settlement. Because the United States already has a Bilateral Investment Treaty with Jordan, the FTA does not include an investment chapter.

The agreement builds on other U.S. initiatives in the region, designed to encourage economic development and regional integration. These include the 1985 U.S.-Israel Free Trade Agreement and its extension to areas administered by the Palestinian Authority in 1996, and the 1996 Qualifying Industrial Zone (QIZ) program.

2. Qualifying Industrial Zones

In 2000, USTR further expanded the establishment of Qualifying Industrial Zones (QIZs) by designating five additional QIZs in the region in order to help attract investment and strengthen economic integration in the region: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999, the Industrial Park in Gateway, Al-Kerak Industrial Estate, Ad-Dulayl Industrial Park, and Al-Tajamouat Industrial City in Jordan. The first QIZ in Jordan, Irbid, opened in 1998.

These actions were pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Israel and Jordan and Israel and Egypt. The President issued a November 1996 proclamation delegating the authority to designate qualifying industrial zones to the United States Trade Representative and providing duty-free treatment to products of the West Bank and Gaza.

The United States continues to designate additional Qualifying Industrial Zones (QIZ), further increasing employment and investment, and encouraging stability in a volatile region. The growing number of QIZs testifies to the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs are increasingly offering participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits of QIZs.

3. Trade and Investment Framework Agreements

In 2000, the United States worked toward concluding Trade and Investment Framework Agreements (TIFA) with Tunisia and Algeria. TIFA agreements were previously negotiated with key regional partners, Egypt, Jordan, Turkey, and Morocco. Each TIFA establishes a bilateral Trade and Investment Council that enables USTR-chaired representatives to meet directly with their counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment. In 2000, Trade and Investment Council talks with the Government of Turkey were inaugurated and the second TIFA Council discussions with the Government of Morocco were held to review

bilateral and regional trade and investment issues such as improving market access for U.S. industrial and agricultural products, improving intellectual property rights protection, and promoting duty-free e-commerce.

4. WTO Accession

Oman successfully acceded to the WTO in 2000. Negotiations on Saudi Arabia's accession to the WTO continue, in which the United States insists on entry based on implementation of WTO provisions upon accession and commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

5. Intellectual Property Rights

Intellectual property rights protection remains a leading priority in the Mediterranean region. Because of continuing concerns with Israeli efforts to reduce and eliminate piracy of intellectual property, Israel remained on the "Special 301 Priority Watch List" in 2000. Egypt and Turkey are also on the Priority Watch List, while Kuwait, Lebanon, Oman, Qatar, and Saudi Arabia are on the Watch List. The UAE was removed from the list in recognition of its efforts to adequately and effectively protect IPR.

F. Central Europe and the Newly Independent States

Overview

In order to ensure a permanent end to the Cold War, the United States has been actively supporting political and economic reforms in Central Europe (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, Lithuania, Croatia, Albania, Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia-Montenegro) and the Newly Independent States (NIS) (Russia, Ukraine, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, Tajikistan, Turkmenistan, and Uzbekistan). The U.S. Government has been striving to construct a framework for the development of strong trade and investment links between the United States and Central Europe and the NIS. This approach has been pressed on both bilateral and multilateral fronts. Bilaterally, the United States has negotiated trade agreements to extend Normal Trade Relations (formerly referred to as "most-favored nation" or "MFN") tariff treatment to these countries and to enhance intellectual property rights protection; extended Generalized System of Preferences (GSP) benefits to eligible countries; and negotiated bilateral investment treaties (BITs) to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, USTR strives to ensure that Central Europe and the NIS satisfy their bilateral and multilateral trade obligations, as well as comply with U.S. trade laws and regulations, such as those governing eligibility for participation in the GSP program.

2000 Activities

1. Normal Trade Relations Status

Russia, Ukraine, and nine of the other NIS republics within the region receive conditional NTR tariff treatment pursuant to the provisions of title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment. As part of U.S. sanctions policy related to the conflict in the region, the President revoked NTR from Serbia-Montenegro. While certain sanctions against Serbia-Montenegro were lifted in 1996 pursuant to the peace accords negotiated in Dayton, Ohio, NTR tariff treatment was not restored.

Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to any non-market economy that was not eligible for such treatment in 1974 and that the President determines denies or seriously restricts or burdens its citizens'

right to emigrate. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, the President can determine that an affected country complies fully with the legislation's emigration requirements and report on this status semi-annually. Affected countries must also have a trade agreement with the United States, including certain specified elements to obtain conditional NTR status.

The President has determined that Russia, Ukraine and all of the other NIS republics, with the exception of Belarus; are in full compliance. Belarus continues to receive NTR tariff treatment under annual waivers. Congress must enact a law to terminate application of Title IV to a country. In 2000, pursuant to specific legislation, the President terminated application of Title IV to the Kyrgyz Republic, Albania and Georgia.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States has invoked the "non-application" provisions of WTO. In such cases, the United States and the other country do not have "WTO relations" which, among other things, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its accession package. (See Chapter II for further information.)

2. Intellectual Property Rights

Since the United States has concluded bilateral agreements covering intellectual property rights (IPR) protection throughout Central Europe and the NIS, today USTR concentrates principally on ensuring compliance by these countries with their international IPR obligations. In 2000, the transitional period granted developing countries and formerly centrally planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of the compliance of the WTO Members in the region with the TRIPS Agreement. The U.S. Government has cooperated with and provided technical assistance to the countries in the region to help improve the level of IPR protection. Much of USTR's focus in the region is on improving enforcement of existing IPR legislation. Copyright and trademark piracy has been a widespread and serious problem throughout much of Central Europe and the NIS. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

Four IPR issues in the region merit special mention:

a. Ukraine - Optical Media Piracy

Ukraine has become the leading producer and exporter of pirated compact discs (CDs) in Europe. U.S. industry estimated that in 1999 pirates exported over 35 million pirated CDs to Europe and elsewhere, which represented over $200 million in lost revenues. Ukraine also fails to provide copyright protection for pre-existing sound recordings in a manner inconsistent with international obligations and the 1992 bilateral trade agreement. In June 2000, Ukrainian President Kuchma committed to a plan of action to stop the unauthorized production of CDs and to enact legislation to outlaw such piracy by November 1, 2000. Consequently, the USTR agreed to postpone until December 2000 a decision to designate Ukraine a "Priority Foreign Country" under Special 301, which could lead to the imposition of trade sanctions and also the withdrawal of trade preferences under the U.S. Generalized System of Preferences (GSP) program. In light of the submission of key legislation to parliament, the USTR postponed until March 1, 2001, a decision on identifying Ukraine as a "Priority Foreign Country." This would allow Ukraine some additional time to fulfill the action plan.

b. Hungary and Slovenia - Protection of

Confidential Test Data

USTR places a high priority on protecting the confidential test data submitted by pharmaceutical firms to health authorities in order to obtain marketing approval. This test data typically requires millions of dollars and years of research to develop, and so innovators have a strong interest in preventing potential copiers from being able to rely on the data to obtain their marketing approvals. USTR seeks to ensure that WTO Members provide the protection of confidential test data (so-called "data exclusivity") specified in Article 39.3 of the TRIPS Agreement. The United States usually provides five years of exclusivity for confidential test data, and the EU requires its members to provide 6-10 years of exclusivity. Data exclusivity is an important issue in U.S. relations with countries of Central Europe, because at present many pharmaceutical products of U.S. firms do not yet enjoy product patent protection there. Many foreign pharmaceuticals, at best, receive process patents, a relatively weak form of protection. Over the next five years, this vestige of the transition from socialist economic regulations will diminish in importance as new products gain product patent protection. For those drugs without product patent protection, however, data exclusivity can take on special importance. Accordingly, USTR has been pressing the Central European countries - especially Hungary and Slovenia with their large generic drug industries - to provide data exclusivity. In November 2000, USTR initiated Out of Cycle Reviews under Special 301 for both countries because of this issue.

c. Poland and the Czech Republic - Protection for Sound Recordings

Poland and the Czech Republic failed to meet their obligation under the TRIPS Agreement to provide by January 1, 2000, fifty-year protection to sound recordings, including pre-existing recordings. Much of the U.S. recording industries' repertoire of sound recordings would benefit from this protection. A USTR-led effort contributed to Poland and the Czech Republic finally enacting legislation to provide this copyright protection to sound recordings in 2000.

d. The Russian Federation - Widespread Piracy

Russia has enacted comprehensive laws to protect IPR, but certain major deficiencies remain. Most notably, enforcement of IPR remains a pervasive problem. The prosecution and adjudication of intellectual property cases remains weak and sporadic, there is a lack of transparency, and a failure to impose deterrent penalties. Russia's customs administration also needs significant strengthening. Piracy of U.S. films, videos, sound recordings, and computer software remains pervasive. Russia has yet to provide protection, as required by our 1990 bilateral trade agreement, to pre-existing U.S. copyrighted works and sound recordings still under protection in the United States. Some U.S. companies have also had difficulty registering well-known marks, and trademark infringement is reportedly on the rise. In May 2000, Russia was again placed on the Special 301 "Priority Watch List" because of these and other problems. In 1998, the U.S. Government began a U.S. Government-wide IP law enforcement technical cooperation program with Russia. Since 1998, this group has intensified technical assistance on both enforcement and WTO requirements. On enforcement, the GOR has been able to show increases in investigations, but no progress in prosecution of cases.

3. Generalized System of Preferences

Under the Generalized System of Preferences (GSP) program, developing countries are eligible to receive duty-free access to the U.S. market for many items, if it is determined that these countries meet certain statutory criteria. All of the Central European countries (other than Serbia-Montenegro) and most of the NIS participate in the GSP program. Azerbaijan, Tajikistan and Turkmenistan have never requested designation as a beneficiary under the U.S. GSP program and, therefore, are not eligible to receive benefits under the program.

Georgia petitioned in 1997 for eligibility as a GSP beneficiary country; that petition is under review.

In 1997, the Government of Russia petitioned the U.S. for duty-free treatment under the GSP program for exports of both unwrought titanium and wrought titanium. On July 1, 1998, the President granted the request on wrought titanium. The petition on unwrought titanium was "pended" based on the situation in the U.S. titanium industry. Since 1997 and throughout 2000, Russia has expressed a continuing interest in a GSP designation for unwrought titanium; however, the domestic industry faces a situation of weakened demand and depressed prices.

In 2000, USTR examined the eligibility of several countries under the U.S. GSP program. The President announced that, as mandated by the GSP statute, Slovenia will graduate from the GSP program on January 1, 2002, because the World Bank has determined that Slovenia has become a "high income" country. In 1997 the AFL/CIO petitioned USTR to remove Belarus from eligibility for the GSP program due to violation of worker rights. After conducting an extensive review process, including public hearings, and after affording the Government of Belarus ample time to improve its worker rights situation with no progress on this front, Belarus's GSP benefits were suspended in 2000.

In 2000, USTR commenced reviews on the continued eligibility of Ukraine, Armenia, Moldova, Kazakhstan and Uzbekistan under the U.S. GSP program, due to concerns that these countries were not providing adequate and effective protection of intellectual property rights as required by the GSP statute and as agreed to in the bilateral trade agreements that all of these countries entered into with the United States in the early 1990s. (See section on Intellectual Property Rights above.) In late 2000, based on significant improvement in Moldova's intellectual property rights regime since the initiation of the GSP review process, the U.S. copyright industry, which had petitioned USTR to conduct these reviews, withdrew its petition with respect to Moldova. In 2000, the USG also initiated bilateral consultations with both Armenia and Uzbekistan designed to improve the protection and enforcement of intellectual property rights in these countries.

Further, the U.S. GSP legislation contains a provision that makes a country ineligible for GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, which has a significant adverse effect on U.S. commerce. The U.S. Government has been consulting with the Central European countries about addressing the problem of preferential tariffs given EU exporters vis-a-vis U.S. exporters pursuant to their Association Agreements with the EU. (See section on EU Association Agreements and EU Membership below.)

4. The Southeast Europe Trade Preference Act

On November 12, 1999, the Administration transmitted a draft bill, the "Southeast Europe Trade Preference Act" (SETPA), to Congress for its consideration. The SETPA would implement, in part, the United States' commitments to the countries of Southeast Europe pursuant to the Southeast Europe Trade Expansion Initiative announced at the Sarajevo Summit in July 1999. The SETPA would promote economic development and stability in Southeast Europe by increasing access to the U.S. market and facilitating regional investment. The SETPA, which is patterned after the Andean Trade Preference Act, would provide the authority to establish duty-free treatment of certain imports from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania, Slovenia, and the territories of Kosovo and Montenegro on the basis of specified criteria. Duty-free treatment under the SETPA would extend for a period of five years in order to provide investors adequate time to take advantage of the unilateral preferences that the program offers. With respect to the technical assistance component of the

Southeast Europe Trade Expansion Initiative, the United States and the Government of Hungary co-hosted a widely-attended conference on "Southeast Europe and the World Trade Organization" in Budapest, Hungary in April 2000.

5. WTO Accession

Prior to the end of 2000, virtually all of the Central European countries (Poland, Hungary, the Czech Republic, Slovakia, Romania, Albania, Slovenia, Croatia, Latvia and Estonia) and two NIS countries (the Kyrgyz Republic and Georgia) had become members of the WTO. Lithuania completed negotiations for membership in December 2000 and Moldova is expected to complete its accession process in early 2001.

WTO accession working parties have been established for an additional seven NIS countries (the Russian Federation (see section on Country Specific Issues below), Ukraine, Armenia, Azerbaijan, Belarus, Kazakhstan, and Uzbekistan) and two Central European states (Bosnia-Herzegovina and the Former Yugoslav Republic of Macedonia). Serbia-Montenegro has applied for WTO membership. Neither Turkmenistan nor Tajikistan has yet applied for observer status or membership in the WTO.

The United States supports accession to the WTO on commercial terms and on the basis of implementation of WTO provisions. WTO accession and the adoption of WTO provisions can be an important method of supporting economic reform. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in support of the WTO accession process. (See Chapter II for further information on accessions.)

6. Bilateral Trade Agreements and Bilateral Investment Treaties

The United States has some form of bilateral trade agreement with all of the Central European and NIS countries. In addition to these general trade agreements, the United States has concluded a variety of trade agreements concerning specific product areas with various Central European countries and the NIS, such as regarding firearms with Russia, textiles with Romania and Macedonia, poultry with Poland and Russia, and commercial space launch services with Russia and Ukraine (see below).

Bilateral Investment Treaties (BITs) protect U.S. investment abroad in countries where U.S. investors' rights are not protected through existing agreements such as our Treaties of Friendship, Commerce and Navigation. The United States has placed a priority on negotiating BITs with countries undergoing economic reform, in which we believe that we can have a significant impact on the adoption of liberal policies with respect to the treatment of foreign direct investment. BITs also lay the policy groundwork for joining the WTO. BITs provide that U.S. companies will be treated as favorably as their competitors (by providing the better of national or NTR treatment). In addition they: (1) establish clear limits on the expropriation of investments and ensure prompt, adequate, and effective compensation when expropriation occurs; (2) guarantee U.S. investors the freedom to transfer funds in and out of a country without delay, using a market rate of exchange; (3) restrict the ability of local governments to require inefficient and trade distorting practices by prohibiting performance requirements such as local content or export quotas; (4) give U.S. investors the right to submit an investment dispute with the Treaty partner's government to international arbitration; and (5) give U.S. investors the right to engage the top managerial personnel of their choice, regardless of nationality.

In Central Europe, the United States has BITs in force with Albania, Bulgaria, the Czech Republic, Estonia, Latvia, Poland, Romania, and Slovakia. Of the NIS, the United States currently has BITs in force with six countries (Armenia, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, and Ukraine) and has signed BITs with two others (Belarus and Russia) for which the formal process

of ratification has not been completed. In 2000, the U.S. Senate gave its advice and consent to ratify the BITs that the United States had concluded with Croatia, Lithuania, Azerbaijan and Uzbekistan. In September 2000, Lithuania completed the ratification processes for its BIT with the United States. The United States held consultations with Slovenia on a BIT, but significant differences remained outstanding. After bilateral discussions, Hungary opted not to conclude a BIT with the United States.

7. Commercial Space Launch

Russia

On September 2, 1993, the agreement on Russia's participation in the commercial space launch market entered into force. The agreement gave Russia an opportunity for its space launch industry to participate in the international launch services market and offered Western satellite companies an additional source of competitive launch capacity. It also provided general rules of the road for fair competition in commercial space launches and required Russia to charge prices comparable to those of Western launch providers for similar services during the period of its space launch industries' transition to market-based operations. As originally concluded, the agreement afforded Russia the opportunity to compete for contracts to launch up to eight commercial payloads to geosynchronous earth orbit (GEO) for international customers (in addition to the INMARSAT 3 satellite and three launches to low-earth-orbit for the Iridium system) between signature and December 31, 2000. The agreement was amended on January 30, 1996 to allow Russia the opportunity to launch up to 15 commercial payloads (in addition to INMARSAT 3) to GEO, with four more launches possible if future market demand proved more robust than anticipated. The amendments also gave Russia additional flexibility on pricing in exchange for greater transparency in price setting, and liberalized rules governing the launch of satellites to low-earth orbit.

In late 1998, the United States informed the Russian Government that it could not foresee increasing the quantitative restriction on GEO launches until Russia showed greater cooperation in preventing the transfer of missile technology to nations such as Iran. By July of 1999, the United States decided that Russian cooperation in the non-proliferation area was sufficient to permit an amendment to the agreement providing for an increase in the number of GEO launches from 16 to 20 (market demand had not developed to the point where the "conditional" increase of four launches mentioned above could be justified). The amendment permitting the increase of four launches became effective in late 1999. In December 2000, the United States decided and informed the Russians that the commercial objectives of the agreement had been met and that U.S.-Russian cooperation in the non-proliferation area was of a nature that would allow the agreement to expire on schedule on December 31, 2000.

Ukraine

The agreement governing Ukraine's entry into the commercial space launch market entered into force on February 21, 1996. The agreement with Ukraine was meant to serve the same basic function as the pre-existing agreements with China and Russia, and its provisions were broadly similar to those of the other two agreements. The agreement afforded Ukraine the opportunity, between signature and December 31, 2001, to launch up to 16 commercial payloads to GEO for international customers (11 of which had to be reserved for a joint venture involving a U.S. company). In addition, Ukraine was given the opportunity to launch up to four more commercial payloads (three of which had to be reserved for a joint venture with a U.S. firm) to GEO if future market demand proved more robust than anticipated. The liberalized rules governing pricing and launches to low-earth-orbit contained in the China and amended Russia agreements were

mirrored in the agreement with Ukraine.

On June 5, 2000, the United States and Ukraine announced their mutual agreement to terminate the space launch agreement immediately, in advance of its originally scheduled December 31, 2001 expiration date. This decision reflected the determination that the commercial objectives of the agreement had been met and that U.S.-Ukrainian cooperation on non-proliferation matters was exemplary.

8. EU Association Agreements and EU Membership

The United States has been strongly supportive of the integration of the Central European countries into Western Europe. Ten Central European countries (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, and Lithuania) have concluded Association Agreements (often called "Europe Agreements") with the EU. These Europe Agreements are meant to set the stage for eventual EU membership. The EU is not expected to accept new members before 2004, and many predict that enlargement may take significantly longer, especially for the less developed of the candidate countries. The Europe Agreements provide for the reduction to zero of virtually all tariff rates on industrial products and preferential rates and quotas for many agricultural products. In 2000, the EU and all the candidate countries agreed to reduce their tariffs rates to zero for the vast majority of each other's agricultural products. The candidate countries' Most Favored Nation (MFN) tariff rates on industrial goods are generally higher, and the rates on agricultural goods are usually lower, than comparable EU rates. Consequently, U.S. exporters often face relatively high MFN tariff rates in contrast with the zero or preferential rates borne by EU exporters. Much of this tariff differential problem with respect to industrial goods will dissipate when the candidate countries join the EU and adopt its generally low industrial tariff rates.

In the interim period prior to these countries' accession to the EU, the United States has been consulting with the Central European countries to address this tariff differential problem. In 2000, the United States held talks with Poland, the Czech Republic, Hungary, Slovenia and Romania on this issue. Slovenia has announced a plan to lower its high MFN tariff rates on industrial products to the level of the EU's common external tariff rates over a three-year period. The Czech Republic and Slovakia agreed to tariff waivers in 2001 for civil aircraft and key parts. (See section on Country Specific Issues below.)

As part of the accession process, the candidate countries are harmonizing their laws and regulations to those specified in the EU's common legislative regime, the "acquis communautaire." Frequently, harmonization represents an improvement over the existing regimes in the candidate countries. In the case of audio-visual policy, however, candidate countries must harmonize their laws with the EU's Broadcast Directive, which establishes broadcast quotas for European and domestic production on television. This directive provides a country with flexibility in implementing the quotas. In 2000, USTR continued to work with the candidate countries to encourage them to include the flexibility option in their legislation.

The EU and several of the candidate countries (Hungary, the Czech Republic and Latvia) in 2000 concluded Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (called "PECAs"). These first three PECAs will enter into force in 2001, and the EU is likely to conclude PECAs with the other EU candidate countries. It is the United States' understanding that the provisions for recognition of conformity assessment results would eliminate the need for further product testing and certification of EU-origin products covered by the PECAs. It is unclear how these provisions would affect products originating in countries not party to the PECAs, including products tested and certified to EU requirements pursuant to a bilateral Mutual

Recognition Agreement. The United States is concerned that third-country products which do not originate in the EU bearing a valid "CE" mark granted by an EU-recognized notified body may have to undergo redundant testing upon importation to Hungary, the Czech Republic, and Latvia.

9. Country Specific Issues

The United States continued to encounter a number of country specific trade issues in the region, which were not described above. The major items are discussed below:

a. Russia: Potential Restrictions on Investment

The United States was active in opposing proposed Russian legislation which could potentially have deprived U.S. investors and services providers of meaningful market access. In late 1999, a restrictive draft companion law to Russia's Foreign Investment Law, which was passed in July 1999, entitled "On Bans and Restrictions on Foreign Investment into the Russian Federation," was passed by the Duma in first reading. The U.S. Government continues to work with the government of Russia to avoid this law, and any other such restrictive legislation that could have the effect of restricting foreign investment. While we have registered our concerns with an overall positive effect, forces in the Russian Parliament may still pursue similarly restrictive legislation. The United States will continue to monitor carefully legislative developments in these areas and will continue to work with the government of Russia to clarify and strengthen its existing investment regime.

b. Russia: Product Standards, Testing, Labeling and Certification

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, we continue to urge Russia to bring its standards and certification regime into compliance with international practice. The Russian Government is now attempting to put in place the necessary legal and administrative framework to establish standards procedures and processes for certification and licensing of products in Russia in order to better align with WTO rules.

There has been some movement to eliminate duplication among regulatory agencies and to clarify categories of products subject to certification. However, businesses are still experiencing difficulties in getting product approvals in key sectors. Manufacturer declaration of conformity is now feasible under Russian law, but is not yet widely used. In 1998, the Russian State Committee on Standards adopted a new nomenclature of goods subject to mandatory certification, effective January 1, 1999, and the Russian Government has been moving to revise problematic legislation, as provided under its Technical Barriers to Trade action plan.

Certification is a particularly costly and prolonged procedure in the case of telecommunications equipment. In many sectors, type certification or self-certification by manufacturers is currently not possible. Veterinary certification is often arbitrary and needs to be more transparent and based on science. Russian phytosanitary import requirements for certain planting seeds (notably corn, soybeans and sunflowers) appear to lack scientific basis and have blocked imports from the United States. Discussions to ease or eliminate burdensome Russian requirements are ongoing.

c. Russia: WTO Accession

Russia has been an observer in the GATT and WTO since 1990 (initially as the Soviet Union), and formally applied for accession to the GATT 1947 in 1993. Its request for WTO accession has been under discussion since 1995. The United States has strongly supported Russia's efforts to join the GATT and WTO, through active participation in the WTO Working Party established to conduct the negotiations and through

technical assistance on how to move Russia's trade regime into conformity with WTO rules. In a series of Working Party meetings through December 2000, Russia described its trade regime and WTO delegations noted specific aspects of the trade regime that require legislative action to become compatible with the WTO. The United States and Russia also continued bilateral discussions on Russia's offers on goods and services market access throughout 2000. WTO-based reforms to Russia's trade regime will strengthen its ongoing efforts for broader-based market-oriented economic reform and can help Russia integrate more smoothly into the global economy. Adopting WTO provisions will give Russia a world-class framework for intellectual property protection, customs duties and procedures, and application of other requirements to imports that will encourage increased investment and economic growth. Russia recently indicated an interest in accelerating the negotiations, and has taken steps to begin development of new and amended laws and regulations to bring it into conformity with WTO provisions. Completion of the accession negotiations will depend on how rapidly Russia implements WTO rules and moves to conclude negotiations on goods and services with current WTO members.

g. Russia: Aircraft Market Access

The United States and Russia concluded a joint Memorandum of Understanding (MOU) in 1996, which addresses U.S. concerns about access to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. Under the MOU, the Russian Federation confirmed that it will become a signatory to the WTO Agreement on Trade in Civil Aircraft. In the interim before Russia accepts its full international trade obligations, the MOU commits the Russian Federation to provide fair and reasonable access for foreign aircraft to its market. Russia agreed to take specific steps, such as the granting of tariff waivers and the reduction of tariffs, to enable its airlines to meet their needs for U.S. and other non-Russian aircraft on a non-discriminatory basis. Through 2000, Russian airlines have been able to import over 20 non-Russian aircraft under the MOU, the majority of which were of U.S. origin. In accordance with the MOU, the Russian Federation also lowered tariffs on aircraft from 30 to 20 percent.

e. The Czech Republic and Slovakia: Waiver of Tariffs on Civil Aircraft and Parts

The Czech Republic and Slovakia, which have a customs union, impose a 4.8% tariff rate on large civil aircraft and parts from U.S. exporters, but allow duty-free access to their markets for EU exporters. This tariff barrier posed a major impediment to the ability of U.S. firms to compete against EU firms for the over $2 billion worth of aircraft tenders to be conducted in 2001. In late 2000, the Czech Republic and Slovakia, in response to U.S Government reports, agreed to waive 2001 tariffs on large civil aircraft and key parts. This annual waiver can be renewed.

f. Romania: Minimum Reference Prices

Romania has established minimum and maximum prices for various imports, including poultry and distilled spirits. Romania also has instituted burdensome procedures for investigating import prices when the invoice value falls below the minimum import price. USTR concluded that this customs valuation regime violated Romania's WTO obligations, especially those under the WTO Agreement on Customs Valuation. In May 2000, the United States initiated a WTO Dispute Settlement case in the matter and held constructive consultations with Romanian officials in Geneva in July. A settlement of this matter could occur in early 2001.

g. Hungary: Market Access for High-Quality Beef

As part of its Uruguay Round commitments, Hungary agreed to a tariff-rate quota for imports of live cattle and beef. However, the Hungarian

Government permitted only imports of manufacturing quality beef, which prevented U.S. exporters from taking advantage of the demand for U.S. high quality beef. USTR, together with USDA, successfully persuaded the Hungarian Government to establish a special sub-quota for high quality beef finally opening that market to U.S. exporters.

G. Western Hemisphere

1. Canada

Canada is the largest trading partner of the United States with over $1 billion of two-way trade crossing our border daily. At the same time, the United States and Canada share one of the world's largest bilateral direct investment relationships. In 1999, the stock of U.S. foreign direct investment in Canada was $111.7 billion, an increase of 7.5 percent from 1998. In 1999, the stock of Canadian direct foreign investment in the United States was $79.7 billion, an increase of 6.3 percent.

a. Softwood Lumber

Canada challenged the U.S. Customs Service's reclassification of three products (rougher headed lumber and drilled/notched lumber), which places them in a tariff heading for products on which Canada is required to impose export fees under the U.S.-Canada Softwood Lumber Agreement (SLA). On October 24, 2000, the United States and Canada exchanged letters amending the U.S.-Canada Softwood Lumber Agreement (SLA) to settle the dispute over rougher headed lumber. The drilled and notched lumber dispute continues under the SLA's procedures.

After careful consultation with U.S. stakeholders, the negotiators were able to reach a settlement on the rougher headed lumber arbitration which struck a balance among the producers of competing products, users of rougher headed lumber and environmental groups. The agreement permits an additional 72.5 million board feet to enter the United States fee-free, above the current 14.7 billion board feet permitted under the SLA, in full settlement of the arbitration regarding the U.S. Customs Service's June 9, 1999, revocation of rougher headed lumber letter rulings. The additional 72.5 million board feet will enter the United States between October 2000 and March 31, 2001. This settlement is without prejudice to the merits of the Parties' claims respecting the consistency of Customs' reclassification with the Agreement.

b. Intellectual Property – Patents

On May 6, 1999, USTR initiated a WTO dispute settlement case against Canada for its failure to amend its patent law to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). When the panel ruled in favor of the United States, Canada appealed. On September 18, 2000, the Appellate Body upheld the findings of the panel, recommending that the WTO Dispute Settlement Body request Canada to "bring section 45 of its Patent Act into conformity with Canada's obligations under the TRIPS Agreement." As the United States was unable to agree with Canada on a reasonable period for implementation of the WTO's decision, the United States took the matter to arbitration on December 15, 2000. The arbitration decision is expected within the first quarter of 2001.

c. Agriculture

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. In 2000, the CCA and PSAG met twice on issues covering livestock, grain, seed, and horticulture trade as well as pesticide and animal drug regulations.

As a result of the ROU, U.S. feeder cattle exports

to Canada continue to increase from seven states. Paving the way for shipping more grain into and through Canada, in November 2000, Canada amended its plant health regulations recognizing all but four states as free of karnal bunt. In January 2000, Canada issued a new directive allowing U.S. wheat to be moved on Canadian rail to export facilities at the port of Vancouver.

Despite these accomplishments, the U.S. Government continues to have concerns about the marketing practices of the Canadian Wheat Board. On October 23, USTR initiated a Section 301 investigation of certain trade practices of the Canadian Wheat Board. In response to a petition filed by the North Dakota Wheat Commission, the twelve-month investigation will look into the Board's sales practices in the United States and third country markets.

On a related but separate track, the United States is seeking reforms to state trading enterprises as part of the WTO agricultural negotiations. The U.S. proposal calls for the end of exclusive export rights to ensure private sector competition in markets controlled by single desk exporters; the establishment of WTO requirements to notify acquisition costs, export pricing, and other sales information for single desk exporters; and the elimination of the use of government funds or guarantees to support or ensure the financial viability of single desk exporters.

In April 1999, the United States successfully challenged Canada's subsidized dairy industry. A WTO panel found that the Canadian government, through its government-managed provincial marketing boards, was subsidizing the price of exported milk through a two-tiered pricing system. In light of this finding, the Panel also concluded that Canada had violated its export subsidy reduction commitments by exporting a higher volume of subsidized dairy products than permitted by Canada's obligations under the WTO Agreement on Agriculture. The Panel also found that Canada had improperly imposed a limit on the value of milk that could be imported in any single entry under the relevant tariff-quota. This finding was sustained by an appeal panel in October 1999.

Under a negotiated implementation agreement, Canada committed to bring its export regime into compliance with its WTO export subsidy commitments on butter, skimmed milk powder and an array of other dairy products, by January 31, 2001. Although Canada eliminated one export subsidy program in this process, new programs were substituted in nine provinces. The United States is concerned that the new measures appear to duplicate most of the elements of the export subsidies which they replace. Therefore, the United States will request that the panel be reconvened to review Canada's compliance.

2. Mexico

Mexico is our second largest single-country trading partner and has been the fastest growing major export market for goods since 1993, with U.S. exports up more than 170 percent despite Mexico's 1994 peso crisis and the resulting economic contraction. The potential of trade with Mexico is just beginning to be tapped, while the benefits to workers, consumers, farmers and firms are increasingly apparent. The NAFTA has fostered this enormous relationship with its unprecedented comprehensive market opening rules. It is also creating a more equitable set of trade rules as Mexico's higher trade barriers are being reduced or eliminated. The United States has continued to seek improved access to the Mexican market in several areas.

a. Intellectual Property Rights

Piracy and counterfeiting of U.S. intellectual property in Mexico continue to be serious concerns. As has been the case in recent years, despite significant enforcement efforts, only a small percentage of raids have resulted in court decisions and deterrent penalties. To address the problem, the United States convened the U.S.-Mexico Bilateral Intellectual Property Rights (IPR) Working Group in April 2000 in Dallas and

October 2000 in Guadalajara to discuss IPR problems and review progress.

b. Standards and Technical Regulations

Technical barriers to trade have been the focus of work in the NAFTA Committee on Standards-Related Measures, and that effort will continue. The Committee's work is supplemented by higher-level discussions when appropriate. The United States has called on Mexico to fulfill its obligation to allow adequate time for public comment on new or amended regulations under the jurisdiction of the Mexican Ministry of Health.

c. Agriculture

North American agricultural trade has grown significantly since the NAFTA. Mexico is currently our third largest agricultural export market. For fiscal year 2000 (October 1999-September 2000), U.S. agricultural exports to Mexico grew by 11 percent to $6.3 billion, the highest value ever, with value-added consumer agricultural products surging 27 percent to an all-time high.

Current trade irritants include Mexico's limits on the importation and domestic consumption of high fructose corn syrup (HFCS). At the request of the U.S. Government, a dispute settlement panel was established by the World Trade Organization on November 25, 1998 to review Mexico's determination in an antidumping case against U.S. HFCS. On February 24, 2000, the panel ruled in favor of the United States. Mexico responded by refunding antidumping duties collected during a seven-month period and providing a new justification for the original duty rates, which were kept in place. In response to a request by the United States, on October 23, 2000 the WTO Dispute Settlement Body (DSB) agreed to form a panel to review whether Mexico's September 20, 2000 redetermination is inconsistent with the recommendations and rulings of the DSB. A decision is expected in the spring of 2001.

In other agricultural sectors, the United States and Mexico continue to seek to resolve a dispute over the NAFTA's sugar provisions. On April 28, 2000, Mexico announced final antidumping duties on imports of U.S. beef (boneless, bone-in and carcasses). The final antidumping margins are, in many cases, lower than those in the July 27, 1999 preliminary determination but remain a concern to the United States. In September 2000, the United States also held WTO consultations in with Mexico regarding an October 20, 1999 final resolution in Mexico's antidumping investigation of U.S. slaughter hog imports from the United States. On November 30, the United States requested consultations on its concerns about Mexico's administration of its tariff rate quota on U.S. dry bean exports.

Working with affected industries to address these problems will continue to be a high priority, particularly given the importance of continued growth in export opportunities for U.S. agricultural producers.

d. Telecommunications

Telecommunications services market barriers in Mexico's are a serious source of concern. Mexico has failed to maintain appropriate measures to prevent Telmex (Mexico's major telecommunications supplier) from engaging in anti-competitive practices; to ensure timely, cost-oriented interconnection at any technically feasible point in the network for local, long-distance, and international traffic; and to permit the cross border supply of basic telecommunications services over leased lines. In September 2000, Mexico took two positive steps by issuing rules to regulate the anti-competitive practices of Telmex and announcing significant reductions in long-distance interconnection rates for 2001. The United States remains concerned, however, over the apparent lack of willingness on the part of the regulating agency, COFETEL, to enforce the dominant carrier regulations against Telmex, which is already in violation of some of its key provisions. Rather, COFETEL appears to be

relying on the private parties to enforce the dominant carrier rules between themselves and is effectively outsourcing its regulatory function. The Government of Mexico has a WTO obligation to prevent Telmex from engaging in anti-competitive practices. We fully expect the Government of Mexico to abide by this obligation. The United States held WTO consultations with Mexico in October 2000, but failed to reach a satisfactory conclusion and in November announced that it would seek the formation of a dispute settlement panel to examine U.S. claims. On January 16, 2001, the United States conducted a second set of WTO consultations with Mexico concerning the new Mexican measures, including Mexico's dominant carrier regulations and Mexico's interconnection rates for 2001.

e. Customs Valuation

The Mexican Ministry of Finance has established minimum import prices for a specified list of products which is linked to a recently-implemented cash deposit system as part of its customs valuation procedures. Under Mexico's regime, if the declared value of an imported product is below the government-established minimum price, the importer must make a cash deposit in certain designated banks (the value of which is the difference in applicable duties) to obtain the release of the goods. In the meantime, a declared value that is not consistent with the minimum price will result in Mexican customs officials conducting an investigation to verify the declared value, often triggering requirements of additional documentation of questionable evidentiary value (such as a certification by a chamber of commerce) from the importer. Because of the added costs and paperwork burden, this system poses a serious impediment to trade. USTR has been consulting with Mexico and plans to continue to pursue the issue in 2001.

3. Brazil and Southern Cone

a. Mercosur (Argentina, Brazil, Paraguay and Uruguay)

The Common Market of the South, referred to as "Mercosur," from its Spanish abbreviation, is the largest preferential trade agreement in Latin America. It consists of Brazil, Argentina, Uruguay and Paraguay and represents over half of Latin America's gross domestic product. Chile and Bolivia are Associate Members of the group. Mercosur was established in 1991, with the goal of creating a common market. Implementation of the Mercosur customs union commenced January 1, 1995, with the establishment of a common external tariff (CET), covering some 85 percent of intra-Mercosur trade. Convergence on excepted items is slated for completion by January 1, 2006.

b. Argentina

U.S. exports to Argentina were down in 2000, but Argentina remained in the top 30 export markets of the United States. Overall bilateral trade increased, and the U.S. surplus narrowed by more than $700 million to $1.6 billion in 2000. A key factor in the Argentine economy is its trade with Brazil, Argentina's number one trading partner.

During 2000, the United States worked with the Government of Argentina to ensure the success of the next stage of the FTAA negotiations. The United States also pursued resolution of existing trade disputes, such as the lack of intellectual property protection for pharmaceuticals and Argentina's failure to comply with its Uruguay Round obligations on footwear.

Trade in agricultural commodities is another important element of our bilateral economic relationship. In 1997, Argentine beef gained entry to the United States, after Argentina demonstrated that beef from certain regions was free of foot-and-mouth disease (FMD). However, an outbreak of FMD caused suspension of Argentine beef imports in 2000. The Government of Argentina recently announced initiation of the importation of fresh and processed pork meat from the United States. Argentina has also received approval to begin limited export of its citrus to the

United States, and the United States is working to gain access for Florida citrus to Argentina. In accordance with WTO disciplines, the United States has worked on these matters using a science-based approach to assure the health and safety of animal, plant and human populations.

Intellectual Property Rights (IPR): Argentina's intellectual property rights regime does not yet meet TRIPS (WTO Agreement on Trade-Related Aspects of Intellectual Property Rights) standards and fails to fulfill long-standing commitments to the United States. Grave concerns regarding Argentina's IPR regime, particularly in pharmaceutical patent protection, have led USTR to maintain Argentina on the Special 301 "Priority Watch List" since April 1998. In 1997, the United States withdrew 50 percent of Argentina's benefits under the Generalized System of Preferences (GSP) over this same issue, and benefits will not be restored unless the concerns of the United States are addressed adequately.

Despite U.S Government efforts, intellectual property protection has been deteriorating. Bilateral IPR talks were held in April 1998 and January 1999. In August 1998, the Argentine Government eliminated the ten-year exclusivity period for confidential test data for agrochemicals, which enjoy patent protection under Argentine law. This appears to conflict with the standstill provision in TRIPS. Also in 1998, the Government of Argentina failed to provide Exclusive Marketing Rights (EMR) to a U.S. company for a qualifying pharmaceutical product. This inaction by the Argentine Government raises doubts over such rights for other U.S. firms with products in line for EMR. Given that Argentina availed itself of the TRIPS transition period and delayed implementation of patent protection for pharmaceutical products, the Government of Argentina must provide EMR to innovative products that meet several conditions set out in the TRIPS Agreement. In May of 1999, the United States initiated a WTO case against Argentina due to its failure to protect patents and test data. The United States added additional claims to this case in May of 2000, due to the fact that the TRIPS Agreement became fully applicable for Argentina in the year 2000. Several rounds of consultations have been held in Geneva, most recently in late November. Argentina's copyright laws are currently under review by the Executive Branch, and the U.S. Government is maintaining a dialogue with Argentina on this review.

c. Brazil

The United States exported goods valued at nearly $16 billion to Brazil in 2000. Brazil's market accounts for 27 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico, and 60 percent of U.S. goods exports to Mercosur.

Intellectual Property Rights (IPR): In 1997, Brazil enacted laws providing protection for computer software, copyrights, patents and trademarks. The United States has identified certain problems with some of this legislation, including a local working requirement and extensive exceptions to a prohibition on parallel imports in the patent law. U.S. industry has also voiced concerns about the high levels of piracy and counterfeiting in Brazil and the lack of effective enforcement of copyright (especially for sound recordings and video cassettes) and trademark legislation. The United States initiated a dispute settlement case in the WTO against Brazil regarding a section in its patent law which says that a patented product must be manufactured in Brazil three years from the issuance of the patent. Two sets of consultations have been held to date. Unable to resolve the issue through consultations, the United States has formally requested a WTO dispute settlement panel in this case. The U.S. pharmaceutical industry is very concerned that Brazil will use its "working requirement" as a basis for granting compulsory licenses on newly marketed pharmaceuticals. To date, however, the Brazilian government has not done so.

Autos: In March 1998, USTR signed an agreement with the Government of Brazil to terminate its

TRIMS-inconsistent (Trade-Related Investment Measures) auto regime, enacted in December 1995. The regime had offered auto manufacturers reduced duties on imports of assembled cars and auto parts and other benefits if they exported sufficient quantities of parts and vehicles and promised to meet local content targets in their Brazilian plants. The Brazilian Government committed to eliminate the trade and investment distorting measures in its auto regime and not to extend the measures to its Mercosur partners when their auto regimes were unified in 2000. Argentina and Brazil recently reached agreement on a new regime, which remains TRIMS-inconsistent. Argentina requested a WTO TRIMS extension.

d. Paraguay

With a population of just over five million, Paraguay is one of the smaller U.S. markets in Latin America. In 2000, the United States exported only a half a billion-dollars worth of goods to Paraguay. However, Paraguay is a major exporter of and a transshipment point for pirated and counterfeits products in the region, particularly to Brazil.

Intellectual Property Rights (IPR): In January 1998, the USTR identified Paraguay as a "Priority Foreign Country" (PFC) under the "Special 301" provisions of the Trade Act. In identifying Paraguay as a PFC, the USTR noted deficiencies in Paraguay's intellectual property regime, especially a lack of effective action to enforce IPR. As required under the Trade Act of 1974 as amended, the USTR initiated an investigation of Paraguay in February 1998.

During negotiations under Special 301, the Government of Paraguay indicated that it had undertaken a number of actions to improve IPR protection, such as passing new copyright and trademark laws and undertaking efforts to improve enforcement. In November 1998, USTR concluded its Special 301 investigation in light of commitments made by the Government of Paraguay in a bilateral Memorandum of Understanding (MOU). The Government of Paraguay committed to take a number of near-term and longer-term actions to address the practices that were the targets of the investigation, including implementing institutional reforms to strengthen enforcement and taking immediate action against known centers of piracy and counterfeiting. The U.S. Government is currently monitoring Paraguay's implementation of the MOU.

e. Uruguay

With the smallest population of Mercosur (just over three million), Uruguay nonetheless imported over $500 million of goods from the United States in 2000. Areas of recent consultation have included coordinating U.S efforts in multilateral fora such as the FTAA and WTO and the importance of Uruguay's apparent failure to bring its intellectual property regime into line with TRIPS standards by January 1, 2000.

f. Chile

Chile is our 32nd largest export market, purchasing nearly $3.6 billion in U.S. exports in 2000. Chile has been a recognized leader of economic reform and trade liberalization in Latin America, with growth averaging eight percent for the decade prior to Chile's economic slowdown in 1998-99. Chile's real GDP grew by approximately 6 percent in 2000 after contracting by 1.1 percent in 1999. As a resource-based, export-dependent economy, Chile was seriously affected by the global drop in commodity prices. In addition, continued sluggishness in the economies of Mercosur and Asia, two major destinations for Chilean exports, contributed to slower Chilean growth in 2000.

Chile FTA

In December 1994, the United States, Canada and Mexico announced their intention to negotiate Chile's accession to NAFTA. Several negotiating rounds were held in 1995. However, Chile withdrew from the negotiations due to concerns at that time about the absence of fast track negotiating

authority. They subsequently negotiated a bilateral FTA with Canada (they already had a bilateral agreement with Mexico). In 1998, United States initiated the U.S.- Chile Joint Commission on Trade and Investment, which led to increasingly ambitious work programs in areas including services, government procurement, investment, environment, business visas, norms and standards, labor, and civil society. The annual meeting of the full Commission was held on October 23-24, 2000 in Washington.

On November 29, 2000, the United States and Chile announced their agreement to initiate immediately the negotiations for a U.S.- Chile Free Trade Agreement. On December 6-7, the negotiations were launched in Washington, D.C. Both sides agreed to pursue the negotiations on a high-priority basis, but no deadline for concluding the negotiations was set.

The list of initial issues presetented at the December meeting included: tariffs and non-tariff barriers (industrial and agricultural goods); customs procedures; rules of origin; trade remedies; sanitary and phytosanitary measures; technical norms and standards; investment; services; temporary entry of business persons; e-commerce; intellectual property rights; competition policy; government procurement; transparency; dispute settlement; labor; and environment.

Distilled Spirits

Chile historically has maintained a taxation system that discriminates against imported distilled spirits. In December 1997, Chile changed its law to phase in a system that is less obviously discriminatory, but that continues to burden U.S. exports. In January 1998, the United States and the European Union participated in GATT Article XXII consultations with Chile on this issue, and a WTO panel was subsequently established at the EU's request. The United States asserted third party interest in the subsequent procedure and actively represented U.S. concerns throughout. The panel, in June 1999, and the WTO Appellate Body, in December 1999, found Chile's tax regime inconsistent with Article III:2 of the GATT. These findings were adopted at the January 2000 Dispute Settlement Body meeting, at which Chile stated its intention to comply. Legislation that would bring Chile into compliance has been passed and is expected to be signed by the President of Chile.

4. The Andean Community

The U.S. trade deficit with the Andean region increased from $9.7 billion in 1999 to $18.0 billion in 2000, in large part due to the increase in the price of oil imported from the region. U.S. goods exports to the region were up 1.4 percent in 2000, totaling $12.0 billion.

The Andean Community originated as the Andean Pact in 1969, with Bolivia, Colombia, Ecuador, Peru and Venezuela as its members. However, it was only in the 1990s that the Andean Pact's commitment to form a customs union took on momentum, with the reduction and elimination of most duties among the members and an increasingly common external tariff. In 1997 the Andean Community became operational. Among its features are strengthened institutions, such as a Council of Presidents and a Council of Foreign Ministers in addition to meetings of Trade Ministers, and creation of a General Secretariat of the Andean Community mandated to act as the group's executive body.

a. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) of 1991 authorizes the President to provide reduced-duty or duty-free treatment to most imports from Bolivia, Colombia, Ecuador and Peru. It is intended to help the four beneficiary countries expand economic alternatives in their fight against drug production and trafficking. ATPA preferential trade benefits are similar to those granted to beneficiaries of the Caribbean Basin Economic Recovery Act. ATPA preferences are scheduled to end on December 4, 2001. In January 2001, the President submitted a triennial report to Congress on the operation of the

program which indicated that the ATPA has facilitated economic development and export diversification in the ATPA beneficiary countries.

b. Intellectual Property Rights

In the area of intellectual property, the Andean Community countries have developed common disciplines with legal effect throughout the Community. The various Andean Pact decisions, while generally an improvement from previous disciplines, fell short in a number of ways in meeting WTO TRIPS requirements. The Andean countries have recently reached agreement on modifications to the decisions. The U.S. Government is in the process of analyzing the revised legislation to determine TRIPS compatibility. U.S. pharmaceutical companies are concerned that Decision 486 does not go far enough in ensuring the patentability of "second use" innovations. Both the U.S. pharmaceutical and agrochemical industries are also concerned that Decision 486 is not sufficiently explicit regarding the confidentiality of data submitted in conjunction with applications for marketing approval.

While Peru is on the Special 301 Priority Watch List, it has developed a plan of action for improved intellectual property enforcement, which the U.S. Government is currently monitoring. The other four Andean countries are also on the Special 301 Watch List. In general, piracy levels in the region are high and while enforcement efforts have improved somewhat, they remain inadequate.

c. Bilateral Investment Treaties

In April 1998 the U.S. Government signed a Bilateral Investment Treaty (BIT) with the Bolivian Government. The U.S. Senate approved the BIT on October 18, 2000. The BIT will help to improve the investment climate in Bolivia for potential U.S. investors and will provide investors in both countries guarantees of access and fair treatment in the other's market. During 2000, the U.S. Government continued exploratory discussions with the Government of Colombia on a possible BIT. A U.S.-Ecuador BIT went into effect in May 1997. The United States did not conduct BIT negotiations with Peru or Venezuela during 2000.

5. Central America and the Caribbean

a. Caribbean Basin Initiative (CBI)

On May 18, 2000, President Clinton signed into law the Caribbean Basin Trade Partnership Act (CBTPA), which significantly enhances U.S. trade preferences for imports from eligible Caribbean Basin countries. Enactment of the CBTPA represents the latest expansion of the Caribbean Basin Initiative (CBI), originally enacted by Congress in 1984 to promote the economic revitalization and export diversification of the Caribbean Basin region.

The CBTPA extends duty-free and quota-free treatment to certain apparel manufactured in the CBI region from U.S.-origin fabric, as well as limited quantities of apparel made from fabric which is knit in the CBI region from U.S. yarns. In addition, the CBTPA extends NAFTA-equivalent tariff treatment to a number of other products previously excluded from CBI trade preferences, including footwear, canned tuna, petroleum products, and watches and watch parts.

During the summer of 2000, the Administration conducted an extensive review of the eligibility of Caribbean Basin countries to receive the enhanced trade benefits, according to criteria established in the CBTPA. The eligibility review considered countries' implementation of WTO commitments, participation in the FTAA process, protection of intellectual property and internationally recognized worker rights, efforts to eliminate the worst forms of child labor, cooperation with the United States on counter-narcotics initiatives, implementation of an international anti-corruption convention, and government procurement practices.

Following this review, on October 2, 2000, President Clinton designated the following 24 CBI

countries as Beneficiary Countries under the CBTPA: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Montserrat, Netherlands Antilles, Saint Kitts and Nevis, and the British Virgin Islands. As of the end of 2000, eleven countries have also satisfied customs-related requirements established in the CBTPA and are thus fully eligible for the new trade benefits. These countries are: Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, and Panama.

In addition to the enhanced benefits of the CBTPA, the CBI program continues to encompass the Caribbean Basin Economic Recovery Act (CBERA), which allows the President to grant unilateral duty-free treatment for eligible articles from beneficiary countries. The 24 countries listed in the preceding paragraph are the current CBERA beneficiaries. In 2000, exports from these countries to the United States were estimated at $22.6 billion.

b. Central America

The United States remains Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, and provides duty-free trade for most products traded among these countries. Panama, which has observer status, and Belize participate in CACM summits but not in regional trade integration efforts. As a group, the countries of the CACM exported a total of $11.9 billion of goods to the United States in 2000, importing $9 billion of U.S. goods. The CACM is an internal market of 33 million people with a combined GDP of over $50 billion. GDP per capita varies widely within the Central American region, with the relatively developed service-oriented economy of Panama registering $3,070 per capita. At the other extreme, Nicaraguan GDP per capita was only $430 in 1999. Furthermore, these figures do not capture the broad disparities of income evident within most Central American countries.

The CACM signed a trade agreement with Chile in the fall of 1999. A CACM free trade agreement with the Dominican Republic has not yet entered into force. Beyond the CACM, countries in the region have also been active in pursuing regional trade liberalization bilaterally or in regional sub-groups. Guatemala, Honduras and El Salvador, the so-called "Northern Triangle," concluded a free trade agreement with Mexico in May 2000; the agreement awaits ratification in each of the signatory countries. Nicaragua also has a free trade agreement with Mexico, and El Salvador has a free trade agreement with the Dominican Republic. Costa Rica has signed free trade agreements with the Dominican Republic and Mexico, and launched free trade negotiations with Canada in June 2000. El Salvador, Guatemala, Nicaragua, and Honduras are also exploring a trade agreement with Canada. In May 2000, the Presidents of Guatemala, El Salvador, and Nicaragua signed a "Tri-National Declaration" on regional economic integration, incorporating a number of trade policy objectives.

All of the countries of the region are participating in the Free Trade Area of the Americas (FTAA) negotiations. Central American countries take an active role in the negotiating process. In the November 1999 to April 2001 negotiating phase, Costa Rica chairs the Negotiating Group on Dispute Settlement and Guatemala chairs the Consultative Group on Smaller Economies.

During the course of 2000, the United States consulted regularly with Central American trade officials, including in the context of the FTAA process and the eligibility review for the Caribbean Basin Trade Partnership Act. In October 2000, senior U.S. trade policy officials met in Guatemala City with trade ministers and other officials from Guatemala, Honduras, El Salvador, Nicaragua, Panama, Costa Rica, Belize and the Dominican

Republic. This meeting included an exchange of views on the FTAA process, the enhanced CBI benefits, and developments in the WTO.

Agriculture

Tariff and non-tariff barriers to U.S. agricultural exports are among the biggest U.S. trade policy concerns in Central America. Several countries in the region, including Costa Rica, Nicaragua and Panama, have recently raised tariffs on agricultural products, although they are still within WTO-bound rates. Panama's arbitrary and trade-restricting practices with respect to sanitary and phytosanitary licensing, often linked to local buying requirements, have been a matter of concern; the United States has pursued these concerns with the Government of Panama, and some improvement was seen by the end of 2000.

Intellectual Property Rights (IPR)

Protection of intellectual property remains a concern in several Central American countries. The eligibility review for the enhanced CBI benefits provided an opportunity for the United States to engage with several Central American governments on the importance of providing protection equivalent to or greater than that provided for in the WTO TRIPS (Trade-Related Aspects of Intellectual Property) Agreement.

In general, protection of intellectual property rights in Central America has improved in recent years. In August 2000, Guatemala, which has been on the Special 301 Priority Watch List, enacted new legislation to bring its patent and copyright laws into compliance with TRIPS obligations. Costa Rica also passed enforcement-related legislation in September, although concerns have been raised with respect to potential weaknesses in the new law. Honduras and Nicaragua passed TRIPS-related legislation in 1999. El Salvador continues to consider a number of TRIPS-conforming amendments to its IPR legal framework.

Beyond these legal reform efforts, the United States has continued to stress the importance of effective enforcement and prosecution in cases of infringement of intellectual property rights. Enforcement efforts have been stepped up in a number of countries, such as Panama and Honduras.

Worker Rights

The Caribbean Basin Trade Partnership Act required the United States to consider the extent to which CBI countries are providing internationally recognized worker rights, and these issues figure prominently in the eligibility review with respect to several Central American countries. In Guatemala, certain efforts by the government to improve worker rights have failed to overcome a threatening environment for those seeking to advance basic, internationally-recognized rights for workers. Instances of anti-union violence, including occasional murders, persist, and the widespread impunity for those who provoke and carry out such violence is a particularly severe concern. Consequently, Guatemala's CBTPA beneficiary status will be reviewed in April 2001, with a focus on further improvements in the area of worker rights. The CBTPA review also pursued concerns about worker rights in El Salvador, Honduras, and Nicaragua. The United States will maintain ongoing monitoring of worker rights in these countries, and will seek consultations with the respective governments by mid-2001.

c. The Caribbean

CARICOM: Countries in the Caribbean region include members of the Caribbean Community and Common Market (CARICOM) and the Dominican Republic. Current members of CARICOM are: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress toward economic integration and a common external tariff (CET) has been

limited.

CARICOM countries have played an active role in the FTAA process, which has provided an opportunity for frequent bilateral interaction between U.S. and Caribbean trade officials. At the November 1999 FTAA Summit in Toronto, ministers agreed that Trinidad and Tobago would chair the Negotiating Group on Investment, and the Bahamas would serve as Vice Chair of the Consultative Group on Smaller Economies for the phase of negotiations through April 2001.

Agriculture

The Caribbean countries, Barbados and the Dominican Republic in particular, have made significant advances in lowering tariffs in advance of their WTO reduction schedule. However, many countries, including the Dominican Republic, Trinidad and Tobago, the Bahamas, Jamaica, and Barbados have increased the use of non-tariff barriers such as arbitrary customs valuation, domestic absorption requirements and discretionary import licensing practices to stem the flow of imports and make up for lost government revenues due to lower tariffs.

Other Caribbean Countries

The Dominican Republic, the largest beneficiary of the Caribbean Basin Initiative program, does not belong to any regional trade association, but has increased cooperation with both Central America and CARICOM. The Dominican Republic's record in trade is mixed. The Dominican Republic has taken full advantage of unilateral preferential trade benefits extended by the United States, attracting investment in its free trade zones and assembly operations and registering impressive growth rates. In 2000, the Dominican Republic enacted a new Industrial Property law which appears to fall well short of certain basic requirements of the WTO TRIPS Agreement, and the Dominican Republic remains on USTR's Special 301 Priority Watch List.

In July 2000, CARICOM and Cuba signed a trade and economic cooperation agreement. Cuba is a member of the Association of Caribbean States (ACS), a political and economic organization. Cuba does not participate in the FTAA process or the Summit of the Americas.

H. Africa

Overview

The primary objectives of U.S. trade policy with sub-Saharan Africa are to: (1) strengthen U.S.-Africa economic cooperation and engagement; (2) promote economic reform and growth in Africa; (3) expand and diversify U.S.-Africa trade and investment; and, (4) facilitate Africa's full integration into the multilateral trading system. On May 18, 2000, President Clinton signed into law the Trade and Development Act of 2000, which includes the African Growth and Opportunity Act (AGOA) as Title I. Passage of the AGOA was a major policy achievement for 2000; its enactment and implementation herald a new U.S. trade and investment stance toward Africa.

The AGOA institutionalizes a process for strengthening U.S. relations with African countries and provides incentives for these countries to pursue political and economic reform and growth-oriented policies. The AGOA offers beneficiary sub-Saharan African countries enhanced U.S. market access through the Generalized System of Preferences (GSP) program by making over 1,800 new products eligible for duty-free treatment; provides additional security for investors and traders in designated African countries by ensuring GSP benefits for eight years; and, eliminates the GSP competitive need limitation for African countries. Under the AGOA, essentially all products from eligible sub-Saharan African countries are accorded duty and quota free access to the U.S. market. In addition, the AGOA requires the establishment of a U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum to ensure regular high-level discussions on trade and investment policy and to promote economic reforms

and development in the region. The AGOA supports the establishment of Overseas Private Investment Corporation (OPIC) equity and infrastructure funds and promotes U.S. Export-Import Bank initiatives to strengthen private sector development and expand U.S. exports to the region. The AGOA aims to stimulate market-led investment and economic growth in an effort to raise living standards in some of the world's poorest countries. As reforms and trade spur growth in Africa, new and bigger markets will be established for U.S. exports. The AGOA provides mutual benefits for both the United States and Africa.

Highlights of recent U.S. trade and investment achievements with Africa:

1. Enactment and Implementation of the African Growth and Opportunity Act

The Administration worked cooperatively with Members of Congress to achieve strong bipartisan Congressional approval of the AGOA. There was also strong support from the general public. Private sector associations, faith-based groups, civil rights institutions, and non-governmental organizations, joined government officials in the United States and Africa in support of the AGOA. As a result, the Trade and Development Act of 2000 (with the AGOA as Title I) was the first major trade legislation adopted by Congress since 1994.

USTR chairs the interagency committee responsible for implementation of the AGOA, a process that is ongoing. One of the first steps in implementation was designation of countries eligible to receive AGOA benefits. After a rigorous country eligibility review process, 35 sub-Saharan African countries were designated for the AGOA's trade benefits. The eligible countries are: Benin, Botswana, Cameroon, Cape Verde, Central African Republic, Chad, Republic of Congo, Djibouti, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Principe, Senegal, Seychelles, Sierra Leone (with delayed implementation), South Africa, Swaziland, Tanzania, Uganda, and Zambia.

In December 2000, over 1,800 additional products were designated for duty-free treatment under the Generalized System of Preferences Program when imported from AGOA-eligible beneficiary sub-Saharan African countries through September 30, 2008. The AGOA requires designated countries to meet certain customs-related requirements to prevent illegal transshipment and the use of counterfeit documents in order to receive the textile and apparel trade preferences. USTR was delegated the authority to make these determinations. Some countries have met these customs-related requirements; reviews of information submitted by other AGOA-eligible countries are underway.

As part of AGOA implementation, USTR coordinated regional technical assistance seminars on the AGOA in Gabon, Kenya, Madagascar, Nigeria, South Africa, and Zambia; a bilateral seminar was also held in Senegal. Trade officials from the private and public sectors in the countries hosting the seminars, as well as representatives from regional organizations (Indian Ocean Commission (IOC), Common Market for Eastern and Southern Africa, (COMESA), Tripartite Commission for East African Cooperation (EAC), Southern African Development Community (SADC), West African Economic and Monetary Union (WAEMU), the Monetary and Economic Community of Central Africa (CEMAC), and the Economic Community of West African States (ECOWAS)) were invited to participate. The seminars, conducted by U.S. Government officials responsible for AGOA implementation, reached a broad range of industry and government representatives and provided detailed information on the AGOA's requirements and benefits, the GSP program, customs requirements, as well as information on U.S. agricultural market access requirements and initiatives, building U.S. market

linkages, and the importance of e-commerce as related to the AGOA. The seminars also focused on much needed African policy and regulatory reforms that will be required in order for African countries to receive maximum benefit from the trade preferences accorded under the AGOA. USTR also developed a comprehensive AGOA Implementation Guide for African countries, an AGOA video – which was aired on national television broadcasts in many African countries, and, in conjunction with the Department of Commerce, an AGOA website, www.agoa.gov.

USTR also sponsored, in collaboration with the U.S. Department of State, the visit of customs technical assistance teams to five apparel-producing countries (Kenya, Lesotho, Madagascar, Nigeria, and South Africa) to assist them in developing effective visa systems to prevent illegal transshipment. In addition, a four-day workshop conducted by U.S. Customs officials was held in Washington, D.C. to train African customs officials on U.S. customs requirements stipulated in the AGOA and other mechanisms to strengthen the customs regimes in African countries.

2. Strengthened U.S.-Africa Engagement

The AGOA provides incentives for African countries to address commercial disputes and issues, open markets, and to work with the United States to advance U.S. commercial interests. A USTR-chaired Subcommittee of the Trade Policy Staff Committee (TPSC) conducted a review of countries based on the criteria required under the AGOA. The review included information from U.S. embassies, African governments, U.S. Government agencies, other reliable sources, and from public comments received in response to a *Federal Register* notice. Through this information-gathering process, country-specific issues and areas of concern and specific policy objectives to be pursued were identified. The United States and African countries continue to work on these reform issues. U.S. consultations with African counties have been highly productive, and have resulted in numerous commitments by African governments to address and resolve many of these issues. As noted previously, the AGOA establishes a U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum that will facilitate regular meetings between high level U.S. Government officials and their African counterparts.

The United States has three Trade and Investment Framework Agreements (TIFAs) with sub-Saharan African countries. The third TIFA, with Nigeria, was concluded in February 2000. This agreement provides the framework for future trade negotiations and establishes a mechanism for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property, and other issues between the two countries. A TIFA meeting with the South African Government was held in March 2000 via video-conference, and addressed a number of issues, including AT&T's complaint that South Africa's basic telecommunications monopoly, Telkom, was denying access to basic telecommunications facilities needed by AT&T to operate its value-added network services.

The first TIFA meeting with the Government of Ghana is scheduled for 2001. In addition to formal consultations under TIFAs or other bilateral mechanisms, USTR has conducted extensive trade-related consultations throughout Africa and in Washington D.C with senior African trade officials. USTR has also been active in the Trade Policy Review Mechanisms that are conducted by the World Trade Organization (WTO) and has used these reviews as a tool to encourage further trade and investment liberalization and reform. In the past few years, about fourteen African countries and one regional economic organization have been reviewed.

3. Fuller African Integration into the Multilateral Trading System

Increased African participation in the global trading system not only opens markets and creates greater opportunities and a stronger foundation for economic growth in sub-Saharan Africa, it also

strengthens the international trading system. In May 2000, USTR organized and chaired the first U.S. WTO Consultative and Technical Assistance Forum in Washington D.C. African trade ministers and representatives of several African regional economic organizations joined senior U.S. Government officials for extensive discussions of WTO issues including technical assistance, agriculture, services, e-commerce, and trade remedies. The trade ministers expressed strong interest in USTR's efforts to work with them on WTO issues and, as a result, USTR was able to develop a consensus on many areas of interest and to reaffirm the ministers intent to work cooperatively with the United States in the WTO. Other efforts on the part of the United States to strengthen cooperation and coordination with African countries on WTO and trade-related issues included increased dialogue with sub-Saharan African missions in Geneva.

USTR has worked with other agencies to increase WTO-related technical assistance to sub-Saharan African countries. As part of U.S. efforts to work in partnership with African countries in the WTO, in November 2000, USTR and the U.S. Agency for International Development (USAID) announced that the United States will provide a grant of $650,000 to the WTO's Global Trust Fund for Technical Assistance for the benefit of sub-Saharan African countries. The grant will be used to conduct technical assistance courses on trade policy and WTO rules for countries in Africa, and will also fund the development of computer-based training modules on WTO Agreements. Funding for the grant was provided through USAID's African Trade and Investment Policy (ATRIP) Program, which funds activities to provide technical assistance for policy reform or to support U.S.-Africa business linkages. In addition to the $650,000 grant, this year, the ATRIP program provided almost $4 million in technical assistance for African countries on standards, customs valuation, and training focused on implementation of, and compliance with, WTO agreements.

USTR and USAID have coordinated a number of WTO-awareness workshops, including those in Zambia (regional workshop for members of the Common Market for Eastern and Southern Africa), Côte d'Ivoire, Mali, Senegal, South Africa, and Uganda. During the 1999 WTO Ministerial Conference, USTR and USAID conducted a Technical Assistance Symposium for African trade ministers on WTO-related technical assistance resources and published a comprehensive guide to these resources. USTR also participated in a Globalization Forum and a WTO workshop in Abuja, Nigeria on June 27, 2000 and in the November 13-15, 2000 WTO meeting of African trade ministers in Libreville, Gabon.

4. Economic Reform and Growth

The AGOA provides beneficiary African countries with incentives to reform their economies and create an environment conducive to increased trade and investment. The legislation establishing the AGOA sets conditions for country participation in the program. The countries must demonstrate the existence, or progress toward establishing, a market-based economy, the rule of law, reduction or elimination of barriers to trade and investment, policies to reduce poverty, systems to combat corruption, and protection of worker rights. All of these criteria represent global best practices to attract trade and investment, and are essential for the transfer of technology, increasing labor force skill, promoting competition, and increasing exports.

Economic reform and growth in African countries benefit both the United States and these countries. New opportunities are created for U.S. businesses and exports in the sub-Saharan African market of over 640 million people. Stronger and more stable economies allow African countries to achieve economic growth and to become important partners with the United States in combating transnational challenges such as infectious disease, poverty, environmental degradation, narcotics trafficking, and international terrorism. As a result of bilateral consultations initiated by the Administration during the development of AGOA over the past few years,

and its current implementation process, many African countries have been encouraged to introduce reforms in their policies and practices. A number of countries have reported economic reforms including reduction of governments' role in the productive economy, deregulation of many sectors, and liberalization of trade regimes.

The United States has also encouraged African countries to address human rights concerns and to enact and enforce labor laws that protect workers' rights to organize and bargain collectively, discourage anti-discrimination of unionized workers, and improve child labor laws. Bilateral consultations with African governments also resulted in greater emphasis on poverty reduction programs through health, education, and infrastructure development initiatives.

5. Public Outreach

The Unites States has been very active in promoting domestic private and public sector understanding of U.S. trade policy towards Africa, which has increased overall understanding of the opportunities and challenges of trade with Africa. In addition to the numerous AGOA technical assistance seminars held in Africa, briefings for Congress and private sector business groups, the USTR and other members of the interagency AGOA Implementation Subcommittee participated in WorldNet interactive dialogue programs, produced an AGOA technical assistance video for African and U.S. audiences, created an AGOA website, and published a comprehensive *AGOA Implementation Guide*.

6. 2000 Activities

In 2000, the United States strengthened both its bilateral and multilateral engagement with the countries of sub-Saharan Africa. As in previous years, the United States' largest trading partners in sub-Saharan Africa were Nigeria, South Africa, Angola and Gabon. U.S. exports to sub-Saharan Africa grew 5.9 percent in 2000 from the previous year. U.S. imports from the region increased 23.8 percent in 2000. Crude oil accounted for nearly 70 percent of U.S. imports from sub-Saharan Africa in the first three quarters of the year. During that period, Nigeria, South Africa, Angola, and Gabon accounted for 88 percent of Africa's total sales to the United States.

With a population of almost 640 million, sub-Saharan Africa's potential as a trading partner is much greater than these figures would indicate. In 2000, African countries, including Nigeria, continued their transition to more democratic political systems and more open and market-oriented economies. The United States supports these efforts and the economic reform process in many sub-Saharan African countries. The AGOA is the primary U.S. policy tool for expanding and diversifying U.S. trade with sub-Saharan African countries.

a. South Africa

In 2000, the United States exported $3.1 billion to South Africa, up 19.7 percent from the previous year. U.S. imports from South Africa were $4.3 billion in 2000, an increase of 35.3 percent over imports of $3.9 billion in 1999.

In February 1999, the United States and South Africa signed a Trade and Investment Framework Agreement (TIFA), which establishes a mechanism for addressing trade and investment issues, and for identifying and reducing or eliminating barriers to trade and investment. In July1999, the U.S. Trade Representative and the South African Minister of Trade and Industry co-chaired the inaugural U.S.-South Africa Trade and Investment Framework Agreement which was held by video-conference. A subsequent TIFA meeting was held in March 2000 via video-conference as well. The next TIFA council meeting with the South African Government is planned for 2001 and discussions will include a specific agenda for promoting trade and investment between the United States and South Africa. TIFA meetings have been complemented by a number of other senior USTR visits to South Africa, including two visits by the

Deputy USTR in June and October 2000.

As with many growing trade relationships, a number of trade problems have arisen between the United States and South Africa. These include concerns related to South Africa's basic telecommunications monopoly, Telkom, and its provision of facilities to U.S. value-added network service (VANS) providers in order to permit them to operate and expand. Some problems have been resolved but questions regarding the VANS regulatory regime are still being worked out. In addition, the USTR is reviewing the Government of South Africa's decision to impose anti-dumping duties on U.S. exports of poultry parts to South Africa.

In 2000, South Africa also concluded two major agreements that may affect U.S.-South Africa trade. In September 2000, South Africa implemented the Southern Africa Development Community (SADC) Trade Protocol to establish a free trade area within SADC. As of mid-December, four other Southern African countries, Botswana, Lesotho, Mauritius, and Swaziland, had also implemented the Trade Protocol. The United States has supported efforts of SADC and other African organizations to promote regional economic integration.

b. Nigeria

In 2000, U.S. exports to Nigeria were $722 million, a 15 percent increase from 1999. U.S. imports from Nigeria were $10.8 billion, a 145 percent increase. The large increase in the dollar amount of U.S. imports from Nigeria was due to the higher price of petroleum during the period.

The United States has expressed its strong commitment to helping Nigeria in its economic reforms and in Nigeria's efforts to take its place as a leader in the multilateral trading system. A U.S.-Nigeria TIFA, which created a mechanism in which trade, investment, intellectual property, and other issues can be addressed and resolved, was signed on February 16, 2000. The inaugural TIFA Council meeting was held in Abuja, Nigeria in June 2000. The Council discussed technical assistance to support trade and investment, the AGOA and GSP matters, the agriculture sector, U.S.-Nigeria cooperation in the WTO, and strategies to increase U.S.-Nigeria trade and investment. The TIFA meeting resolved a number of issues that could have potentially challenged Nigeria's eligibility for GSP. In addition, the Nigerian Minister of Commerce agreed to form an inter-ministerial committee to address difficulties faced by U.S. traders and investors in Nigeria. USTR officials also held bilateral meetings with key Nigerian ministers.

Nigeria was designated eligible to participate in the U.S. GSP Program in August 2000, and is among the 35 countries designated as AGOA beneficiary countries.

USTR also sponsored a Globalization Forum and a WTO workshop in Abuja, Nigeria in June 2000. An AGOA technical assistance seminar for Nigeria, as well as for member countries of ECOWAS and WAEMU, was held in Abuja in November 2000. That seminar was the result of a request by the Nigerian government for technical assistance on the AGOA.

c. Other African Countries

Implementation of the AGOA has afforded the United States an unique opportunity to engage more countries in the region on trade policy reform issues. The United States has increased its engagement on trade issues with a number of other sub-Saharan African countries including Kenya, Ghana, Senegal, and Uganda. The United States plans to continue to enhance economic relations with other African countries, and to work to expand and diversify U.S. trade with Africa.

d. GSP

The Generalized System of Preferences (GSP) program was re-authorized in November 1999 until September 30, 2001. In December 2000, the

Administration proclaimed the addition of approximately 1,800 products to the current GSP list of some 4,468 categories of articles, as eligible for duty-free treatment for AGOA beneficiaries. The President determined that these articles are not import-sensitive when imported from African countries. The product list will remain available for eligible AGOA beneficiary countries until September 30, 2008. AGOA beneficiaries are also exempted from the competitive need limits that provide a ceiling on GSP benefits for each product and country, and can cumulate under a special rule of origin provision.

The GSP was enhanced in June 1997 with 1,783 new tariff lines for the 39 least-developed beneficiary developing countries (LDBDCs), of which 30 are in sub-Saharan Africa. These enhancements allow sub-Saharan African countries duty-free access to the U.S. market for products listed in these tariff lines and promote greater African use and diversification of the GSP program.

Nigeria was designated as eligible for GSP benefits in 2000. USTR also worked with a number of African countries to help them better understand how the GSP program works.

e. Enhanced Engagement on WTO Issues

Working with the countries of sub-Saharan Africa to assist them to participate fully in the WTO is a priority for the United States. As a group, African countries represent a large and important bloc of members in the WTO and are important to achieving U.S. goals of opening markets and promoting growth. For Africa, participation in the WTO and the multilateral trading system is essential for promoting sustainable economic growth on the continent. U.S.-African cooperation in the WTO has improved in recent years, as areas of common interest have been identified. However, African WTO members will only be able to benefit fully from the WTO by understanding all their rights and obligations and by fully implementing their commitments under WTO agreements, commitments which will make their countries more attractive to international commerce and investment. U.S. technical assistance on WTO matters (e.g., through ATRIP-funded projects, the forthcoming U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum, and other consultations with African officials) helps to facilitate African countries' integration into the multilateral trading system.

The United States has been working with a number of African countries to increase their understanding of the issues before the WTO by providing technical assistance to enable them to implement their WTO commitments and to enjoy fully the benefits of the international trading system. The U.S.-Nigeria Trade and Investment Framework Agreement (TIFA) council discussed bilateral cooperation in the WTO. A Globalization Forum in Nigeria which included prominent Nigerian academics and government officials was followed by a three-day WTO workshop introducing Nigerian trade officials and private sector leaders to the structure of the WTO and its principal agreements. The Administration also held high-level bilateral and multilateral consultations on WTO matters with South Africa, Nigeria, and Mozambique, and the second annual U.S.-SADC Forum was held in Mozambique in May 2000, with officials from fourteen SADC countries.

The Administration hosted an African Trade Ministers' WTO Consultative and Technical Assistance Forum in Washington on May 3-5, 2000, which was attended by African Trade Ministers and representatives of African regional economic organizations. The Forum included extensive discussions of WTO issues including technical assistance, agriculture, services, e-commerce, trade remedies, and the role of international financial institutions. The Trade Ministers also met with Members of Congress and representatives of the private sector. The Ministers expressed strong support for AGOA and USTR's efforts to work with them on WTO issues.