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OVERSIGHT OF THE URUGUAY ROUND

HEARING

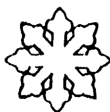
BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

NOVEMBER 20, 1991



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OVERSIGHT OF THE URUGUAY ROUND

WEDNESDAY, NOVEMBER 20, 1991

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:35 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman of the committee) presiding.

Also present: Senators Moynihan, Baucus, Bradley, Rockefeller, Breaux, Packwood, Roth, Danforth, Chafee, Grassley and Hatch.

[The press release announcing the hearing follows:]

[Press Release No. H-50, Nov. 15, 1991]

BENTSEN SCHEDULES HEARING ON URUGUAY ROUND; FOCUS ON MARKET ACCESS, AGRICULTURE AND INTELLECTUAL PROPERTY

Washington, DC—Senator Lloyd Bentsen, Chairman of the Senate Finance Committee, announced Friday a hearing next week on issues that must be dealt with before the Uruguay Round of trade negotiations can be completed.

Bentsen (D., Texas) said the hearing will focus on the need for strong agreements that offer improved market access to American firms and protection of intellectual property.

The hearing will be at *10 a.m. Wednesday, November 20* in Room SD-15 of the Dirksen Senate Office Building.

"On November 7, Ways and Means Chairman Dan Rostenkowski and I wrote to the President urging that, as the pace of the Uruguay Round quickens, the United States must insist on an agreement that addresses the key market access concerns of our agricultural, services and manufacturing sectors," Bentsen said.

"In addition, any agreement must ensure strong protection of patents, copyrights and other intellectual property. The United States cannot afford to trade away these critical interests, and must maintain the position taken last December in Brussels that no agreement is better than a bad agreement," Bentsen said.

"The witnesses at this hearing, who head up major American firms and trade associations, will enable the Finance Committee to better understand whether we are moving toward good agreements on these key issues in the negotiations," Bentsen said.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. This hearing will come to order. In recent weeks we have seen some changes taking place in the possible progress of GATT. We saw Arthur Dunkel bring together senior trade negotiators on November 7 and set out a game plan for them. They also talked about some of the key obstacles still in the way of finalizing the GATT Round.

Two days later, we had President Bush and European Community president Delors meet in the Hague to discuss the Round. They discussed, in particular, the key differences amongst the na-

tions, and more specifically the problems that we are having on the agricultural questions as far as breaking into the markets of Europe and what we are facing with the CAP.

So, it appears that we are reaching a critical stage in the talks. There are some key decisions still looming, and these will determine the quality of agreement that is possible. Those will affect our economic interests and our trading relations for years to come.

We have just heard that the end of the Uruguay Round was just around the corner. But we have been hearing that for several years. In fact, I heard that when I traveled to Geneva a year ago this month.

GATT officials then were hopeful of getting a final Uruguay Round agreement when they went to Brussels in December. That did not happen. And it did not happen in no small part because Carla Hills was not about to accept a bad agreement.

They did not believe that we would walk out, but, in effect, that is what we did. All of us on this Committee welcomed her statement at Brussels: that a bad deal was not better than no deal at all. And that principle still holds today.

Ways and Means Chairman Rostenkowski and I wrote the President on November that our trading partners must continue to know that the United States simply will not trade away our critical commercial interests in order to achieve geopolitical or foreign policy objectives.

For long that has been the case, where you have had the State Department sitting above us all, and the Defense Department and Treasury as well. First, the State Department says we do not want to disturb relations with that country, and then the Defense Department says we have got a base there and we do not want to lose that, and then Treasury says we are trying to get some kind of agreement on monetary policy.

But it is time that we put the economic interests of our country first. And that is what we are working for in the Uruguay Round: that we should only accept an agreement if it meaningfully addresses the key concerns of our manufacturers, our farmers, and our services companies.

We need to see real gains in market access for our products in each of these areas: major reductions in foreign tariffs on our industrial goods; real agricultural reforms by the EC and by Japan; and specific commitments to open up services markets to our firms.

We must also achieve a strong intellectual property rights agreement that meets the needs of our holders of patents, copyrights, trademarks, and other forms of intellectual property. We need to make sure that any GATT agreement on trade rules and dispute settlement preserves our strong remedies against dumping and subsidies and other unfair trade practices.

As late as yesterday, in talking to some of the people that were nominated—one in particular for the International Trade Commission, I reiterated that last point time and time again.

Beyond each of these specific goals, we need a Uruguay Round agreement that requires commitments from all GATT members, not a lot of free riders, not a lot of hitchhikers.

I think for too long GATT has been undermined by the free riders, those who have abused the Most Favored Nation principle to get all of the benefits without making any commitments in return.

It is past time for these free riders to ante up, and unless they do so, we will not have a sound agreement that is worthy of Congressional support.

If a Uruguay Round agreement is reached, this Committee will play the lead role in Senate consideration are in the development of the implementing legislation. And that makes today's hearing particularly important.

I look forward to hearing from our three witnesses on what must be done in Geneva for a Uruguay Round agreement to merit our support. The witnesses we have brought have invested a great deal of time and energy in pressing for a sound Uruguay Round agreement that serves Americans and America's economic interests.

And today they will share with us whether that kind of an agreement is just around the corner, and what must be done to achieve it.

I defer to my colleague, Senator Packwood, for any comments he might have.

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM OREGON

Senator PACKWOOD. I thank the Chairman. Mr. Chairman, one of the principal reasons that I fought so hard to extend the fast-track bargaining authority was to keep the Uruguay Round negotiations going.

There is no question in my mind that a successful conclusion to the Uruguay Round would give the United States an opportunity to eliminate a wide variety of foreign trade barriers to a whole array of U.S. goods and services.

From all indications, a successful conclusion to the Uruguay Round is clearly in the State of Oregon's interests. The GATT negotiations have been dominated by the dispute between the U.S. and other agricultural exporting countries, and the European community on agriculture.

While the agricultural discussions are critically important, particularly to Oregon, it is also important to realize that within the other 14 negotiating groups, the U.S. has a lot to gain if the talks are successful and much to lose if they fail.

For example, the Uruguay Round provides our best opportunity to force countries to provide adequate protection to U.S. intellectual property rights and to eliminate foreign tariff and other non-tariff barriers which have denied our manufacturing, services, and investment sectors access to foreign markets.

I am most encouraged about the United States' zero-for-zero proposals for forest and paper products, which will eliminate tariffs for these products around the world.

A successful Uruguay Round could also strengthen and improve international trading rules and allow the GATT to remain a strong and effective institution which is able to resolve trade disputes in a balanced way.

While I am encouraged by the signals of the progress coming out of Geneva, we must be careful to ensure that the final agreement truly benefits all sectors in the United States.

And Mr. Chairman, I would ask unanimous consent to place in the record a statement by John Georges, the chairman and CEO of International Paper.

The CHAIRMAN. Without objection that will be done.

[The statement appears in the appendix.]

The CHAIRMAN. Senator Hatch.

Senator HATCH. I have no comments, Mr. Chairman.

The CHAIRMAN. Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Mr. Chairman, I thank you for holding these hearings. I think they are very timely and important, particularly with what is going on in the Uruguay Round.

As you know, in the last few days there have been signs that the Round is, in fact, progressing; is perhaps rising from the dead. You referred to efforts last December, and many of our witnesses who are here today were over in Brussels then, and are largely responsible for the United States being firm and not agreeing to a bad agreement. And I compliment them for the efforts that they undertook at that time.

Mr. Chairman, the agreement recently reached at the Hague between the United States and the European Community may help to bridge the gap on agricultural trade issues, and that will certainly help, if it is a good agreement, in resolving other issues in the Round.

But it is far too early to declare that Hague meeting a breakthrough. In fact, I have been less than impressed with the details of the supposed breakthrough that have been reported in the press.

There is a possibility, however, that a final agreement to conclude the Round could be reached while Congress is out of session. And, for that reason, I believe it is time for Congress to highlight some of the issues that would be critical if the agreement is to win Congressional approval.

There are six issues I believe that must be addressed if the Uruguay Round is to win Congressional approval. First, agricultural export subsidies must be reduced worldwide. Agricultural trade has been one of the central issues for the Round. Perhaps the U.S.position on agriculture has appeared a bit too strident, but it is critical that the United States win meaningful concessions to eliminate or sharply cut agricultural export subsidies.

In the space of about 10 years, the community used these export subsidies to transform itself from the world's largest agricultural importer to the world largest agricultural exporter.

EC agriculture export subsidies cost U.S. farmers billions of dollars in lost exports each year, depress agriculture prices, and force the United States to extend costly export subsidies of its own. The Round must bring an end to the export subsidy war.

Second, any final agreement must include the elimination of tariffs in key industrial sectors. At the beginning of the Uruguay Round, the discussion was all on agricultural trade, intellectual

property, and services. But increasingly, the debate in Congress is focusing on the oldest trade barrier of all: tariffs.

A number of U.S industrial sectors, ranging from aluminum, to forest products, to semi-conductors, have proposed that tariffs in those sectors be abolished worldwide.

If these tariff cuts are agreed to, they could create billions of dollars in new U.S. exports and substantial economic growth worldwide. These tariff cuts could provide the kind of tangible benefits that Congress has been looking for from the Uruguay Round, and I urge our negotiators to ensure that these sweeping tariff cuts are included in any final agreement.

Third, the final agreement for the Round must not weaken U.S. laws designed to combat foreign unfair trade practices. These laws are usually referred to as U.S. unfair trade laws.

Recently, there has been considerable discussion in the Uruguay Round of U.S. unfair trade laws, such as countervailing duty, antidumping law, and Section 301. Some of our trading partners apparently believe the Round provides an opportunity to undermine these critical U.S. laws.

A recent Wall Street Journal article quoted an unnamed administration official as saying that the Bush Administration was willing to trade away Section 301 to conclude the Uruguay Round.

More disturbingly, there are reports that the administration reached a secret deal at the Hague not to use Section 301. I do not know if either of these reports are true, but I find them both disturbing.

U.S. unfair trade laws are designed to break down foreign trade barriers. They are not trade barriers themselves. In fact, they promote free trade; they open markets. Let me be clear. Any Uruguay Round agreement that weakens U.S. unfair trade laws, is dead on arrival in the Congress.

The United States should be strengthening its unfair trade laws, not negotiating agreements that weaken them. In fact, if a Uruguay Round agreement is sent to Congress for approval, the implementing legislation should include an extension of Super 301, the most important of U.S. unfair trade laws.

Fourth, the Uruguay Round must put an end to the problem of piracy of U.S. intellectual property. According to an ITC estimate several years ago, piracy of U.S. intellectual property costs the United States as much as $60 billion of lost exports each year. This makes piracy of intellectual property the most important issue in the Round in dollar terms.

The administration has diligently pursued this issue, and they have made progress; a strong agreement to protect intellectual properties is an essential element of a final Uruguay Round agreement.

However, particularly if there are serious weaknesses in the agreement on intellectual property, the United States should not foreswear its option of using Section 301 to pursue improved protection of intellectual property. In addition to pressing for an end to piracy, the United States should also seek increased market access for intellectual property. Specifically, the U.S. should press the EC to eliminate its newly imposed quota on TV programs.

Fifth, limiting industrial subsidies should be a high priority for the United States in Uruguay Round. Unfortunately, this has not received the attention it deserves. Subsidies are extremely important, and they deserve a high level of attention.

And finally, a word about the environment. There is one final item that the United States should achieve in the Uruguay Round, and that is protecting the environment.

The Round is too far along to include a meaningful agreement that addresses the introduction of trade policy environmental concerns. As the recent GATT panel decision on U.S. restrictions of Mexican tuna imports makes clear, the conflict between the GATT and environmental policy is too important to ignore.

Before the Uruguay Round is sent to Congress, the United States should win a commitment from the members of the GATT to begin immediately negotiations aimed at concluding a GATT environmental agreement.

Almost regardless of its specific terms, any Uruguay Round agreement is likely to be controversial. If it is to survive, it must include strong selling points. And those strong selling points must include those that I have raised. Otherwise, if the agreement comes to the Congress, I believe its fate is uncertain, at best. I thank the Chairman.

The CHAIRMAN. Thank you.

Senator Breaux.

OPENING STATEMENT OF HON. JOHN BREAUX, A U.S. SENATOR FROM LOUISIANA

Senator BREAUX. Thank you, Mr. Chairman. I will be very brief. Let me thank you for having this hearing.

We have been kept very informed of these negotiations, which I think is entirely appropriate and proper, and I am delighted that we have some of the private sector with us today.

We have had briefings from the administration and we have heard their viewpoint, and everything sounds good. But, as Paul Harvey says, the rest of the story should also be heard. And I think today we will get the rest of the story from the perspective of the U.S. industries who, of course, will be directly affected by this agreement.

I remember quite well the administration saying, do not worry, no agreement is better than a bad agreement, and that should still be true today. We should not rush to get an agreement at all costs. We should be careful in agriculture, in particular. Offers to reduce subsidies of 30 percent across the board may sound great, but if one country is subsidizing their products at $1,000 and we are subsidizing products at $100, a 30 percent reduction does not change anything. It is the same inequity which existed before that offer. So, there are a lot of things that need to be done.

I am convinced that if we do not have a good agricultural agreement that a treaty will not be able to survive through the Congress. The politics are just that simple, and I think correctly so.

So, I am anxious to hear from the private sector and have their views. Thank you.

The CHAIRMAN. Thank you.

Senator Grassley.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA

Senator GRASSLEY. Mr. Chairman, I am glad that over the past couple of weeks we have started to show significant movement towards an agreement. I am thankful for President Bush's personal intervention.

I think a fair agreement will have a very stimulating effect on the world economy. And, of course, I hope that our dreams are not trashed by some intransigence that may develop again on the part of the European community if the movement that we have read about is real.

Particularly, their intransigence in the area of agriculture. It appears to me to be a very important problem, and one in which farm and commodity groups are concerned that the administration may become so enamored with an agreement on services and intellectual properties that it might let agriculture go without significant reductions in competitor's programs.

So, from that standpoint, I sure share what Senator Breaux just said. Some of the comments and articles that I have had an opportunity to read give some credence to this far.

And I note with approval our Chairman and Senator Packwood's having reiterated a message to the Administration that no agreement is better than a bad agreement, and agriculture is as a linch pin in this whole process.

Mr. Chairman, I am going to put the rest of my statement in the record. But, in summary, if there has been one continual message that we have gotten from the administration over the long haul is that there is not going to be a sell-out of agriculture.

I have not heard anything to the contrary yet, but when you get down to the bottom few days of negotiating, it seems to me like people may not want to walk away for fear of failure being all over them. At those moments, I think some funny things can happen.

I guess I am fearful that it can happen to agriculture more than it can happen to any other segment of our economy. I know the Chairman and Ag Leaders here share my views. I guess I would just implore these Ag Leaders over the last few days of negotiations to be particularly alert during that time. Thank you. I will put my statement in the record.

[The prepared statement of Senator Grassley appears in the appendix.]

The CHAIRMAN. Thank you. Senator Chafee.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman. I came to listen. I am glad Ed Pratt is going to be here, because he is from an industry that is doing some real exports for the country, and we are competing successfully with the rest of the world in pharmaceuticals, thank goodness. And so, I look forward to hearing Mr. Pratt and the other two witnesses. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. We are very pleased to have these witnesses. Mr. Paul O'Neill, who is chairman of the board and chief executive officer of ALCOA, if you would come forward, please, and

sit down. He has been very active in the zero-for-zero talks on tariffs.

And Mr. Edmund Pratt, who has certainly worked very hard on pharmaceuticals and intellectual property rights, taken a real leadership role, if you would come forward. He is the chairman of Pfizer, Inc., New York, NY.

And Mr. Ron Rivinius, who is the president of the National Association of Wheat Growers, and has been up against the CAP program for a long time.

Mr. O'Neill, if you would proceed.

STATEMENT OF MR. PAUL H. O'NEILL, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, ALCOA; PITTSBURGH, PA

Mr. O'NEILL. I thank you. Mr. Chairman and members of the committee, it is a pleasure to have an opportunity to speak with you today. I do have a prepared statement which, with your permission, I will submit for the record, and then I do have a few summary comments, if that is appropriate.

The CHAIRMAN. Without objection. That will be fine.

[The prepared statement of Mr. O'Neill appears in the appendix.]

Mr. O'NEILL. Thank you, Mr. Chairman. As the Chairman has indicated, our industry and our company have been strong proponents of the so-called zero-for-zero concept and my principal purpose in being here today is to tell you that our support for zero-for-zero is an unwavering support.

It may be helpful for the committee to know that ALCOA is a company with operating activities in 20 different countries. And in some of those countries—Mexico being a principal example—we have lived behind trade and tariff barriers that existed for all industries. And as the zero-for-zero concept is put in place, our own operations in Mexico are going to be under a terrific economic pressure, because they will not be able to compete in the world markets without a significant change in their capability.

I tell you that because it would be easy to be for the zero-for-zero concept if it was only glorious good news in every one of our operating locations around the world. And in Mexico, for sure, it is not. But we are convinced of the essential importance of a free, and fair, and open trade to the improvement of civilization in the next century. And so, we are willing to eat the economic consequences that are associated with our Mexican operations.

I wanted to say to you, Mr. Chairman, and to the members of this committee—from this private citizen's view of how business is done in too many cases between the Congress and the administration—you and your committee have set a great example of leadership in working with the administration on fast-track.

My own perception is without your leadership and the support of the members of this committee, we would have not had an occasion to be here today to discuss the Uruguay Round because it would have been trashed long ago.

My impression is that some of you have serious political pressures to do otherwise, and you have not. If you do not mind me commending you for it, I am impressed that you have been willing

to keep this thing going to a point that we may have a chance to complete a successful Uruguay Round.

There is good evidence that reduction in trade and tariff barriers can have significant effect upon our company, on our industry, and on our country's ability to provide goods around the world.

In the 1986 Leather Wear Agreement, there was a significant change in Japanese trade and tariff activity in our industry. At that time, ALCOA had practically no exports to Japan. Last year, we had $150 million of exports to Japan. A principal reason for that was the Leather Wear Agreement that made these changes in tariffs.

In supporting zero-for-zero, we have been advocating this idea in all of the countries around the world where we have business, and the Canadians, and the Australians, and the Japanese join us in the zero-for-zero advocacy.

The recalcitrants, frankly, are the members of the EC, and most particularly, the French. And if you need some ammunition, let me give you a piece of ammunition vis-a-vis the French.

In the next few months, the French will open a new smelter in Dunkirk.

They have mined all of their economic bauxite, and you might wonder why are they building a smelter. It is a very simple proposition.

The French have built an enormous nuclear power capability, and they have a great surplus of nuclear power. And so, they have sold it to Pechiney, the aluminum company that is owned by the French government, at marginal power rates so that they are subsidizing this new smelter which, in truth, should be built in someplace like Venezuela or Brazil, where there is low-cost hydropower, and no other competing demands for the power.

At the same time, the French have a ten percent duty on imports of aluminum fabricated products, and 6 percent on aluminum ingot, which means places, again, like Brazil and Venezuela that need this economic activity, are disadvantaged because of the political policies of the French.

I say all of that to you in the hope that you will insist on and pressure for zero-for-zero and that between us, somehow, we can bring the French to the table and make them useful citizens of the world community, instead of those living behind protective tariff barriers.

The CHAIRMAN. I like that kind of candor. Edmund Pratt, Chairman of Pfizer. We are delighted to have you.

STATEMENT OF EDMUND T. PRATT, JR., CHAIRMAN, PFIZER, INC., NEW YORK, NY

Mr. PRATT. Thank you, Mr. Chairman. Gentlemen, it is always a privilege to be able to appear before this group on issues of importance to industry and to our country.

Incidentally, I have submitted a written statement and I ask that it be put into the record.

The CHAIRMAN. We will take it in its entirety.

[The prepared statement of Mr. Pratt appears in the appendix.]

Mr. PRATT. I am here both in my capacity as Chairman of the Board of Pfizer on behalf of the Intellectual Property Committee,

and, in addition, I have been asked to enter a brief statement at the close of my first presentation for the Coalition of Service Industries because the senior people who are sending this statement to you.

Hank Greenberg, the head of American International Group; and John Reed, who is the chairman of this coalition, of Citibank; and Jim Robinson of American Express, could not be here. It is a very brief statement.

Today's hearing comes at a critical juncture in the GATT negotiation, as it appears that we may be finally, hopefully, entering the end game of these long negotiations. Protection of intellectual property is not a momentary enthusiasm of U.S. industry.

Interestingly, intellectual property rights have been a part of our National culture since our founding fathers provided protection for intellectual property in the Constitution over 200 years ago.

It is for this reason that U.S. industry considers the protection of intellectual property to be as important as the protection of real property.

At this point in the negotiations, it would be most appropriate for me to provide the committee with the bottom line views of the Intellectual Property Committee on the Uruguay Round negotiations on intellectual property—the so-called TRIPS negotiations.

We believe that a sweeping agreement that focuses only on the standards of intellectual property protection without focusing on the exceptions will be seriously flawed. The dollars and jobs for U.S. industry-indeed, the very competitiveness of the U.S. economy are in the details of the agreement.

The IPC and U.S. industry will judge the relative success of the TRIPS negotiations by the ability of the TRIPS agreement to limit the derogations and exceptions from the standards of protection that such an agreement would permit.

Ambassador Hills and her negotiators have done an outstanding job in getting us to where we are today. All the issues of concern to U.S. industry are still on the table. We are confident that our negotiators will be able to negotiate high standards of intellectual property protection, such as adequate term and coverage of subject matter.

We take the inclusion of these standards as a given. We, however, are less sure that we will succeed in eliminating the exceptions and derogations that could negate the benefits of the high standards.

If a TRIPS agreement does not adequately control these practices, U.S. rights holders, in effect, will continue to face inadequate protection of their intellectual property.

We will be in a worse position, actually, than before the start of the TRIPS negotiation, since these exceptions and derogations which now can be attacked bilaterally and are being so done by the United States, will become the accepted international standards.

It is on these issues that our negotiators are having a tough time, and it is to these key open and very detailed issues that I want to draw the committee's attention.

These open issues, if not satisfactorily resolved, would make the final TRIPS accord unacceptable. In the patent area, with which I

am most familiar, a TRIPS agreement must effectively limit compulsory licensing under patents.

In particular, a TRIPS agreement must not permit countries to discriminate by industry or product in the application of compulsory licensing systems as, indeed, some countries do with regard to the pharmaceutical industry.

Second, a TRIPS accord cannot recognize what is called the "international exhaustion" of patent rights, which, in effect, allows the uncontrolled importing of products from a country even if a holder of the valid patent objects.

Third, a TRIPS agreement must include effective pipeline provisions to deal with inequities occurring in certain developing countries that fail to provide patent protection for products like pharmaceuticals and chemicals under their old laws.

A TRIPS agreement must also include transition provisions for Canada, whose previous compulsory licensing practices must be banned by a TRIPS agreement.

In the area of copyright, apart from the importance of the moral rights issue, a TRIPS accord must provide full copyright protection for computer programs as literary works, and must avoid exceptions that would undermine existing protection of computer programs.

The agreement must also provide exclusive rental rights for owners of computer programs and sound recording to stem the tide of international piracy and must not discriminate against U.S. copyright owners by failing to recognize contractual relationships and corporate authorships under works for hire agreements and arrangements.

With respect to trade secrets, a TRIPS agreement should required that third parties exercise a fair and reasonable degree of care when acquiring trade secrets to ensure that they were acquired with the consent of the owner, and should provide for a period of exclusive use for registration data provided to governments to get products approved.

In the area of semi-conductor layout designs, language in the TRIPS agreement on innocent infringers cannot be conditioned.

Finally, inclusion of long transitional arrangements for developing countries that would be measured in years before such an agreement became effective would postpone any benefits that U.S. rights holders would gain from a strong agreement in those countries.

Since the beginning of the TRIPS exercise, we have conditioned our support for the TRIPS agreement on its meeting the minimum substantive standards of protection and enforcement. We continue to do so.

It is for that reason that the IPC continues to prefer a TRIPS accord with strong standards of protection and enforcement, even if we do not get all the countries to participate in it, rather than if the price for gaining additional signatories is weakening of the standards—the lowest common denominator kind of agreement—is worse than no agreement.

The IPC remains committed to working with the U.S. Government to achieve in the Uruguay Round a TRIPS agreement that provides adequate and effective intellectual property protection.

The IPC remains steadfast that no agreement is far better than a bad agreement, as I have heard a number of you say, especially in light of the significant achievements in intellectual property protection that have been made in recent years through the bilateral efforts of our trade negotiators in such countries as Korea and Mexico, and a number of others.

The IPC renews its support for the U.S. Government, should it decide to walk away from a TRIPS agreement that does not provide the standards required to protect the interests of U.S. industry. We believe that this outcome can be avoided, however, if other governments—especially the EC and Japan—join the United States in making the tough choices required to conclude a successful agreement.

Now, I would like to quickly finish by adding the position of the Coalition of Service Industries. Now, Mr. Chairman, as representatives, this statement was written of the Coalition Services Industry and the Financial Services sector.

We appreciate the opportunity to submit this statement to the committee, and I am also putting forward a written statement, which we ask to be included in the record.

"We regret that our schedules have prevented us from appearing in person. Progress has been made in recent months toward achieving a strong liberalizing services agreement in the Uruguay Round.

Our negotiations at USTR, Commerce, and Treasury have done an outstanding job in the face of issues that are as difficult to resolve as those in the agricultural negotiations.

Despite encouraging progress, however, a tremendous amount of work remains to be done. Critical issues remain unresolved, especially with respect to liberalization commitments by our foreign trading partners.

In our view, it is critical that the final services agreement include four elements. One, a tough, binding framework of rules. Two, strong annexes for financial services and telecommunications. Three, substantial liberalization of foreign markets, and four, a mechanism to prevent free riders.

Elimination of existing barriers to U.S. service providers is essential if a services agreement is to provide and produce a tangible commercial benefit to the United States.

As efforts to complete the Round accelerate, we are concerned that the United States will be asked to settle for much less. A minimalist agreement would have the effect of locking the U.S. market open and the markets of many others closed, while tying our hands bilaterally. We do not believe that such an agreement would serve the nation's economic interest.

We thank the committee for holding this important hearing, and for the committee's continued support of the U.S. service sector."

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Pratt. Mr. Rivinius has played a major role in the negotiations concerning agriculture. We are very pleased to have you here.

STATEMENT OF RON RIVINIUS, PRESIDENT, NATIONAL ASSOCIATION OF WHEAT GROWERS, WASHINGTON, DC

Mr. RIVINIUS. Thank you, Mr. Chairman. I would like also to commend the Chairman for conducting this very important hearing.

The United States and the European Community appear to have narrowed their differences in agriculture. While there has been no breakthrough, the 5-year-old talks have advanced to the point where a successful conclusion to the Uruguay Round may be possible.

A successful conclusion to the multi-lateral negotiations has been our organization's highest trade priority. The National Association of Wheat Growers has consistently supported the talks and efforts to bring new disciplines to the unfair trading practices now running rampant in the world wheat market.

Not all farm and commodity organizations share our ambition. Farmers of commodities with different domestic policies and different international market situations have a different trade agenda. I speak today only on behalf of the National Association of Wheat Growers.

American wheat producers are in a very interesting position. We are an export dependent commodity. In an average year, we market over 60 percent of our wheat overseas.

Ironically, since the adoption of a more market-oriented farm policy in the United States, our share of the market has fallen from a high of 48 percent in 1983–1984, to a projected low of 26 percent for this year.

Senator CHAFEE. When you say your share of the market, your share of the world market?

Mr. RIVINIUS. Our share of the market.

Senator CHAFEE. World market?

Mr. RIVINIUS. Right.

Senator CHAFEE. Thank you.

Mr. RIVINIUS. In this same period, we have witnessed the coming of age of the European Community's Common Agricultural Policy called CAP.

Through the combined implementation of variable levies, price supports, and export subsidies, the EC has defied the laws of comparative advantage to become not only self-sufficient in wheat production, but also as a net exporter. This year, the EC wheat exports are estimated to reach a record level of 21 million Metric Tons.

Sadly, world wheat consumption has not grown at a rate high enough to accommodate the excess EC production. This has had a direct impact on U.S. farm policy as we have attempted to regulate our own area in production. U.S. policy adjustments do little to affect positive change in the EC's CAP. The ongoing talks are the only forum available to us.

Because the EC has succeeded by using a combination of policy mechanisms, we believe the U.S. negotiators should continue to pursue a comprehensive agreement that represents our best and only opportunity to return balance and equity to the international wheat market.

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I want to emphasize the issue of export subsidies. Our highest priority in the GATT negotiations has been to achieve a swift and fair resolution to the export subsidy issue. Such discipline can be achieved through a mechanism that restricts budget outlays and the total quantity of a product that is subsidized.

For the record, the term "export subsidies" should encompass direct financial assistance to exporters, costs related to the sale for export of publicly-owned or financed stocks; assistance to reduce the cost of transporting or marketing exports; export credits provided by governments on less than fully commercial terms; the provision of financial assistance in any form by governments and their agencies to export income or price stabilization schemes operated by producers, marketing boards, or other entities which play a dominant role in the marketing and export of an agricultural product; export performance-related taxation concessions or incentives; and subsidies conditioned on export which reduce the cost of the agricultural commodity components which are incorporated into processed product exports.

In addition, we are opposed to producer-financed export subsidies, and any efforts by a contracting party to use food aid as an opportunity to dump excess supplies.

Finally, in the area of sanitary and phytosanitary measures, we will support an agreement which strengthens international rules on animal, food, and plant safety and which establishes a dispute settlement mechanism to fairly and expeditiously resolve problems in these areas based on verifiable scientific evidence.

In conclusion, nearly 1 year ago, U.S. Trade Representative Carla Hills stated that "some nations would stall these talks in the hope that the international resolve would weaken, and tough political decisions can be sidestepped. They should understand that the people of the world can no longer bear the burden of inefficient, outmoded policies.

Our President has made the U.S. position very clear. We firmly believe that no agreement is better than a bad agreement."

This quote is particularly significant in that it followed the U.S. rejection of the EC's farm proposal. We would like to see the United States continue in this vein, and we are anxious to be informed of developments and how they can be expected to affect our industry.

In closing, I would like to thank you again for this opportunity, and I hope that our discussion today will send a signal, in particular, a message that a substantial agreement in agriculture is imperative. Our expectations are high, and we trust that the President and his negotiating team will not to decide to come home with anything less.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Rivinius. I am sure every member of this Committee shares those thoughts.

[The prepared statement of Mr. Rivinius appears in the appendix.]

The CHAIRMAN. Mr. O'Neill, you are very generous in your comments concerning the work of this Committee to open up markets around the world, and we are very appreciative of that.

But in looking at our situation in trying to go to a zero-for-zero tariff approach, which I certainly share and support, our problem insofar as aluminum is Europe, principally, it appears. We have no tariff on the aluminum that is coming in here. And, in turn, Europe has a 6 percent tariff.

And then I look at other industries—like wood and paper—and the problems they have with Japan. It looks like we have a real uphill fight. Now, when we have done away with our tariffs, where is our leverage? Where is our muscle? What do you think we should do?

Mr. O'NEILL. Well, I think it is very difficult, but, as I indicated in ALCOA's case in dealing with Japan and as a consequence of the changes that were made in the Leather Wear Agreement, we have had a sensational increase in our opportunity to participate, and, in fact, our penetration into the Japanese market.

I know there is an endless stream of commentary about Keiretsu and the difficulties of breaking into the Japanese markets.

My experience may not be capable of generalization, but I have to tell you, over the last 2 years, my company has put in place what I think are singularly important joint ventures with the Kobe Steel Company that have already provided a basis for us to manufacture a product in the Japanese market with an established mill site where we are a 50/50 equal partner.

We are bringing the metal from the ALCOA worldwide metal system to provide for its fabrication into finished products. We are in the process of finalizing joint ventures around the transportation industry that will effectively make us equal partners, both in Japan and in the United States, to produce aluminum materials for the automobile industry so we can reduce their weight without reducing their size, consequently reducing the fuel consumption, and the insult to the environment.

My own experience with the Japanese is far different from what I read in most of the popular press. It has not been easy. It takes greatly detailed conversations and many levels of staff work.

But I am convinced it is essential that other companies like mine, and other industries like mine are going to have to figure out how to do this kind of business, not only in Japan, but everywhere else in the world, or the living standard in the United States is for sure going to go down from what it is now.

Last week we announced a new joint venture with the Swiss, where we will have a 60 percent interest in an operating activity in Switzerland, and, again, it will be powered by technology that is created in the United States, by raw materials that are developed, in part, even in your own good State at the Rockdale smelter—the largest in the United States I see an absolute necessity that we figure out how we are going to do business with no trade and tariff barriers and the limitations on the free flow of goods, and services, and ideas.

There is, if I may have one more minute, a problem I would like to bring to your attention, and the members of this committee, that, at the moment, does not have a home. And it has to do with what is happening in the Soviet Union.

In the world today, there is about 20 million metric tons of aluminum production capacity. Until 2 years ago, four million tons of

that capacity lived inside the Soviet Union, and it was of no consequence to the rest of the world.

With the coming down of the Berlin Wall, and the dissolution of a Soviet political system, and the reduction in their defense spending, they have now unleashed onto the rest of the world a significant part of their productive aluminum capacity, and, as a consequence, the real prices of aluminum today are 50 percent of what they were 2 years ago. Now, being an unreconstructed free trader, I would say that is the way the world is supposed to work. But you should know that the metal that is being produced in the Soviet Union and now unleashed on the Western world is being produced by some of the most horrendously polluting facilities the mind of man ever created.

And, as a consequence of this onslaught of Soviet metal, much better smelters in the world are being closed down to make way for this renegade capacity, if you will, and the world total cost of producing aluminum is going to go up instead of down.

Now, in our current arrangements, there is not a natural home to deal with this problem, and I think aluminum may be only the leading edge of what we are going to see in zinc, and titanium, and uranium, and other basic materials.

I have seen, so far, at least, no attention given to this problem; no seeming awareness that the consequences of the Soviet Union's economic dissolution is going to make big waves for the rest of the world, including the United States. Even though their metal is not coming to the United States, it has a profound impact on materials that are traded on world markets. And so I bring this to you in the hopes that you will have an interest in this problem.

I have talked to Ambassador Katz at the Trade Office about it, and it seems to me it is a kind of a problem where it would be well for us to get in front of the wave, rather than waiting for it to come crashing down in many more sectors than my own.

The CHAIRMAN. Thank you, Mr. O'Neill. You have effectively used up my time, but for a very major point. We are pleased to hear it. I will hold myself to that one question, because it is important that we move ahead.

We have a mark-up later on, and some important nominees that we have to consider. And I would urge my colleagues to be here for that mark-up. I think you will find it important. Senator Packwood.

Senator PACKWOOD. Mr. Rivinius, in 1984–1985, we had 48 percent of the world market?

Mr. RIVINIUS. Yes, that is correct.

Senator PACKWOOD. Was that our high?

Mr. RIVINIUS. Yes.

Senator PACKWOOD. That was not an average, that was the highest we ever reached?

Mr. RIVINIUS. No. Right.

Senator PACKWOOD. What was our average over the 1980s?

Mr. RIVINIUS. I guess between 35 and 40 percent, probably.

Senator PACKWOOD. All right. So we have fallen to a projected low of 26 this year. What is the EC's percentage of the world market?

Mr. RIVINIUS. About 15.

Senator PACKWOOD. And what has it been over the decade?

Mr. RIVINIUS. Well, they were an importer, and in the last few years, they have become an exporter.

Senator PACKWOOD. So, in essence, they have taken the percentage of the market you have lost. There has not been any additional lost to Canada, or Australia, or any of the other countries?

Mr. RIVINIUS. No, no. The EC is our biggest competition.

Senator PACKWOOD. All right. Mr. O'Neill, refresh my memory on something. Did Japan not give up on the aluminum industry 7, or 8, or 9 years ago?

Mr. O'NEILL. Actually, Senator, if you go back to 1971, the Japanese, at that point, had 9 percent of the world aluminum smelting capacity. And after the first energy shock, they looked at their position in world aluminum and recognized with absolutely no bauxite on their land mass and no low-cost hydropower, that it made no sense for them to be in the primary aluminum industry. And so, as a national decision, they decided to exit the primary aluminum business.

But, at the same time, their per capita utilization rates of aluminum have far exceeded most of the rest of the world over this last 20-year period, and effectively what they have done is taken a position that since it makes no economic sense for them to be in the primary business, that they will put their expertise into technology and fabricated products, and that is exactly what they have done.

Senator PACKWOOD. Therefore, does it not make it a little easier for you to get into the primary market in Japan than some other businesses, because they have decided to get out of it.

Mr. O'NEILL. Actually, I am not in the primary business in Japan. What I am in now is in the fabricating business.

Senator PACKWOOD. I understand.

Mr. O'NEILL. And ALCOA is going to be making aluminum can sheet for beverage cans in Japan, with its own productive capacity, not restricted by any trade or tariff barriers, with our technology and their technology.

Senator PACKWOOD. I did not ask my question right. You export $150 million worth of aluminum what to Japan?

Mr. O'NEILL. Ingot.

Senator PACKWOOD. Pardon?

Mr. O'NEILL. It is largely ingot, but there are also some fabricated products, as well.

Senator PACKWOOD. And is the reason that you are able to export the ingots more easily than other companies that they are no longer in the ingot business?

Mr. O'NEILL. Well, there are other companies as well who are exporting, but there is no doubt about it, since the Japanese decided that they had no economic business in the primary activity, they have to get their raw material from someplace around the world.

Senator PACKWOOD. But your success in getting into the market might not be duplicated by other companies where the Japanese chose to remain in the business and keep a protected market.

Mr. O'NEILL. I guess I am not sure I understand your question. They have a huge activity in fabricated aluminum products, and the significance of our arrangements with them is they are permit-

ting us to become active, full-fledged, 50 percent partners in doing business in Japan in their marketplace for products for both Japanese market and export consumption.

Senator PACKWOOD. Well, I will give you two examples. We cannot get into their rice market.

Mr. O'NEILL. I know that.

Senator PACKWOOD. This is not because they are any more productive than we are; they are infinitely less productive than we are in rice. We cannot get in.

Mr. O'NEILL. Right.

Senator PACKWOOD. You are allowed in. There is a difference. So, the fact that you are allowed in is not necessarily any solace to the American rice farmer who simply is not allowed in.

Mr. O'NEILL. I could not agree with you more. Rice farmers who are not in have a very difficult problem. But I am suggesting, however, Senator, that the Japanese need not have let us into their fabricated market, and I think it is significant that they have. They did not need us. They could do what they were doing without us.

Senator PACKWOOD. Ed, let me ask you a question. Do you think we are spending too much time in terms of TRIPS, on north-north issues?

Mr. PRATT. Well, we had not anticipated that. When we started on this many years ago, the attempt was to get at least basic patent protection in countries that did not have it. And we cautioned our trading partners right from the beginning.

Let us not try to revamp the whole patent system that does exist as a part of this negotiation. Unfortunately, some of that has happened, so we find ourselves arguing with the Europeans about details of differences that have existed for years. And I think that has been unfortunate, no question about it.

We should have been able to present a common front against those parts of the world that have no protection of intellectual property. You are absolutely right. That is something that has complicated the negotiations greatly.

Senator PACKWOOD. It has. And I think we would not have realized that at the start.

Mr. PRATT. We did not expect appellations of origin and things like that to get into the discussions.

Senator PACKWOOD. Right.

Mr. PRATT. We were talking about countries that had no intellectual property——

Senator PACKWOOD. Yes. I think we were forced into it; we had no choice.

Mr. PRATT. That is true.

Senator PACKWOOD. Yes. Thank you.

Senator ROCKEFELLER. Senator Hatch.

Senator HATCH. I just have a couple of comments. We are entering intellectual property into the GATT for the first time. And, of course, as a Senator from Utah where we do a lot of software and biotechnology, I am obviously concerned about what we might have to give up.

And my basic proposition is that at a time when we are developing country like Mexico is putting a truly world-class intellectual property act in place, it would be embarrassing to the United

States to relent in any way from our standards. So, I am really concerned about it.

And, as a member of the Advisory Committee, are you comfortable that the trade-related intellectual property protections, or the so-called TRIPS, that they are going to shut down some of the loopholes that countries can use to avoid some of the GATT rules.

Mr. PRATT. Well, we have a clear understanding, Senator Hatch, with the trade negotiators on that subject. And we have hit it hard for, I guess, 6 years now that to give ground on some of the basic principles in order to get an agreement, we would end up losers.

Senator HATCH. Right.

Mr. PRATT. And so, I mentioned that in my statement. I could not agree more it is absolutely critical that we keep reminding them as these days get shorter that a bad agreement is worse than no agreement. I would like to emphasize again the point I made.

I have felt GATT has been considered a consensual organization, that everybody agrees, or else you have no agreement. There are precedents for semi-agreements; code structures where a group of nations who agree to abide by that code can agree on it. It seems to me this may be the kind of compromise we may be forced upon, rather than to compromise away the key principles that you mentioned.

If we could get out with a sizeable number of countries who have agreed on a world-wide set of reasonable approaches to TRIPS, then we could work on the others as we did with Mexico on a bilateral basis.

I think the worst thing that could possibly happen would be to accept agreements inferior to the one we got with very difficult negotiations with Mexico.

Senator HATCH. Well, I agree. Your statement was excellent, and I just wanted to point that out. Mr. Chairman, that is all I had.

The CHAIRMAN. Senator Breaux.

Senator BREAUX. Thank you, Mr. Chairman. Thank the panel. Mr. O'Neill, I am delighted to see you here. You are a major corporate citizen in my State of Louisiana, and we are pleased to have you here. It is a good thing you are not in the rice business, though. I am glad you are selling that aluminum over there, but do not try and sell them a bag or a grain of rice in Japan, I will tell you.

And being French, I noticed that you are having difficulty getting the French to the table. I never have trouble getting the French to the table if it is to eat good food and drink good wine, but not much else.

What about the other industries in America that are having problems with that zero-for-zero tariff? We hear from the glass industry and textiles, and so many of them feel that a zero-for-zero proposal is totally unacceptable. Do you have any comments from conversations with those colleagues, or have you had any discussions with them?

Mr. O'NEILL. I understand the difficulty that some of our industries have with zero-for-zero given the positions that they have and the free market economic consequences of going to zero-for-zero.

And from a here and now and short-term point of view, it is understandable that people are reluctant to see us move to zero-for-

zero. But I have yet to find a compelling economic argument, or argument for civilization that compels me to believe zero-for-zero is a bad idea.

Senator BREAUX. Is it possible to have zero-for-zero for some, do you think, in the terms of the treaty, and not for others?

Mr. O'NEILL. That would be all right with me, as long as aluminum were covered.

Senator BREAUX. I appreciate that. And Mr. Chairman, maybe Mr. Rivinius is representing and speaking for the National Wheat Growers. I am just wondering whether it may be possible to get some of the other agricultural segments to at least be able to submit a statement dealing with their commodity.

The CHAIRMAN. By all means.

Senator BREAUX. I was thinking particularly of rice, and sugar, and cotton——

The CHAIRMAN. Absolutely.

Senator BREAUX. And some of the soybeans and others that may wish to elaborate on your position. Tell us about the EC's proposal and the 30 percent reduction of subsidies?

Mr. RIVINIUS. Well, the main part we are stressing is the export subsidies. We have a lot of concerns where that is going to come out when you start using the numbers.

Senator BREAUX. Well, I mean, is it not a factual problem that if their subsidies are much higher than ours, a 30 percent reduction on both sides is really meaningless, is it not?

Mr. RIVINIUS. That is right. We still have not gained what we are trying to do. In fact, we have been disarming ourselves in the last two farm bills with trying to compete with the EC. We have done some of the things that they are looking forward to do in the GATT talks; we have already done some of those.

Senator BREAUX. What is the position of the wheat growers on Section 301 tools, that we now have in order to protect against unfair trade practices being eliminated or compromised in the Uruguay Round? I mean, can these legislative remedies not be replaced by some mechanism that would be of equal importance and protection from our standpoint, or is that not possible?

Mr. RIVINIUS. I know that we need some kind of a tool to get back at other countries if things do not go well, or if down the road somebody is not complying with the agreements. If it is 301, or if they come up with some new agreement that's probably OK. I guess I am not stuck on what it is, but we need something.

Senator BREAUX. Are the various American commodity groups working together on this, or is everybody out trying to cut their own deal and head for the hills?

Mr. RIVINIUS. No. We have had a pretty good coalition. There are some groups that have a somewhat different position, but the main thing we are looking at is the export subsidies.

That is the number one issue here, to get rid of the export subsidies. We feel, especially with the EC, that if we get the export subsidies taken care of, they are going to have to address the rest of their internal problems.

Senator BREAUX. So, the biggest stumbling block is export subsidies?

Mr. RIVINIUS. Right.

Senator BREAUX. Is internal supports an issue that is on the table that is causing difficulties?

Mr. RIVINIUS. Well, there again, we have already done some with triple base, our ARPS that we have had set aside that we have had frozen; our frozen yields on our payments; we have got payment limitations; all those things have had an impact. And yet, Europeans are going along their merry way and have picked up everything that we have tried to cut back.

Senator BREAUX. Well, I urge you all to keep fighting and let us know what we can do. Thank you, Mr. Chairman.

Senator ROCKEFELLER. Senator Grassley.

Senator GRASSLEY. Let me have you characterize for me in a sense the same thing you were speaking to Senator Breaux about, Particularly how things have kind of broken open in the sense that both sides have offers on the table now, and there tends to be negotiation going on.

How do you characterize our government's efforts as being very definite and hard-nosed in accomplishing this minimum goal of 30 to 35 percent? A real commitment? I want your characterization of it, how you feel in your gut. Will it end up in the protection of agriculture?

Mr. RIVINIUS. Well, there is a lot of anxiety out there that we may not get the deal that we want. I guess we want people to recognize the importance of agriculture; that it is not something that you can trade away. We are providing about 20 percent of the Gross National Product, and I do not see how you can even begin to consider trading some of that away just to come up with an agreement.

Senator GRASSLEY. But you are fearful that that will happen. That is what you are telling me, I believe.

Mr. RIVINIUS. Well, as was stated earlier, when it gets down to that final hour and you have four people in a room, sometimes there are some funny things that happen and I guess we are getting to that stage right now. We have disarmed ourselves.

I mean, there is such a gap between the EC and the United States in our programs that if we started using percentages, we have not gained a thing.

Senator GRASSLEY. Well, one thing I think you can do, and other commodity groups who are observers of this process can do, is not to become part of the government process. And when you see something bad developing, blow the whistle. Do not wait. I do not have doubts that you would do that, but the point I am making is make sure that you are guarding the chicken house and not in with the chickens.

This position you have expressed here, and the concern that you have expressed, are these the kinds of related facts that we might be wanting to get an agreement on in services and intellectual property rights so much that agriculture might go by the wayside?

Mr. RIVINIUS. Yes, that is a concern. Because I think we look back at what happened with the Canadian Free Trade Agreement, and agriculture really was probably one of the biggest losers in that, especially when you come from a place along the border where you see the trucks coming down and you are not able to go back.

Senator GRASSLEY. Do you sense that our negotiators are using the tools that we have put in our 1988 Trade Bill and in our 1990 Farm Bill that are shot guns behind the door out there—the Export Enhancement Program, the Marketing Loan program, et cetera?

Do you sense that our negotiators are using these shot guns properly to bring the European Community around. And are we serious about using those shot guns if we do not get an agreement?

Mr. RIVINIUS. I think they are, but there are also things that are—we have a lot of State Department involvement in our marketing.

Senator GRASSLEY. Well, let us highlight that. There is a lot of State Department involved in this? Well, that is really no surprise.

Mr. RIVINIUS. Well, I know.

Senator GRASSLEY. But you ought to mention that more often.

Mr. RIVINIUS. All right. It takes away a lot of competitive advantage for us. I mean, when the EC decides to do some marketing, they go and do it. And we have quite a larger inter-agency process that seems to try to give advice to USDA on who is eligible for export enhancement, and wherever we want to do business.

Senator GRASSLEY. Well, Mr. Chairman, you know, we brought up a point that we do not think about enough at this committee, and that is State Department involvement. Every time we are at the table to discuss agriculture, we have always done it, I believe, with just our Special Trade Representative. She has been the one that has promised us that agriculture would not be sold out. But we ought to look into the consideration of the of whether our State Department might be dominant in these negotiations and not Carla Hills.

The CHAIRMAN. Thank you. Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. Mr. O'Neill, you described your experiences with Japan with some enthusiasm, and indicated that persistent and steady work or cultivation has resulted in some pretty good results.

All I can note is—and I am not trying to gainsay what you say because you have been there—first of all, in a company your size, sales of $150 million, while not peanuts, is not that significant, I would think.

And, secondly, to obtain that $150 million, you had to go into a 50/50 deal, as you describe it anyway. So, could you elaborate on that a bit? It seems to me that is not such a bonanza.

Mr. O'NEILL. Senator, you may not like this line of an answer, but let me tell you, I began to get interested in our trade position and our competitive strength in the world when I worked for International Paper Company. Incidentally, Mr. Pratt is on the Board of International Paper, so he will remember these circumstances. I was told by my people we could not put a corrugated product, a box material, into Japan because of trade and tariff barriers. And so, I went to Japan to look for myself.

And what I discovered was they were insisting on very, very tight control over the moisture content in liner board. And our people said that is a subtle tariff barrier, or trade barrier.

And so I went to see the chairman of the biggest Japanese box company to accuse him of unfair practices, and he said, let me show you the consequence of our tight specification.

And he took me down into his plant to show me the same machines we were running in the United States, but instead of running nine tons an hour of corrugated boxes off of his machines, he was running 13.

And I became a believer that we had been, at least in the box business, too long listening to ourselves about how great we were and how the Japanese were practicing unfair trade practices.

And I could tell you more about that experience, but when I moved over to the aluminum business now almost 5 years ago, I found almost an amazingly similar circumstance that had occurred at ALCOA in 1983. ALCOA invented the way to make commercial aluminum, and it is very good at it. I hope you will not take from my remarks that either International Paper or ALCOA are less than good companies.

But in ALCOA's case, what they found in 1983 when they bought a coil of aluminum material for making beverage cans from Kobe that the finish and the non-variability of the product was so good that our manufacturing people insisted it had to be handmade, that there was no way it could be part of a regular production run. And what we have learned over time is that was not true at all.

Their productivity was significantly better than ours in a business we had invented. And so, I have some prejudice when I look at the things that I know about for sure. This is not hearsay; this is not what somebody else has said to me; this is not what I read in somebody's book; I went and looked for myself. And in the two industries where I know a lot about it, and in tangential ones—like the automobile industry where I know quite a bit about it—I think we have got to wake up in this country. We have got to realize that if we are going to be competitive, we have got to meet the competitive norms. We have got to be insistent, I think, about knocking down the unfair trade barriers and trade practices that exist, for example, in the agricultural field.

But in so many other areas, we have got to stop the American hubris that we are better than everybody else because we invented the product, and go find out whether it is true or not. And if it is not, we need to figure out how we can be a significant world-class competitor. And that is what I am doing in Japan. My operation——

Senator CHAFEE. Well, is your point that going on the 50/50 deal was a pretty good deal for you, you got something out of it?

Mr. O'NEILL. Well, let me put it to you this way.

Senator CHAFEE. It was not just to get into the market.

Mr. O'NEILL. If it was the Japanese coming here and they wanted to simply take over my business, I would say, go to hell, to be impolite. But if they were interested in a 50/50 deal, and they brought significant technology and capital and a willingness to work as partners, I would consider that. And that is what I am doing with the Japanese.

I am insisting that I get to have productive capacity in Japan, and I think it is not unfair for them to say, fine, if we are going to be partners in Japan, we would like to be your partners in the U.S.

And what I said to them, in addition, I want you to be my partner in Europe. And I want the Europeans to be my partner in the

U.S. and in Japan so that I can build an enterprise that is worthy of the title of world-class in technology; in market knowledge; and cultural understanding. Because I think those are the kind of enterprises that are going to win the next century.

The CHAIRMAN. Thank you very much.

Senator CHAFEE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. Mr. Chairman, I sense your frustration over the questions and lengths of answers that have gone on here and I know we have a private meeting scheduled, so I will not ask a question, although I very much want to.

I will submit a statement to the record and simply note Mr. Pratt's observation that having no laws regarding intellectual property may be safer than having some laws that have substantial exceptions to them. I find that very interesting. Thank you, Mr. Chairman.

The CHAIRMAN. Senator, thank you for that consideration, with all your knowledge and interest in the Japanese questions. Senator Roth.

Senator ROTH. Mr. Chairman, I will waive.

The CHAIRMAN. Thank you very much. Thank you. Senator Danforth.

Senator DANFORTH. I do not dare not waive.

The CHAIRMAN. Gentlemen, that has been very helpful, and it has been stimulating, and we are most appreciative of your testimony. Senator Baucus had not been here before. All right.

Senator BAUCUS. Thank you, Mr. Chairman. I apologize for my absence. There are not many issues that take me away from International Trade. In this case, it was the Montana Wilderness Bill. Nothing is more contentious in my home State than that issue has been for 12 years. We have had 23 hearings on it; thousands of hours of testimony; and the Energy Committee finally reported out a bill. I can tell you it is a great relief to at least have taken that step. I apologize to the witnesses for my absence.

I would like to generally know the degree to which all of you believe that it is important for the United States to keep Section 301, that is, as a market opening tool, regardless of what agreement is reached in the Round. Mr. Pratt.

Mr. PRATT. Well, the 301 has been, in the intellectual property area, about the only device we had to get the attention of people who were stealing our intellectual know-how and property. So, we think it is very important. I think we have been willing to take the position that if we got a good enough agreement on intellectual property, as far as we are concerned, that would give us the protection we need, that you would not need a 301.

Senator BAUCUS. But there are some who believe that although there may be some agreement in intellectual property, it will not be good enough—that we are going to need special 301 to make up the difference.

Mr. PRATT. My guess is that that would be the case. My guess is that we will not get a good enough agreement, I am afraid, that we will feel that we should give that up.

Senator BAUCUS. All right.

Mr. PRATT. But it is conceivable, and we would hope that we could get a good agreement.

Senator BAUCUS. Anything is conceivable. Mr. O'Neill.

Mr. O'NEILL. I believe we should keep 301. I think we should use it judiciously. I do not see any reason to scrap it.

Senator BAUCUS. All right. Mr. Rivinius.

Mr. RIVINIUS. I concur with that, that we need that just to keep things in line if we do not end up with the deal that we think we need.

Senator BAUCUS. I would like to turn now to agriculture. The prior U.S proposal was a 90 percent reduction of export subsidies, and a 70 percent reduction in market access in domestic subsidies. And the Hague Agreement, as I understand it, is a 30-35 percent across-the-board in all three areas. Is that your understanding?

Mr. RIVINIUS. Yes, it is.

Senator BAUCUS. And your reaction to that tentative agreement?

Mr. RIVINIUS. Well, I guess if that is what comes about, we want to tie it to tonnage of what is being sold and not the dollar amount.

Senator BAUCUS. All right. You're referring to the baseline.

Mr. RIVINIUS. Right.

Senator BAUCUS. All right. Would it not be your position that we have already cut our subsidies with the 1986 Farm Bill, that we have essentially cut 30–35 percent?

Mr. RIVINIUS. Yes. With our triple base, our frozen yield payments, our payment limitations, all those are a part of what we have already done in that process.

Senator BAUCUS. All right. And if, in fact, the baseline is the 1986 Farm Bill, if that is agreed to, then your reaction to the potential 30-35 percent cut that the European community and our competitors would have to take?

Mr. RIVINIUS. Well, we would have to take a hard look at that, because our main thing that we want changed is the export subsidies. We have cut our internal programs already in this country, and there is such a gap in the internal programs from the EC to the U.S., that if we make those cuts internally, I mean, we are not going to gain anything for the U.S. farmer. It is the exports that we have to put more emphasis on, on having more than a 35 percent cut.

Senator BAUCUS. All right. Mr. O'Neill, I wonder if you could give me an idea of the dollar magnitude of the zero-for-zero tariff option for the typical American aluminum plant, or company. It is my understanding that the dollar benefit of a zero-for-zero agreement to a typical American plant is significant. Can you give us a little idea how significant that would be?

Mr. O'NEILL. I am not prepared to give you a number off the top of my head. And, frankly, I would be making it up if I gave it to you now. But I would be happy to give you something for the record.

[The information follows:]

Based on Alcoa's internal estimates, the company's exports in a zero tariff world should increase by over $200 million within the first 2 years. Within 5 years, this figure should reach at least $400 million per year. I cannot speak for the other domestic companies specifically, but based on our estimates, I would think that the total industry exports should increase by over $600 million per year within the first 5 years after achieving a zero for zero tariff option in the Uruguay Round. Past 5

years, it is extremely difficult to estimate. However, the dollar amount should increase steadily because of the huge growth potential for aluminum markets in the world.

Senator BAUCUS. Well, could you give us the parameters so we get a sense of what we are dealing with here?

Mr. O'NEILL. Hundreds of millions of dollars for the industry, and, for the longer term, billions of dollars.

Senator BAUCUS. So, hundreds of millions of dollars on an annual basis, longer term, billions of dollars.

Mr. O'NEILL. Right.

Senator BAUCUS. All right. Mr. Pratt, if we got a successful intellectual property agreement, what is the dollar value for your industry?

Mr. PRATT. Well, we estimate billions of dollars. I think the International Trade Commissiom stated that it is estimated we are losing $60 billion worth of business around the world because of theft of intellectual property. That is the size of the stake. Our industry alone is billions, several billions. It is hard to be precise. Several billions.

Senator BAUCUS. That certainly would improve trade deficit figures—

Mr. PRATT. It certainly does.

Senator BAUCUS.—if we could achieve those results. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. All right. Now, gentlemen, thank you very much. It has been a contribution that has been very helpful to us. Thank you. And I would ask my colleagues now to join me for the executive committee meeting.

[Whereupon, the hearing was concluded at 10:55 a.m.]

APPENDIX

Additional Material Submitted

Prepared Statement of Senator Charles E. Grassley

Mr. Chairman, thank you for calling today's hearing on the progress of the Uruguay Round. The success or failure of the talks that are proceeding now will have significant effects on all sectors of the U.S. economy.

Over the last couple of weeks, the press has begun to report significant movement toward agreement in all area after President Bush's personal intervention. No one can doubt the stimulating effect a fair agreement will have on the world economy and I hope our dreams will not be trashed yet again by intransigence on behalf of the European Community.

With regard to agriculture, indications are that several issues have yet to be resolved. the major controversies include:

Subsidy levels, both internal and export;
Base years from which to make cuts;
Rebalancing of tariffs among commodities;
Minimum access commitments;
Export subsidies measurements, dollars and quantities.

Farm commodity and agribusiness groups are concerned that the administration will become so enamored with agreements in services and intellectual properties that it will let agriculture go without significant reductions in competitors' programs.

Some of the comments in articles give some credence to this fear. I note with approval that Senators Bentsen and Packwood have reiterated, in a letter to the administration, the message that no agreement is better than a bad agreement.

Based on what I have seen and heard discussed in the media, I remain skeptical of how far the EC has moved in relation to the U.S. position.

For instance, the EC would like to use a more favorable base period (1988) from which to measure cuts and to define cuts in subsidies in terms of cash amounts. The U.S. should hold to its position of using an average of the period of '86–88, during which U.S. supports dropped from $27 billion to $8 billion, while the EC supports climbed to $30 billion.

In a similar vein, the EC wants to base export subsidy cuts in terms of budgetary outlays. However, because of currency fluctuations, I am told that the EC might be able to meet its commitment without significant actual reductions. Thus, the U.S. is properly pushing for export cuts to be measured by a formula combining budget outlays and quantities of commodities.

Rebalancing and minimum access commitments are closely linked. Because of the threat to corn gluten and other commodities, I and many other Members of the Senate have held that rebalancing of tariffs among commodities would be an unacceptable compromise. The EC wishes to assuage this by guaranteeing base levels of imports of corn gluten from the U.S. I feel it is likely that this floor would in fact also be a ceiling. I have several more concerns. First of all, much of the movement has been done by the U.S. This has reduced the level of required subsidy cuts that it is demanding from 75–90% to 30–35%. The EC has given in to a shorter time frame—down from 10 years to 5 or 6. While we would not likely need to make further substantive cuts in the U.S. farm programs, we should refrain from celebrating over the EC's newfound willingness to seriously negotiate for a change.

To a degree, my discomfort revolves around the emphasis of the stories in the popular press; "breakthrough in ag tied to movement in services and intellectual property." That is Agriculture, rather than being the linchpin to a successful round, is

becoming a secondary factor, a throwaway concession to enable larger agreements to be reached.

I have been telling farmers that it is difficult to conceive of an agreement being reached in other areas that would be so beneficial to the country that it would outweigh a bad agreement in agriculture. I still stand by that assessment, although it may become necessary to remind the administration of our commitment to success in the ag sector and our willingness to vote against any agreement which does not allow for U.S. farmers to exploit their international competitive advantage.

A third major concern is that we may be signing off on something that calls for "further cuts to be discussed in the future." I am not sure that is even worth putting on paper. One need only to look as the EC actions on oilseeds to see that they will use every opportunity to stonewall, delay, obfuscate and divide.

They fought the formation of the original GATT panel, then took their time in deciding, finally, to accept its ruling against the oilseeds regime, then delayed coming up with a plan which is completely unacceptable —then "allowed" for the convening of a new GATT panel (which gives the stamp of approval to further delays). Thus, the burden of proof is on the EC to show that they really intend to sit down in 5 of 6 years to negotiate further cuts. At this time, I am suspicious.

PREPARED STATEMENT OF PAUL H. O'NEILL

Mr. Chairman and members of the Committee, I am Paul H. O'Neill, Chairman and Chief Executive Officer of Aluminum Company of America (Alcoa). I appreciate the opportunity to appear here today to lend my strong support to efforts of the United States Government to conclude a successful negotiations in the GATT Uruguay Round talks.

Alcoa is the world's largest producer of aluminum products, providing customers in the packaging, aerospace, automotive, chemical and building and construction industries with a wide range of quality products. These include alumina, primary aluminum and fabricated products. With headquarters in Pittsburgh, Pennsylvania, Alcoa employs 63,500 people at 148 operating and sales locations in 20 countries.

Almost since its founding over 100 years ago, Alcoa has been concerned with the worldwide movements of goods across national boundaries as both an importer of raw materials and an exporter of aluminum in various forms. Since those early days, Alcoa has expanded its operations around the world in order to meet and exceed the expectations of its customers. In 1990, Alcoa's export sales from the United States equalled $926 million—making the Company one of the largest exporters in the Nation.

Exports are vital to Alcoa's ability to continue growing. As a result, the elimination of tariff barriers that inhibit our exports also are crucial. Alcoa strongly supports a successful conclusion to the Uruguay Round.

In 1962, another Alcoan sat in this seat and urged your Committee to support "equal access" for the company's exports. In the nearly 30 years since then, Alcoa has continued to seek that same goal, but our success has been limited. Achieving lower worldwide tariffs under the Uruguay Round could be our last chance to find a comprehensive solution to help the U.S. aluminum industry obtain a truly level playing field.

Alcoa and the entire North American aluminum industry have spent many years seeking greater market access through the elimination of tariffs and have proven that the lowering of aluminum tariffs leads to increased U.S. exports. For example, as a result of agreements reached during the U.S.-Japan negotiations of the Leatherwear Agreement in 1986, Japanese tariffs on some key aluminum products were lowered to U.S. levels. Since achieving this tariff parity, Alcoa's exports to Japan have gone from a negligible amount in 1985 to where they now exceed $150 million annually, and Japan is our second largest export market in the world.

Much of the world's aluminum industry, regardless of its geographic location, is a high-technology, state of the art industry which neither needs nor requires trade protection. In the context of the Uruguay Round GATT negotiations, the United States has proposed a zero-for-zero tariff elimination program for aluminum and other products. Alcoa strongly supports this effort. Not only has the Company supported this proposal here, but we have urged its adoption in every country where Alcoa operates.

Currently, negotiators from Canada, Australia, Japan, and others have joined with the U.S. to seek trade liberalization for aluminum products. Unfortunately, the European Community has refused to support this proposal because its tariffs in every category of aluminum ingot and mill products are at the highest levels among developed countries.

Alcoa's major goal in the Uruguay Round is to get European Community (EC) aluminum tariffs eliminated. Once again, Alcoa has proven that it can compete in the EC when tariffs are not an issue. This is particularly true in aerospace products which enter the EC duty free under the Agreement on Trade in Civil Aircraft. Alcoa has become a reliable supplier of quality products to Airbus and others in the EC aerospace industry. Because there is no tariff on these products, we are competitive.

On the other hand, a product such as Rigid Container Sheet (RCS) used to make beverage cans faces a 10 percent tariff—triple the comparable U.S. tariff—and therefore our RCS exports to the EC are zero. Clearly, tariffs are playing a major role in this market. Alcoa has invested hundreds of millions of dollars in the U.S. to make the best quality RCS in the world, but because of these duties, we still cannot compete. The EC is a growth market from which Alcoa cannot afford to be excluded.

While I am confining my remarks to aluminum, I'm sure the Committee is aware that over 20 U.S. industries comprising 30% of the country's manufacturing capacity also support the zero-for-zero concept.

The EC is growing increasingly dependent on imports of aluminum ingot. Due to high energy costs and/or environmental concerns, it appears that with one subsidized exception, no additional primary capacity will be constructed in the foreseeable future. Most ingot now imported into the EC comes from areas with preferential trade agreements such as the European Free Trade Association (EFTA). Hence, the existing 6 percent EC tariff is highly discriminatory against exports from North America, Latin America and Australia. As a point of interest, the U.S. tariff on aluminum ingot is zero.

Another consideration that should not be forgotten in the context of the Uruguay Round is that a major threat to the aluminum fabricated products industry of the industrialized countries ultimately will come from Less Developed Countries (LDC's). These nations now hold a comparative advantage (usually large, low-cost energy sources) in the production of aluminum ingot, and will attempt to upgrade their exports to higher value fabricated products in the future.

The U.S. industry has suggested the LDC's should be offered access to the world's industrialized markets in return for adherence to the GATT rules for trade both on subsidies and the removal of barriers to their domestic markets. With true competition in their domestic markets, LDC's will not be tempted to invest in uneconomical industries. With zero tariff levels for aluminum, world trade in our industry would be based on sound economic principles without protection. Therefore, successful conclusion to the Uruguay Round, including zero-for-zero on aluminum is essential.

Mr. Chairman, to summarize, I would like to make the following points.

- The U.S. aluminum industry is the world's largest and most technically advanced.
- The U.S. aluminum market is the world's largest, most sophisticated and most open.
- The EC is among the worst offenders in opposing free and fair aluminum trade. While it is the worlds second largest aluminum market, its tariffs are among the highest in the developed world.
- Among the more advanced developing countries with growing aluminum production capabilities, high tariffs are in existence. Korea, Taiwan, Venezuela and Brazil have highly competitive, technically capable operations and do not need tariff protection.

Mr. Chairman, achieving the removal of tariff barriers through successfully completing the Uruguay Round, including adoption of the U.S. offer of zero-for-zero is crucial to Alcoa. I must say that I have high praise for Ambassador Hills and her staff. Their efforts on behalf of the U.S. industry have been excellent. I trust you will urge them to proceed to seek success for the zero-for-zero negotiations and offer them your support to accomplish this goal.

We are not asking you to support the trading-off of another industry's Uruguay Round goals to obtain success for us. In too many past GATT negotiations, that is what happened to Alcoa and I would not want others to be harmed by that concept. However, I am asking you and the U.S. negotiators to stand-up and fight for the U.S. companies and industries which have a proven record of competing when given the opportunity.

However, if the Uruguay Round cannot achieve tariff reductions encompassed in the zero-for-zero proposal, we feel no agreement is better than another bad one which Alcoa's U.S. facilities cannot afford.

I stand ready to work with the members of this Committee and U.S. negotiators to do all in my power to see that a successful and acceptable tariff negotiation is

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achieved. Thank you for continuing to focus attention on the Uruguay Round, and for giving me the opportunity to express Alcoa's views. I trust your efforts will not be in vain.

Thank you for the opportunity to appear before the Committee.

[SUBMITTED BY SENATOR BOB PACKWOOD]

STATEMENT OF JOHN A. GEORGE, CHAIRMAN AND CEO, INTERNATIONAL PAPER

As Chairman and Chief Executive Officer of International Paper, the world's largest paper company, and immediate past chairman of the American Paper Institute, I am pleased that the Finance Committee is presenting this opportunity for U.S. business to speak to the opportunities and challenges which still lie ahead in the Uruguay Round of multilateral trade negotiations. I want to express special appreciation to Chairman Bentsen, Subcommittee Chairman Baucus, and Senator Packwood for their steadfast and outspoken support for results from this Round which will provide significant benefits for U.S. manufacturers. The forest products industry, encompassing both solid wood and paper products, has operations in every State. With 1.2 million employees and nearly $200 billion in sales, the forest products industry ranks among the top ten manufacturing industries in the Nation.

The results of the Uruguay Round, and particularly of the negotiations on tariffs, are important to us in the forest products industry for two reasons. First, in past rounds, we have seen U.S. tariffs on the products we make substantially reduced or eliminated, while tariffs on the same products in other countries, both developed and developing, have remained relatively high. Attached to my statement is a chart showing comparative tariff rates on paper products in major markets. U.S. tariffs on paper products are generally 0–2.5%, while rates in Europe are 6–9%, in Japan 2.5–4.6%, and in Korea, 13%. It should be noted that our principal competitors in Sweden Finland, and Brazil enjoy duty-free access to the European market—the second largest market for paper and paperboard after the U.S.—thus putting us at a significant price disadvantage.

Second, the forest products industry has made major strides in the past decade to ensure a world-class competitive position. During the 1980s, the paper industry invested in new plants and modernization at a rate three and one-half times that of all U.S. manufacturers. Since 1980, this industry has invested approximately $100 billion in new plant and equipment. As a result, 60% of U.S. pulp and papermaking capacity is now less than 10 years old. The paper industry is one of the Nation's most capital intensive industry, with $100,000 invested per employee. With an extensive natural resource base, our paper industry is the most competitive in the industrialized world. With 12% of the world's paper and paperboard mills and 16% of the world's pulp mills, the U.S. manufactures 30% of the world's paper and paperboard production and 35% of the world's pulp production.

Our competitors have not stood still, but have also enhanced their competitive position, while they have enjoyed virtually unrestricted access to the U.S. market. Thus, we find that, despite our competitive strengths, imports of paper products to the U.S. exceed our exports—$9.1 billion exported in 1990; $11.4 billion imported. Imports of paper and paperboard constitute 14.7% of U.S. consumption. By contrast, imports from all sources constitute less than 4% of Japanese paper consumption. While imports make up 31% of European consumption, only 6% of those imports come from the U.S.; the bulk are from EFTA countries and Brazil, which, as noted above, enjoy duty-free access.

The trade disparities resulting from these high tariffs can also be seen in the product mix of trade. Of the $9.1 billion U.S. paper exports, $4.3 billion, or 47%, consists of wood pulp and wastepaper, which are traded largely duty-free. Total U.S. exports of the higher value-added printing and writing papers, subject to tariffs, amounted to only $700 million, or about 8%. By contrast, imports of paper products to the U.S. from Europe in 1990 were valued at $1.5 billion, $808 million, or 54% of which were printing/writing paper.

In short, we're supplying raw materials to our competitors, while they return value-added product to compete in our market and prevent us from competing in theirs.

This disparity cannot continue to exist, if we are to continue to have strong, competitive industries in the U.S. And strong, competitive industries in the U.S. are essential, not just for the U.S. economy, but for the rest of the world as well. The U.S. economy has been the engine of growth for the rest of the world for the last 40 years, and through our open markets has provided the opportunity for economic ex-

pansion by our trading partners. This experience has demonstrated that world trade is not a zero-sum game—economic expansion with open markets increases the size of the pie. But, attempts to increase one's own share while closing markets to others will ultimately result in a decline for all. It will do the rest of the world economy no good for the U.S. economy to contract as a result of restrictive trade practices by foreign countries which disadvantage competitive U.S. industries.

Europe and Japan are now significant economic powers, and must assume the economic and political responsibilities which accompany that position. They can no longer hide behind archaic trade barriers to protect industries which no longer need protection. The paper industry is such an industry. Consider the following quote from David Clark, President, European Paper Institute, in November, 1990:

> . . . Along with the rapid growth in market demand and international trade has come significant changes in production with new machines, materials, systems and grades. Machines have steadily increased in size, speed, sophistication and cost. For many grades the capacity increases of recent years have been substantial. Serious overcapacity has been avoided only by the rapid growth in demand in Europe and increased exports to the world market."
>
> "Several factors have encouraged this large expansion in capacity, including rapid growth in European demand, increased exports, good profitability and cash flow, larger machine sizes and speeds, developing technology, increasing competition, greater emphasis on market share and the prevention of take over bids."

The zero-for-zero tariff initiative in the Uruguay Round is essential for the future of our industry. We have done all that we can do to be a world class competitor. The highest hurdle remaining is government barriers, and we are relying on our government to dismantle those barriers—in the Uruguay Round, through the elimination of tariffs and non-tariff barriers; in Japan, through negotiations to change practices which restrict market access for our products.

The U.S. has been criticized for expecting too much out of this Round of Multilateral Trade Negotiations. I give our government credit for recognizing that the world has changed since the last Round, and this Round cannot be conducted on the same terms and conditions as previous trade negotiations. The zero tariff initiative is reflective of this recognition, and it is time for the other major trading countries to acknowledge the need to go beyond formalistic approaches which seek to maintain the status quo.

Nothing could be more consistent with the goals of the GATT and the objectives of the Uruguay Round than the elimination of tariffs on a broad range of sectors which are globally competitive. Nothing could do more to expand trade and the economic benefits which flow from that expansion for consumers in all countries.

International Paper and the U.S. forest products industry are ready to compete. We are pleased that the U.S. government has made elimination of tariffs on our products a high priority in the negotiations. We are pleased to have the support of this Committee and others in the Congress for this objective. We are anxious to see a more positive reception on the part of our trading partners to allow for the successful conclusion of a trade agreement which will meet the promise of the Uruguay Round to significantly reduce trade barriers.

An agreement which only achieves marginal changes and leaves in place disparities which put competitive American industries at a disadvantage will not be acceptable. We are hopeful that a final GATT agreement will include the elimination of tariffs on paper and wood products and will be one which we can enthusiastically recommend for your approval.

COMPARATIVE TARIFF RATES ON SELECTED PAPER AND PAPERBOARD PRODUCTS

Product	Rates of Duty (%) U.S.*	Canada*	EC	Japan	South Korea***
Newsprint	Free	Free	Duty Free Quota or 9.0**	Free	13
Printing					
Uncoated	Free	6.5	9.0	4.6	13
Coated	2.5	6.5	9.0	4.1	13
Writing	2.4	6.5	9.0	4.6	13
Kraft Linerboard	Free	6.5	6.0/9.0	2.5/3.5	13
Bleached Paperboard					
Uncoated	Free	6.5	9.0	2.5/3.5	13
Clay coated	Free	6.5	8.0	Free	13
Resin coated	Free	6.5	8.0	Free	10

*As of January 1, 1991, under the U.S.-Canada Free Trade Agreement, U.S. and Canadian duties on each other's paper products are 60% less than those listed above (i.e., 1.0% and .9% for U.S. tariffs on Canadian coated printing paper and writing paper, respectively; 2.6% for Canadian tariffs on imports from the U.S. of all products in the table above. On January 1, 1992, these rates will drop by another 20%.

**The quota is 600,000 metric tons for Canada; only 50,000 metric tons for the rest of the world.

***Tariffs on paper products in South Korea are to be reduced in annual stages to 8% by January 1993. However, earlier this year the South Korean government postponed the 1991 cuts.

PREPARED STATEMENT OF EDMUND T. PRATT, JR.

I am here today both in my capacity as Chairman of the Board of Pfizer Inc. and on behalf of the Intellectual Property Committee (IPC).[1] I appreciate your invitation to provide the views of the PC on the Uruguay Round negotiations on intellectual property protection—the so-called TRIPS negotiations. Today's hearing comes at a critical juncture in the negotiations, as it appears that we may finally be entering the "end-game."

I am not here to repeat the history of the IPC. Neither do I plan to go over all of our basic positions on TRIPS. Both are well known to the Congress, and to your Committee, in particular. In fact, the IPC's first Congressional appearance was before this Committee—back on July 23, 1986—two months before the Punta del Este Ministerial Meeting.

Protection of intellectual property is not a momentary enthusiasm of U.S. industry. Indeed, intellectual property rights have been a part of our national culture since our founding fathers provided protection for intellectual property in the Constitution. It is for this reason that U.S. industry considers the protection of intellectual property to be as important as protection of real property.

At this point in the negotiations it would be most appropriate for me to provide the Committee with the bottom line views of the IPC on the TRIPS negotiations. We believe that a sweeping agreement that focuses only on the standards of intellectual property protection—without focusing on the exceptions—will be seriously flawed. The dollars and jobs for U.S. industry—indeed, the very competitiveness of the U.S. economy—are in the details of the agreement. The IPC and U.S. industry will judge the relative success of the TRIPS negotiations by the ability of the TRIPS

[1] The members of the IPC are: Bristol-Myers Squibb, DuPont, FMC, General Electric, Hewlett-Packard, IBM, Johnson & Johnson, Merck, Monsanto, Pfizer, Procter & Gamble, Rockwell International and Time Warner.

agreement to limit the derogations and exceptions from the standards of protection that such an agreement would permit.

Ambassador Hills and her negotiators have done an outstanding job in getting us to where we are today. All the issues of concern to U.S. industry are still on the table. We are confident that our negotiators will be able to negotiate high standards of intellectual property protection, such as adequate term and coverage of subject matter. We take the inclusion of these standards as a given. We, however, are less sure that we will succeed in eliminating the exceptions and derogations that could negate the benefits of those high standards. If a TRIPS agreement does not adequately control these practices, U.S. rights holders, in effect, will continue to face inadequate protection of their intellectual property. We will be in a worse position than before the start of the TRIPS negotiations, since these exceptions and derogations, which now can be attacked bilaterally by the United States, will become the accepted international standards.

It is on these issues that our negotiators are having a tough time, and it is to these key open and very detailed issues that I want to draw the Committee's attention. These open issues, if not satisfactorily resolved, would make the final TRIPS accord unacceptable.

1. In the *patent area,* with which I am most familiar, a TRIPS agreement:

a. *Must effectively limit compulsory licensing.* A TRIPS agreement must include conditions that will limit compulsory licensing practices that currently negate the value of patent protection in many countries. In particular:

- A TRIPS agreement must not permit countries to discriminate by industry or product in the application of their compulsory licensing systems. A number of countries—and especially Canada—apply their compulsory licensing systems in a discriminatory manner against pharmaceutical products;
- A TRIPS accord must effectively limit compulsory licenses for dependent patents, which are patents that cannot be worked without falling within the scope of protection of other ("dominant") patents; and
- A TRIPS agreement must recognize importation as meeting the local working of patents.

b. *Cannot recognize the "international exhaustion" of patent rights.* Inclusion or even implicit recognition of "international exhaustion" of patent rights, which would permit the sale of parallel imports into a country even if the holder of the valid patent objects to that sale, is contrary to internationally-accepted standards of intellectual property protection and would render moot any improvements in patent protection that would be provided elsewhere in a TRIPS agreement; and

• c. *Must include effective transition provisions to deal with inequities occurring both in signatory countries that failed to provide patent protection for certain products under their old laws and also in signatory countries whose previous compulsory license practices will be banned by a TRIPS agreement.* Such pipeline and transition provisions are critical in order to ensure that pharmaceutical products enjoy in many developing countries and Canada the same immediate benefits from improved patent protection as do other inventions.

2. In the area of *copyright,* apart from the moral rights issue, a TRIPS accord:

a. *Must provide full copyright protection for computer programs as literary works.* U.S. industry is concerned that copyright exceptions under discussion may be broadly interpreted by foreign competition of U.S. industry in an attempt to undermine existing protection of computer program expression;

b. *Must ensure that a copyright owner of computer programs and sound recordings has the exclusive right to authorize or prohibit the commercial rental of his work.* Given the state of technology, rental of computer programs and sound recordings is, in effect, a license to make unauthorized reproductions or piratical copies; and

c. *Must ensure that signatories do not discriminate against U.S. copyright owners by failing to recognize corporate authorship ("works made for hire") and by failing to accord national treatment in the allocation of funds generated by collective administration and levy schemes.* Such a provision in a TRIPS agreement would ensure the flow to U.S. companies of very significant dollar amounts being denied to them today. The flow is expected to reach the hundreds of millions of dollars in the near future.

3. In the area of *trade secrets,* a TRIPS agreement:

a. *Should require that third parties exercise "fair and reasonable decree of care" when acquiring trade secrets to ensure that they were obtained with the consent of the owner;* and

b. *Must require a "period of exclusive use" for registration data provided to governments.* Without such a period of exclusive use, "me-too" registration of products by others relying on the originator's data would be rampant, thereby negating the proprietary value of the original data.

4. *In the area of semiconductor layout designs, language in the TRIPS agreement on innocent infringers must not be conditioned on the right holder first making reasonable efforts to find and seek compensation from the pirate prior to seeking payment from the innocent infringer.* This provision would make it almost impossible for a right holder to quickly gain compensation from the innocent infringers.

5. *Finally, inclusion of long transitional arrangements for developing countries that would be measured in years would postpone any benefits that U.S. right holders would gain from a strong TRIPS agreement in those countries.*

Since the beginning of the TRIPS exercise, we have conditioned our support for a TRIPS agreement on its meeting the minimum substantive standards of protection and enforcement. We continue to do so. It is for that reason that the PC has expressed its concern to our negotiators that a universal accord that includes all the countries participating in the current round exposes the TRIPS agreement to weakening concessions to gain that universality. The IPC continues to prefer a TRIPS accord with strong standards of protection and enforcement and a limited number of participants, if the price of gaining additional signatories is the weakening of the standards.

The IPC remains committed to working with the U.S. Government to achieve in the Uruguay Round a TRIPS agreement that provides adequate and effective intellectual property protection. The IPC remains steadfast that no agreement is far better than a bad agreement, especially in light of the significant achievements in intellectual property protection made through the bilateral efforts of USTR in such countries as Korea and Mexico. The IPC renews its support for the U.S. Government should it decide to walk away from a TRIPS agreement that does not provide the standards required to protect the interests of U.S. industry. We believe that this outcome can be avoided, however, if other governments—especially the EC and Japan—join the United States in making the tough choices required to conclude a successful negotiation.

Prepared Statement of Ron Rivinius

Good morning Mr. Chairman, members of the Committee. My name is Ron Rivinius. I am from Elgin, North Dakota and am currently serving as President of the National Association of Wheat Growers.

I would like to commend the chairman for calling this very important hearing. The United States and the European community appear to have narrowed their differences in agriculture. While there has been no breakthrough, the 5-year old talks have advanced to the point where a successful conclusion to the Uruguay Round is possible.

A successful conclusion to the multilateral negotiations has been our organization's highest trade priority. The National Association of Wheat Growers has consistently supported the talks and efforts to bring new disciplines to the plethora of unfair trading practices now running rampant in the world wheat market.

Not all farm and commodity organizations share our ambition. Farmers of commodities with different domestic policies and different international marketing situations have a different trade agenda. I speak today only on behalf of the National Association of Wheat Growers.

American wheat producers are in an interesting position. We are an export dependent commodity. In an average year, we market over 60% of our wheat overseas. Ironically, since the adoption of a more "market oriented" farm policy in the United States, our share of the market has fallen from a high of 48% in 1983/84 to a projected low of 26% this year.

In this same period, we have witnessed the coming of age of the European community's Common Agricultural Policy (CAP). Through the combined implementation of variable levies, price supports, and export subsidies, the EC has defied the laws of comparative advantage to become not only self-sufficient in wheat production, but also, a net exporter. This year, EC wheat exports are estimated to reach a record level of 21.0 MMT.

Sadly, world wheat consumption has not grown at a rate high enough to accommodate excess EC production. This has had a direct impact on U.S. farm policy as we have attempted to regulate our own area and production. U.S. policy adjustments do little to affect positive change in the EC's CAP. The ongoing talks are the only forum available to us.

Because the EC has succeeded by using a combination of policy mechanisms, we believe the U.S. negotiators should continue to pursue a comprehensive agreement which incorporates specific and binding reductions in the four areas previously identified by the Administration: barriers to market access; internal supports; export subsidies; and the establishment of rules to govern international sanitary and phytosanitary measures. This approach represents our best and only opportunity to return balance and equity to the international wheat market.

With regard to the category of barriers to market access, we have been supportive of the Administration's approach. All non-tariff barriers to trade should be converted to tariffs, be bound, and reduced at the same substantial and progressive rate as tariff equivalents. In terms of minimum access arrangements, we are cautiously supportive, but will reject any attempts to conclude market-sharing arrangements. In no case will we support tariff increases from existing levels. Nor will we support raised tariffs for one commodity in return for reductions in protection for another commodity. We will categorically reject any agreement which contains re-balancing.

At an absolute minimum, a final agreement must neutralize the adverse impact of variable levies, import taxes, import license requirements, and other obstacles to EC markets.

In the category of internal supports, we firmly believe that a country has a right to provide whatever type of support is necessary to meet its national agricultural objectives—so long as the policies implemented do not result in any appreciable distortion in world trade. No country should be permitted to dispose of its domestic policy mistakes on the world market at the expense of other producers.

Which leads us to the issue of export subsidies. Our highest priority in the GATT negotiations has been to achieve a swift and fair resolution to the export subsidy issue. Such discipline can be achieved through a mechanism that combines budget outlays and total quantity of product subsidized. For the record, the term export subsidies should encompass: direct financial assistance to exporters; costs related to the sale for export of publicly owned or financed stocks; assistance to reduce the costs of transporting or marketing exports; export credits provided by governments on less than fully commercial terms; the provision of financial assistance in any form by governments and their agencies to export income or price stabilization schemes operated by producers, marketing boards, or other entities which play a dominant role in the marketing and export of an agricultural product; export performance-related taxation concessions or incentives; and subsidies conditioned on export which reduce the costs of agricultural commodity components which are incorporated into processed product exports. In addition, we are opposed to producer-financed export subsidies, and any efforts by a contracting party to use food aid as an opportunity to dump excess supplies.

Finally, in the area of sanitary and phytosanitary measures, we will support an agreement which strengthens international rules on animal, food, and plant safety and which establishes a dispute settlement mechanism to fairly and expeditiously resolve problems in these areas based on verifiable scientific evidence.

CONCLUSION

Nearly 1 year ago, U.S. Trade Representative Carla Hills stated that "some nations would stall these talks in the hope that international resolve will weaken and tough political decisions can be side-stepped. They should understand that the people of the world can no longer bear the burden of inefficient, out-moded policies. Our President has made the U.S. position abundantly clear. We firmly believe that no agreement is better than a bad agreement."

This quote is particularly significant in that it followed the U.S. rejection of the EC's farm proposal. We would like to see the U.S. continue in this vein. We have been disturbed by articles from Europe which indicate that the U.S. had caved in to EC intransigence on farm trade. At this time, we have no reason to believe that our negotiators would sell out, but we are anxious to be informed of developments and how they can be expected to affect our industry.

In closing, I would like to thank you again for this opportunity. I hope that our discussion today will send a signal, in particular, a message that a substantial agreement in agriculture is imperative. Our expectations are high. We trust that the President and his negotiating team will not decide to come home with anything less.

PREPARED STATEMENT OF SENATOR JOHN D. ROCKEFELLER IV

Current rumor has the Uruguay Round concluding soon. That calls for closer Congressional scrutiny of the results. I voted for extending "fast-track" authority, because the Round is the key to creating the trade discipline the system desperately needs. But I fear that our trading partners see the Round as little more than an opportunity to subvert market discipline through subsidies and the weakening of our trade laws.

This negotiation is a chance to articulate some important principles:

We cannot sustain our global leadership role without a strong domestic economy.

That strength depends on greater market based trade discipline.

It is in our trading partners' interest to help sustain our role in the system, which means they should abandon anti-market practices that threaten our economic and political viability.

As a practical matter, domestic political pressures will no longer allow us to sacrifice our economy for political stability elsewhere.

The Administration has consistently promised to stand by its commitment to strengthen our laws. However, as we reach the final political stage of the talks, the President will encounter enormous pressure to make key concessions in this area.

A good example is dispute settlement. The European Community demands we surrender our process for acting unilaterally—section 301. The Administration argues that makes sense only if we have good rules that make unilateralism unnecessary. Past experience with the GATT process and the many countries trying to weaken the rules does not make me optimistic.

Add to these issues agriculture, the very large new areas of services, intellectual property, and investment, and it is apparent we have taken a very large bite. Whether it is more than we can chew remains to be seen.

The official strategy in Washington is to go for the "big package." But if that means a package that helps some services, agribusiness and intellectual property at the expense of the country's manufacturing sector, it will not pass this Congress. And it should not pass. That is a political statement, but it is also a statement about what is critical to our economic future.

The President may be tempted to accept such an agreement and try to sell it as his jobs program, but the Congress will not be buying. The challenges we face are too great and our economy too wounded to permit that.

COMMUNICATIONS

AMERICAN MINING CONGRESS,
Washington, DC, December 10, 1991.

Hon. LLOYD BENTSEN, *Chairman,*
Committee on Finance,
U.S. Senate,
Washington, DC.

Dear Mr. Chairman: The American Mining Congress (AMC) respectfully requests that this letter be included in the record of the hearing on the Uruguay Round of multilateral trade negotiations held November 20, 1991, by the Committee on Finance.

The American Mining Congress is a trade association representing companies that produce most of this nation's coal, metals and industrial and agricultural minerals; manufacture mining and mineral processing machinery, equipment and supplies; and provide engineering, consulting and financial services to the mining industry. AMC member companies, a part of the revitalized and internationally competitive U.S. mining and related manufacturing and services industries, have supported the Uruguay Round negotiations in the expectation that an agreement would reinforce the rules and disciplines of the multilateral trading system; incorporate into the General Agreement on Tariffs and Trade (GATT) activities not now covered; and, in general, liberalize trade throughout the world. While AMC continues to advocate an agreement that achieves these objectives, we are concerned that a final package, if adopted, may be of limited scope and not result in the changes needed to ensure a long-term, stable international trading system.

To be acceptable to AMC member companies, a Uruguay Round agreement, at a minimum, must provide for the multilateral elimination of tariff and nontariff barriers to trade for minerals and metals, as well as mining-related products and services; and significantly strengthen and clarify the GATT rules on subsidies.

Specifically, AMC urges that the wide disparities in the levels of tariff and nontariff protection existing between the United States and other countries be eliminated and any U.S. concessions affecting the mining and related machinery manufacturing industries be matched with reciprocal concessions, in the same sector, by our trading partners. Tariff protection for the U.S. mining and metals industry and the mining machinery industry has been negotiated to extremely low levels in the last two rounds of trade negotiations, while the tariff protection established by other producing nations and potential market countries has generally remained high. In addition, other nations have established nontariff barriers that selectively restrict imports of our products and often protect domestic minerals processing capacity. These measures have denied access to U.S. exports and erected artificial barriers that facilitate foreign government assistance programs. Uneconomic minerals production and surplus world capacity in periods of depressed market conditions have resulted. Stated simply, in the area of market access, the U.S. mining and related machinery manufacturing industries have given much in past negotiations. Particular attention must now be directed to the reduction of barriers imposed by other nations.

The establishment of an effective GATT discipline over government-subsidization of private enterprises is a subject of extremely high priority to AMC members. In the Uruguay Round, AMC seeks to broaden the definition of subsidies to include domestic subsidies affecting production, as well as export subsidies; to make actionable the subsidization of products exported to third countries; to extend the applicability of GATT subsidy rules to all GATT members including the less developed countries; and to improve the GATT's complaint procedures for subsidy cases. While there is evidence that some of these issues may be addressed in the draft proposal under

consideration, it appears that the expectations of industry for significant improvements in subsidy discipline may not be met. In addition, the apparent willingness of negotiators, including those from the United States, to "green light," i.e. accept as nonactionable, certain types of subsidies, including possibly those termed regional development or environmental, is particularly troubling.

Throughout the negotiations, the American Mining Congress has made known the interests of its members in meetings with U.S. negotiators and other representatives of the executive branch, with members of Congress and their staffs, and with the negotiators of foreign governments. We will continue to pursue vigorously our objectives as outlined above and, at any time, would be pleased to discuss these matters in more detail.

The American Mining Congress continues to advocate adoption of a strong, fair Uruguay Round agreement that achieves the established objectives. Should an agreement be adopted, we will review it carefully to assess whether it strengthens the competitiveness of the U.S. mining and related manufacturing and services industry. It if does, it will have the support of AMC. Should it not, it will be opposed vigorously by the association and its members.

Sincerely,

JOHN A. KNEBEL, *President.*

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BACKING AMERICA'S BEET, CANE AND CORN FARMERS

December 2, 1991

The Honorable Lloyd Bentsen
Chairman
Senate Finance Committee
United States Senate
205 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

The organizations listed below are pleased to submit for the Record of the Senate Finance Committee November 20, 1991 Hearings on trade issues emerging in the recent negotiations on the General Agreement on Tariffs and Trade, known as the Uruguay Round, the following documents:

A study by John C. Roney, Vice President of the Hawaiian Sugar Planters' Association entitled, "EC and U.S. Sugar Regimes: A Comparative Analysis of Supports and Costs," and a paper submitted to the Administration by the U.S. sugar industry entitled "Uruguay Round Safeguards for the U.S. Sugar Industry."

The first of these documents highlights the reason for the U.S. sugar industry's concern that the current negotiations, which appear to imply equal percentage cuts in the areas of internal supports, access barriers, and export subsidies of some 30-35 percent, will seriously disadvantage U.S. sugar producers relative to EC producers, the largest exporters of sugar on to the world sugar market. It is only through an improvement in prices on that world market that average and below average world cost sugar producers, such as United States producers, supported at or below their costs, can survive the reduction in internal supports and access barriers now being negotiated. Their survival is dependent upon the promised improvement in the world price of sugar which can only occur if there is a very substantial reduction in the volume of heavily subsidized sugar being exported onto that market. If reductions in export subsidies are not considerably greater than those in internal supports, the volume of subsidized exports may continue undiminished because the required per unit export subsidy, the difference between the internal price and the world price, has been reduced. Moreover, equal percentage cuts of the magnitude discussed will leave the more highly subsidized EC producers supported above their costs while U.S. producers' supports are cut to well below their costs with devastating consequences. Our concern is further aggravated by the likelihood of negotiated special and differential treatment, including accelerated access to developed country markets, for developing countries for these commodities of particular interest to the developing countries. The developing countries produce approximately 60 percent of the world's sugar and are the source of an approximately equal percentage of world sugar exports.

The other document addresses the proposed safeguards being considered. Our investigation of the safeguards proposals which have been tabled in the negotiations heightens our concern. Neither the U.S. safeguards proposal nor the EC Corrective Factor proposal would protect our industry from import surges and resulting internal price declines which would make our current price support program ineffective. Either of those proposals, if adopted, would result in ruinous budgetary costs for the U.S. government, as well.

It is our belief that adoption of the modification of Article XI, 2, C of the GATT rules, as proposed by Canada, offers the best hope for the survival of the U.S. sugar industry. As competitive, below average world cost producers we believe any agreement which levels the playing field for all producers, will prosper U.S. producers. A recent study by the London based analysis firm, Landell Mills Commodities Studies, found that of 104 producing countries, the U.S. ranks 28th lowest cost in the production of sugar. It is because of that fact that the U.S. sugar industry initially supported the efforts of our government to negotiate an end to all trade distorting

subsidies. It is our recognition, given the direction of current negotiations, that our cost competitiveness will not permit our survival in the new world trade order, now being negotiated, which is the basis for our deep concern.

Sincerely,

American Sugarbeet Growers Association
American Sugar Cane League
Florida Sugar Cane League
Hawaiian Sugar Planters' Association
Rio Grande Valley Sugar Growers
Sugar Cane Growers Cooperative of Florida
U.S. Beet Sugar Association
U.S. Cane Sugar Refiners' Association

Uruguay Round Safeguards for the U.S. Sugar Industry

Summary

The U.S. sugar industry is competitive by world standards but is deeply concerned about the possible consequences of a Uruguay Round agreement. Across-the-board percentage cuts in supports, as proposed by the U.S., would perpetuate current inequities among the levels of support for farmers in various countries. U.S. sugar producers are particularly vulnerable because their support level is already below their cost of production and because of the unique nature of the sugar industry.

This analysis of commodity safeguards proposed by the U.S., the EC, and Canada, which are apparently being considered by Uruguay Round negotiators, is based on information about the proposals gleaned from conversations with U.S. Administration officials. Though the Administration requested this analysis, it has *not* provided us with copies of the safeguard proposals, *including the US. proposal,* and we request that it do so.

We found that neither the quantity-based nor the price-based safeguards proposed by the U.S would be adequate for the sugar industry. The U.S.-proposed safeguards are oriented far more toward closed foreign markets that hold promise for U.S. export commodities. Because of the already large import share of the U.S. sugar market and the many unique aspects of the sugar industry, we would unfairly suffer far too much irreversible damage from a surge in imports before the safeguards would take effect.

The EC proposal would provide considerably more protection but we understand it has little chance of broad acceptance. The Canadian proposal, which would involve modification of existing GATT rules to allow import limitations such as those currently in place in the U.S. sugar program, is still evolving, but would appear to hold the most promise for the U.S. sugar industry.

We suggest that the Administration give serious consideration to the Canadian proposal, particularly in the context of its applicability to the unique concerns and vulnerabilities of the U.S. sugar industry. We further request that the Administration keep the industry fully informed of developments in the Uruguay Round negotiations on agriculture and hold regular consultations with the industry to provide us with the opportunity to comment on this process, which is so crucial to our industry's future.

Size, Standing of Industry

The United States is the world's fifth largest sugar producer, with a little more than half its production coming from beets. If corn sweeteners are taken into account, the U.S. sweetener industry is the world's largest.

U.S. beet and cane producers achieve some of the highest yields per acre in the world and, according to data compiled by Landell Mills Commodities (LMC) and published by USDA, achieve costs of production that are among the world's lowest. LMC data released in August 1991 reveal that the U.S. industry is about in the top one-fourth in efficiency among the world's sugar producing countries, ranking 28th of 104. The U.S. beet industry ranks fifth of 31 and cane 25th of 74. If corn sweeteners are taken into account, the U.S. is the eleventh lowest-cost of 99 sweetener-producing countries, with the world's lowest-cost corn sweetener producing industry.

Our competitiveness is all the more impressive because U.S. producers are subject to government-imposed social-benefit costs—such as minimum wages, health and pension benefits, and worker, environmental, and food safety—that are among the highest in the world. Indeed, such costs are virtually nonexistent for sugar producers in much of the developing world.

The U.S. sugar industry is large and important by U.S. standards. Directly and indirectly, it generates over $8 billion in revenues annually, and is responsible for nearly 72,000 full-time equivalent jobs, according to a study by Landell Mills Commodities. In terms of value of production, the U.S. sugar crop is generally about double that of rice, barley, sorghum and peanuts, about one-half of cotton's and one-third of wheat's.

About 60 percent of the sugar consumed in the United States is used in manufactured products that encompass a broad spectrum of foods. The sweetener-using industry is dependent upon a reliable domestic supply of high-quality sugar, marketed to numerous exacting standards and grades. The user industry is so accustomed to timely deliveries by the U.S. sugar producing and processing industry that these companies generally maintain only minimal storage facilities for sugar—storage costs are almost entirely borne by the sugar producers and processors.

In the absence of a dependable domestic sugar industry, food manufacturing companies would have to rely on foreign suppliers who are generally noted to be far less reliable suppliers of a product that is often inferior to U.S. standards and specifications. Therefore, any sudden disruption in the U.S. sugar producing industry would have fairly immediate, costly consequences for the vast sweetened-product manufacturing industry.

Uniqueness of Sugar

Though it can be argued that every commodity has some unique features, sugar does have a number of unusual characteristics which make it quite different from the other crops that benefit from U.S. government price support programs. It is often regarded as a field crop, along the lines of corn or wheat, but probably has more characteristics in common with high-value crops, such as fruits and vegetables. The world sugar market, too, is quite unusual among traded commodities. Following are the aspects of sugar that make it unique and, therefore, suggest that policy treatment designed for other crops would not be appropriate, or fair, to sugar producers:

Distortion of "World Price." The so-called world sugar price is inarguably the most volatile of *all* traded commodities and probably also the most distorted, i.e., the least reflective of actual costs of production. USDA explains:

> Only about a quarter of world sugar is traded in international markets, and an even smaller amount, about 15 percent, is currently traded at world prices. This is an important point, since many people believe that unlimited quantities of sugar can be bought at the "world price." *In reality, world-priced sugar is a small uncommitted amount that is sold at whatever price it might bring* . . . . Little of the sugar traded in the world market is sold at world market prices . . . . Almost all is sold at prices reflecting the domestic sugar policies of the trading countries. (*Farmline*, January 1990; emphasis added)

The U.S. Administration acknowledges that the world sugar price does not reflect the cost of producing sugar. Nonetheless, it persists in using this price to calculate aggregate measures of support and tariff equivalents for U.S. sugar that are, therefore, as distorted as the world price on which the calculations are based.

Use of the world price in these calculations is not necessarily distortive when making comparisons among sugar producers in each country. However, severe distortions do occur when sugar support levels measured this way are compared to support levels for other crops—crops with world prices far more reflective of actual costs of production. We believe this is a major, and alarming, factor in the Administration's frequent singling out of sugar as being somehow extravagantly supported and, therefore, in need of reform.

High Economic Cost of Producing Beets and Cane. U.S. beet and cane farmers have had considerable success in reducing costs over the past decade. The sugar program's assurance of a minimum return provides producers with sufficient reassurance to invest in yield-improving and cost-reducing technology. Nonetheless, the nature of beet and cane cultivation makes their total economic cost per acre the highest of the major crops, roughly *seven* times the cost of growing wheat, for example.

Huge Capital Investment. Unlike grains or oilseeds, but like many horticultural products, sugarcane and sugarbeets are highly perishable. Cane and beets, when harvested, have no value until they have been processed into sugar, with rapid deterioration in sugar content as time passes

between harvesting and processing. Complex, costly processing mills and an efficient delivery system must, therefore, be in place within close proximity of the growing areas.

Even the machinery used in the planting, cultivation, and harvesting of beets and cane is unique, and far less adaptable for use on a variety of crops than the machinery used for many field crops. Much of the machinery cannot be used on *any* other crops.

Grower/Processor Interdependence. Because of the immediate need for processing, farmers cannot grow beets or cane unless they either construct their own processing facilities or contract with commercial processors who are located nearby. Likewise, processors can only exist where they can be certain of a sufficient flow of raw material from cane and beet growers to achieve a sustainable level of capacity utilization.

A setback for one would doom the other, and a halt in production is virtually always permanent. Temporary setbacks tend to become permanent ones. In the past 20 years, 25 beet processing plants, 31 sugarcane mills, and 13 cane sugar refineries have closed. While some of these closings are the result of consolidation, it is noteworthy that *no* new beet processing plant, cane mill, or refinery has opened in the United States since 1975. By the same token, the decision of a few growers to switch from cane or beet production to another crop could doom a processor, who would then be unavailable for the remaining growers in that area.

While the 1990 Farm Bill was designed to give farmers more flexibility in their planting decisions, sugar growers are structurally not positioned to take advantage of this. Their investment in, or contractual obligations to, processing facilities have often left growers producing cane or beets at a loss, rather than switching to other crops.

Lack of Crop Alternatives. In many U.S. growing areas, there are no viable crop alternatives to cane or beets. Because of the investment and commitment involved in the processing facilities, cane, and to some extent beets, tend to be monocultures—not switched from year to year depending on relative prices.

In Louisiana, for example, most sugarcane land has been exclusively in cane for nearly 200 years. In Hawaii, most of the cane has been grown on the same fields for more than 150 years. While Hawaii's cane area has shrunk by more than 40,000 acres in the past 10 years, only about one-eighth of that acreage is now in alternative crops, the same share that has gone into commercial and residential use. The remaining three quarters of the former cane acreage is merely fallow or in grazing.

Time Commitment. Another reason cane growers do not switch from crop to crop is the time commitment involved in planting a cane crop. Ratooning enables growers to obtain 3-4 harvests from the original planting. In Hawaii, where crops tend to grow two years before harvesting, this implies a 6-8 year commitment with each planting.

Import Share of U.S. Market. The share of U.S. sugar consumption that is imported is much larger than that of other program crops. This year, the U.S. is importing 26.6 percent of its domestic needs and the 1991-95 sugar program guarantees a minimum import level (1.25 million short tons) that amounts to about 14 percent. In comparison, imports account for less than 1 percent of the U.S. peanut and raw cotton market and only about 2 percent of the domestic market for milk and dairy products.

For this reason, the same percentage increase in imports of sugar, relative to these other crops, would represent a much larger share of the domestic market, with far more severe consequences for domestic prices and the fate of sugar farmers.

Importance of Price Stability

For the reasons described above, cane and beet growers cannot be expected to endure a temporary price setback by simply switching to another crop until sugar prices recover. Their alternative is to get out of sugar altogether, which results in the loss of their investment in grower-owned processing facilities or the failure of independent processors. These factors make price stability exceedingly important to the sugar industry and make the need for adequate safeguards exceedingly acute.

Two additional factors in the area of potential Uruguay Round disciplines make the sugar industry particularly concerned that it could be unduly harmed during the implementation process and further emphasize the need for adequate safeguards:

Special Treatment for Developing Countries. In a recent letter (July 26, 1991) responding to sugar industry concerns regarding the Uruguay Round, Deputy U.S. Trade Representative Katz acknowledges that: "Developing countries, however, may be given longer time paths for implementation."

This is a major concern for two reasons: 1) Global sugar production and exports are dominated by the developing countries, which account for 60% of both categories; 2) Many of these sugar industries, though located in "developing" countries, are, in fact, highly capitalized and quite sophisticated. Brazil and Thailand, two of the world's top five sugar exporters, are examples. We are alarmed that countries such as these could take advantage of Uruguay Round disciplines forced upon the U.S. industry to claim, unfairly, a larger share of our market.

Administration officials have told us they have proposed that this "special and differential treatment" for developing countries would not apply to net-export products in those countries. This would assuage our concern. *We have noted, however, that documents emerging from the GATT Secretariat not only fail to mention this U.S.-proposed exclusion, but refer to "accelerated" access to developed-country markets for export crops in which developing countries have a special interest.* This, of course, heightens our concern.

GATT Non-Members. Accelerated production by countries operating outside of GATT disciplines could also unfairly damage U.S. producers, as we endure support reductions that non-signatories are spared. GATT non-members, such as the Soviet Union and China, normally account for 40% of world sugar imports.

The Administration's reassurance that most of these countries have applied for admission to the GATT is of no solace, since none of them will be admitted in time to be subject to Uruguay Round disciplines.

Goal of Safeguards

Safeguards for sugar under implementation of a Uruguay Round agreement should meet four minimal standards:

Prevent, Rather Than React. Adequate safeguards would be *preventive*, rather than *reactive*. Safeguards should take force *before* an industry incurs unfair damage and not merely *after* such damage has been incurred in order to avoid further harm. For reasons described above, the initial damage to sugar growers or processors could be permanent and irreversible, making reactive safeguards superfluous. For example, a temporary drop in prices that occurs at harvest time could force some growers to accept the lower price for their entire crop, which could put them out of production. Processor closures would be likely to follow.

Protect No-Cost Operation of Program. The U.S. sugar industry firmly hopes that a Uruguay Round agreement can be implemented without violating the intent of Congress regarding the U.S. sugar program in two respects: 1) The support level should continue to at least roughly approximate producers' cost of production; 2) The no-cost provision should remain intact. An adequate set of safeguards would ensure that the program can continue to be run at no cost to the U.S. Treasury.

Protect Market Share. As the world's fifth largest producer of sugar, the U.S. enjoys about a 6-percent share of the world sugar market, with all of its production marketed domestically. As a competitive producer, the U.S. industry has a right to maintain at least its traditional share of the world market--namely, its own domestic market--under a Uruguay Round agreement. Adequate safeguards would further ensure that the U.S. producers' market would not be unfairly eroded by imports from foreign producers who may be no more efficient, but merely more generously supported, than U.S. growers.

Protect Producer Income. Adequate safeguards should prevent further erosion in sugar producers' income, already strained by cost inflation while supports have remained unchanged since 1985. The Administration has told us that sugar support prices are likely to be reduced in a Uruguay Round agreement, but that it is not their intention to reduce producer income, so some form of decoupled payments will be provided. *However, the Administration has not provided the industry with any specifics on how such payments would be structured, how payment-limitation provisions would be addressed, or how such payments would be funded on a sustainable basis. We request that the Administration do so.*

Evaluation of Current Proposals

To the best of our knowledge, there are three approaches to the issue of safeguards that are currently being considered at the GATT. The following is our attempt to evaluate these proposals in terms of their appropriateness and adequacy as safeguards for U.S. sugar.

U.S. Proposal. *The Administration has not provided the industry with a copy of its Uruguay Round safeguards proposal. We request that the Administration do so.* Officials have given us some information about the U.S. proposal during meetings with them, and that is the basis for this analysis.

We understand the U.S. is proposing either quantity or price triggers to snap back to higher levels of protection and prevent import surges.

The **quantity trigger** would kick in whenever imports, during the course of given year, exceed, by more than 20 percent, imports during the entire previous year. At that point the tariff rate on sugar would revert to the above-quota level set for the first year of the agreement, which apparently would be 12.5 cents per pound, for the remainder of the year.

The quantity-based safeguard would appear to be designed for commodities whose import share is quite small. Examples would be U.S. peanut, dairy, and raw cotton, with import shares under 2 percent, and the foreign markets where Uruguay Round negotiators are hoping to achieve just a 3-percent import share, such as Japanese rice. In sharp contrast, the import share of the U.S. sugar market is 27 percent this year and a minimum share amounting to about 14 percent is guaranteed through 1995/96.

This quantity-based safeguard would be inadequate for sugar, with potentially devastating results, for the following reasons:

1. U.S. sugar import needs can vary greatly from year to year, mainly because of weather-related swings in production that are far beyond growers' control. Imports this year, for example, are anticipated to exceed 2.3 million short tons (valued at over $1 billion), but may be as low as 1.3-1.4 million tons next year. A significantly larger volume of imports would depress prices and make cost-free operation of the program impossible.

   With this quantity-based "safeguard", imports could climb to 2.76 million tons, about *double* expected U.S. import needs, before the safeguard would be triggered. Imports 100 percent in excess of U.S. needs would depress prices enormously, cause loan forfeitures and government costs and, in all likelihood, permanently drive portions of the U.S. industry, unfairly, out of business.

   Clearly, a quantity based trigger that is based on a previous year's imports could not be effective. The previous year's imports have no direct relationship to a subsequent year's import needs.

   In the context that safeguards are meant to be preventive, not reactive, a far more effective quantity trigger would be one that would take effect as soon as imports in a given year reach, for example, 95 percent of estimated import needs for that year. At that point, under the current tariff-rate quota system, the higher level tariffs would kick in, with some flexibility for the entry of shipments that were already underway before the tariff increase.

   According to USDA's "Economic Implications of the Uruguay Round for U.S. Agriculture," the U.S. has proposed an "initial minimum import market access level" with a base period of 1986-88. For sugar, this would be an import base of 1.157 million tons, which would rise 20-28 percent over 5 years to 1.5-1.6 million tons. *As a further safeguard, we propose that, in those years when imports exceed the minimums dictated under the Uruguay Round agreement, that the industry be given credits, in the amount of the difference, that would apply to those years when actual import needs are below the GATT-mandated minimum, with actual imports no less than the 1.25-million-ton minimum prescribed in the 1990 Farm Bill.*

2. The above-quota tariff of 12.5 cents is adequate to protect the U.S. sugar program only as long as the world price (f.o.b. Caribbean) stays above 8 cents per pound. And the 22-cent domestic price (c.i.f. New York) that this tariff level protects is inadequate for many U.S. producers. Furthermore, the world price has averaged *below* 8 cents for four of the past seven years.

   Under a Uruguay Round scenario where tariffs would be reduced 30 percent over five years and there is zero increase in even the nominal minimum domestic sugar price of 22 cents, the

8.8-cent tariff in the fifth year would protect the U.S. program only above a world price of 11.7 cents. The world price has not even averaged above *10.0 cents* any month since September 1990.

When USDA established the current tariff-rate quota system it set the above-quota tariff at 16 cents. This would protect a 22-cent domestic price for world prices above 4.5 cents, which was the 2-year average world price in 1984-85. *We would urge that under a Uruguay Round agreement, that the 16-cent above quota tariff be retained, rather than dropping unilaterally, and dangerously, to the recently proposed 12.5-cent level. We would further urge that, because of the sensitivity of import access measures, tariff reductions not begin until foreign export subsidies and foreign internal supports have been substantially reduced, at least to U.S. levels.*

The **price trigger** proposed by the U.S. would kick in whenever the world price drops more than 25% below a world reference price defined as the previous 3-year average world price. At that point a special "import surcharge" would be tacked on to existing tariffs. This surcharge (S) would be calculated as one-half the difference between 75% of the 3-year world reference price (Pr) and the prevailing world price (Pw):

$$S = .5\ (.75(Pr) - Pw)$$

Given a recent world average price rounded to 12 cents per pound (1988-90: 11.84 cents, f.o.b. Caribbean), this trigger would kick in only when the prevailing world price drops below 9 cents. Thus, if the prevailing world price dropped to 8 cents, the surcharge would be 0.5 cents [.5 (.75(12) - 8)].

It is not clear how frequently the prevailing world price, and the import surcharge, would be recalculated. *Because of the extraordinary volatility of the world sugar market, we would recommend daily adjustments, as is the practice with EC variable levies.*

Though a world reference price of 12 cents is still well below the world average cost of producing sugar, even 12 cents is abnormally high— more than double the previous 3-year (1985-87) average. For this reason, the table below examines prospective import surcharges under two additional world reference price scenarios: 10 cents and 8 cents. In the situations where it does take effect, for every 1 cent the prevailing world price drops, the surcharge would increase by 0.5 cents:

Prevailing World Price (Pw)	Import Surcharge (S), With a World Reference Price (Pr) of:		
	12	10	8
9	0	0	0
8	0.5	0	0
7	1.0	0.25	0
6	1.5	0.75	0
5	2.0	1.25	0.5

The import price (Pi) into the U.S. market for above-quota sugar would be the world price (Pw), plus c.i.f. charges of 1.5 cents, plus the prevailing tariff (T), plus any special import surcharge (S):

$$Pi = Pw + 1.5 + T + S$$

In judging the effectiveness of this safeguard for sugar, much depends on the level of the prevailing tariff and on the 3-year average reference price, which would influence whether or not the special import surcharge would kick in. Under the U.S. proposal, the tariff in 1992 would be 12.5 cents. Assuming 30% Uruguay Round cuts over five years, the tariff in 1996 would be 8.8 cents. The table below provides calculated import prices for 1992 and 1996, given these prospective tariffs, prevailing world prices of 5-10 cents, and reference price scenarios of 12, 10, and 8 cents.

Prevailing World Price (Pw)	U.S. Import Price (Pi) With Tariff (T) of 12.5 cents and World Reference (PR) of: 12	10	8	With Tariff (T) of 8.8 cents and World Reference Price (Pr) of: 12	10	8
10	24.00*	24.00*	24.00*	20.30*	20.30*	20.30*
9	23.00*	23.00*	23.00*	19.30*	19.30*	19.30*
8	22.50	22.00*	22.00*	18.80	18.30*	18.30*
7	22.00	21.25	21.00*	18.30	17.55	17.30*
6	21.50	20.75	20.00*	17.80	17.05	16.30*
5	21.00	20.25	19.50	17.30	16.25	15.80

* No special import surcharge levied

Of course, a 22-cent domestic price is only protected at the higher of the two tariff scenarios. The 8.8-cent tariff would protect a 22-cent domestic price only as long as the prevailing world price stays above 11.7 cents; the import surcharge is, therefore, of little help.

If the reference price were to drop back to 8 cents, which is the 1982-90 average, the surcharge does not kick in until prices drop below 6 cents. Moreover, when it is triggered, the import surcharge compensates for only half the decline in the prevailing world price.

Furthermore, because of the moving reference price, the surcharge will not kick in at all if the price decline relative to the 3-year average is gradual, rather than sharp, though the decline may be a substantial one. If one uses historic annual average prices for the prevailing world price and the previous moving 3-year average for the reference price, the surcharge would kick in for only five of the past 15 years—those years when the price drop was the sharpest. In years when prices were low but the decline had been gradual, the surcharge would have been little or no help: in 1985 when the world price averaged only 4 cents, the import surcharge would have been only 0.78 cent; in 1986 when the world price increased, but only to 6 cents, there would have been no surcharge whatsoever.

This safeguard is reactive—it would be triggered only in the event of a sudden, sharp price decline. It is therefore quite evident that the price triggered safeguard, as proposed by the U.S., would provide little added protection for U.S. sugar growers.

EC Proposal. The European Community has proposed "corrective factors" that would provide considerably more protection than the U.S. safeguards proposal. The EC's suggestion is essentially a two-tiered system. A *fixed*, rather than moving, 3-year average world reference price would be established, using the 1986-88 crop year average of 8.91 cents (f.o.b. Caribbean). If the prevailing world price is *at least 70 percent* of the world reference price, the corrective factor (CF_1) would be 30 percent of the difference between the reference price and the prevailing world price (Pw). Since the reference price is fixed at 9 cents (rounded up from 8.91), the corrective factors at this tier, with the world price below 9 cents but above 6.75 cents (i.e., 70% of the 9-cent reference price), would be calculated as:

$$CF_1 = .3\,(9 - Pw)$$

If, however, the prevailing world price (Pw) drops to *less than 70 percent* of the reference price (i.e., below 6.75 cents) the corrective factor (CF_2) would be the *entire* difference between the reference price and the world price:

$$CF_2 = (9 - Pw)$$

These corrective factors would be added to existing levies. Since the EC currently adjusts its variable levies on a daily basis, it is probably safe to assume the corrective factors would be recalculated daily, as well.

This results in a sharp escalation in the corrective factor when the world price falls below 6.75 cents. At a world price of 7 cents, the corrective factor would be calculated at 0.6 cents [$CF_1 = .3\,(9 - 7)$]. At a world price of 6 cents the corrective factor would jump to 3.0 cents [$CF_2 = (9 - 6)$].

The following table compares the potential EC corrective factors with the U.S.-proposed import surcharges for prevailing world prices of 5-9 cents, assuming in *both* cases a world reference price of 9 cents:

Prevailing World Price	U.S. Proposal: Import Surcharge	EC Proposal: Corrective Factor
9	0	0
8	0	0.33
7	0	0.60
6	0.375	3.00
5	0.875	4.00

Clearly the corrective factors would provide substantially more protection than the import surcharges. If these were added to an eventual U.S. import tariff of 8.8 cents, the potential U.S. import prices (Pi) would be the following, again with prevailing world prices of 5-9 cents:

	U.S. Import Price (Pi)	
Prevailing World Price	With U.S. Import Surcharge	With EC Corrective Factor
9	19.30*	19.30**
8	18.30*	18.63
7	17.30*	17.90
6	16.675	19.30
5	16.175	19.30

* No import surcharge added.
** No corrective factor added.

The corrective factor compensates for *all* of the drop in the world price any time the world price drops below 6.75 cents, which is why, as shown on the table above, the U.S. import price would be the same at 6 cents or 5 cents. The import surcharge would compensate for only half the world price drop, when it does kick in below 7 cents. The abrupt change in the way the corrective factors are calculated after the price drops below 6.75 cents, ironically, would disadvantage growers at any world price between 9 cents and 6.75 cents relative to the import price that would be set at any prices below 6.75 cents.

The EC proposal apparently would also raise the corrective factor to reflect any losses due to exchange rate fluctuations. Since the world sugar price is denominated in dollars, this implies that if foreign currencies *gained* relative to the dollar, which would reduce the entry price as denominated in local currency, an additional exchange-rate levy would be imposed. A *decline* in foreign currency relative to the dollar would reduce the amount of the foreign levies on imports. U.S. import prices would not be affected by this exchange rate adjuster, because the world price is denominated in dollars.

Nonetheless, and contrary to the U.S. proposal, exchange rate fluctuations *should* be taken into account, since countries could achieve Uruguay Round-mandated reductions in their apparent (dollar-denominated) support levels simply by reducing the value of their currency—without any real reform of their internal supports. This would further disadvantage U.S. producers.

Because of the substantially greater protection afforded by the EC corrective factor proposal, we strongly urge the Administration to give the proposal serious consideration.

Canadian Proposal. Canada has proposed modifying Article XI of the GATT, which allows limitation of imports on those commodities on which a country has domestic production or marketing controls. Canada's proposed modifications would reduce the limitations on use of Article XI so that it could be extended to more commodities. The proportion of the domestic market reserved for imports is still to be negotiated.

It is unclear whether the U.S. sugar program's minimum import quota and standby marketing allocations would qualify it for coverage under a modified Article XI. It is possible that

modification of the program might be necessary, such as changing the minimum import quota from an absolute level, as it is now (1.25 million short tons), to a fixed percentage of the domestic market. Such a modification would also protect U.S. producers' share of the domestic market in years when U.S. sugar consumption is stagnant or in decline.

In terms of fair treatment and minimal dislocation for U.S. sugar growers and processors, it would appear that appropriate modification of Article XI would be the most desirable of these three proposals. We would encourage the Administration to explore this option further. The sugar industry would be pleased to work with the Administration to evaluate this option as it evolves in the Uruguay Round discussions.

Alternatives to Safeguards

Presuming the U.S. sugar program would qualify for coverage under a modified GATT Article XI, this apparently would obviate the necessity for other safeguards. Two other scenarios would greatly reduce the U.S. sugar industry's need for safeguards:

Harmonization of Intervention Levels. As the industry has expressed to the Administration in the past, equal percentage reductions in levels of government intervention in agriculture will bring the world no closer to the Administration's stated goal of a "level playing field." Though the more heavily supported producers would have to take larger absolute cuts, the ratio of their support to others would remain exactly the same. The playing field might then be on a lower plateau, but it would be as tilted as ever. The producers at the lower end, such as U.S. sugar producers, whose supports are already *below* their costs of production may go under completely, while the producers at the upper extreme of government supports will be able to survive, regardless of efficiency and despite the fact that their governments provide for less foreign access to their markets than the 14 percent our foreign suppliers are assured.

To put it somewhat more apocalyptically, the countries who have sinned the most, in terms of elaborate subsidies and protections, would be rewarded, while those who have sinned the least, existing with only minimum protections, would be punished.

The alternative that would be fair to efficient but minimally supported producers in the U.S. and elsewhere, who should be major beneficiaries of a Uruguay Round agreement and not the victims, would be harmonization of intervention levels—in internal supports, import barriers, and export subsidies—before equal percentage cuts are implemented.

Under the U.S. proposal, a level playing field would not be reached in the course of a Uruguay Round agreement, however long the implementation process. Equity would not be reached until all intervention is eliminated at the conclusion of some future GATT Round. Under the U.S. proposal, many U.S. sugar producers, though efficient, would not even survive to the end of the Uruguay Round.

Alternatively, our harmonization proposal would make equity, and the much-desired level playing field, the *first* step in a Uruguay Round implementation process, rather than a distant goal for a future Round.

The producers who are most reliant on heavy government intervention for their survival would oppose such an approach, while the more efficient, less supported producers would support it. The *latter* are the producers the GATT process is meant to protect. Adoption of such an approach would essentially eliminate the need for special safeguards for the U.S. industry.

Further, we would note, from conversations with EC negotiators at the GATT, that a level playing field is quite clearly *not* their goal, nor do they perceive the GATT as a mechanism meant to attain such equity. We were told that, in the EC's view, disparities in supports are as permanent and natural as differences in national cultures and the GATT is purely a mechanism for dispute settlement.

While the U.S. goal of a level playing field is inarguably a noble one, we must question the wisdom of pursuing this without recognition of the reality of sharply differing philosophies and goals among our key adversaries at the negotiating table. In this context, an effort to lead by example, as the U.S. has done in past GATT Rounds of tariff reductions, would probably be futile and almost certainly would prove disastrous for U.S. industries such as sugar.

Credits for Social Benefit Costs. The U.S. sugar industry's rank below the average world cost of production is all the more impressive because U.S. growers are subject to some of the world's highest government-imposed social-benefit costs. The GATT process is *not* meant to reward producers who are low-cost because they comply with few or no standards for worker,

consumer, or environmental protection. Fairness in the GATT process and the desire for further global progress in these three areas suggest that credit should be given to producers whose costs rise because they must comply with government-imposed labor, food, and environmental standards.

Accordingly, the sugar industry recommends that an eventual Uruguay Round set of reductions in aggregate measures of support would provide credit, or some form of relief, to producers whose costs are quantifiably increased by government-imposed labor, consumer, and environmental standards. We would be happy to work with the Administration to quantify the cost of these standards and devise an equitable system of support-reduction credits.

Compliance Safeguard

The sugar industry believes there should be provisions in the Uruguay Round agreement to protect import-sensitive commodities against violations of the agreement. Because of the time involved in resolving GATT disputes and because of the damage that can be inflicted upon import-sensitive commodities, there needs to be an automatic trigger for protection until disputes can be settled through normal, but time-consuming, GATT procedures.

Although minimal in effect, the agreement should at least provide a safeguard stating that any signatory who violates the agreement by failing to abide by reductions in internal supports, reduction in export subsidies, or increases in market access for any commodity currently under Section 22 protection, would immediately be returned to the same level of access to the U.S. market which that country was afforded prior to the new agreement, or to the average access in the base years agreed to, whichever is less. Such a safeguard should also apply to a country which transshipped from the violating country.

Safeguards for Section-22 Products

Section 22 is presently employed to control imports of refined sugar and certain sugar-containing products.

Prior to the use of Section 22 protections, these imports were undermining the U.S. sugar program, and damaging the U.S. sugar industry. They were also detrimental to U.S. manufacturers of sugar-containing products, and to those developing nations from which we import most of our raw sugar. Every pound of sugar imported in product displaces a pound of sugar that would otherwise be imported from these nations and contributes to loss of jobs in U.S. sweetened-product industries.

As USDA has noted, the wide gap between the U.S. and the so-called world price for sugar provides strong incentives for the importation of sugar in products or blends that are not subject to quotas or embargoes.

The record is clear. U.S. imports of sugar in sugar-containing products averaged around 100,000 short tons a year, refined basis, during 1977-82. After restrictive quotas were imposed on U.S. raw sugar imports in May 1982, imports of sugar in products jumped to 181,300 tons in 1983, and rose steadily to a peak of 288,000 tons in 1987.

Fortunately, Section 22 was employed to address this quota circumvention, and most of the loopholes were closed.

Section 22 is also employed to ensure that essential refining capacity is maintained in the United States by placing a fee on imports of refined sugar. Adequate refining capacity is needed, among other things, to meet consumer demand during periods of reduced domestic production.

Ideally, the industry would prefer retention of Section-22 protections against excessive import of refined sugar, sugar blends, and sugar-containing products. If these valuable protections are surrendered in a Uruguay Round agreement, however, some alternative safeguards must be in place to protect the domestic sugar producing industry and domestic manufacturers of sugar-containing products.

Unfortunately, Section 22 has been placed on the trading block. *In the absence of Section 22, we recommend that tariff rate quotas be imposed on imports of sugar-containing products at the average level for imports during the period 1977-82, which would reflect a period of normal trade. Imports above that level should be subject to a duty high enough to discourage shipments. This approach would be consistent with the Government's tariff rate quota for raw sugar.*

We also recommend that a much higher rate of duty be applied to imports of refined sugar to ensure that a viable domestic cane sugar refining industry is maintained.

U.S. Sugar Industry
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EC and U.S. Sugar Regimes: A Comparative Analysis of Supports and Costs

John C. Roney*

Summary

A detailed analysis of government-set support prices for sugar reveals that the European Community's sugar regime provides a far more generous, and costly, system of price supports than does the U.S. regime. The average EC support price paid for sugar produced in the EC or imported under preferential arrangements, and weighted for both additional supports and levies and for quantities dumped on the world market without support, was 30.01 cents per pound (white basis) in 1989/90, the most recent year for which final data are available. This is 41 percent above the 1989/90 weighted average U.S. support price of 21.24 cents (21.54 cents, less 1.4% Gramm-Rudman reduction). In addition, the EC sugar regime's net cost to the EC Treasury was close to $1 billion in 1989, while the U.S. regime was a net revenue generator. The consumer cost of the EC regime is also substantial—retail sugar prices are about 40 percent higher in the EC than in the U.S.

The 30.01-cent figure for EC supports takes into account the "C" sugar which is dumped on the world market for whatever price it will bring. If one excludes this "C" sugar and takes into account only the sugar that actually receives supports—the domestically supported "A" and "B" quota sugar, plus the preferentially priced imported sugar—the weighted average EC support price would be significantly higher—32.40 cents, or 53 percent above the U.S. support price.

EC Sugar Support Prices

Analysis of the European Community's sugar regime is complicated by the many different types of support offered and by the differing support levels by country. The EC's nominal intervention price for the 1989/90 crop was 53.10 ECU's per 100 kilograms (32 cents/lb), but no EC sugar is actually supported at that level.[1] Some is supported at higher levels arranged for each country; most is subject to levies that reduce the effective support level. These "A" and "B" quota levies help to pay the subsidies on the EC's white sugar exports.

As Table 1 indicates, Ireland, Italy, Portugal, Spain, and the United Kingdom all receive "regional premiums" on top of the nominal intervention price. Italy and Spain receive "national aid" on top of that, and this aid is given to the French protectorates, as well. As a result, Spain's support level (45 cents) is more than 40 percent higher than the nominal intervention level and Italy's (40 cents) is 25 percent higher.[2] Italy is the EC's third largest sugar producer. In addition, the preferential price set for imports from the Lomé Convention countries is higher than the nominal intervention price, and refiners of the imported raw sugar also receive a subsidy, resulting in an entry price of 55.9 ECU's/100 kg (34 cents/lb), white equivalent.[3] (See Chart 1.)

These complicated additional subsidies are often ignored in assessing EC sugar support levels. While this study addresses these payments, it does *not* take into account additional storage subsidies, which largely offset some storage levies, and "green rate" adjustments that compensate for exchange rate fluctuations among EC members and vary broadly.

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The "A" and "B" quota sugar sales are subject to a levy of up to 2 percent, to help fund the export subsidy program. Table 2 provides the adjusted "A" level prices for each country and the quantities sold at each price, and derives the weighted average price of 56.0 ECU's/100 kg (34 cents/lb).[1]

Additional levies on "B" quota sugar also contribute to the cost of the export subsidy program. These levies are permitted to be as high as 39.5 percent. In 1989/90, the "B" quota levy was set at 22.873 percent.[3] Similar to Table 2, Table 3 provides "B" quota prices and quantities, plus the derived weighted average price of 41.8 ECU's/100 kg (25 cents/lb).[1]

In countries where "A" and "B" quota sugar exceeds domestic needs, the surplus is dumped on the world market with help of "producer-financed export restitutions." These restitutions, or export subsidies, make up the difference between the world price and the EC intervention price.

The "C" sugar is the sugar that is produced in excess of the "A" and "B" quotas and either stored, to be converted to "A" or "B" sugar the following year, or dumped, without support, onto the world market for whatever price it will bring. The price producers receive for "C" sugar dumped on the world market is the world average refined sugar price, which in 1989/90 averaged 15.91 cents per pound.[4]

EC and U.S. Sugar Regimes: Support Price Comparison

The actual weighted average support price for white sugar in the EC in 1989/90—49.8 ECU's/100 kg (30 cents/lb)—is represented in Table 4, which weights the effective support prices for "A" and "B" sugar plus the price for "C" sugar sold on the world market. As indicated in Table 5 (and Chart 2), the weighted EC support level is 41 percent above the U.S. weighted average support level for the same year, at 21.24 cents, refined beet sugar basis.[4]

If one considers only the sugar sold under "A" and "B" quotas, ignoring the "C" sugar that is dumped on the world market, the EC's weighted average support price would be even higher—over 32 cents per pound (Table 4). This would be 53 percent above the U.S. support level.

Whether one regards the EC support price as 30 cents or 32 cents, it is clear that the sugar regime has assured prices well above average production costs and provided an enormous incentive for production expansion. The EC sugar regime was initiated in 1968 and intervention prices rose about 3 percent per year until 1975/76 when they were increased by 21 percent.[5] Since 1975/76, EC production has risen 42 percent. In the U.S., in contrast, where support levels are *below* average costs of production, production in 1990/91 is 2 percent *below* the 1975/76 level.[4] The most important consequence of the EC sugar production explosion has been the EC's transformation from one of the world's largest net *importers* of sugar in the mid 1970s to the world's second largest *exporter* by the early 1980s. (See Chart 3.) All these exports are dumped on the world market, mostly with export subsidies.

EC and U.S. Sugar Regimes: Cost Comparison

The EC sugar regime is sometimes described as being entirely producer-financed, but this is not the case. EC budget data reveal that the cost of the sugar regime—for export refunds, storage refunds, and other costs—exceeds producer payments by a significant amount. The estimated deficit for 1989 was 734 million ECU's ($976 million) (Table 6)[2]. In contrast, the U.S. sugar program generated net revenues for the Commodity Credit Corporation that averaged $112 million during 1987-89 and also saved the CCC an estimated $500-700 million per year in deficiency payments to corn producers. In addition, duties on sugar imports generated average revenues of about $5 million per year during the same period.

Much of the cost of the EC sugar regime is borne by EC consumers. According to USDA survey data, retail sugar prices in the EC are among the highest in the world, averaging over 60 cents per pound. This is about 40 percent above retail prices in the United States, where sugar program costs are said to be borne entirely by consumers. (Table 7)[6]

References

[1] Statistical tables compiled by the EC Commission Directorate-General for Agriculture, and provided by the EC Commission Delegation in Washington, D.C.

[2] Joan Noble Associates: "Outlook for Sugar," European Agricultural Outlook Conference, February 1990

[3] CAP Monitor, June 11, 1991

[4] USDA, *Sugar and Sweetener Situation and Outlook Yearbook*, Economic Research Service, June 1991

[5] USDA, "Potential Effects of Policy Reform on the European Community Sugar Market and World Sugar Prices," Dale Leuck and Steve Neff, Economic Research Service, August 1991

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EC Commission, Directorate-General for Agriculture: "The European Community's Sugar Regime," November 1990; EEC Council Regulation No. 1254/89, May 1989, establishing 1989/90 sugar prices

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USDA: Other statistical tables, provided upon request

TABLE 1

EC Sugar: Additional Subsidies, 1989/90

Country	Nominal Intervention Price	Regional Premiums	National Aid	Cane Refining Subsidy	Effective Support Price[1]
			-ECU's/100kg-		
DOM[2]	53.10	--	6.04	--	59.14
Ireland	53.10	1.21	--	--	54.31
Italy[3]	53.10	1.94	11.53	--	66.57
Portugal	51.68	1.94	--	--	53.62
Spain	53.10	8.60	12.81	--	74.51
United Kingdom	53.10	1.21	--	--	54.31
Lomé Imports[4]	54.31	--	--	1.58	55.89
			-¢/lb-		
DOM[2]	32.02	--	3.64	--	35.66
Ireland	32.02	.73	--	--	32.74
Italy[3]	32.02	1.17	6.95	--	40.14
Portugal	31.16	1.17	--	--	32.33
Spain	32.02	5.19	7.72	--	44.92
United Kingdom	32.02	.73	--	--	32.74
Lomé Imports[4]	32.75	--	--	.95	33.70

[1] 1990/91 preliminary average exchange rate: European Currency Unit (ECU) = $1.3292 (Source: USDA, from Statistical Office of the European Communities data, August 1991)

[2] DOM: French Overseas Departments (Reunion, Guadeloupe, Martinique).

[3] In addition, Italy receives storage subsidies if its interest rate is 3% or more above EC average.

[4] Preferential quota imports from African, Caribbean, and Pacific countries, under Lomé Convention.

TABLE 2

EC Sugar Regime:
"A" Volume and Prices
(1989/90, White Basis)

Country	Effective Support Price	Price Less "A" Levy[1]	Production Within Quota	Weight (% of Total)	Value (Weight x Price)
	-ECU's/100kg-		-1,000 mt-		-ECU's/100kg-
Belgium	53.10	52.04	680	5.89	3.065
Denmark	53.10	52.04	328	2.84	1.478
Germany	53.10	52.04	1,990	17.24	8.972
Greece	53.10	52.04	290	2.51	1.306
France	53.10	52.04	2,526	21.88	11.386
DOM[2]	59.14	58.08	232	2.01	1.167
Ireland	54.31	53.25	182	1.58	0.841
Italy	66.57	65.51	1,320	11.43	7.488
Netherlands	53.10	52.04	690	5.98	3.112
Portugal	53.62	52.56	2	.02	0.011
Spain	74.51	73.45	960	8.31	6.104
U.K.	54.31	53.25	1,040	9.01	4.798
Lomé Imports[3]	55.89	55.89	1,305	11.30	6.316
Total:	--	--	11,545	100.00	56.044 (=33.79 cents/lb)[4]

---

1 "A" levy: 2% of nominal intervention price (53.10 ECU's) = 1.062 ECU's
2 DOM: French Overseas Departments (Reunion, Guadeloupe, Martinique).
3 Not subject to levy.
4 1990/91 preliminary average exchange rate: European Currency Unit (ECU) = $1.3292
(Source: USDA, from Statistical Office of the European Communities data, August 1991)

TABLE 3

EC Sugar Regime: "B" Volume and Prices (1989/90, White Basis)

Country	Effective Supportt Price	Price Less "A" + "B" Levies[1]	Production Within Quota	Weight (% of Total)	Value (Weight x Price)
	-ECU's/100kg-		-1,000 mt-		-ECU's/100kg-
Belgium	53.10	39.89	146	6.54	2.609
Denmark	53.10	39.89	97	4.34	1.731
Germany	53.10	39.89	611	27.35	10.910
Greece	53.10	39.89	29	1.30	0.519
France	53.10	39.89	759	33.97	13.551
DOM[2]	59.14	45.93	0	0	0
Ireland	54.31	41.10	18	.81	0.333
Italy	66.57	53.36	248	11.10	5.923
Netherlands	53.10	39.89	182	8.15	3.251
Portugal	53.62	40.41	0	0	0
Spain	74.51	61.30	40	1.79	1.097
U.K.	54.31	41.10	104	4.65	1.911
Lomé Imports[3]	55.89	--	0	0	0
Total:	--	--	2,234	100.00	41.835 (= 25.22 cents/lb)[4]

---

1 1989/90 "A" quota levy: 2% (1.062 ECU's); "B" quota levy: 22.873% (12.1456 ECU's) of nominal intervention price (53.10 ECU's) (CAP Monitor, 6/11/91, 12.5.9)

2 DOM: French Overseas Departments (Reunion, Guadeloupe, Martinique)

3 Not subject to levy.

4 1990/91 preliminary average exchange rate: European Currency Unit (ECU) = $1.3292
(Source: USDA, from Statistical Office of the European Communities data, August 1991)

TABLE 4

EC Sugar Regime:
Total Volume and Prices
(1989/90, White Basis)

	Average Price	Volume	Weight (% of Total)	Value (Price x Weight)[1]	
	-ECU's/100kg-	-1,000 mt-		-ECU's/100kg-	-¢/lb-
"A" Sugar[2]	56.044	11,545	71.92	40.307	--
"B" Sugar	41.835	2,234	13.92	5.823	--
"C" Sugar[3]	25.753	2,273	14.16	3.646	--
Total	--	16,052	100.00	--	--
Weighted Average Price		--	--	49.776	30.01
Weighted Average Price Excluding "C" Sugar		--	--	53.742	32.40

[1] 1990/91 preliminary average exchange rate: European Currency Unit (ECU) = $1.3292
(Source: USDA, from Statistical Office of the European Communities data, August 1991)
[2] Includes Lomé imports
[3] Sold at 1989/90 world average refined sugar price, London, Contract No. 5: 19.51 cents per pound

TABLE 5

EC and U.S. Sugar Regimes:
Comparative Weighted Average Support Prices
(1989/90, White Basis)

	-ECU's/100kg-	U.S. cents/pound	%
EC[1]	49.78	30.01	--
U.S.[2]	--	21.24	--
EC as % of U.S.	--	--	141.29

[1] 1990/91 preliminary average exchange rate: European Currency Unit (ECU) = $1.3292
(Source: USDA, from Statistical Office of the European Communities data, August 1991)
[2] U.S. weighted average refined beet sugar loan rate: 21.54 cents, less 1.4% Gramm-Rudman reduction

TABLE 6

EC & U.S. Sugar Regimes:
Treasury Costs/Revenues, 1987-89

	1987		1988		1989	
	Million ECU's	Million dollars	Million ECU's	Million dollars	Million ECU's	Million dollars
EC						
Cost	2,035.6	2,705.7	2,082.1	2,767.4	2,051.0	2,726.2
Producer Payments	1,471.6	1,956.1	1,391.8	1,850.0	1,316.9	1,750.4
Net Cost	-564.0	-749.7	-690.3	-917.4	-734.1	-975.8
U.S.						
Cost	--	0	--	0	--	0
CCC Revenues	--	+65.0	--	+246.0	--	+25.0

Sources: 1989 EC Budget; 1990 CCC Budget; Statistical Office of the European Communities, exchange rate data.

TABLE 7

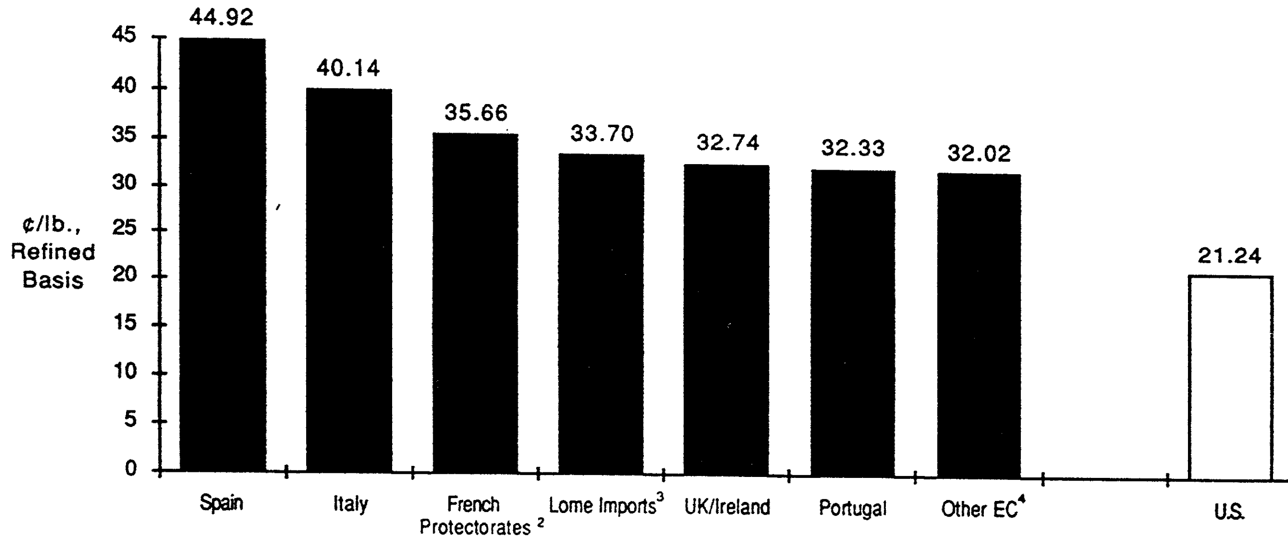
EC & U.S. Retail Sugar Prices
(Refined basis, November 1990)

	Cents per pound	%
EC		
Bonn	58.2	--
Madrid	60.9	--
London	56.8	--
Paris	57.3	--
Rome	59.0	--
Average	60.4	
U.S.		
Washington, D.C.	43.2	--
EC as % of U.S.	--	139.9%

Source: USDA, survey data as of November 1990

CHART 1

EC and US SUGAR: Effective Support Prices,[1] 1989/90



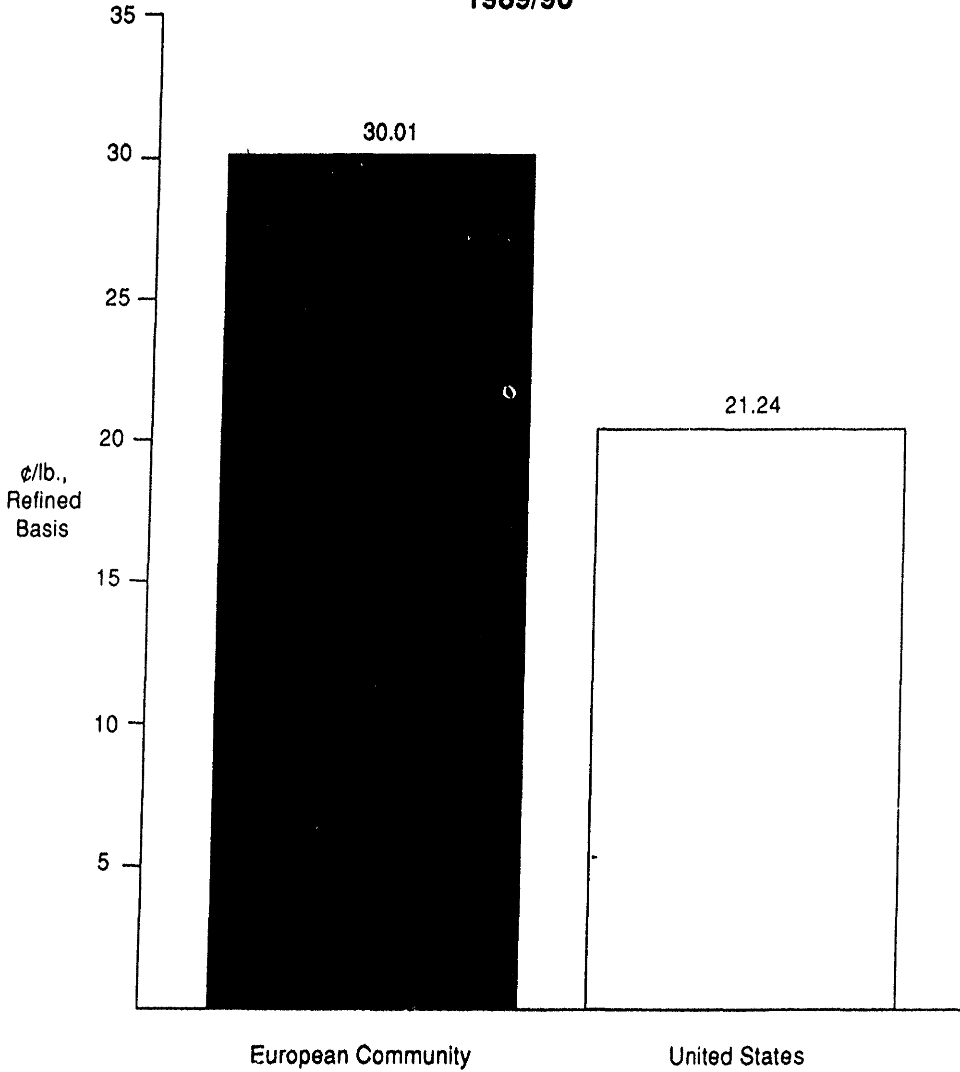
1 EC: Nominal intervention price plus regional premiums, national aids, and cane refining subsidies;
US: Refined beet loan rate of 21.54 cents, less 1.4% Gramm-Rudman reduction

2 Reunion, Guadeloupe, Martinique

3 Preferential quota imports from African, Caribbean, and Pacific countries, under Lome Convention

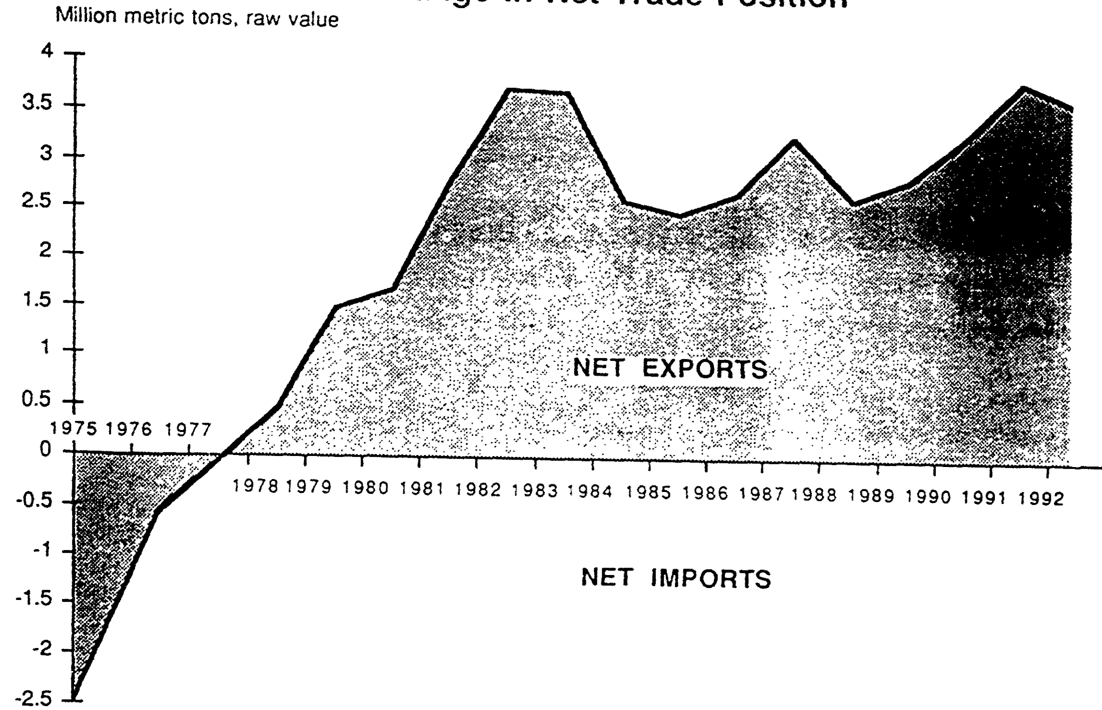
4 Belgium, Denmark, Germany, Greece, France, Netherlands

CHART 2



Data Sources: USDA, EC Commission

CHART 3



Data Source: USDA

STATEMENT OF THE AMERICAN TELEPHONE AND TELEGRAPH CO.

Mr. Chairman, thank you for this opportunity to present the views of the American Telephone & Telegraph Company (AT&T) regarding the Uruguay Round Multilateral Trade Negotiations.

AT&T places a high priority on the successful conclusion of the Uruguay Round. While we care strongly about agreements on intellectual property, investment measures, dumping and other Uruguay Round issues, my remarks today focus on AT&T's two priorities that are two *inextricably linked* issues:

- market access for telecommunications service providers in the GATT services negotiations, and
- market access for telecommunication equipment manufacturers (in the Government Procurement Code).

Currently, in the U.S. basic telecommunication services market:

- more than 400 carriers provide domestic long distance services and compete in the $69 billion U.S. market;
- there are 12 U.S. facilities-based international carriers, a number of which have foreign ownership or are foreign controlled; and
- there are approximately 250 U.S. international resale carriers.

The U.S. telecommunications market is the world's most open, and foreign-based firms are afforded significant freedom to compete within the U.S., subject only to regulatory oversight necessary to ensure that their monopoly ownership or control of foreign markets is not abused in the U.S. market to the detriment of U.S. ratepayers or to achieve unfair competitive advantages. British Telecom, for instance, has invested more than $2 billion in six U.S. ventures producing annual revenues of more than $1.2 billion, making one of AT&T's important international partners one of our major domestic competitors.

AT&T believes that *users* of telecommunications services benefit from the dynamics of an open and competitive marketplace that drives prices closer to cost, raises standards for quality and reliability, and stimulates innovation. Our customers will demand internationally what they have come to expect domestically—and AT&T proposes to respond to these needs throughout the world, through our own efforts or in combination with local partners.

In contrast, most foreign basic telecommunications services markets are closed to U.S. suppliers and served by monopolies. The asymmetry between a highly competitive and open U.S. market and foreign markets dominated by monopoly service providers continues to distort the global marketplace, to the disadvantage of United States service providers. These companies can leverage their market power to maintain high accounting rates with U.S. telecommunications carriers and charge inflated prices to their customers. This in effect creates a subsidy which allows foreign carriers to fund investments in other markets including the highly competitive U.S. market, as well as to pay higher-than-market prices for equipment from embedded, traditional manufacturers. These embedded manufacturers, in turn, use profits from protected home markets to compete more effectively against U.S. manufacturers around the world.

Let me demonstrate how this works in the real world, with real life examples.

First, if one market allows competition and another does not, the competitive market will—all else being equal—have lower prices. *Chart 1* shows the tremendous disparity between long distance telephone call rates from the U.S. to Europe, as opposed to the other way around. For example, the cost of a 10-minute call from the U.S. to Germany is ***$11.58;*** a 10-minute call from Germany to the U.S. is ***$19.00.*** Anyone who has placed long distance calls from Europe to the United States knows the general accuracy of *Chart 1.*

If United States-European calls are cheaper when placed from the United States, where will—they be placed? *Chart 2* shows the dramatic extent to which calls are placed from the United States.

Chart 3 shows the extent to which the disparity between United States outbound versus United States inbound traffic has increased since 1977, as the United States market was liberalized and foreign markets remained closed.

Why do we care? Because of something called the Accounting Rate, shown on Chart 4. Take the German example again, and follow the math on Chart 5. If a 10 minute call is made from the U.S. to Germany, and AT&T is the carrier, AT&T collects $11.58 from the customer. Based on the Accounting Rate of $1.37 per minute for Germany, AT&T pays Deutsche Bundespost (DBPT) (the German PTT) ½ of $1.37 per minute times 10 minutes, or $6.85. This leaves $4.73 for AT&T, to cover its operating costs, access charges, fraud, and billing. DBPT's billing costs are zero.

In contrast, if a 10 minute call is made from Germany to the U.S., and AT&T is the carrier, DBPT collects $19.00 from its customer. The same accounting rate described above applies, and DBPT pays AT&T $6.85, leaving DBPT $12.15 to cover its operating costs, access charges, fraud, and billing.

While the average accounting rate has gradually declined in the last decade (see Chart 6), it has not been able to keep up with the marketplace—open in the United States and closed overseas. The open United States market, resulting in much lower prices for calls placed in the United States, resulting in many more outbound calls than inbound calls, has overtaken the reduction in the accounting rate, resulting in a continuing increase in the net United States outpayment, reaching $2.2 billion in 1990 and projected to be $2.85 billion in 1991.

Obviously, we care about this outpayment because it has a $2.85 billion negative impact on the U.S. balance of payments. *But the story gets worse!*

Foreign carriers are able to take the excessive revenue they collect through inflated prices and accounting rates to support activities outside their home countries, including the U.S. as shown by Chart 7 for British Telecom and Cable and Wireless.

Finally, Chart 8 shows the extent to which a lack of competition in the market for basic telecommunications services leads to unfair competition with respect to telecommunication equipment. Siemens has 85 percent of the German switching market. Deutsche Bundespost (the German PTT) is able to use its profits from its telecommunication services monopoly to pay a premium to Siemens in the closed German government procurement market. Siemens, in turn, is able to take its premium profits from the German procurement market and subsidize its sales to other markets, where United States competitors are at a severe disadvantage—United States manufacturers have no monopoly or premium profits to subsidize their sales.

If telecommunications services can become competitive, then European consumers can benefit from lower long distance rates, Unites States outpayments will decline, foreign PTT's will lose their monopoly profits, foreign telecommunication equipment manufacturers will lose their premium profits on home country sales and cross-subsidies for sales in other markets, and competition for telecommunication services and equipment can become free, open, competitive and fair.

Thus, AT&T supports an open and competitive telecommunications marketplace worldwide for both equipment and services. In the Uruguay Round, we favor a trade liberalizing agreement that would make foreign markets as open and competitive as the U.S. market presently is in all telecommunications market sectors. We favor an agreement which achieves free and meaningful market access, including the liberalization of monopoly services markets and commitments regarding national treatment and most-favored-nation (MFN) treatment.

However, if major U.S. trading partners are unwilling to support such market liberalizing agreements for basic telecommunications services, then our secondary objective would be to achieve an agreement which maximizes our prospects for liberalization of basic services while ensuring fair and open procurement of telecommunications equipment by monopoly providers. As long as PTTs maintain a monopoly on the provision of basic services, there is no incentive to change their buying behavior. Procurements should, therefore, be disciplined by the procedures in the GATT Government Procurement Code.

With respect to basic services, so long as foreign markets remain closed, we must insist upon a derogation for basic telecommunication services from the principle of most favored nation treatment. To do otherwise would:

- diminish the prospect for future trade liberalizing agreements by diminishing U.S. negotiating leverage;
- require the U.S. to treat all countries the same, despite their different commercial and competitive conditions; and
- legitimize closed markets and freeze out, for years, U.S. providers of basic services.

Our objectives for foreign government procurements of telecommunications equipment are fundamentally the same: we seek open and competitive markets for telecom equipment.

Preferential procurement practices in markets with government sanctioned monopoly providers need to be eliminated.

We support the position of the U.S. negotiators that an expanded Agreement on Government Procurement should cover the monopoly foreign telecommunications operators and open up utility sector government procurements, particularly in telecommunications. In addition, we support the U.S. position to cover sub-central government procurements under the Government Procurement Code if our trading partners commit to do the same.

Because an increasing number of monopoly telecom companies are being "privatized," it may not be appropriate to require them to institute the government procurement practices set forth in the GATT Agreement on Government Procurement. All government-sanctioned monopoly service providers should, however, be required to have *written* procurement policies and practices that guarantee non-discriminatory treatment for all qualified suppliers of telecommunications equipment. These policies and practices should be audited annually to ensure compliance.

To do otherwise would exacerbate the asymmetry in the marketplace and place the U.S. telecommunications industry at a further disadvantage.

In the emerging global economy, the best telecommunications service providers will be those that, among other traits, have the most opportunities to compete. AT&T seeks real opportunities to compete in foreign markets, and does not seek to impose new burdens on foreign service providers in the U.S. market. In trade negotiations, therefore, AT&T supports a strong, market-opening strategy for telecommunications equipment and services by the United States to achieve what the 1988 trade act calls "mutually advantageous market opportunities," so that U.S. carriers can enjoy in other countries the access foreign carriers already enjoy in the United States market.

Chart 1

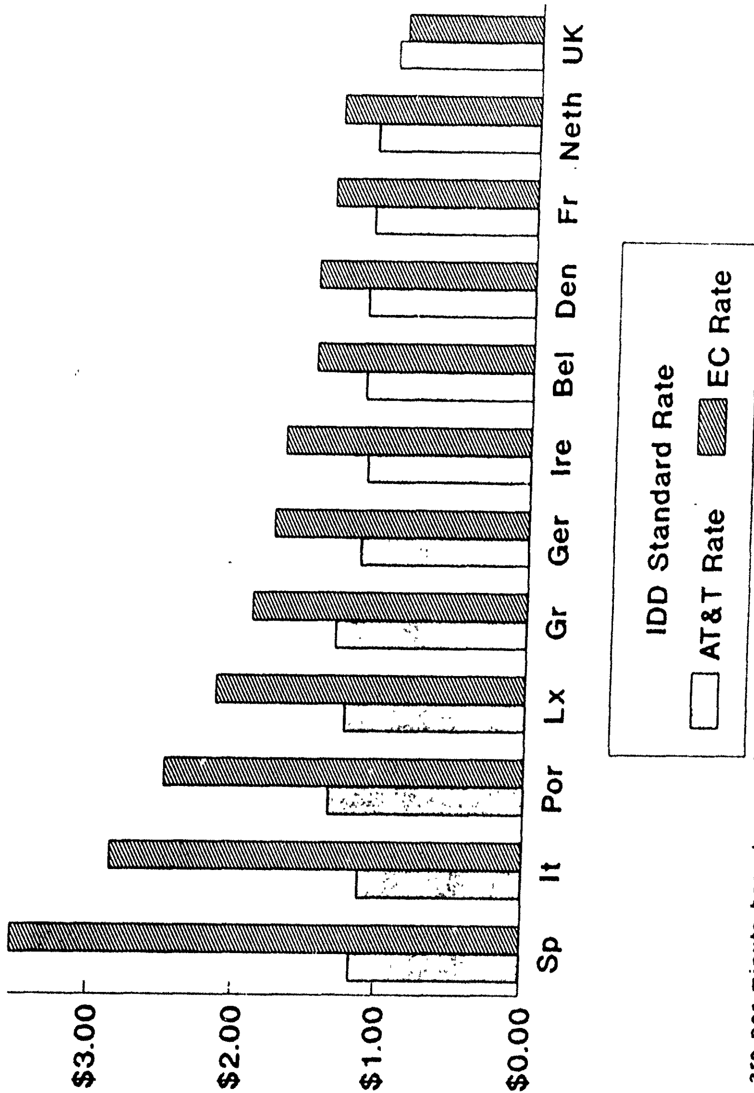
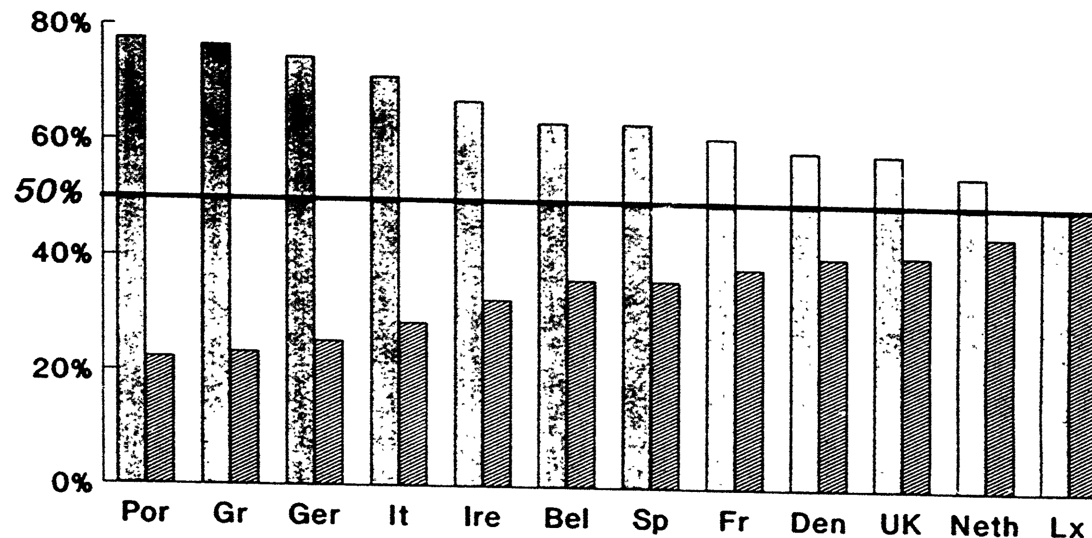


Chart 2

EUROPEAN COMMUNITY
% OF TWO-WAY MINUTES



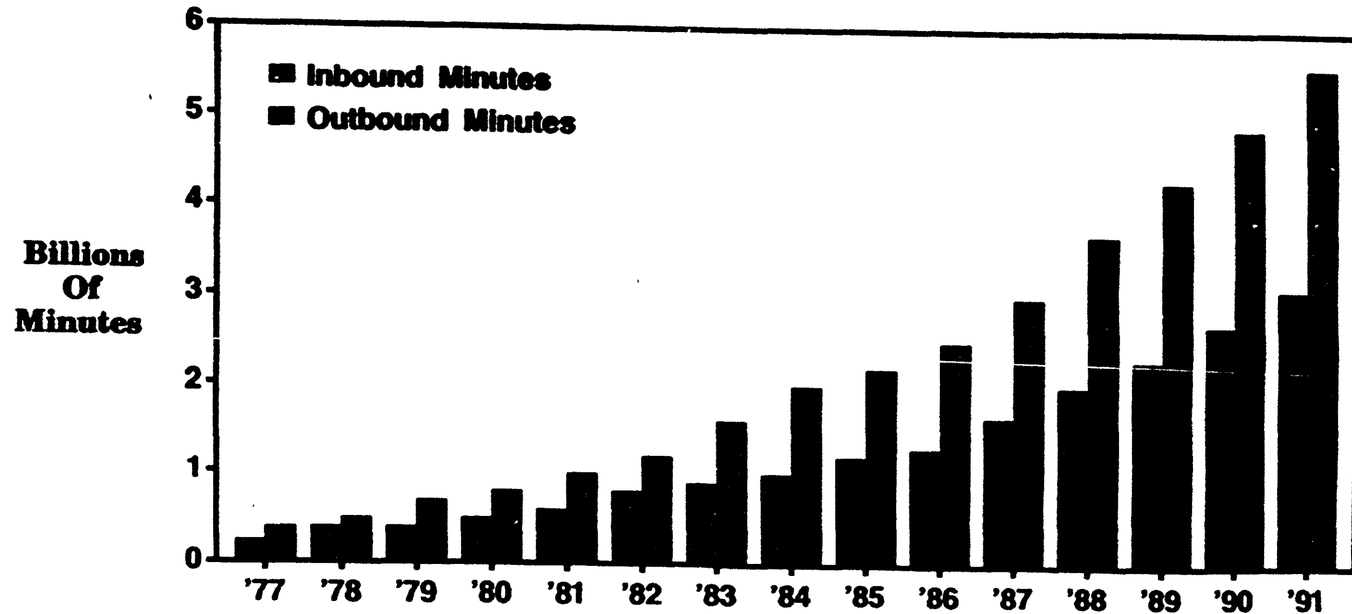
1990 FCC % of Mins.

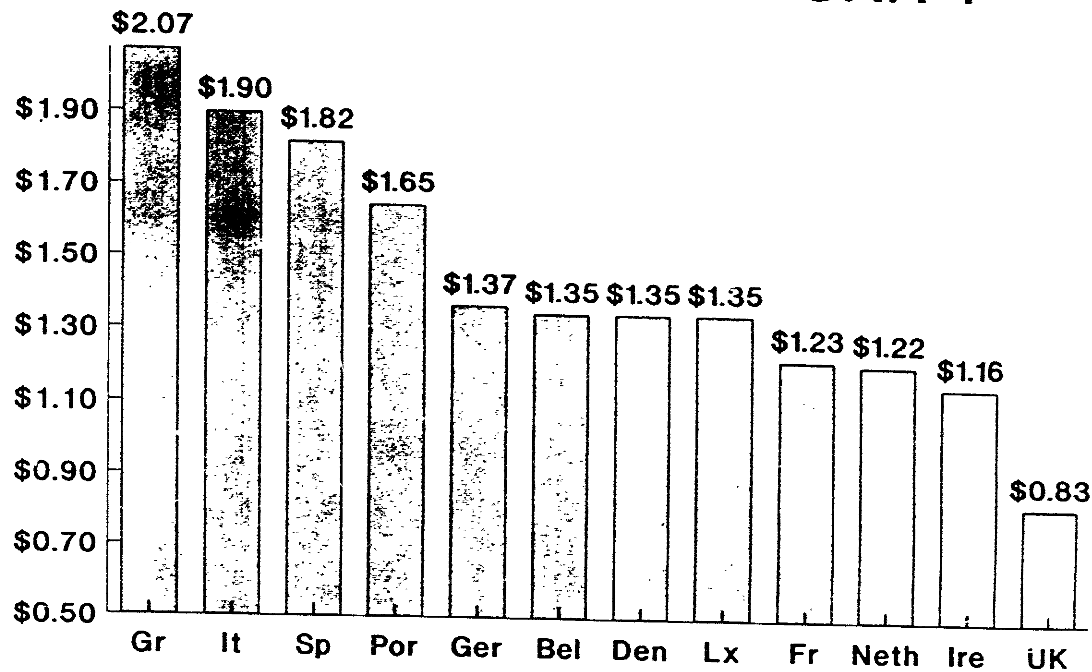
AT&T   EC Country

Source: 1990 FCC International Communications Traffic Data

U.S. TWO-WAY INTERCONTINENTAL TRAFFIC

(Canada And Mexico Excluded)





1 SDR = $1.35

Current AT&T Accounting Rates as of November 20, 1991.

Chart 5

U.S. to Germany 10-minute call

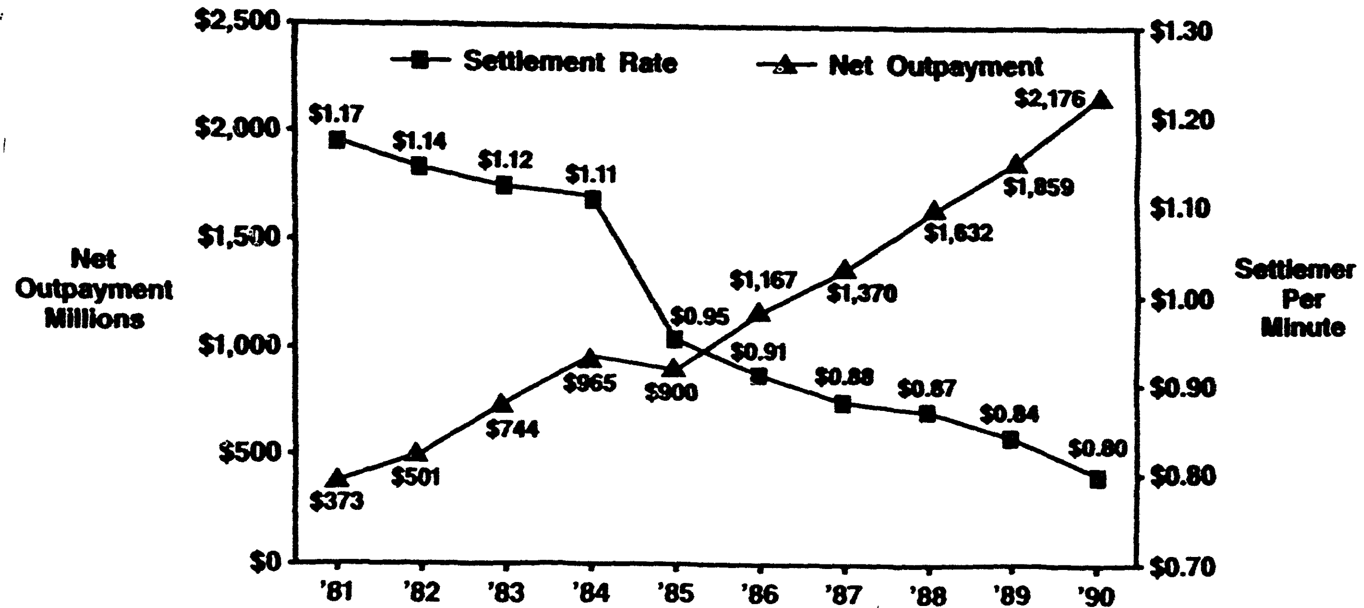
Charge to customer:	=	$11.58
Accounting Rate: $\frac{\$1.37 \text{ per minute} \times 10 \text{ minutes}}{2}$	=	$ 6.85
(Paid to DBPT)		
Remainder to U.S. carrier		$ 4.73

Germany to U.S. 10-minute call

Charge to customer:	=	$19.00
Accounting Rate: $\frac{\$1.37 \text{ per minute} \times 10 \text{ minutes}}{2}$	=	$ 6.85
(Paid to U.S. carrier)		
Remainder to DBPT		$12.15

Chart 6

U.S. INTERCONTINENTAL SETTLEMENTS
(Canada And Mexico Excluded)



Source: derived from FCC data

Chart 7

BRITISH CARRIER INVESTMENTS IN U.S. MARKET

British Telecom	
BT North America	$335m invested, $270m revenue
Syncordia	$200m investment
BT&D Technologies America	(50 percent DuPont)
McCaw Cellular	$1.5B invested, $1B est. rev.
BT U.S. Paging	(80 percent BT)
Mitel (Canadian)	(51 percent BT)
VoiceCom Systems	(28 percent BT)
Cable & Wireless	
C&W Communications, Inc.	$350m revenue, 100 percent C&W
DataAmerica	$10 – $20m revenue est.
TRT/FTC	$174m investment, $200m rev.

CHART 8

Global Competition

Home Market Support

Competitor	Central Office Equipment Home Country Price Per Line & Share	Lowest Price Charged In Other Markets	Government Financing
• Siemens	West Germany 85% EWSD $420	$100	X
• Alcatel	France 92% $215	$170	X
• Ericsson	Sweden 95% $325	$164	X
• Northern Telecom	Canada 80% $250	$100	X
• NEC/ Fujitsu	Japan NEC 31% Fujitsu 21% $290	$200	X

STATEMENT OF THE COALITION OF SERVICES INDUSTRIES

Mr. Chairman: As representatives of the Coalition of Service Industries and the financial services sector, we appreciate the opportunity to submit this statement to the Committee. We regret that our schedules have prevented us from appearing in person.

Progress has been made in recent months toward achieving a strong, liberalizing services agreement in the Uruguay Round. Our negotiators at USTR, Commerce and Treasury have done an outstanding job in the face of issues that are as difficult to resolve as those in the agriculture negotiations.

Despite encouraging progress, however, a tremendous amount of work remains to be done. Critical issues remain unresolved, especially with respect to liberalization commitments by our foreign trading partners.

In our view, it is critical that the final services agreement include four elements: (1) a tough, binding framework of rules; (2) strong annexes for financial services and telecommunications; (3) substantial liberalization of foreign markets; and (4) a mechanism to prevent free riders. Elimination of existing barriers to U.S. service providers is essential if a services agreement is to produce tangible commercial benefit to the United States.

As efforts to complete the Round accelerate, we are concerned that the United States will be asked to settle for much less. A minimalist agreement would have the effect of locking the U.S. market open and the markets of many others closed, while tying our hands bilaterally. We do not believe that such an agreement would serve the nation's economic interest.

We thank the Committee for holding this important hearing, and for the Committee's continued support of the U.S. service sector.

MAURICE R. GREENBERG, *Chairman, American International Group, Inc.*
JOHN S. REED, *Chairman and Chief Executive Officer, Citicorp/Citibank, N.A.*
JAMES D. ROBINSON, III, *Chairman and Chief Executive Officer, American Express Company.*

STATEMENT OF FMC WYOMING CORP., GENERAL CHEMICAL (SODA ASH) PARTNERS, NORTH AMERICAN CHEMICAL CO., RHONE-POULENC OF WYOMING CO., TENNECO SODA ASH CO., TG SODA ASH, INC.

I. SODA ASH—AN AMERICAN EXPORT SUCCESS STORY

Soda ash is a basic chemical used in the manufacture of glass; detergents and other industrial processes such as the desalinization of seawater.[1]

The United States has far and away the world's most competitive soda ash industry. U.S. firms produce the highest quality soda ash, at the lowest cost of any producers in the world.[2] U.S. soda ash is also the most protective of the environment when used in manufacturing processes and can be produced with less consumption of energy than soda ash manufactured by the synthetic methods used by most foreign firms.

The basis for the U.S. competitive edge is a natural resource advantage. Soda ash was originally made through synthetic processes which are relatively inefficient and produce by-products which can have adverse environmental effects unless recovered and sold.[3] The United States, however, has two major natural deposits which yield soda ash with no polluting by-product. The Searles Lake deposits in California and the Green River basin deposits in Wyoming are the highest quality natural soda ash reserves in the world. In 1948, U.S. producers developed a process for producing soda ash from trona ore, using a unique mineral, trona ore, which yields only soda ash with no polluting by-product, and uses one-half the labor and energy of the Sol-

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[1] Soda Ash (Na2CO3) is a colorless basic material which is used in glassmaking, steelmaking, paper, detergents, and most sodium chemicals.

[2] Soda ash exists in two densities, so-called "light" ash and "dense" ash. The latter is preferred by glassmakers and is the only form exported by U.S. firms.

[3] The so-called Solvay process, for example, which is the method utilized in the European Community, combines salt, limestone and coke and produces soda ash with calcium chloride which can be a pollutant if pumped into rivers or leached into groundwater.

vay process.[4] Huge trona ore deposits are found in the United States, and by 1986 the U.S. soda ash industry, consisting of six producers, had switched from the Solvay process to the trona process.[5] The U.S. producers are working to enhance their natural cost advantages through improved mining techniques and capital investments in energy-efficient production facilities which, by 1990, enabled them to make soda ash with—in some cases—less than one-third of the energy consumption entailed by old synthetic methods.[6]

The U.S. soda ash industry has parlayed these advantages into a spectacular export success story. During the past decade—when many other U.S. industries were suffering from the strong dollar—U.S. soda ash exports volume more than doubled, from 993 thousand metric tons in 1980 to 2,392 thousand tons in 1990.[7] The U.S. producers organized a Webb-Pomerene export corporation, ANSAC, in 1981 to create a streamlined, efficient export distribution system. Stringent quality-control procedures have been implemented to capitalize on one of the chief advantages of U.S. soda ash—its purity and high quality. The U.S. producers have worked closely with the U.S. government to reduce trade barriers and open markets overseas.[8]

These efforts have proven so successful that today U.S. soda ash accounts for 60 percent of all the soda ash moving in international trade.

II. THE EUROPEAN COMMUNITY—THE MAJOR EXCEPTION TO THE PATTERN OF U.S. SUCCESS

The principal dark spot in an otherwise dramatic pattern of U.S. export success in soda ash has been the European Community. Despite the fact that the EC is one of the world's largest markets for soda ash, U.S. exports have been negligible. Figure 1 shows the top 20 U.S. export markets in 1990; as can be seen, only one EC country, Britain, falls within this group, and it ranks 19th, behind countries such as Malaysia, Chile and Iran. U.S. exports to some other major EC countries have been virtually nonexistent—in 1990 the U.S. exported more soda ash to small markets like Trinidad, Bolivia and the Dominican Republic *each* than it did to West Germany, Belgium and Italy *combined*.[9]

This bleak export performance does not reflect commercial factors. The European Commission has concluded that U.S. firms are cost competitive with indigenous EC producers, even allowing for the cost of delivering the product from the U.S. to Europe.[10] Many European consumers have expressed a desire to procure U.S. soda ash, in particular, because of its high purity.[11]

The reason U.S. exports to the EC have historically been very low is the existence of barriers to the EC market. The barriers consisted of three interrelated factors:

- First, there was and is a ten percent tariff on imports of soda ash.
- Second, the two largest European producers of soda ash maintained a series of restrictive agreements and arrangements with European soda ash consumers which deterred such customers from procuring U.S. soda ash, despite their expressed interest in doing so.
- Third, in 1982 the EC Commission imposed antidumping duties on U.S. soda ash which were virtually prohibitive in their effect on most imports.

In 1990-91, two of these three barriers were significantly affected by actions taken by the European Commission. First, in October 1990, the Commission allowed the antidumping order on U.S. soda ash to expire.[12] Second, in December 1990, the European Commission, after a year-long investigation, imposed record fines on the two

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[4] The principal U.S. trona (sodium sesquicarbonate) deposits are located in the Green River formation in southwestern Wyoming. These deposits are sufficient to supply world demand for hundreds of years. Other trona deposits exist in Africa, China, South America and Turkey but are not as large or accessible as those in the U.S. Chemical Engineering (August 8, 1983); U.S. Department of Commerce, *Soda Ash: A Sectoral Study* (1981).

[5] On the U.S. conversion effort, *see Chemical Marketing Reporter* (March 26, 1979).

[6] D.S. Kostick, *Soda Ash—1990* (U.S. Department of the Interior, Bureau of Mines, Annual Mineral Survey) (September, 1991) ["U.S Bureau of Mines Report"].

[7] *Id.*, Table 10, U.S. Exports of Soda Ash, by Country, at 15-17.

[8] U.S. government negotiating initiatives have opened markets for U.S. soda ash exports in Japan, Korea, and Taiwan, which are now among the leading consumers of U.S. soda ash.

[9] U.S. Bureau of Mines Report, *supra* note 6, Table 10, U.S. Exports of Soda Ash, by Country, at 15–16.

[10] Commission Decision 91/300/EEC of 19 December 1990 (Soda Ash—ICI), 1991 Official Journal of the European Communities (No. L 152) 40, 42.

[11] Commission Decision 91/301/EEC of 19 December 1990 (IV/33.016—ANSAC), 1991 O.J. Eur. Comm. (No. L 152) 54, 57.

[12] Commission Decision 90/507/EEC of 7 September 1990, 1990 O.J. Eur. Comm. (No. L 283) 38 (effective date of termination 16 October 1990).

firms which dominated the EC soda ash market, Solvay and ICI, for a variety of anticompetitive practices.[13] (ICI's soda ash operations were purchased by Brunner Mond in September 1991.) These developments raised the prospect that for the first time, U.S. firms would have a meaningful opportunity to compete within the EC market. However, the Commission's recent actions have not resulted in a completely open market. Understanding the nature of the remaining obstacles requires a closer look at each of the three factors which historically worked to prevent U.S. sales—the tariff, the opposition of EC suppliers to unwanted competitors, and the anti-dumping duty.

A. The 10 Percent Tariff. The 10 percent tariff is the remaining impediment to U.S. sales. Soda ash is a bulk commodity and price is an important aspect of competitiveness. U.S. firms enjoy large production cost advantages over European firms, but these are partially offset by the costs associated with moving soda ash from production locations in the western United States which form a substantial part of the total cost to European customers:

- Soda ash must be moved by rail from the western U.S. to ports on the coast;
- Port costs are incurred at the U.S. port of shipment;
- The soda ash must then be shipped by ocean vessel to European ports;
- The shipments must be insured.

A ten percent tariff—while it does not necessarily negate the U.S. cost advantage, is nevertheless a substantial cost penalty. Significantly, the EC's 10 percent tariff is not imposed on the price of soda ash at the U.S. factory gate, but on the price which incorporates all of these shipment costs as well; because these costs are substantial, the impact of the tariff is correspondingly greater.

B. Opposition of the Leading Local Producers. In its 1990 investigation of anticompetitive practices by Solvay and ICI, the European Commission found that these firms held an overwhelmingly dominant market position and were determined to prevent market entry by U.S. firms. (ICI's soda ash business was acquired by Brunner Mond in September 1991.)

The European Commission investigation concluded that *"The United States producers of natural-ash are considered by ICI as the main source of potential competition."*[14] Similarly, *"The main danger seen by Solvay to its position in its European market comes not from other EEC producers but from United States natural ash."*[15] These firms placed great importance on excluding or marginalizing any American presence in the Community. An ICI document quoted by the Commission stated that ICI had

> *"managed to reduce the number of competitors in the market to two—Poland and one American supplier—and plan to keep it this way."*[16]

Solvay was found to control about 70 percent of the soda ash market in continental western Europe; ICI controlled about 93 percent of the market in the United Kingdom. Solvay's market position was even stronger in some EC country markets, such as Portugal, where it supplies almost 100 percent of the soda ash consumed. These firms maintained this position in part through anticompetitive practices, which, as found by the Commission, included:

- The conclusion of agreements with European customers requiring them to buy all or most of their soda ash from these firms for "an indefinite or excessively long period."
- The grant of rebates to customers to ensure that they buy all or most of their requirements from these firms.
- In the case of Solvay, the use of "competition clauses" in supply contracts, which required customers to notify Solvay of the details of any competing offer from another supplier. The Commission found that such clauses gave Solvay the option *"of terminating the agreements forthwith and refusing all further supplies. . . . it is highly unlikely that the customer will risk its security of supply by purchasing even a limited quantity from the competitor since this will give Solvay the opportunity to cancel the . . . agreement and refuse all further supplies."*[17]

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[13] Solvay was fined ECU 30m; ICI was fined ECU 17m. A third firm, Chemische Fabrik Kalk (CFK), was cited for selling its excess production to Solvay in order to keep EC market prices high and fined ECU 1m.

[14] ICI Decision at 41.

[15] Commission Decision 91/299/EEC of 19 December 1990 (Soda-ash-Solvay), 1991 O.J. Eur. Comm. (No. L 152) 21, 22.

[16] Soda Ash Business Team Leader ICI, ICI Decision at 41.

[17] Solvay Decision at 29.

Testimony of European soda ash consumers before the Commission in 1990 illustrates the dilemma which they face as a result of the lack of competition:

"Last year [Solvay] told us: 'Our price will be increased by DM 25/tonne and if you don't accept, we won't supply you with soda ash.' The result is that we are not being supplied. We had to purchase our soda ash from the East bloc with all the insecurity that involves. You see, that's the second point I made, security of supply. And when I now read news reports about the GDR and Baron Daniel Jansen saying that, should the old SOLVAY plant in East Germany be returned, SOLVAY will surely provide for it to be renovated and modernized. You may imagine how great our dependence would be if SOLVAY were to begin production in East Germany as well. If that were the case, we would lose our last loophole. We were reluctant to purchase from the East bloc, we only bought very small quantities and it was only because prices were imposed on us that we purchased soda ash from them at all. It is appalling."[18]

Another witness representing a British glassmaking firm testified that

"I do not therefore believe that there is any competition for soda ash in the U.K. or (probably) in the rest of Europe—it is an illusion."[19]

The Commission's order in the recently concluded investigation was designed to prevent a recurrence of the practices which were uncovered. However, the dominant market position of these firms makes it likely that they will continue to enjoy substantial leverage over customers. Significantly, when examined by two measures commonly employed by the U.S. Department of Justice to determine the likelihood of anticompetitive conduct, the European soda ash industry is well over the threshold of concern:

- Using the so-called Herfindahl-Hirshman Index (HHI), the EC industry reaches 3,273. Under U.S. antitrust policy, any HHI number above 1800 is considered by the Justice Department to be "highly concentrated" and cause for "significant competitive concern."[20] *See* Figure 2.
- Perhaps a more clear demonstration of the high concentration of the EC soda ash industry is given by the industry's Lorenz curve. As Figure 3 shows, the largest EC producer has 53% of the market, the top two producers together have 70% of the market, and so on.

Perhaps even more importantly than these statistical indicators the EC producers have reportedly indicated an intention to block significant U.S. penetration of the EC market by persuading the EC authorities to re-impose the antidumping duties lifted at the end of 1990. This remains a very real danger because of the volatility of the exchange rate.

C. Exchange Rate Movements and the Possible Reimposition of Antidumping Duties. Until 1991, Solvay's and ICI's principal defense against American competition was an old antidumping order, which had imposed high antidumping duties on some U.S. firms[21] and had resulted in "price undertakings" by two other U.S. firms.[22] One of these firms withdrew in 1985, leaving only one U.S. supplier serving the EC market, and by the terms of its price undertaking, it was unable to compete on price with European firms.[23]

The antidumping order was a very important element of Solvay's and ICI's commercial strategy. The Commission found as follows with respect to each firms' perspective in 1990:

- Solvay: *"A major plank of Solvay's commercial policy in the soda-ash sector is to ensure the maintenance of the anti-dumping measures in place against the United States producers of heavy ash. . . . The anti-dumping duties on United States im-*

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[18] Transcript of Hearing held May 4, 1990 (Case No. IV/33.016—ANSAC), at 65.

[19] *Id.* at 52.

[20] U.S. Department of Justice, *Merger Guidelines* §3.1, 3.11 (1984). The HHI is calculated by summing the squares of the market shares of each of the producers. Hence: Solvay 53 x 53 = 2,809; ICI 17 x 17 = 289

[21] Council Regulation (EEC) No. 3337/84, 1984 O.J. Eur. Comm. (No. L 311) 26.

[22] Under these arrangements, U.S. firms were allowed to ship soda ash to the EC but agreed not to price below a level set by the Commission. Council Regulation (EEC) No. 2253/84, 1984 O.J. Eur. Comm. (No. L 206) 15.

[23] The Commission found in 1990 that *"The price undertakings as negotiated provided for conversion into other currencies at the exchange rates then prevailing, and with the changes in parities since 1984 the undertaking price for Germany, France and other markets was substantially above the market price so no sales were commercially feasible under the undertakings outside the United Kingdom."* Commission Decision 91/297/EEC of 19 December 1990 (Soda-ash—Solvay, ICI), 1991 O.J. Eur. Comm. (No. L 152) 1, 4.

ports were under review at the time of the present proceedings and Solvay was pressing hard for their renewal. . . ."[24]

- ICI: "*Up to the present time the anti-dumping measures (undertakings from two producers and anti-dumping duties on the others) have provided ICI with a substantial measure of protection. According to ICI, perhaps half of its current profit would be at risk if anti-dumping protection against United States imports were to be removed. . . . ICI considered that in order to maintain the profitability of its soda-ash products business at current levels it was crucial to ensure that anti-dumping measures against United States ash remain in place.*"[25]

The Commission, in its investigation of Solvay and ICI, noted that U.S. soda ash producers could sell their products in the Community at competitive prices without dumping (e.g., selling below normal value). It observed that

> "*With the changes in exchange parities since 1984, Solvay is well aware that the United States producers can sell in Europe at prices substantially below the average EEC prices without being guilty of dumping: i.e. their ex-works price for exports is not below their domestic price.*"[26]

The fluctuating exchange rate works both ways, however; in general the weakening of the dollar against European currencies since the mid-1980s has served to make it much easier for U.S. firms to sell competitively in the EC while remaining above their production costs. However, exchange rates are volatile, changing from day to day, and it is quite possible that a sudden fluctuation could put U.S. firms in a situation in which their domestic prices momentarily rise above their export prices to the EC, resulting in the possible reimposition of antidumping duties.

This risk is regarded as serious by U.S. firms for several reasons:

1. *The Commission has warned that it will reimpose duties quickly if dumping occurs.* When the Commission lifted the antidumping duty in 1990, it warned that "*a recurrence of dumping and injury could justify the immediate opening of a new investigation, and . . . definitive antidumping duties with retroactive effect could be imposed . . . .*"[27] Should this happen, the result would likely be the effective exclusion of most U.S. soda ash from the EC market, since U.S. firms will be unable to match the market prices of EC producers.

2. *Exchange rate fluctuations can abruptly place U.S. firms in a position where they are selling below normal value, as defined by the Commission, without warning.* U.S. soda ash producers have no intention of selling below normal value in Europe. The Commission, considering this issue in 1990, concluded that "*[i]t can be presumed that all the US exporters would base their export prices for the Community on their normal value in order to avoid dumping and thus a recurrence of complaints.*"[28] However, U.S. firms' normal values (which are "constructed" e.g., estimated by the EC's staff) literally rise and fall every day as the various currencies fluctuate against the dollar. Thus, although U.S. firms may be selling into the EC at a constant price, their "normal value" as defined by the Commission may rise above that price on a given day as a result of exchange rate shifts.[29] As a result,

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[24] Solvay Decision at 23.

[25] ICI Decision at 41, 42.

[26] Solvay Decision at 23.

[27] Commission Decision 90/507/EEC, at 41–42. The Commission's desire, on the one hand, to foster increased competition in the Community market and, concurrently its vigorous application of antidumping rules which tend to deter entry by new competitors reflects a balancing of two policy concerns by different directorates-general (DGs) within the Commission. DG–IV administers the Community's competition rules and is primarily concerned with maintenance of competition in the internal market. DG–I administers the Community's trade rules and is charged, among other things, with ensuring that Community producers are not materially injured by dumping.

[28] *Id.* at 41. *Chemical Marketing Reporter* observed on October 22, 1990, that "*market conditions make it unlikely for U.S. producers to dump [soda ash] in Europe.*"

[29] The Commission determines "normal market value" by reference to domestic market prices in the exporting country. This does not necessarily represent simply the average of the prices of domestic sales of a product; the Commission may exclude from the calculation those sales on the domestic market which are made below the cost of production, as those costs are estimated by the Commission. The exclusion of such sales from the calculation and reference solely to the remaining sales on the domestic market, obviously produces a higher average domestic market price and increases the likelihood that dumping will be found. Because U.S. firms cannot know with certainty how the Commission will estimate their costs at a given moment, or the extent to which individual domestic sales will be excluded from the calculation of "normal value" because they are below those constructed "costs," they may inadvertently find themselves charged with dumping, a problem that is greatly magnified by the volatility of the exchange rate. Anti-

Continued

as U.S. producers put it, *"we could go to bed at night selling above normal value and wake up in the morning to find that the Commission is telling us that we are dumping,"* because the exchange rate has changed. This is not just a hypothetical danger; in 1989, the dollar strengthened momentarily against the major EC currencies. Had U.S. firms been selling in Europe at the market prices prevailing then, based on the Commission's constructed normal value, they would have been selling below normal value for several months. Figure 4 depicts this phenomenon with respect to Belgium, but a similar dynamic characterizes all other EC markets. As can be seen, removal of the 10 percent tariff effectively provides a cushion against this risk; a similar phenomenon is observable with respect to the other national markets in the Community.

3. *The exposure is substantial.* The European glass producers, who would be the principal consumers of U.S. soda ash, are concerned, above all, with security of supply. Most of these firms operate with very low inventories of soda ash—usually 5–7 days' supply. Any interruption of the flow of soda ash to their furnaces can be severely disruptive to their operations. Accordingly, establishing a position in Europe as reliable suppliers requires U.S. firms to invest in the distribution and storage facilities, sales support systems, and inventory necessary to serve local customers, and to arrange a regular supply line from the western U.S. to European ports.[30] These investments would be wiped out if the EC imposes prohibitive antidumping duties.

To recapitulate: The tariff, the EC producers, and the possibility of renewed antidumping duties. At present U.S. soda ash producers are seeking to establish a competitive presence in the European Community, an initiative which will require substantial commitments in order to meet the needs and concerns of EC customers. This U.S. initiative is likely to be strongly opposed by the two leading EC soda ash producers who have in the past benefitted from a 10 percent tariff and antidumping duties. Elimination of the tariff will remove an artificial cost penalty on U.S. soda ash and will minimize the risk of renewed antidumping duties in the event of unanticipated exchange rate movements—duties which could effectively destroy the whole U.S. investment.

III. BENEFITS OF ELIMINATING THE EC TARIFF

Any tariff reduction measure holds obvious potential benefits for exporters to the market in question. This case is no exception. U.S. companies, U.S. workers, and the U.S. balance of trade will all benefit from the elimination of the EC soda ash tariff. However, this particular tariff measure also holds out several particular benefits for the European Community itself and for the global environment that are not characteristic of tariff concessions in general. The benefits from tariff elimination are summarized below.

A. The United States Will Benefit from Elimination of the Tariff.

Elimination of the duty will enable U.S. firms to establish and sustain a competitive presence in Europe—and this will benefit U.S. revenues, U.S. employment levels, and the balance of trade.

The soda ash industry already makes a major positive contribution to the U.S. balance of trade. U.S. exports of soda ash in 1990 had an F.A.S. value of $346,698,340 (2,391,996 metric tons).[31] The Bureau of Mines and other industry observers believe that export growth opportunities are excellent, with a potential growth of "at least 400 thousand tons" in the next several years.[32] This would involve an increase in export volume of nearly 17 percent, and the amount of this increase alone would be greater than the annual sales volume to the largest U.S. export market, Japan.

The soda ash industry directly employs over 3,000 people in the state of Wyoming alone. In addition, the shipment of soda ash for export generates economic activity in many other states. The product moves by rail to three principal ports: Portland, Ore.; Long Beach, Cal.; and Port Arthur, Texas. All of those ports handled a substantial portion of the soda ash volume moving to Europe in 1990 and would benefit

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dumping Regulation, Article 2.3., Council Regulation (EEC) No. 2423/88, 1988 O.J. Eur. Comm. (No. L 209) 1, amending Regulation (EEC) No. 2176/84, 1984 O.J. Eur. Comm. (No. L 201) 1.

[30] As one EC glassmaker testified in 1990: *"When the Americans supply the European market with soda ash, they will have to ship large quantities which makes it necessary for them to have warehouses. Those warehouses will work for us as a buffer. Should something happen in the East bloc we could then have recourse to western supplies."* Transcript of Hearing held May 4, 1990 (Case No. IV/33.016—ANSAC), at 65.

[31] U.S. Department of Commerce, SIC 2812/SITC 5237.

[32] U.S. Bureau of Mines Report, *supra* note 6, at 20.

from expansion of U.S. soda ash exports to the EC.[33] Railroads involved in carriage of soda ash include the Union Pacific, Southern Pacific, Burlington, Northern and Denver Rio Grande. U.S. stevedoring firms (Hall-Buck and Metropolitan Stevedoring) have helped to establish soda ash bulkloading terminals at the ports for transferring the product efficiently from rail to ocean cargo vessels. Smaller amounts of soda ash exports move through a large number of U.S. ports.

B. The European Community Will Benefit from Elimination of the Tariff.

For many years European consumers of soda ash have been eager to facilitate a larger U.S. presence in the Community market. A number of these firms participated in the administrative proceedings which led to the removal of the antidumping duty in 1990. Their motivation was self-interest: to secure an alternative source of supply in a market where the local suppliers were using a dominant market position to impose high prices. These consumers—representing the EC glass, detergent, and chemicals industries—will benefit from elimination of the tariff in the same way, and for the same reasons, as with respect to lifting the antidumping duty. The competitive pricing of soda ash will not only benefit these industries in international competition, but is likely to filter down to individual European consumers.[34] One producer testified before the Commission in 1990 as follows:

> *"I would like to give three main reasons why we are interested in obtaining soda ash from the U.S.:*
>
> *1. to establish competition on the [national] soda ash market, as such competition does not exist at the moment;*
>
> *2. to obtain a supply of soda ash;*
>
> *3. to comply with environmental requirements relating to sodium chloride.*
>
> *"In [our country] there is a powerful market leader which does not allow competition. This leads to higher prices in [our country] than in neighbouring countries. As we have to compete with big glass producers in those countries high soda ash prices put us at a disadvantage."*[35]

There are several other policy factors which, from a European perspective, favor elimination of the duty:

1. Increased U.S. Soda Ash Sales Will Benefit the European Environment. The EC Commission acknowledged in 1990 that U.S. natural soda ash has environmental advantages over soda ash produced through synthetic methods. Accordingly, increased utilization of U.S. natural soda ash in European manufacturing operations will result in a net benefit to the environment. The Commission observed that *"Natural soda-ash . . . . is also purer, containing only 300-600 ppm of chloride, as against 3000 ppm for synthetic soda-ash. Removing residual chloride (for example, in the course of glass manufacture) is expensive; and if it is not removed it causes environmental pollution."*[36] One European glassmaker testified before the Commission in 1990 about the advantages of U.S. soda ash in this respect

> *"[T]he sodium chloride [pollutant] figures of the West European producers should theoretically be at 0.15%, [but] according to our in-house tests they are still at 0.2%. That is not the most important point. American soda ash lies at 0.03%. As we are obliged to keep sodium chloride within fixed limits, which is only possible by using big facilities, it would be an advantage to add some American soda ash."*[37]

2. Elimination of the Tariff Will Rectify an Anomaly in the EC Tariff Structure Which Makes Consuming Industries Less Competitive Internationally. Because of the EC soda ash tariff, soda ash users are burdened by an "inverted tariff structure." In other words, downstream EC industries must pay a higher tariff on their inputs than they are protected by with respect to their final products. As shown in Figure 5, the EC tariff on soda ash exceeds EC tariff on most of the products that use soda ash. For the glass industry, which uses the majority

[33] Shipments from the West Coast to the Community move through the Panama Canal.

[34] A report from Britain just prior to the imposition of dumping duties in 1984 provides some insight as to the benefits increased U.S. soda ash shipments can have for the EC consumer: *"The British Food Manufacturers' Federation has told the Commission that cheaper U.S. imports of soda ash have helped steady food prices in the United Kingdom. The federation has said that the British glass container industry has been forced to import the product from the United States because prices charged by the only British company manufacturing the product Imperial Chemical Industries—have been running 20 percent higher." International Trade Reporter* (October 12, 1982), at 58.

[35] Transcript of Hearing held May 4, 1990 (Case No. IV/33.016—ANSAC), at 64.

[36] ANSAC Decision at 55.

[37] Transcript of Hearing held May 4, 1990 (Case No. IV/33.016—ANSAC), at 66.

of EC soda ash, the difference is particularly large. For example, float glass manufacturers face a 10 percent duty on imported soda ash but are protected by only a 3.8 percent tariff on their sales. As a result, their effective rate of protection on EC float glass is actually negative.[38]

The EC tariff policy in this sector is therefore backwards from the usual tariff strategy that governments employ to develop their high value-added manufacturing industries relative to their primary commodity sectors. Such strategies often involve lower tariffs on inputs and higher tariffs on downstream products, known as "tariff escalation."[39] The EC, however, is supporting the EC soda ash industry at the expense of the downstream users.

3. The EC treasury would not lose significant revenues as a result of the elimination of the EC tariff. The volume of soda ash exports to the EC is currently so small that the estimated loss to the EC would be between $1 million and $2 million annually, which might be substantially offset by increased revenues from the value-added tax (VAT) resulting from lower input prices to higher valued-added industries.

C. European Use of American Soda Ash is Energy Efficient.

American natural soda ash can be produced through a far smaller use of energy per unit than synthetic soda ash. The U.S. Bureau of Mines calculates that 15.8 million British thermal units (Btu) are required to produce 1 ton of synthetic soda ash. By contrast, even using older technology (gas-fired driers), American natural soda ash could be produced using only 7.2 billion Btu per ton—less than half the total for the synthetic method. Moreover, U.S. firms have made substantial investments in improving still further their energy efficiency, replacing the gas driers with steam-tube units and installing mechanical vapor recompression units to replace triple-effect evaporators. They have converted to coal or coal combined with other fuel sources. As a result, by 1990, U.S. firms had cut their energy consumption to 4.5–6 million Btu per ton.[40]

To be sure, energy must be consumed to transport U.S. soda ash to Europe from production sites in the western U.S. to Europe. The Bureau of Mines calculates that it takes about 2.9 million Btu to move a ton of soda ash by rail and ship to Europe.[41] Even allowing for this expenditure of energy, U.S. ash delivered to Europe consumes 7.4-8.9 Btu of energy per ton versus the estimated 15.8 million Btu for the synthetic methods.

D. Elimination of the EC Soda Ash Tariff is Likely to Foster Reciprocal Reductions in Other Countries.

U.S. negotiators are seeking elimination of the EC soda ash tariff as part of the Uruguay Round of Multilateral Trade Negotiations. The U.S. soda ash industry has endorsed the elimination of *all* soda ash tariffs worldwide, including the 1.2 percent U.S. tariff, as part of the "zero-for-zero" initiative which seeks similar mutual tariff eliminations in many other product sectors. As a general proposition, when large trading entities like the EC and the U.S. reduce tariffs, their actions create leverage on other trading nations to enter into reciprocal tariff concessions. At present, tariffs constitute a significant barrier to U.S. soda ash exports in Brazil, Australia, Korea, Pakistan, Colombia, Argentina, India and many other countries; tariff rates range from 3.9 percent in Japan to 100 percent in Pakistan. While the Uruguay Round negotiations may well fail to secure the elimination of all these tariffs in all countries, a bilateral agreement between the U.S. and the EC on a "zero-for-zero" elimination would create an impetus for reciprocal reductions in other countries.

CONCLUSION

The elimination of the EC's current 10 percent tariff on soda ash will facilitate the establishment of a competitive U.S. presence in the Community. This will not only benefit the U.S. economy but EC consumers who are currently disadvantaged because of their lack of competitive alternatives. Removal of the tariff also offers environmental and energy conservation advantages, and raises the prospect for reciprocal tariff reductions in other countries.

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[38] The effective rate of protection, as opposed to the nominal rate of protection, takes into account the tariffs an industry must pay on its imported inputs. For example, a manufacturer enjoys a 10% nominal rate of protection if there is a 10% import duty on the product he makes, but his overall protection from tariffs would be negative if he must pay a 20% duty on his inputs. In such cases it is said that the manufacturer's effect rate of protection from the country's overall tariff structure is negative.

[39] R.J. Carbaugh, *International Economics* 89 (1980).

[40] U.S. Bureau of Mines Report, *supra* note 6, at 9.

[41] *Id.*

Figure 1

U.S EXPORTS OF SODA ASH IN 1990

Rank	Country	Metric Tons
1.	Japan	337,207
2.	Mexico	191,820
3.	Korea	190,521
4.	Indonesia	173,920
5.	South Africa	170,370
6.	Canada	151,480
7.	Taiwan	112,449
8.	Venezuela	109,766
9.	Thailand	103,635
10.	Brazil	101,873
11.	Philippines	86,095
12.	Argentina	74,259
13.	Australia	72,737
14.	Turkey	58,530
15.	China	56,159
16.	Malaysia	55,844
17.	Iran	43,248
18.	Chile	39,425
•19.	United Kingdom	34,179
20.	New Zealand	24,397

1990 U.S. EXPORTS OF SODA ASH: PRINCIPAL CUSTOMS DISTRICTS

Port	Export Volume (metric tons)
Portland, OR	1,323,792
Los Angeles, CA	353,972
Port Arthur, TX	349,720
Laredo, TX	185,472
Detroit, MI	86,433

Figure 2

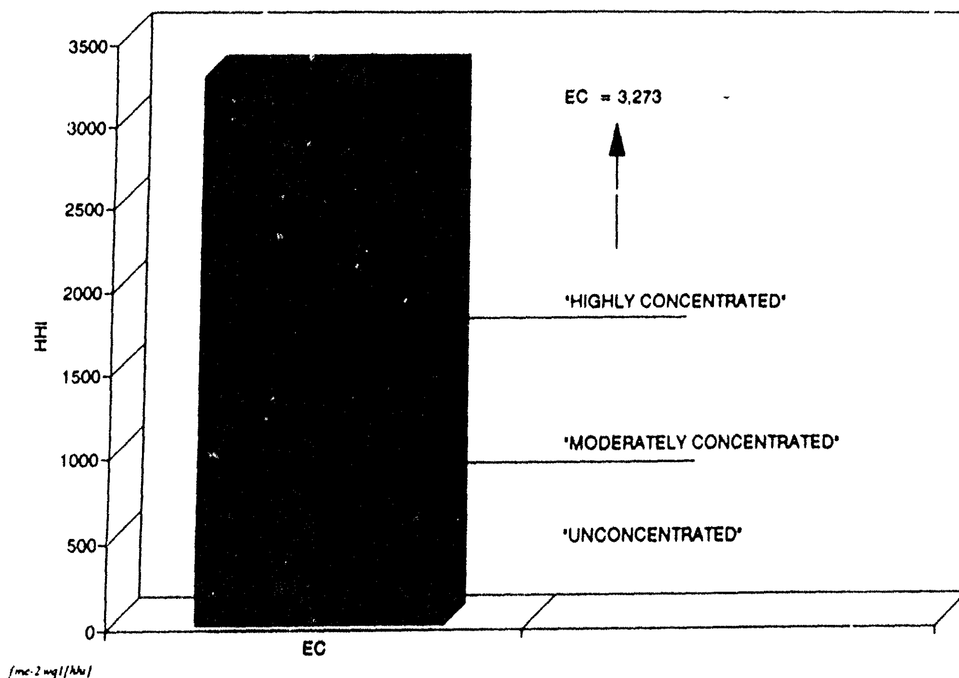


Figure 3

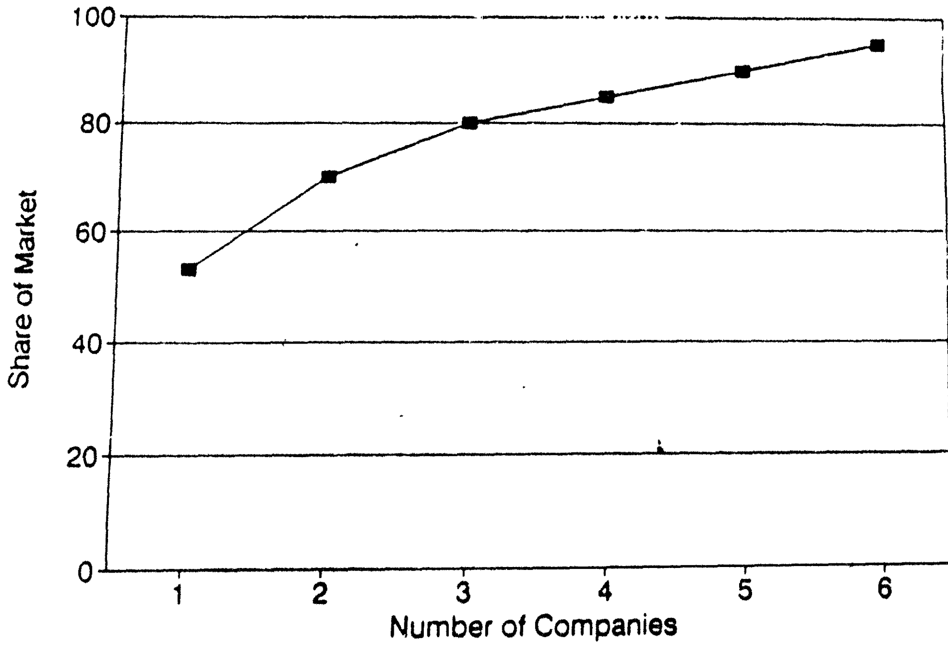
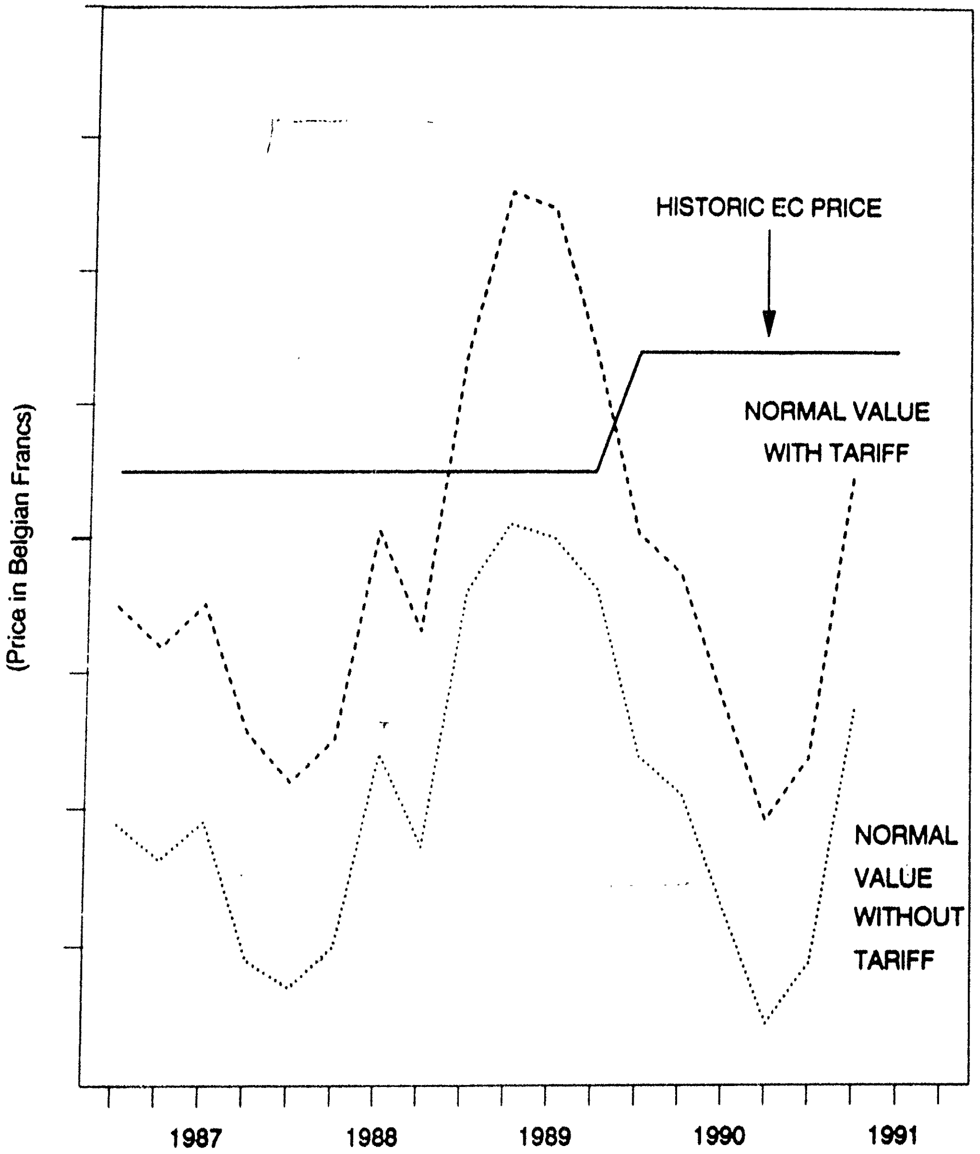


Figure 4

IMPACT OF EC TARIFF ON U.S. EXCHANGE RATE VULNERABILITY
Belgian Market



*Normal value estimates based on EC antidumping practice.

STATEMENT OF THE NATIONAL FOREST PRODUCTS ASSOCIATION'S INTERNATIONAL TRADE COUNCIL

The following statement is submitted to the Senate Finance Committee for inclusion as part of the permanent record of the committee's hearing on the GATT Uruguay Round of Multilateral Negotiations held November 20, 1991.

My name is Robert Donnelly. I am president of Contact Lumber of Portland Oregon. I am Chairman of the National Forest Products Association's (NFPA) International Trade Council. I am providing a statement for the record regarding the importance of the zero tariff objective in the Uruguay Round.

BACKGROUND:

U.S. government negotiating objectives have made zero-for-zero a top priority in the market access negotiations. U.S. negotiators have made significant progress towards wood products tariff elimination in bilateral and plurilateral talks. Zero tariffs on wood products proved to be a viable option for many countries. If the round had succeeded, there might have been a major market access opening for the solid wood industry. The U.S. government negotiating team put forth a tremendous effort for zero tariffs.

Since the Brussels Conference, more countries have become familiar with the zero-tariff issue and have begun to accept it. NFPA has followed up with those countries whose participation in zero tariffs for wood products would be important to a successful conclusion to the Round. NFPA senior staff and members have visited embassies, met with government officials, industry representatives, and politicians in Korea, Taiwan, and Japan, corresponded with industry and government representatives in Australia, Chile, New Zealand, and the EC, and engaged in other similar activities to further the zero tariff objective.

We strongly believe, through our consultations with governments and industries overseas, that zero tariffs for wood products are an achievable goal. We sincerely request the support of the Senate Finance Committee, through contacts with the U.S. and foreign governments, to help make wood products tariff elimination a reality.

CURRENT SITUATION

Because of the importance of Japan as the largest market for U.S. wood products (43% of all exports by value in 1990), and because Japan as yet remains uncommitted to zero tariffs on wood products, the remainder of this statement will focus on Japan.

Recently the U.S. wood products industry sent a delegation to Japan comprised of five chief executive officers from exporting wood products companies representing all wood products lines, the U.S. National Forest Products Association's officers, and senior executives from all the major U.S. wood products trade associations.

Our delegation sent a clear and unmistakable message that virtually all of the U.S. wood products industry strongly supports the immediate elimination of all Japanese wood products tariffs. These tariffs interfere with efficient markets, increase costs to consumers, inhibit the development of the market for wood products, and impede economic growth.

We met with the Diet, with Japanese industry associations and companies, and with the Japanese ministries, Agriculture, Construction, Foreign Affairs, and on a previous mission,

International Trade and Industry. <u>Our sense from all these meetings is that, with steady and determined insistence by U.S. government negotiators, wood products tariff elimination is an achievable goal in Japan.</u>

Japan's average tariffs are among the lowest in the world. This generalization, however, does not apply to wood products, on which Japan's tariff reduction has been slow and selective, with high tariffs remaining on many manufactured wood products.

The U.S. government, with strong support form the U.S. forest industries, has proposed that all signatories to the General Agreement on Tariffs and Trade (GATT) eliminate tariffs on all wood products.

Japan currently has zero tariffs on raw logs, most lumber, and wood chips. The remaining manufactured wood products have tariffs ranging up to 20 percent, and make up less than five percent of Japan's imports from the U.S. Significant import growth of U.S. wood building materials has only occurred on products which have no tariffs.

Clearly tariffs have severely limited market access for U.S. building products in Japan. For products subject to tariffs, real import growth has been so insignificant as to be irrelevant.

It would be in the best interests of Japan to adopt a proactive, positive, and urgent program to eliminate wood products tariffs and import more manufactured wood building products to help prevent any further restrictions on the ability of U.S. private producers to supply logs to Japan.

The Super 301 Agreement, at the insistence of Japan, was not a pre-negotiation of Uruguay Round tariff results. The Super 301 Agreement on tariffs was only a minimum result by its own terms, explicitly and implicitly. If it is taken as a maximum, it will result in wood products tariffs that are three times the average Japanese tariff on a trade weighted basis for all products.

Anything other than total elimination of wood products tariffs would be a wholly unacceptable result for U.S. economic interests.

During another U.S. industry Japan mission meeting in September, Keidanren pledged support for tariff elimination on wood products because the high price of building materials contributes to the exorbitant cost of housing in Japan. Several studies have demonstrated that the cost of building a wood home in Japan, excluding land costs, is more than double the construction costs in other developed countries.

Surveys show that 87 percent of the Japanese people would prefer to live in a wood home, but wood homes have comprised less than half of new construction units since 1984. Unfortunately, quality, affordable housing is now beyond the reach of most Japanese families. A representative from Japan's construction industry stated that building material costs could be decreased by 20 percent if tariffs were eliminated.

The cost of American made lumber charged by Japanese contractors is two-and-a-half times higher than the same product would cost in the United States, while the cost of plywood is 50 percent higher.

We were informed in some of our meetings that tariffs are not important, that from the Japanese perspective wood products tariff elimination would not result in significant increases in

manufactured wood imports from the United States. We believe that the U.S. wood products industry can manufacture products that will meet the needs of world markets. We are only asking for the opportunity to serve the Japanese market on a tariff free basis. This is basically the same opportunity Japanese consumer products have in the U.S. market.

A few key points follow: Japan's 1989 imports from the U.S. were comprised of:

tariff free items:
- logs (58.01 percent of 1990 exports to Japan);
- lumber (24.41 percent of exports);
- chips (12.42 percent of exports);

products carrying a tariff:
- plywood (0.14 percent of U.S. exports to Japan);
- other panel products (0.26 percent of exports);
- moulding (0.05 percent of exports);
- flooring (0.25 percent of exports);
- fabricated structures (0.97 percent of exports);
- and other building products (3.49 percent of exports).

-- Significant import growth of U.S. wood building materials has only occurred on products which have no tariffs.

-- Lumber imports (0 percent tariff) increased from $200 million in 1985 to $694 million in 1989, making up 24.4 percent of all imports from the U.S.

Plywood imports (10-15 percent tariffs) increased from $1.9 million in 1985 to $3.7 million in 1989 and 1990, making up about one/tenth of one percent of all imports from the U.S. in 1990.

-- Clearly tariffs have severely limited market access for U.S. building products in Japan. For products subject to tariffs, real import growth has been so insignificant as to be irrelevant.

-- The imbalance between imports of raw materials and manufactured products occurs because Japan's Tariff Escalation on wood products (no tariffs on raw material imports, with up to 20 percent tariffs on manufactured products) distorts market forces.

The resulting Effective Rates of Protection are often more than twice the actual tariff rates. To provide a specific example, the Effective Rate of Protection against softwood plywood in the Japanese market is 26.5 percent versus the actual tariff of 10.0 percent (DOC, April, 1989).

U.S. producers can only overcome the effects of tariffs by increasing manufacturing efficiency because the cost of logs in the U.S. is essentially the same for both Japanese and U.S. producers.

This means that to overcome a 10 percent tariff, the U.S. plywood industry would have to increase manufacturing efficiency by 26.5 percent.

Since variable manufacturing costs for plywood are only 25 to 35 percent, it would be impossible to increase manufacturing efficiency by another 26.5 percent, especially since the U.S. wood industry already increased productivity at three times the rate of other industrial sectors in the 80's.

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